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**'Punching Above its Weight?
A Case Study of Luxembourg's Policy
Effectiveness in the European Union'**

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UNIVERSITY OF SUSSEX

**Thesis submitted for the degree of Doctor of Philosophy,
January 2011**

I hereby declare that this thesis has not been and will not be, submitted in whole or in part to another University for the award of any other degree.

Signature:.....

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UNIVERSITY OF SUSSEX

MARTINE HUBERTY

THESIS SUBMITTED FOR DEGREE OF DOCTOR OF PHILOSOPHY

**PUNCHING ABOVE ITS WEIGHT? A CASE STUDY OF LUXEMBOURG'S
POLICY EFFECTIVENESS IN THE EUROPEAN UNION**

Summary

This thesis deals with member states' policy effectiveness in the European Union, using Luxembourg's capacity to get what it wanted in three crucial areas as a case study. Policy effectiveness is defined as the successful exercise of a member state's ability to include most of its policy preferences into the final legislation.

The factors considered to influence policy effectiveness include the negotiation context, more specifically the decision-making procedure and time pressure. The distribution and intensity of other member states and holding the Presidency are also expected to play a role. Furthermore, individual-level factors such as experience, past relations or belonging to the same political family are rarely systematically included in research, but these are also included. Finally domestic politics, such as the approval procedure and institutional coordination are considered. The decision making process, especially within the Council, is still a black box to most scholars - a challenge which in this research is met by elite interviews with the negotiators involved, by process tracing and by document analysis.

I empirically assess three cases where Luxembourg is reputed to have been policy effective: the creation of the Stability and Growth Pact (SGP) in 1996, the reform of the

same in 2005, and the payment of unemployment benefits to frontier workers (EC Regulation 883/2004). In terms of Luxembourg's policy effectiveness, I find the following:

1) that Luxembourg was highly policy effective in the creation of the SGP, due to Jean-Claude Juncker's double hat of Finance Minister and Prime Minister, as well as his expertise and his personal relations with other Heads of State.

2) In the reform of the SGP, that Luxembourg was not policy effective despite holding the Presidency; Juncker was President of the Eurogroup and still had that same double hat. The widely distributed and intense preferences of France and Germany combined to produce an agreement which Luxembourg did not favour, but had nevertheless helped to produce.

3) Finally, that, in Regulation 883/2004, Luxembourg was medium policy effective because of domestic constraints, a low distribution and intensity of preferences of the other member states and because of unanimity.

All of my case studies show evidence of two developments in terms of decision-making processes: the shift of decision-making from public to informal arenas, and the involvement of the European Council in areas which are not formally within its competence.

Indeed, the compromises found were proposed in the Council of Ministers after several key member states had seen and agreed to them beforehand. Incidentally, the evidence also indicates that the European Parliament did not influence the legislative outcome at all in these cases. These results suggest several practical guidelines for member states.

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List of abbreviations

ADEM	Administration for Employment (Luxembourg)
ADR (Luxembourg)	Alternative Democratic Reform Party
ALEBA	Luxembourg Association of Banking and Insurance Staff
BEF	Belgian Franc
BENELUX	Economic Union
BEPG	Broad Economic Policy Guidelines
CDA	Christian Democratic Appeal
CDU	Christian Democratic Union (Germany)
CGFP (Luxembourg)	General Confederation of the Civil Service
COREPER	Committee of the Permanent Representatives
CSU	Christian Social Union (Germany)
CSV	Christian Social People's Party (Luxembourg)
DG ECFIN	Directorate General Economic and Financial Affairs
DP	Democratic Party (Luxembourg)
ECB	European Central Bank
EC	European Community
ECJ	European Court of Justice
ECOFIN	Economic and Financial Affairs Council
EDP	Excessive Deficit Procedure
EEC	European Economic Community
EFC	Economic and Financial Committee
EMS	European Monetary System
EMU	Economic and Monetary Union
EP	European Parliament
EPP	European People's Party
ERM	Exchange rate mechanism
ESC	Economic and Social Council (Luxembourg)
ESC	Economic and Social Committee (EU)

EU	European Union
GDP	Gross Domestic Product
GNP	Gross National Product
IGC	Intergovernmental Conference
IML	Luxembourg Monetary Institute
KP	Communist Party (Luxembourg)
LCGB (Luxembourg)	Luxembourgish Christian Trade Union
LSAP (Luxembourg)	Luxembourgish Social Workers' Party
LUF	Luxembourg Franc
MC	Monetary Committee
MEP	Member of the European Parliament
NATO	North Atlantic Treaty Organisation
OECD	Organisation for Economic Co-operation and Development
O-GBL (Luxembourg)	Independent Trade Union of Luxembourg
OJ	Official Journal of the European Union
PM	Prime Minister
PS	Socialist Party (France)
PS	Socialist Party (Belgium)
RPR	Rally for the Republic (France)
QMV	Qualified Majority Voting
SGP	Stability and Growth Pact
SPD	Social Democratic Party of Germany (Germany)
STATEC	Luxembourg Institute of Statistics
TEC	Treaty Establishing the European Community
UEBL	Belgian-Luxembourg Economic Union
UK	United Kingdom
UNO	United Nations Organisation
VVD (the Netherlands)	Party for Democracy and Freedom

Chapter 1: Introduction

1. Setting the scene

This is a case study of how one member state, Luxembourg, has been able to be policy effective in EU negotiations. Policy effectiveness is defined in this thesis as the successful exercise of a member state's ability to include its policy preferences into the final legislation. As European integration develops, so does the need of member states to push their agendas and pursue their national interests. Two other reasons for trying to find out what makes a member state policy effective are the enlargement to East and Central Europe and the increase in policies which fall under the shared competence of the member states and the EU. The enlarged European Union of 27 member states presents an increasing heterogeneity of interests, preferences and domestic settings. These preferences must all be taken into account when negotiating particular policies; they necessarily complicate finding compromises and coming to an agreement. Member states have less time to make their point and argue their positions; the 'tour de table' cannot allow every member state the same amount of time that they used to have in an EU of 12 or 15. The result is that more and more 'deals' are done in the corridors and in informal meetings, thereby increasing the chance of exclusion from and hence influence in the 'real' negotiations.

The various treaties have given increased shared competences to the EU institutions, affecting more and more the everyday lives of citizens. Decisions taken in areas such as social policy have potentially far reaching consequences, and governments must be held to account, failing the involvement of national parliaments in many of the EU decision-making processes. If a government fails to defend its interests in a politically sensitive area, it is necessary to establish why it has failed and how a government can use its resources to improve its policy effectiveness in subsequent negotiations. Governments have to explain

and justify to their citizens why they will be less well off or will be negatively affected by what their governments have agreed to in Council negotiations. By the same token, if a government manages to include most of its policy preferences into the final legislation, future lessons could be drawn from discovering what factors played a role in this outcome. Thus, there is a real need in European Union studies to go back to analysing the preferences of member states' governments and to establish if they have been effective in negotiating EU policies.

The central research question of this thesis is therefore: which resources and factors improve the chances of a member state's government being policy effective? The aim is to measure the effectiveness of a member state in achieving its intended goals, and to identify the factors that influence policy effectiveness at the European level. To do this, the analysis has to begin with the national level, i.e. the internal structure and organisation of the government, society, state and EU policy. The preferences, strategies and zones of agreements are to a large extent formed at this level.

The other level of analysis has to be in relation to the institutional structure of the EU, the decision-making procedures and norms. The unique decision-making procedures of the EU leave plenty of opportunities for member states to influence policy-making beyond their voting weight or formal powers. EU negotiations are usually a complex process, with many institutions and actors involved. The mandate for a new regulation, directive or treaty change is given to the European Commission by the Council, which has considerable leeway in proposing changes and creating a zone of possible agreement. The three levels of the Council- the working groups, the Committee of Permanent Representatives, and the Council of Ministers- constitute the arena in which member state governments actively pursue European integration and simultaneously try to achieve outcomes in harmony with their national interests. Increasingly, the European Parliament also plays an active role in negotiations, when it is entitled to do so. The picture that emerges is one in which a member state has to be involved on many different levels in order to be policy effective.

The decreasing importance of the European Commission and the increasing importance of the Council of Ministers and the EP in the decision-making process is a manifestation of the new realities of power relations among the institutions. This study takes this evolution into account and focuses on the member states' role in the decision-making process. The next sections present the framework, followed by a justification of the choices of cases. This chapter concludes with outlining the plan of the present thesis.

2. The framework of this thesis

The research process is divided into the following steps: Once the preferences of the member state in question are established, the Commission proposal is presented. The Commission proposal is an important element in the study of policy effectiveness, because it delimits the innovations that are possible- including some options and excluding others. The final legislative outcome has to be juxtaposed to the member states' policy preferences, and one needs to establish what the similarities and the differences are in detail. Measuring policy effectiveness is therefore conducted in five stages: 1) establishing the policy preferences of the member state 2) presenting the Commission proposal 3) establishing the strategy and the goals of the member state in the negotiations 4) presenting the final legislation 5) comparing and contrasting the final legalisation to the policy preferences and to the strategy and goals. A three degree classification into low, medium and high policy effectiveness simplifies the framework.

Several research questions are addressed in this thesis: How does the domestic level influence the ability of a member state to influence regulations and directives? Is the negotiation context the major constraint/ aid in policy effectiveness? To what extent do the preferences of the other member states interfere in policy effectiveness? Does holding the presidency of the Council make a member state policy effective? Do individual-level factors matter at all?

2.1. Domestic politics

The two-level games approach assumes that “statesmen are typically trying to do two things at once; that is, they seek to manipulate domestic and international politics simultaneously. Diplomatic strategies and tactics are both constrained by what other states will accept and by what domestic constituencies will ratify.”¹ This factor can be divided into two aspects: the approval procedure in a broad sense and the coordination of the political institutions.

The approval procedure does not only imply the ratification by the national Parliament, but also agreement of the coalition parties, the other societal actors. The implication is that the more difficult the approval procedure, the more likely the member state will be able to argue that it is constrained by these actors, and consequently can get more concessions and a deal closer to its preferences. Implicit in this proposition is that the member state could defect involuntarily from the implementation of the proposed agreement if none of the domestic actors consider it acceptable.² An efficient coordination of the institutions involved in the negotiations is expected to lead to increased policy effectiveness. The link between the Permanent Representation and the national Ministries is expected to play a role. Good effective communication between civil servants and ministers, clear yet flexible mandates for the negotiators at the Technical Committee and the COREPER, short communication channels between the negotiators, all contribute towards achieving the common goal. Moreover, the coordination with the national Members of the European Parliament is expected to influence positively or negatively the final outcome. If the national MEPs are in close contact with the government, it is more likely that they can be counted on trying to upload the national economic interests to the EU within the EP.

¹ Moravcsik A. in ‘Introduction: Integrating International and Domestic Theories of International Bargaining’, in Evans P. B., Jacobson H. K., Putnam R. D., (1993) *Double-Edged Diplomacy: International Bargaining and Domestic Politics*. University of California Press, p. 15

² Putnam R. D., (1988) ‘Diplomacy and Domestic Politics: the Logic of Two-Level Games.’ *International Organization*, Vol.42, No. 3, pp 427-460

2.2. The negotiation context

Considering that the decision-making procedure determines the rules of the game in the EU, it is imperative to take it into account. In the three cases chosen for this study, the involvement of the European Parliament differs; the cooperation and consultation procedures were used in the creation and reform of the SGP, while the co-decision procedure applied to the social security case study. QMV and unanimity were used in the three case studies. The pressure to find an agreement, any agreement, based on time constraints could be a significant factor when analysing negotiation outcomes. It is proposed that a member state is more likely to be policy effective under unanimity than under QMV.

2.3. Distribution and intensity of preferences in the Council

The distribution and intensity of preferences can significantly shape the outcome and the policy effectiveness of a member state. If there is a low distribution and low intensity of preferences, then a member state is more likely to be policy effective. It is assumed that preferences of the member states in the Council significantly impact on a member state's ability to be policy effective.

2.4. The presidency

Tallberg provides a useful framework for analysing the resources a government can use when it takes over the presidency of the Council.³ Brokerage resources permit the presidency to construct and shape agreements that otherwise may not have come about. Asymmetrical information and control over procedure are strong resources for leading a negotiation. The presidency gives particular opportunities to be policy effective. It determines the pace of Council negotiations by setting the schedule. It can shape the number of formal and informal negotiation sessions and also has control over the method of negotiations (competing proposals or a single negotiating text).

³Tallberg J., (2006) *Leadership and Negotiation in the European Union*. Cambridge University Press, p. 31

2.5. Individual-level factors

Intangible resources at the EU level are thought to increase a member state's policy effectiveness. These are based on good past relationships, as they generally facilitate communication and understanding. As the personal "chemistry" between two or more people is important in any relationship, it also plays a role in political negotiations; examples abound in the press and in academic literature.⁴ The time spent in government or in administration by the negotiators is reasonably expected to have an impact on the expertise of the negotiators, as the negotiators do not only know how past negotiations and outcomes came about, but they also know more about the positions and preferences of the other negotiators. A common phenomenon in EU negotiations is that deals are made in a small circle of actors. Within the Council, not every member state has significant interests in every issue that is being negotiated, or the member state can decide that another member state is better placed to voice the same concerns it has. It is implicit in this task that if the members of that circle find an agreement, the whole group will accept it, as the members of that circle represent the different preferences plus a broker/mediator (s).

Before turning to the political system of Luxembourg, I intend to justify why I have chosen Luxembourg as a case study and why I have chosen these three case studies (the creation of the Stability and Growth Pact, its reform, and the reform of EC Regulation 1408/71). Indeed, it can be argued that such a small state's power is irrelevant in an enlarged European Union and does not merit investigation, apart from studies on small states.

⁴ Védrine H., (1996) 'Les mondes de François Mitterrand, À l'Élysée (1981-1995).' Paris, Fayard, p. 290-291.

3. Why choose Luxembourg and why these case studies?

3.1. Has Luxembourg ever punched above its weight in the EU?

Luxembourg has a reputation for “punching above its weight in the EU”, but is that impression based on any concrete evidence?⁵ Hosli found interestingly that in the Council, Luxembourg played the role of a “dummy country without any formal impact between 1958 and 1973: it had only one vote, and a qualified majority was considered to be 12. Since all other members had an even number of votes, Luxembourg formally was never able to be crucial for the fate of a voting coalition.”⁶ This evidence illustrates the fundamental weakness of this very small state and the real dangers of being irrelevant and powerless in the EU. However, due to enlargements, several small states were able to increase their share of the votes; among them Luxembourg.

Table 1.1: Table of Council votes over time:⁷

country	EC 6 1958-1972	1973- 1980	1981- 1985	1986- 1994	EC 15 Ams. 1995- 2003	EU 27 Nice 2003- 2009
Austria	/	/	/	/	4	10
Belgium	2	5	5	5	5	12
Bulgaria	/	/	/	/	/	10
Cyprus	/	/	/	/	/	4
Czech Republic	/	/	/	/	/	12
Denmark	/	3	3	3	3	7

⁵ Panke D., (2010) ‘Dwarfs in International Negotiations - Punching Above Their Weights?’ *PSAI Conference Paper*.

⁶ Hosli, M. (1996): ‘Coalitions and Power: Effects of Qualified Majority Voting in the Council of the European Union.’ *Journal of Common Market Studies*, Vol. 34, No.2, p. 270.

⁷ Hosli, M., (2000) *Smaller States and the New Voting Weights in the Council*. Instituut Clingendael. July, p.10

Estonia	/	/	/	/	/	4
Germany	4	10	10	10	10	29
Greece	/	/	5	5	5	12
Finland	/	/	/	/	3	7
France	4	10	10	10	10	29
Ireland	/	3	3	3	3	7
Italy	4	10	10	10	10	29
Latvia	/	/	/	/	/	4
Lithuania	/	/	/	/	/	7
Luxembourg	1	2	2	2	2	4
Hungary	/	/	/	/	/	12
Malta	/	/	/	/	/	3
Netherlands	2	5	5	5	5	13
Poland	/	/	/	/	/	27
Portugal	/	/	/	5	5	12
Romania	/	/	/	/	/	14
Slovakia	/	/	/	/	/	7
Slovenia	/	/	/	/	/	4
Spain	/	/	/	8	8	27
Sweden	/	/	/	/	4	10
UK	/	10	10	10	10	29
QMV	12	41	45	54	62	255
Blocking minority	6	18	19	23	26	
Total	17	58	63	76	87	345

But was Luxembourg overrepresented in terms of population? “Luxembourg has a high standing as a member state of the EU where its influence and prestige exceed what small size might indicate.”⁸ It cannot be disputed that Luxembourg is over-represented in terms of votes in the Council, in terms of having a Commissioner, and in terms of the number of MEPS in the European Parliament. The most extreme example of overrepresentation is evidenced in the governing Council of the European Central Bank (ECB) where every member state has one vote. This means both Luxembourg and Germany have the same number of votes. If we look at the degree of over-representation in terms of Council votes over time, and compare it to Germany, the following has been calculated by Moberg:

Table 1.2: Ratio share of votes/share of population:

Country	EEC	EEC9	EEC10	EEC12	EEC12*	EEC15 Nice	EEC 27 Nice
Luxembourg	30.57	25.37	23.63	23.02	23.93	14.80	12.8
Germany	0.73	0.71	0.70	0.69	0.57	0.56	0.49

Over-represented >1 Under-represented <1

**After German unification*

Source: Moberg⁹

This table shows quite clearly that while Luxembourg was vastly overrepresented in the original EEC of 6, it is still overrepresented under Nice Treaty rules in an EU of 27. It nevertheless also shows that the big member states are less and less underrepresented, and that the balance is moving towards the middle, even if very slowly.

⁸ Frentz J-M. in ‘The Foreign Policy of Luxembourg’ in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. 134

⁹ Moberg A., (2002) ‘The Nice Treaty and Voting Rules in the Council.’ *Journal of Common Market Studies*, Vol. 40, No. 2, p. 265

Table 1.3: Ratio share of MEP seats/ share of population:

Country	Population in millions	Number of MEPs	Inhabitants per MEP	% of population of EU 27 population	% of MEPs of total MEPs
Luxembourg	0.46	6	76 667	0.09	0.815
Germany	82.438	99	832 626	16.73	13.4
France	62.886	72	873 416	12.76	9.7
The Netherlands	16.334	27	604 963	3.31	3.6
Belgium	10.511	24	437 958	2.13	3.2
EU Total	492,881	736	669 675a	100	100

Source: European Parliament 2007¹⁰

a: this number is the average of citizens that every MEP represents.

Even in terms of MEP seats/share of population, the residents of Luxembourg are vastly overrepresented under the Treaty of Nice. This table shows clearly again that Luxembourg's residents are 10 times more represented in the EP than their share of the population would warrant. Luxembourg is clearly an 'over-equal' member state.¹¹

The former French President Mitterrand said once: "If one thinks of all the European agencies based in Luxembourg, one must recognise that Luxembourg's diplomats are the best of all the member states."¹² Many observers cite the fact that Luxembourg City is one of the seats of the European institutions as both a factor and a result of policy effectiveness.¹³ Luxembourg City is still today firmly established as one of the capitals of

¹⁰ European Parliament, (2009) 'Press release on Composition of the European Parliament after European elections in June.'

¹¹ Kirt and Waschkuhn (2001) in Frenzt J.-M. in 'The Foreign Policy of Luxembourg' in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. 134

¹² Santer (2004) in Hirsch M. in 'Preface: About the Resilience of Small States', Lorig W. H., (2008) *Das politische System Luxemburgs. Eine Einführung*. VS Verlag für Sozialwissenschaften, p. 323

¹³ Hirsch M., in 'Preface: About the Resilience of Small States', in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. xiii

Europe. Meetings of the Council of Ministers are regularly held at the Kirchberg in Luxembourg in April, June and October. There are some Directorate Generals of the European Commission, Eurostat, and the Office of Publications, the European Court of Justice, the European Court of Auditors, and the European Investment Bank. The total population employed by the Communities is almost 3000. However, it remains to be demonstrated how being the seat of these institutions can lead to policy effectiveness. Considering that Brussels is the main capital of the EU, the argument would logically lead to the assumption that Belgium is the most policy effective member state of the EU. This hypothesis has yet to be operationalised and proven. It is however probable that being an EU capital confers visibility and induces more public awareness of the country.

Even though Luxembourg is traditionally pro-European, it does “not sacrifice its national interests at the European altar.”¹⁴ Certain national interests may not call for more EU integration, more harmonised policies, or more power devolved to the Council of Ministers and the European Parliament. In Luxembourg for example, the banking secret is a major contributor to its status as a financial centre and incidentally to its GDP, as are hedge funds. The fact that the EU Commission, and many EU member states wanted to abolish banking secrecy and have achieved it, left Luxembourg’s various governments in a dilemma politically and economically. Luxembourg has made use of its veto twice to fend off Commission initiatives in 1989 and 1994 in this area. In the end though, Luxembourg and its allies (Belgium, Austria, Switzerland and Liechtenstein) had to give in to the pressure of the EU, the OECD and the G20. Hirsch considers “what is more remarkable is that they had been able to get away with ‘non-cooperative behaviour’ for so long.”¹⁵ Since the financial crisis, tax havens have come under siege because governments confronted with massive public deficits, were more prepared to track down every taxpayer’s dues to finance their spending and bailout programmes. This case study shows according to Hirsch, that

“ultimately, small states have no real chance to escape international pressure. Their resilience is on the wane. At best, they can play for time, but the moment of truth is

¹⁴ Frentz J.-M. in ‘The Foreign Policy of Luxembourg’ in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p.141

¹⁵ Hirsch M., in ‘Preface: About the Resilience of Small States’, in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. xiii

bound to come sooner or later. In this particular case, political tolerance for non-compliance is heading rapidly towards zero. (...) The resilience of Luxembourg and Switzerland was undermined by the *unusual pressure* exerted on them by the OECD and the G20, relying on *highly unusual intimidation tactics like naming and shaming*. This is of course a special case, unlikely to occur in other domains of international relations, but it is quite striking.”¹⁶

Cynics such as one journalist from *Le Monde* would argue that, if Luxembourg is at all able to include most of its policy preferences into final legislation, then it was out of pure luck or because it was able to piggyback on the positions of bigger and more powerful member states- not for any reasons of its own doing. He notes scathingly on Luxembourg’s ability to hold the presidency:

“The praise of small nations for a ‘successful’ presidency is based on how zealously the ‘little countries’ implement the ideas of the ‘big countries’, rather than for having brought their specific concerns or ideas to the European level.”¹⁷

After all, even if the country is vastly overrepresented in both the Council and the European Parliament, with its total share of the votes in both institutions it is very unlikely to be the pivotal player. Six votes out of 736, even if all the country’s MEPs vote along national lines and forego their party allegiance, are hardly likely to tip the balance if intense national preferences are at play. In the Council however, the situation is slightly different, as Luxembourg has 6 votes out of 345. In the events leading to the eventual reform of the Stability and Growth Pact in 2003, Luxembourg was actually the pivotal player!¹⁸

Therefore, does it really matter in the end whether a government manages to get what it wants because it hides behind other, stronger governments or whether it got it by its own pro-active behaviour in the negotiations? Is it not a strategy in itself, maybe borne out of necessity, but valid in its own right, since under QMV even the biggest member states

¹⁶ Hirsch M., in ‘Preface: About the Resilience of Small States’, in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. xvi, emphasis added

¹⁷ *Le Monde*, 27 March 1997 in Hirsch M., in ‘Preface: About the Resilience of Small States’, in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. xii

¹⁸ Heipertz M., Verdun A., (2010) *Ruling Europe. The Politics of the Stability and Growth Pact*. Cambridge University Press, p. 152.

cannot ‘go it alone’? Joseph Bech, a former Luxembourg PM (from 1926-1937 and 1953-1958) and founder of the EEC, has once advised: “When you have a good idea, find a bigger state to sponsor it and keep quiet”.¹⁹ Alliances and coalitions are extremely important in EU negotiations; being able to form coherent alliances on issues can lead to policy effectiveness. Hence, it is not a question of hiding or piggybacking- it is a question of choosing the right strategy in the right situation to get whatever one wants.

3.2. The single case study method

I chose Luxembourg as a case study because, as one of the oldest member states, Luxembourg has had many opportunities to punch above its weight in the EU. However, I chose policy case studies which are relatively recent, as the institutional setting has changed greatly since the 1990s. The single case study method is used in this thesis because firstly, the costs of analysing several cases on their policy effectiveness would have become unreasonable because of the difficulties of gathering data on policy preferences and outcomes on many case studies. The requirements for data collection and analysis for more than a few case studies would also limit the ability to generate reliable findings, simply because not every member state has an interest in the topic under consideration.

Secondly, the single case can be used “in a more consciously theoretical manner in testing and elaborating theory.”²⁰ The reason for choosing Luxembourg was simple: the tiny size of the country makes it an ideal candidate; after all, if a “micro-state” such as Luxembourg was able to include most of its policy preferences into the final EU legislation in an EU of 12, 15 or 27, then any member state should be able to do that. Hence the approach is implicitly comparative. A case study of Luxembourg provides insights into how and why certain characteristics, irrespective of the size of the territory or population, increase the policy effectiveness of a country in the EU. Luxembourg, with roughly half a million

¹⁹ *The Times*, (2007) ‘Gaston Thorn: Luxembourg’s Honest Broker President of the European Commission’. 28 August.

²⁰ Peters G.B., *Comparative Politics. Theory and Methods*. MacMillan Press, 1998, p. 148

inhabitants, had been the smallest member state until Malta joined. Malta had not been chosen because at the start of this PhD thesis, it had only been a member state for 2 years and there would not have been sufficient case studies to investigate its policy effectiveness.

Finally, this PhD had been generously funded by the *Fonds National de la Recherche* from Luxembourg, under the condition that the research project should be in the interest of the Research and Development context in Luxembourg. Luxembourg has been an understudied subject of analysis in Political Science, and in European integration studies. This thesis has as one of its aims to provide a long overdue focus on this particular small state.

Some issues have been identified with using the single study method with the aim of being a useful tool in comparative methods- that the selection of a single case cannot overcome the fact that cross-unit N was minimal.

“We would be unlikely to reject a hypothesis, or to consider it definitively proved, on the basis of the study of a single unit, particularly if the hypothesis had behind it a corpus of scholarly work.”²¹

The other risk is that if the findings do not confirm the central proposition, then nothing had been learned. If the results of this thesis were that, after all, Luxembourg had not managed to be policy effective in any of the cases, then this confirmed the common sense statement that small states find it more difficult, if not impossible, to be policy effective in the European Union. The single case study method in general offers depth of analysis, which gets lost in many small N case studies. Thick description helped elucidate the complexities of EU negotiations, and provided contextual explanations which would get lost in a quantitative setting.

I decided not to include quantitative or statistical analyses in the research design of this thesis. While much research had been done on who has power in the EU in quantitative terms, these studies had several drawbacks. Firstly, it would be very difficult to quantify policy preferences in most policy areas for all the member states. As argued above and in

²¹ Gerring J., (May, 2004) ‘What is a Case Study and what is it Good for?’ *The American Political Science Review* Vol. 98, No. 2 p. 350

the literature review, many quantitative studies assume that the salience of any issue (or legislation) was equal in all member states, which is a fundamental flaw of that research method. Quantitative studies that do use data on policy preferences and issue salience have often been based on faulty or incomplete information, which in turn led to findings which were contradictory to other official sources. Therefore, a qualitative analysis was chosen as the appropriate method.

3.3. The case studies

Having looked at why Luxembourg is an appropriate case study for a member state's policy effectiveness, we can proceed to the three detailed case studies: the creation of the Stability and Growth Pact in 1996, the reform of the same in 2005 and EC Reg. 883/2004. The case studies range from high profile decisions to very specific, technical issues. The first case provides an example where Luxembourg has been able to be highly policy effective. The second case shows that Luxembourg had low policy effectiveness in the outcome, while Luxembourg was medium policy effective in the third case.

The cases were selected where the Luxembourg government or the press claimed it had been policy effective, in order to test firstly the accuracy of this claim and secondly the reasons for this supposed policy effectiveness. It seems necessary to test the validity of these claims that Luxembourg was policy effective in all three cases, because policy effectiveness is not an easily observable fact, such as winning an election or the emergence of a new party. The criteria for the case selection means that the claims made had to be confined to an environment in which governments had an inherent interest in the outcome of negotiations. Only then can we expect the government to use its resources to try to be policy effective.

The case selection was based on a supposed positive outcome of policy effectiveness, as it was easier to identify and isolate the factors which helped policy effectiveness. However, the case studies present different degrees of policy effectiveness, making it possible to

identify the factors which hamper or enhance policy effectiveness and whether the presence or absence of one factor matters or not. The reasons for this policy effectiveness or lack of it constitute then the major part of this analysis. A diachronic analysis permits us to analyse sequences.²² The cases were negotiations that happened in 1996, in 2003, and in 2005. In 1996 and 2003, there were 15 member states, while in 2005 there were 25 member states. This research could bring some early (although non-conclusive) indicators towards whether member states were less policy effective after enlargement.

4. Plan of the thesis

The second chapter presents the political system of Luxembourg. It is divided into two parts: the main characteristics of the economy, society and political system, and then Luxembourg's relations with the other member states and the European Union. Considering that this case is quite neglected in Political Science, especially in the English language, we need to lay out some contextual factors.

The third chapter is a review of the literature in a narrow sense. Some general theories of European integration based on member state power (Moravcsik²³) and the most recent attempts at classifying member states in terms of power or policy effectiveness will be presented. Moreover, a new strand of academic literature on European integration has emerged, probably as an evolution to Moravcsik's liberal intergovernmentalist theory. This new strand variously looks at member states' power (Bailer and Tallberg²⁴), or at the presidency of the European Council (Moxon-Browne and Quaglia; Elgstrom and

²² Gerring J., (2001) *Social Science Methodology. A Critical Framework*. Cambridge University Press, p. 223

²³ Moravcsik A., (1998) *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* Routledge/UCL Press.

²⁴ Bailer S., (2010) 'What Factors Determine Bargaining Power and Success in EU Negotiations?' *Journal of European Public Policy*, Vol. 17, No.5, pp.419-431. Tallberg J., (2008) 'Bargaining Power in the European Council.' *Journal of Common Market Studies*, Vol. 46, No. 3, pp. 685-708.

Tallberg²⁵), at leadership in the big bangs of European integration (Beach and Mazzucelli²⁶). Finally, I show how my research fits into this literature.

The fourth chapter presents the research framework and the methodology. First, the assumptions that underlie this research will be presented. ‘Policy effectiveness’ will then be closely defined, along with the factors of domestic politics, the negotiation context, the distribution and intensity of preferences, the presidency and individual-level factors. The last section presents the research methods.

The fifth chapter is the first empirical case study based on the creation of the Stability and Growth Pact (SGP) in 1997. Luxembourg’s strategic position between France and Germany contributed to the agreement. More specifically, the linguistic and cultural assets that Luxembourg enjoys because of its strategic location between the two countries give it plenty of opportunities to play the role of broker. An excellent understanding of both neighbours’ concerns enhanced its negotiating capacity. In addition, Luxembourg was one of the only member states that fulfilled the convergence criteria suggested by Germany. Indeed, the Luxembourg government played the role of mediator in the negotiations of the SGP in 1996, despite not holding the presidency. This case study is thus appropriate to test all the propositions, and I test which one was the main factor in Luxembourg’s success. The claim is that it managed to be highly policy effective based on the analysis of its preferences and the outcome. The combination of individual-level factors, institutional coordination and the distribution of preferences favoured Luxembourg’s success.

The sixth chapter presents a follow-up to the first case study. The *raison d’être* and the troubled history of the SGP show that the context for negotiations of a reform were far from ideal in the beginning. When the negotiations started late 2004, early in 2005, many heads of state were sceptical that an agreement could be reached. The positions of France and Germany, on the one hand, and the Netherlands and Austria on the other were wildly

²⁵ Quaglia, L. and Moxon-Browne, E., (2006) ‘What Makes a Good EU Presidency? Italy and Ireland Compared.’ *Journal of Common Market Studies*, Vol. 44, Issue 2, pp. 249-368. Elgstrom, O. (ed.) (2003) *European Union Council Presidencies, A Comparative Perspective*. London, Routledge.

²⁶ Beach D., Mazzucelli C., (2007) *Leadership in the Big Bangs of European Integration*. Palgrave Macmillan.

diverging. Luxembourg had the presidency, and a reform was brokered. In this case, it was low in terms of policy effectiveness. While some factors stayed constant compared to the creation of the SGP, a different result came about. While in 1996, the personal political weight of Juncker and his double hat of Prime Minister and Finance Minister were the main factors for Luxembourg's success; in 2005 the additional factors of chairing the Eurogroup and the presidency did not lead to policy effectiveness. Just as in 1996, holding the presidency of the European Council can be (but is not necessarily) a factor for policy effectiveness. The main factors which influenced this low policy effectiveness can be traced back to the distribution and intensity of preferences of the other member states- more specifically the alliance of France and Germany who imposed its vision of a new SGP.

The seventh chapter is the last case study on Luxembourg's policy effectiveness. This chapter offers an institution- and actor-centered explanation of Luxembourg's role in the reform of the EC Regulation 1408/71. The negotiations on the allocation of unemployment benefits to frontier workers (EC Regulation 883/2004) were very delicate ones. The Commission proposed that unemployment benefits should be paid by the member state where the former employee was working, not where he was residing. The history and statistics of frontier workers in Luxembourg show the unique structure of Luxembourg's economy and its extreme dependence on frontier workers. A chronological presentation of the institutional process and negotiations from 1999 to 2003 show which factors played a part in Luxembourg's medium policy effectiveness. Finally, the outcome of the negotiations is presented. This case study argues that Luxembourg's strategy of giving in as little as possible and as late as possible in an environment of unanimity worked. Furthermore, it suggests that if an issue is of little interest to the big member states, the Commission proposal is abandoned in favour of a sub-optimal agreement and secondly that European governance is sometimes based on the delegation of negotiations to a small circle of actors.

The eighth chapter presents the findings of the empirical case studies. Were the indicators of policy effectiveness well chosen? Do they accurately measure policy effectiveness? Which factors work in combination to produce the desired outcome? It is suggested that the

individual-level factors and the distribution and intensity of preferences influence most the degree of policy effectiveness. The factor that did not influence policy effectiveness in any case is the presidency. Domestic politics only played a role in one case; however this may be because until the economic crisis, budgetary coordination and monetary policy in general were not perceived as very salient by the media and the public. The negotiation context has had a negative impact on policy effectiveness. A review of what we have learnt about Luxembourg demonstrates the weaknesses of this small country in the European institutions, but shows ways to be policy effective. Finally, it draws a conclusion on undertaking research about policy effectiveness and identifies possible criticisms of this research as well as highlighting lessons and possibilities for future research.

Chapter 2: The current political system in Luxembourg

1. The political landscape

Before delving into the literature review of member states' policy effectiveness in the European Union, a presentation of Luxembourg's political system, its society and its idiosyncrasies should give some much-needed background information on what kind of state, government and people we are dealing with in these case studies. Partly because of its smallness, Luxembourg is often overlooked in Political Science studies and very little is actually known about it, apart from the common clichés: it is portrayed as extraordinarily wealthy due to being a tax haven and is a stable democracy coupled with an efficient corporatist structure of industrial relations.

Luxembourg is a parliamentary democracy with a constitutional monarchy. The monarchy is one of the few whom the population explicitly expressed their support for in a referendum in 1919. The Parliament consists of 60 elected members. Just like in the Netherlands, the mandate of Member of Parliament is incompatible with being a member of the government, being a magistrate and being a member of the State Council. The Grand Duke is the Head of State and his powers are mostly ceremonial. He has to sign every piece of legislation after it has been passed in Parliament before it becomes effective. A constitutional and monarchical crisis was only narrowly averted in late 2008 and 2009 when the Grand Duke refused to sign the law regulating the use of euthanasia, citing his religious beliefs for the refusal. In the end, the constitution was changed so that now he does not need to "sanction and promulgate" laws anymore. The Grand Duke designates the *Formateur* on the basis of the election results, who then designates the members of government. The government presents its political programme to Parliament who votes on a confidence motion.

The number of ministerial departments usually exceeds the number of government members; one minister is usually responsible for several ministerial departments. This is a particularity, to which we shall return later on and which had a bearing on some of the case studies. Even the Prime Minister usually has responsibility for at least one other department; the current PM Juncker has held simultaneously the posts Minister of State, Minister of Employment and Finance Minister at various points over his 15 year long Premiership. Entering government in 1982 as secretary of State for Labour and Social Security in 1982, Juncker became Finance Minister in 1989. In 1994 he kept both his posts as Finance Minister and Minister for Employment, but he also became Prime Minister.²⁷ During Luxembourg's EU presidency in 1991, he presided over the Economic and Financial Affairs Council, and contributed to the negotiations on the Economic and Monetary Union, notably by proposing the infamous opting-out clause for the United Kingdom. He stayed in the double functions of Finance Minister and Prime Minister from 1995 until 2009, when he decided to quit being a Finance Minister and "only" kept the office of Prime Minister, after his party was re-elected by the biggest margin since the Second World War (he also got his highest personal score that year). This means that Juncker has been in government for the past 28 years, of which he spent 20 years as Finance Minister, and 15 years as Prime Minister. He has chaired four EU Presidencies and has been the President of the Eurogroup, the group of the Finance Ministers of the Eurozone, since 2005, to which he was re-elected in 2010. In the previous legislative period between 2004 and 2009, the current Finance Minister Luc Frieden (CSV) was Minister of Justice, responsible for all issues of internal security, and Minister for the Treasury and the Budget. Between 2004 and 2006, he also was Minister of Defence. Jeannot Krecké (LSAP) was appointed Minister of the Economy and Foreign Trade, and Minister of Sport.

The State Council could be considered as the second legislative assembly and functions as a moderating influence. It is composed of 21 Councillors, who are nominated and fired by the Grand Duke, on the basis of either the recommendations of the government, the Parliament or the State Council. The State Council is obliged to submit its opinion on most legislation before Parliament gets to vote. In its opinion, it has to consider whether the legislative

²⁷ SIP, (2009) 'Le Premier Ministre. Jean- Claude Juncker.'

proposals conform to the Constitution, international conventions, and general principles of law. “Its role is to persuade, not to impose. In this aspect, its role is consultative.”²⁸

Concerning the size of the public administration, Luxembourg has only around 20 000 people who work in some way for the state. The foreign policy executive suffers from a chronic overstretch, as it has around 200 staff members only. This is the main reason why Luxembourg always figures as a “bad pupil” in the transposition of directives into national legislation, although the figures have been improving in 2009.²⁹ The parliament and the administration simply cannot deal as quickly with the transposition as those from bigger states. The remaining sections of this chapter will present the population and society, the state of the economy, the political parties, the national and European elections, and finally the form of corporatism that prevails to this date in Luxembourg.

1.1. Population, society and employment

With its approximately 520 000 inhabitants and 2586 square kilometers, Luxembourg is wedged between France in the West, Belgium in the North and Germany in the East. Within the last 30 years, the population has increased by some 120 000 inhabitants, due in a large part to immigration.

²⁸ SIP, (undated) ‘Une monarchie constitutionnelle dans la tradition européenne.’
<http://www.luxembourg.public.lu/fr/politique/Letz-syst-politique.pdf>, p. 3

²⁹ Ministère des Affaires étrangères, ‘Rapport d’Activité 2009’

Table 2.1: The population of Luxembourg (x 1000)

Year	1981	1991	2001	2007	2008	2009	2010
Population							
Total population (x1000)	364.6	384.4	439.5	476.2	483.8	493.5	502.066
women	186.7	196.1	223	240.4	244.2	248.7	252.66
Luxembourgeois	268.8	271.4	277.2	277.9	277.9	278	285.7
Foreigners(x1000)	95.8	113	162.3	198.3	205.9	215.5	216.4
- Portuguese	29.3	39.1	58.7	73.7	76.6	80	79.8
- Italians	22.3	19.5	19	19.1	19.1	19.4	18.2
- French	11.9	13	20	25.2	26.6	28.5	29.7
- Belgians	7.9	10.1	14.8	16.5	16.5	16.7	16.7
- Germans	8.9	8.8	10.1	11.3	11.6	12	12
- British	2	3.2	4.3	4.9	5	5.3	5.5
- Dutch	2.9	3.5	3.7	3.8	3.8	3.9	3.9
- Other EU	10.6	6.6	9.2	16.5	17.9	19.5	20.5
- others	...	9.2	22.5	27.3	28.8	30.2	30.1
Foreigners in %	26.3	29.4	36.9	41.6	42.6	43.7	43.1

Source: Statec³⁰

The number of citizens is stagnating, and without naturalisation it would even have decreased.³¹ The statistics are telling the extent of this phenomenon: while in 1981, 268 800 residents were citizens and 95 800 were foreigners, in 2010 the 285 700 residents were citizens and 216 400 were foreigners.³² The vast majority of these foreign residents have EU citizenship. It seems ironic that the creation of this EU citizenship, with ever increasing economic, social rights and pecuniary benefits which are almost undistinguishable from the rights of a citizen of Luxembourg, is one of the reasons why Europeans do not want to become citizens, even if they plan to stay for the rest of their lives in Luxembourg.

³⁰ Statec: 'The population of Luxembourg (x 1000)'

³¹ Statec, (2010) 'Population et emploi.'

³² Statec, (2010) 'État de la population (x1000) 1981 , 1991 , 2001 – 2010.' Available at: <http://www.statistiques.public.lu/stat/TableViewer/summary.aspx>

Furthermore, dual nationality only entered into force in January 2009. Currently there is only a slight majority of the residents who have citizenship- if it turns into a minority then the minority will rule over the majority. There is a real issue in the very near future for the democratic representativeness of the government if foreign residents continue to refuse to take up at least dual nationality.

Since 1983, employment has been steadily on the increase, especially due to an increase in the number of frontier workers, who account for around 40 percent of total employment.³³

Unemployment had been marginal for a long time and centered on the 3 percent mark, but it has also been on a steady increase since 2002. In 2010, it has doubled to 6 percent.³⁴

Luxembourg has a relatively unusual language situation. While the national language is Luxembourgish, legislative instruments and their implementing regulations are drafted in French. French, German or Luxembourgish can be used in contentious or non-contentious administrative matters and in judicial matters. The three languages are used to varying degrees as working languages and for formal and informal communication.³⁵ French turned out to be the major language of the public administration, of the justice system, of the political institutions and of high culture. German dominates in areas such as the press. Its geographical location has made it possible for Luxembourgers to “understand the Germanic and the roman world, to borrow from these two rich cultural heritages and to produce a synthesis of them.”³⁶ The citizens of Luxembourg are characterised by a strong sense of social cohesion, national identity and a sense of vulnerability. It has been rightfully argued that the influence of public opinion is rather weak.³⁷

³³ More details on Luxembourg's labour market are presented in the case study of the payment of unemployment benefits to frontier workers.

³⁴ Statec, (2010) 'Emploi et chômage 2000-2010'. 21 September. Available at: http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=338&IF_Language=fra&MainTheme=2&FldrName=5&RFPth=36

³⁵ Council of Europe, (2007) 'Initial periodical report presented to the Secretary General of the Council of Europe in accordance with Article 15 of the European Charter.' 19 March, p. 2

³⁶ Lorig in 'Einleitung: Luxemburg- „Small, beautiful and successful?“ in Hirsch M., Lorig W. H., (2008) *Das politische System Luxemburgs. Eine Einführung*. VS Verlag für Sozialwissenschaften, p. 33

³⁷ Hey J.K.A. in 'Luxembourg: Where Small works (and wealthy doesn't hurt)' in Hey J.K.A., (2003) *Small States in World Politics*, Lynne Rienner Publishers, p. 87

1.2. The economy and the budget

Luxembourg's economy is characterised by its openness towards trade in goods and services and its acceptance of exogenous talent and capital. While the iron and steel sector was the most important until the 1970s, it was less than 3 percent of value-added, while manufacturing was less than 10 percent in 2004.³⁸ The economy experienced exceptional growth from 1985 to 2000 and a spectacular downturn in 2001. This growth is largely attributed to the financial sector, whose share in value-added rose from less than 5 percent in 1970 to over 20 percent in 2004.

Luxembourg is only second to the USA in terms of investment funds in total volume.³⁹ However, its share of the total volume is only 6.4 percent, compared to the 60 percent of the USA. The UK, in comparison, owns only half of Luxembourg's share. If we look at direct investment per capita in 2000, Luxembourg occupies the first place with 59 563 USD per capita. But we can note a marked decline if banks are taken out of the equation, when the volume drops to roughly 20 000 USD. However, it is noteworthy that Luxembourg still occupies the first place before Ireland.⁴⁰

From 2001 to 2004, there was a sharp slowdown and a modest re-acceleration in the economy. Luxembourg's economic growth is extremely volatile and subject to major fluctuations, a characteristic common to open economies.

“In the past twenty years, during periods of strong economic expansion (1985-1991 and 1997-2000), growth in Luxembourg was over twice as high as average growth in the Eurozone: growth averaged 3 percent in the Eurozone compared to 7 percent in Luxembourg. (...) Even in periods of economic slowdown (1992-1996 and 2001-2006), the Luxembourg economy grew at a pace more than double that of the

³⁸ Statec, (2006) 'Kaleidoscope 2006', p.6 Available at: http://www.statistiques.public.lu/fr/publications/horizontales/kaleidoscope_2006_en/kaleidoscope_2006_en.pdf

³⁹ Statec, (undated) 'Les piliers du secteur financier aujourd'hui.' Available at: http://www.portrait.public.lu/fr/structures_economiques/structure/coups_de_projecteur/secteur_financier/piliers/index.html

⁴⁰ Statec, (undated) 'Investissement direct par tête d'habitant en 2000 (en USD).' Available at: http://www.portrait.public.lu/fr/structures_economiques/rerelations/graphe2_3_2.html

Eurozone: between 2001 and 2006 the average GDP growth rate in Luxembourg will in all likelihood amount to 3.5 percent, while in the Eurozone the average rate will probably be not more than 1.4 to 1.5 percent.”⁴¹

Turning to the budgetary situation, we can observe the following: that Luxembourg has been a model pupil in terms of budgetary surveillance. The various governments have always adhered to the principles of fiscal discipline and budgetary consolidation. In this case as well, Luxembourg’s situation differs markedly from that of its neighbours. The following table illustrates this point.

⁴¹ Statec, (2006) ‘Kaleidoscope 2006’

http://www.statistiques.public.lu/fr/publications/horizontales/kaleidoscope_2006_en/kaleidoscope_2006_en.pdf

Table 2.2.: Luxembourg's budgetary situation from 1998-2010 in percentage of GDP:

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008a *	2008 b*	2008 c*	2009	2010	average
Deficit general gvt	2.6	4.4	6.2	6.1	2.4	0.8	-2.3	1.0	0.7	3.2	2.3	2.0	2.5	-1.1	-3.9	1.7
Deficit central gvt	0.9	2.7	3.0	2.6	-0.2	-1.2	-1.2	1.5	-0.9	0.8	-0.5	-0.8	-0.2	-2.9	-5.5	0.6
Gross debt	n/a	n/a	5.34	5.3	5.7	5.3	6.6	6.1	6.9	7.0	14.4	14.4	13.5	14.9	18.3	

Sources: Luxembourg Ministry of Finance.⁴²

**Explanatory note: there are three columns for 2008, because the different updates provide conflicting statistics on the deficits of the general and the central government and on the levels of gross debt. 2008a: 10th update of the Luxembourg Stability and Growth Programme.' 2008b: 10th update of the Luxembourg Stability and Growth Programme, ADDENDUM.' 2008c: 11th update of the Luxembourg Stability and Growth Programme.' The numbers from the 11th update were taken to calculate the average.*

⁴² Luxembourg Ministry of Finance, (2000) '1st update of the Luxembourg Stability and Growth Programme.'; (2000) '2nd update of the Luxembourg Stability and Growth Programme.'; (2001) '3rd update of the Luxembourg Stability and Growth Programme.'; (2003) '4th update of the Luxembourg Stability and Growth Programme.' (2003) '5th update of the Luxembourg Stability and Growth Programme.' (2004) '6th update of the Luxembourg Stability and Growth Programme.' (2005) '7th update of the Luxembourg Stability and Growth Programme.' (2006) '8th update of the Luxembourg Stability and Growth Programme.' (2007) '9th update of the Luxembourg Stability and Growth Programme.' (2008) '10th update of the Luxembourg Stability and Growth Programme.' (2009) 10th update of the Luxembourg Stability and Growth Programme, ADDENDUM.' (2010) '11th update of the Luxembourg Stability and Growth Programme.'

Budget surpluses of the general government (which includes the budgetary situations of the local government and social security) were on average 1.7 percent over the past 12 years- including the period of 2008 to 2010 when the economic and financial crisis made its impact felt. High surpluses of 6.2 percent of GDP in 2000 were replaced by record forecast budget deficits of 3.9 percent of GDP in 2010. This increase stems not only from the economic downturn, but also from government support to stabilise the banking system. The government supported the banks Fortis and Dexia with 2.4 billion euro and 376 million euro in 2008.⁴³ This is the first time that Luxembourg does not meet the SGP criteria of a maximum budget deficit of 3 percent. Budget surpluses of the central government were lower but still positive at 0.6 per cent over the same period. As regards the state's debt levels, they are remarkably low in times of economic crisis at 14.9 percent in 2009. However, it is triple the amount of the 2000 levels of gross debt.

Compared with other member states though, Luxembourg's government is still in an enviable position- less so in terms of budget deficits, but still in terms of its public debt. Ireland has a public deficit in 2009 of 12 percent of GDP, while Germany has had almost identical levels to Luxembourg's deficits in 2008 and 2009.⁴⁴ Luxembourg's levels of gross debt at 14.9 percent in 2009 are still well below the reference value of 60 percent of GDP foreseen in Article 126 in the Treaty of the Functioning of the European Union.⁴⁵ Germany's public debt is levelled at 68 percent in 2009.⁴⁶ In summary, while Luxembourg had exceptional growth rates in the early 2000s, which were reflected in its budgetary surpluses, and low levels of gross debt, it can be said that the economic and financial crisis has had a negative impact on both, but not as devastating as in many other Eurozone (and non-Eurozone) countries.

⁴³ Luxembourg Ministry of Finance (2009) '10th update of the Luxembourg Stability and Growth Programme, ADDENDUM' p. 8

⁴⁴ *BBC News website*, (2009) 'Tough 2010 Irish Budget unveiled.' 9 December. Bundesministerium der Finanzen, (January 2009) 'Aktualisierung des deutschen Stabilitätsprogramms', p. 4

⁴⁵ Luxembourg Ministry of Finance, (2010) '11th update of the Luxembourg Stability and Growth Programme', p. 17

⁴⁶ Bundesministerium der Finanzen, (2009) 'Aktualisierung des deutschen Stabilitätsprogramms.' January, p. 6

1.3. Political parties

The four traditional political parties were founded at the beginning of the 20th century: The Christian Social People's Party (CSV), the Luxembourg Socialist Workers' Party (LSAP), the Liberal Party (DP) and the Communist Party (KP). The CSV has been the strongest political force and has almost always been in government (except for 1925-1926 and 1974-1979), while the LSAP and the DP were variously the smaller coalition partner. During the 1980s, the Green Party and the Action Committee for Democracy and Pension Justice (ADR) were founded and are nowadays established within the party system. The ideological distance between the political parties is quite low, as Luxembourg is characterised as a consensual democracy. No one party can hope to impose its views exclusively, not even in a coalition. Finally, not one of the major parties is questioning the benefits of EU membership, Euro membership or of further integration. There is a widespread agreement on international matters- "politicians and the wider population are largely aware that any bitter division on foreign policy could further weaken the already small voice of Luxembourg in international politics."⁴⁷

The ADR (Alternative Democratic Reform Party- *Alternativ Demokratesch Reformpartei*) was created in 1987 as a lobby organisation for higher pensions in the private sector and is nowadays an established party. Since 1999, the party tries to own the themes of economic liberalism, which has been partly neglected by the DP. Even though the ADR officially stands for social justice, it also appeals to those who are disillusioned by the state and wants to reduce the competencies of the state to its core issues (on the national and European level).⁴⁸ Its members and supporters are elderly people who feel left out and neglected by the other political parties. It argues that subsidiarity should be absolute- decisions should be taken at the lowest level possible. The ADR is a member of the Union of a Europe of Nations since 2003. The other parties regard it as a populist party, and have constructed a *cordon sanitaire* around it.

⁴⁷ Frentz J-M. in 'The Foreign Policy of Luxembourg' in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. 136

⁴⁸ Dumont, Fehlen, Poirier in 'Parteiensystem, politische Parteien und Wahlen' in Hirsch M., Lorig W. H., (2008) *Das politische System Luxemburgs. Eine Einführung*. VS Verlag für Sozialwissenschaften, p. 168

The CSV (Christian Social People's Party- *Chreschtlech Sozial Vollekspartei*) has always had a core position on Luxembourg's political system and is usually the pivotal party. It conducts a "political programme based on the Christian and humanist principles of solidarity and of social progress".⁴⁹ Its supporters come from the conservative middle class, civil servants, catholic workers and farmers. Due to its considerable influence on the civil service, it attracts people who are interested in a political career without necessarily having a catholic background. This is not without consequences to the programme and identity of the party. There are two camps within the party. The first is the social and technocratic camp which considers politics to be not only an arena for the confrontation between ideologies and parties, but should also aim to include as many social groups as possible. There is a wide democratic consensus on themes like the welfare state, the EU, the integration of foreigners into the party and the society and departs from the assumption of the disappearance of ideological differences. This wing has dominated the party since the resignation of Pierre Werner in 1984.⁵⁰ The second camp is liberal-conservative and plays a second role within the party. It argues that the involvement of the state is seen by the population as omnipresent, and underlines the importance of individual responsibility and supports a value system based on the family, the nation and European integration. However, these two camps rarely confront each other openly- the image of the CSV as a party of bridging the class differences and social harmony prevents this to a certain extent. Although the party describes itself as a centrist party, the majority of the population sees it clearly as a right wing party.⁵¹ Its economic policies are more left-wing than many other European Christian Democratic parties, thereby stealing votes from the LSAP. In the European Parliament, it is a member of the EPP.

The DP (Democratic Party- *Demokratesch Partei*) has been a member of the coalition in seven governments since 1940. Its philosophy is mainly based on economic and political liberalism; however it has strayed from these principles during its participation in

⁴⁹ CSV Statues in Dumont, Fehlen, Poirier in 'Parteiensystem, politische Parteien und Wahlen' in Hirsch M., Lorig W. H., (2008) *Das politische System Luxemburgs. Eine Einführung*. VS Verlag für Sozialwissenschaften, p. 169

⁵⁰ Ibid, pp 173

⁵¹ Ibid, pp 174

government from 1999-2004, for which it was punished by the electorate in the elections of 2004.⁵² When Gaston Thorn (DP) was Prime Minister from 1974-1979 in coalition with the Socialists, it managed to pass many important reforms, such as the abolition of the death penalty, several laws regarding divorce and abortion, the introduction of the 40 hour working week, and the creation of the tripartite, which was supposed to be an instrument for managing the economic crisis. Its most significant contribution however was the reform of the steel sector on the basis of a consensus between the social partners. It is a member of ALDE in the European Parliament.

The Green Party (*Dei Gréng*) entered the political arena in 1984, and was split and reunited several times since. Its original concerns dealt with environmental sustainability, subsidiarity to strengthen democracy, and pacifism, along with a fundamental questioning of industrial policies and the structure of society. It could therefore reunite different people under the common banner of criticising the structure of society: ecologists, Marxists, left Catholics, Third World activists, wealthy town dwellers in search of a more environmentally friendly lifestyle, and liberals. This “social and cultural patchwork still constitutes the basis of its supporters, with the peculiarity that 70% of them in 2004 were civil servants.”⁵³ In order to break the isolation within the political system, the party has slowly transformed into an ecological party of the centre.

The LSAP (Luxembourg Social Workers Party- *Letzebuergesch Sozial Aarbechter Partei*) is the second most popular party in Luxembourg, and was often the smaller coalition party of the CSV. In the 1970s, the liberal wing of the party split and formed a new party, which disappeared after 1984. From 1984 until 1999, they governed the country together and carried out numerous social and economic reforms.⁵⁴ In 1999, they were the big losers in the elections, and went into opposition until 2004. The LSAP has to fight sporadically in the South constituency, its major stronghold, against the Left Party, a former communist party and similar to the Left Party in Germany.

⁵² Dumont, Fehlen, Poirier in ‘Parteiensystem, politische Parteien und Wahlen’ in Hirsch M., Lorig W. H., (2008) *Das politische System Luxemburgs. Eine Einführung*. VS Verlag für Sozialwissenschaften, p. 176

⁵³ Ibid, pp 178

⁵⁴ Ibid, pp 182

The party system is characterised by a certain weakness of the parties, for two reasons: first of all the election system which favours charismatic personalities through the system of panachage and secondly, a missing constitutional and legal framework for the parties and for the financing of party organisations. The ideological distance between the parties is quite small, which is related to the fact that Luxembourg is a consensual democracy.⁵⁵ The three parties (CSV, LSAP, DP) can be called ‘staatstragend’, which has led to a great political stability, but has also given momentum to the creation of opposition parties, such as the Greens and the ADR. Under the leadership of Jean-Claude Juncker, the CSV has renewed its party membership and taken on a hegemonic position within the system, which exceeds its connections to the civil service and to the trade union movement. All this plus the election trends (or lack of them) over the past two decades show that the cliché of Luxembourg being a stable democracy with little electoral volatility is far from misleading.

1.4 National elections

Luxembourg’s history in the second half of the 20th century has been characterised by a remarkable political and social stability.

“The last five Prime Ministers’ average period of office was over 23 years with over 10 years as head of government! Similarly, ministers of foreign affairs tend to exercise for more than one five-year mandate.”⁵⁶

Three aspects distinguish Luxembourg from other countries’ elections and electoral systems: its compulsory voting, the voting system and the low turnover in political personnel. First of all, voting is compulsory for anyone between the ages of 18 to 75. Participation is therefore very high- around 90 percent in the last two national and

⁵⁵ Lijphart (1969) in Dumont, Fehlen, Poirier in ‘Parteiensystem, politische Parteien und Wahlen’ Hirsch M., Lorig W. H., (2008) *Das politische System Luxemburgs. Eine Einführung*. VS Verlag für Sozialwissenschaften, p. 155

⁵⁶ Trausch (2006) in Frenzt J.-M. in ‘The Foreign Policy of Luxembourg’ in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. 138

European elections (2004 and 2009).⁵⁷ Secondly, the voting system is one of panachage. There are two ways of voting: either one votes for a party, crossing the circle of the party list, thereby agreeing with the ranking order of the candidates established by the party, or one can choose “*panachage*”, which means that one can give up to two votes per person of any party until all the votes are distributed. Constituency seats are allocated by the Hagenbach-Bischoff method. The number of votes polled by each list is then divided by the electoral quota, and the result is the initial number of mandates allocated to the list; unfilled seats are then allocated in each constituency according to the largest average method, also known as the D'Hondt rule. List seats are assigned to the candidates with the largest vote totals within each list.⁵⁸ National elections are divided into four constituencies: the less populated East and North constituencies (7 and 9 MPs) and the bigger South and Central constituencies (23 and 21 MPs). Members of Parliament are elected for 5 years.

Table 2.3.: National election results from 1989 until 2009 in terms of percentage and seats:

Party	1989	1994	1999	2004	2009
CSV	31.7 (22)	31.4 (21)	30.1 (19)	36.1 (24)	38.0 (26)
LSAP	27.2 (18)	24.8 (17)	22.3 (13)	23.4 (14)	21.6 (13)
DP	16.2 (11)	18.9 (12)	22.4 (15)	16.1 (10)	15.0 (9)
Gréng	8.9 (2)	10.9 (5)	9.1 (5)	11.6 (7)	11.7 (7)
ADR	7.3 (4)	7.0 (5)	11.3 (7)	10.0 (5)	8.1 (4)
Lénk	-	-	3.3 (1)	1.9 (0)	3.3 (1)

The first number indicates the percentage of the valid votes, the second number indicates the seats allocated to the party out of 60

Source: <http://www.parties-and-elections.de>⁵⁹

Since the Second World War, no party has been able to “go it alone” in Luxembourg, but simultaneously the system is characterised by an extraordinarily high level of stability and continuity. The centripetal tendency of the political spectrum has always favoured the CSV.

⁵⁷ Huberty M., (2009) ‘The National Legislative and European Parliament Elections in Luxembourg.’ *Epern Election Briefing* No.39, p.3

⁵⁸ Alvarez- Rivera M., ‘Election Resources on the Internet. Elections to the Luxembourg Chamber of Deputies.’ Available at: <http://electionresources.org/lu/>

⁵⁹ Parties and elections: <http://www.parties-and-elections.de/luxembourg2.html>

Coalition governments resulted mostly in either a coalition between the centre-right CSV and the centre-left LSAP- or with the liberal DP. Only once since the 1950s, a coalition was able to form without the involvement of the CSV: in the 1970s, the DP provided the Prime Minister (Gaston Thorn, later to become EU Commission President) and was in a coalition with the LSAP- a time in which significant social reforms were pushed through.

1.5. Culture of corporatism

“What natives refer to as the “Luxembourg model” combines continuous, institutionalized dialogue among industry, unions, and the government to produce low inequality, an adequate redistribution of the fruits of economic growth, and ‘industrial peace’”.⁶⁰

The “*tripartite*” constitutes the forum in which the government, the trade unions and the business organisations negotiate substantial elements of labour market regulation and wage policies, but also discusses fiscal policy, public finance and the overall competitive situation of the country.

Three big trade unions represent the workers: the Independent Trade Union (O-GBL) which is informally close to the LSAP and the Christian Trade Union (LCGB) formally linked to the CSV, while the trade Union of the Civil Servants (CGFP) is politically neutral. Trade unions “understand that their interests are tied to the success of private international business and generally support foreign policy decisions on that basis.”⁶¹ Business groups are generally in very close contact with the government, and have therefore considerable influence before a decision is taken in cabinet. There are six professional chambers (3 business chambers and 3 employment chambers).⁶² The mission of the Professional

⁶⁰ Hirsch M., (2010) ‘The Luxembourg Model has Reached its Limits. Social Partnership and Tripartite Arrangements work only under Fair Weather Conditions.’ *Paper presented at the Politicologenetmaal 2010 (Workshop 1B: European integration and consensus making in the Low Countries, KULeuven, p. 1*

⁶¹ Frentz J.-M. in in ‘The Foreign Policy of Luxembourg’ in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. 136

⁶² SIP, (undated) ‘Une monarchie constitutionnelle dans la tradition européenne.’ P.11

Chambers is to defend and promote the interests of the professional groups they represent. They have the right to make proposals to the government in their area. After the government has examined them, it can choose whether it passes them on to Parliament. The opinion of the relevant professional chamber is required for every law project and regulation which falls in its competences.

The Economic and Social Council (ESC) is a consultative body of the government. It is composed of representatives of businesses, liberal professions, of agriculture and viticulture, and of representatives of employees of the private and public sectors and of members directly appointed by the government. It studies economic, financial and social problems, either in specific sectors or in the whole national economy. Furthermore, it evaluates the national implications of European framework agreements between trade unions and business groups.⁶³

Until the financial crisis hit Luxembourg, the *tripartite* model worked well and was very influential, and concerns that it undermined the legislative powers of Parliament were (often but not by everyone) brushed aside.⁶⁴ However, the failure of gaining the approval of the trade unions on the Stability and Growth Programme, which included considerable cuts in public expenditure, exposed the weaknesses of the system in April 2010. Trade unions are still threatening to strike at the end of 2010, which again is something unheard of in a country used to social harmony, and is still regarded as a nuclear option. While agreement has since been found on some aspects, it is clear that the wounds, both of the trade unions and the business organisations, run deeper and thus may still threaten this unique system of corporatism. Hirsch goes so far as to label Luxembourg's system a "fair weather model".⁶⁵

<http://www.luxembourg.public.lu/fr/politique/Letz-syst-politique.pdf>

⁶³ Hirsch M., (2010) 'The Luxembourg Model has Reached its Limits. Social Partnership and Tripartite Arrangements work only under Fair Weather Conditions.' *Paper presented at the Politicologenetmaal 2010 (Workshop 1B: European integration and consensus making in the Low Countries, KULeuven*, p. 1

⁶⁴ Ibid, pp 6

⁶⁵ Ibid, pp 1

2. Luxembourg and the European Union

Looking at Luxembourg's political system in isolation does not paint a complete picture; instead we also need to take into account its relations not only with the European Union institutions, but also with its immediate neighbours in order to fully understand both levels in the 'two-level games' that governments have to play in EU negotiations. Moving on to the specifics of its European policy strategy, the geopolitical environment in which Luxembourg finds itself will be presented first. Its slightly uncomfortable location between France and Germany and the mixed fate of the Benelux union are then considered. Next, the main principles of the European policy strategy, such as multilateralism and internationalism, but also the goal to 'keep punching above its weight' are essential in understanding what Luxembourg wants. Finally, I focus on the strategies which Luxembourg employs to achieve these goals, acting with selectivity and through low-key diplomacy.

2.1. Geopolitics: relations with France, Germany and the Benelux

2.1.1. France and Germany

Relations with France and Germany condition Luxembourg's very existence. Luxembourg's governments have always considered that excellent relations with these two countries are of fundamental importance. Intense personal involvement by its politicians has often borne fruit, be it at party political level or at governmental level. Indeed, if we look at personal or party political visits over the past 5 years, we can note an intense number of visits, especially to Germany, by Luxembourg's foreign minister Jean Asselborn. Jean-Claude Juncker also regularly visits Germany and receives private visits from former chancellors, be it Helmut Kohl or Gerhard Schröder.

Attacks by the highest government levels in France and notoriously, Germany, on Luxembourg's banking secrecy have recently disrupted the- usually polite- relations.⁶⁶ The German SPD chairman Franz Müntefering had briefly considered the solution that "in the olden days we would have sent our soldiers there- but we can't do that nowadays".⁶⁷ The Finance Minister Peer Steinbrück (SPD) made some comparisons between Luxembourg and Burkina Faso's capital Ouagadougou in the context of banking secrecy, and made references to the times when the US cavalry could intimidate the Indians. These attacks have left a lasting impression on the domestic population, and led to a public outcry of indignation. Luxembourg's foreign Minister Asselborn (LSAP) answered publicly, stating that "just a millimetre of arrogance by high German authorities unleashes feelings in Luxembourg which we'd rather not feel."⁶⁸ However the change of government in Germany, along with Luxembourg's abandonment of the banking secret, has assuaged largely these animosities.

2.1.2. The Belgian- Luxembourg Economic Union (UEBL) and Benelux

Belgium has been Luxembourg's closest ally. The economic union between Luxembourg and Belgium was created in 1922 and they still have privileged ties through the economic union (UEBL). Luxembourg's smallness has also led to it being represented at consular and ambassadorial level by either Belgium or the Netherlands. Because it simply cannot afford an embassy in every capital, its citizens can go to the embassies of one of those countries, depending on the agreement, to have their concerns addressed. This presupposes detailed arrangements and close contacts between different levels of governments and administrations.

Benelux is an historical entity: the exiled governments of the Netherlands, Belgium and Luxembourg signed the Benelux Union Treaty in London in 1944. While the treaty is based on interstate collaboration without delegation of national competencies, the customs union

⁶⁶ Hirsch, M. in 'Preface: About the Resilience of Small States', in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. xiv

⁶⁷ *Der Spiegel*, (2009) 'Attacke gegen Müntefering und Steinbrück. Juncker vergleicht Kritik an Steueroasen mit Nazi-Besatzung'. 9 May.

⁶⁸ *Wort*, (2009) 'Parlament gegen Steinbrück'. 6 May.

nevertheless proved effective. The trade between Belgium, the Netherlands and Luxembourg increased by 50 percent between 1948 and 1956. The increase in external trade lifted Benelux to fifth place in the world economic league behind the United States, the United Kingdom, West Germany and Canada.⁶⁹ Collaboration followed in other areas, notably police and judicial cooperation and border control. Campbell writes that

“Government leaders in all three Benelux countries appear to have recognised that by speaking with a common voice, the Benelux national will carry more weight in the Common Market. (...) As small states with full, though lesser, voting rights in the European Community, those nations can believe in the exercise of real influence here.”⁷⁰

The Benelux treaty was renewed in 2009, and common memorandums and positions, such as on the implementation of the Treaty of Lisbon are still produced in an effort to consolidate their positions within the EU. The Benelux also has contacts with the Visegrad group and the Baltic States, which are designed to harmonise positions in the EU.⁷¹

However, Erik Jones argues that even though the customs union was a success,

“as a union, the Benelux has been something of a disappointment. (...) The elaboration of common Benelux political institutions had little if any success. As a symbol or aspiration, the proposal to deepen the institutions of the Benelux in the 1960s may be said to have encouraged greater enthusiasm via the European Community. But as a practical venture it offered few tangible results.”⁷²

The ongoing political crisis in Belgium could affect the coordination of positions and speaking with a united voice in the Council.

⁶⁹ Campbell J. in Newton G (ed), (2000) *Essays on Politics, Language and Society in Luxembourg*. The Edwin Mellen Press, p. 2

⁷⁰ Ibid, p. 2

⁷¹ Ministère des Affaires étrangères: ‘Rapport d’Activité 2007’, pp 2

⁷² Jones E. in ‘The Benelux Countries: Identity and Self-Interest’ in Bulmer S., Lequesne C., (2005) *The Member States of the European Union*. Oxford University Press, p. 167

2.2. Past and present: how these relations pan out

The relations with its neighbours are of vital necessity for a small country such as Luxembourg. Considering its geopolitical location, the government and its administration need to invest their resources wisely in cultivating their relations with these states. A reasonable proposition is that a table showing the volume of these bilateral meetings would indicate the extent of bilateral relations.

Table 2.4.: Number of official visits to and from Luxembourg to Belgium, the Netherlands, France and Germany:

Country	2001	2002	2003	2004	2005	2006	2007	2008	2009a	2009b	total
BE	7	3	4	n/a	5	2	3	3	8	2	37
NL	2	5	3	n/a	3	1	3	1	5	1	24
FR	1	0	3	n/a	3	4	6	3	2	2	21
DE	1	2	3	n/a	3	8	3	4	4	4	29

Source: Ministère des Affaires étrangères, Ministère d'Etat⁷³

This table indicates the official visits of the Foreign Affairs Ministers, the Minister for European Affairs (if there was one), of the Minister for Development (if there was a specific post created), and the Minister of Defense, and the visits they received. The row 2009a refers to the visits to and from the Ministers of Foreign Affairs, of Defense, and of Development. The row 2009b, which shows the official visits to and from the Prime Minister, is unfortunately the only year where an online activity report is available. Therefore the PM's visits are absent for the other years. The year 2004 is unavailable, as the only activity report available online is from the Ministry of Development.

⁷³ Ministère des Affaires étrangères: Rapport d'Activité 2009, Rapport d'Activité 2008, Rapport d'Activité 2007, Rapport d'Activité 2006, Rapport d'Activité 2005, Rapport d'Activité 2003, Rapport d'Activité 2002, Rapport d'Activité 2001. Only official activities on a bilateral basis by current representatives have been considered. Private visits, or visits by Monarchs or former representatives, and visits to party political events or conferences have not been included. These statistics only show visits to and from the Minister for Foreign Affairs, of Defense and of European Affairs and of Development. Ministère d'Etat: Rapport d'Activité 2009.

Over the past nine years, Luxembourg's Foreign Ministers have had the most intense relations with Belgium, followed by Germany. Considering that Luxembourg has intense formal relations through the Economic Union (UEBL) and Benelux, this table confirms that Belgium is an important ally and partner for Luxembourg and that those relations are strong. However, the Ministry of Foreign Affairs notes that due to the political turmoil in Belgium, no bilateral meetings at governmental level have been held between Luxembourg and Belgium since February 2007.⁷⁴ Relations with Germany are intense as well, and most of those visits were actually from the German government to Luxembourg. The relations between Luxembourg and the Netherlands are mostly based on Benelux meetings, indicating that relations rarely go beyond that. Relations with France seem to be contingent on political events. The doubling of visits in 2007 by and to France is related to the elections which produced a high number of visits from presidential candidates. Luxembourg also forms issue-specific alliances with those four countries, but not exclusively so. Frentz argues that

“in matters relating to the liberalisation of transport, Luxembourg votes with France and Belgium, reflecting a cautious approach to the privatization of public services, whereas when it comes to financial markets, Luxembourg has a more liberal view and usually votes with the UK against a potentially protectionist approach.”⁷⁵

Hence, Luxembourg's coalitions are based on strategic reasoning and will be examined closely in the case studies.

2.3. The results of the European elections: a country of euro-enthusiasts?

The European elections are held in a single constituency in Luxembourg. Since the entry into force of the Nice Treaty, Luxembourg has the right to 6 MEPs. National and European Parliament elections have been held simultaneously since 1979. This means in practice that all European elections in Luxembourg are second-order elections. Until the 2009 elections, candidates could stand in both national and European elections, which has been changed in

⁷⁴ Ministère des Affaires étrangères, (2009) 'Rapport d'Activité 2009', pp 1

⁷⁵ Frentz J-M. in 'The Foreign Policy of Luxembourg' in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. 143

order to give more prominence to European issues in the EP elections. There is still an ongoing debate about whether to separate the timing of both elections in order to have a true European Parliament election. The support for EU integration of the public is one of the highest among all the member states. But Luxembourg has followed the declining trend of other European societies, as seen in the very narrow approval by the citizens of the Constitutional Treaty. Hirsch makes the following assessment: “It has lost some of the aura of a model pupil. A certain dose of realism and a keen awareness of the country’s intrinsic vulnerability have taken over of late.”⁷⁶

Table 2.5.: Luxembourg’s European Parliament election results from 1989 until 2009 in terms of percentage and seats:

Party	1989	1994	1999	2004	2009
CSV	34.9 (3)	31.5 (2)	31.9 (2)	37.1 (3)	31.3 (3)
LSAP	25.4 (2)	24.8 (2)	23.2 (2)	22.1 (1)	19.4 (1)
DP	20.0 (1)	18.8 (1)	20.8 (1)	14.9 (1)	18.7 (1)
Gréng		10.9 (1)	10.7 (1)	15.0 (1)	16.8 (1)

The first number indicates the percentage of the valid votes, the second number indicates the seats allocated to the party out of 6. Source: <http://www.parties-and-elections.de>

There was no change compared to the 2004 European elections. The distribution of the 6 seats was as follows: 3 seats for the Christian Social People’s Party and 1 each for the Democratic Party, Luxembourg Socialist Workers’ Party and the Greens. We can see that apart from the Christian Social People’s Party decrease, not much has changed from 2004 to 2009. The ADR, which could be classified as a ‘soft Eurosceptic’ party, did not succeed in gaining representation.⁷⁷

⁷⁶ Hirsch M. in ‘Preface: About the Resilience of Small States’, in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. Xii

⁷⁷ Taggart, P., Szczerbiak A.(eds.), (2008) *Opposing Europe? The Comparative Party Politics of Euroscepticism: Vol.2: Comparative and Theoretical Perspectives*. Oxford University Press.

European issues were not highly prominent. The Christian Social People's Party, and the Luxembourg Socialist Workers' Party to a lesser extent, mentioned Europe as a solution to the crisis, rather than a problem, and that Luxembourg has an important role to play in the EU. These two parties also played heavily the "competence card", in the sense that they argue that the EU is too important for Luxembourg to vote for anyone who has no experience at the EU level and is not well versed in the issues that arise at EU level. This is confirmed by one of the campaign managers, who argued that the citizens vote for candidates "knowing how to represent Luxembourg in the EU" rather than for a European political ideology.⁷⁸

Luxembourg therefore followed the trend in Europe in voting for centre right parties, as the LSAP faced, like many other social democratic parties, a certain scepticism by the citizens that it would be able to deal with the economic crisis and keep its promises of providing jobs in the face of the economic and financial crisis. Where Luxembourg has never followed other European publics is in voting for Eurosceptic parties. Nevertheless, this does not conceal the fact that European elections are second order elections, which is not only because they are held simultaneously as national elections.

2.4. The broad principles and strategies of European policy

The government realised, after being invaded twice, that neutrality did not prevent anyone from marching into Luxembourg. It consequently chose the path of international cooperation and integration after the Second World War. It became a founding member of the UNO, of the OEEC, of the Council of Europe, and of NATO. The principles of Luxembourg's foreign policy are multilateralism, the rule of law and solidarity. Traditionally, the explanations for Luxembourg's commitment to further integration relate to its status as a small state in a dangerous and unstable international environment.⁷⁹

⁷⁸ Questionnaire submitted to the LSAP election campaign coordinator in 2009, by author

⁷⁹ Frentz J-M. in 'The Foreign Policy of Luxembourg' in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. 132

Luxembourg was one of the six founding member states of the European Coal and Steel Community and of the European Economic Community. It was clear from the start that the country had no option but to become a full and participating equal member in any integration process after the survival of the country had been threatened so many times since its independence. Frentz goes so far as to state that “for Luxembourg relational smallness is a *raison d’être* of EU membership.”⁸⁰

However, there are also responsibilities that come with EU membership; namely to negotiate agreements and to comply with EU legislation. Peter Katzenstein argued that the disadvantage for big states is greater coordination problems at the domestic level.

“In other words, diverse national interests make it more difficult for large states to act from a domestic generally agreed stand-point. Regardless of size, domestic coordination and consensus-building affects influence capacity for all states.”⁸¹

Luxembourg only becomes active in negotiations when its domestic interests are being discussed. Because of its small administration and diplomatic service, the efforts of foreign policy are mostly concentrated on the EU level. Luxembourg does not even have its own embassy or consulate in most EU member states, but is represented either by Belgium or the Netherlands. Even then its officials are not able to attend every meeting in Brussels. Because the resources are scarce, Luxembourg has to select carefully in which issues to invest its resources. Luxembourg has a very small administration numerically compared to other member states, but in terms of the percentage of people working in public administration, it is very high.

⁸⁰ Ibid, p. 131

⁸¹ Broman M., (2005) ‘Small State Influence in the European Union - ‘Small State Smart State?’ *Paper presented at the annual meeting of the International Studies Association, Hilton Hawaiian Village, Honolulu, Hawaii*, p. 6

Table 2.6.: The size of public administration in EU member states

state	Population in millions	Size of public administration	Percentage of people working in admin. compared to total pop.
Luxembourg	0.4	18.934 (2001)	21.09 %
Cyprus	0.8	32.069 (2000)	n/a
Malta	0.4	30.839 (2001)	n/a
Netherlands	16	n/a	12.2% (1999)
Germany	82	n/a	12.3% (1999)

Source: *Das politische System Luxemburgs. Eine Einführung*⁸²

Panke has demonstrated that Luxembourg is nevertheless one of the most active governments, preceded only by Denmark. Its most frequent strategy is institutionalised coordination, followed by bilateral partnerships to big countries.⁸³ By institutionalised coordination, she refers to the Benelux cooperation. This shows the centrality of its strategy of building alliances. It does not come as a surprise that Luxembourg seeks partnerships to big countries if we refer back to the above section on the frequency of visits to and from France and Germany. Fretz has also noted an increase of partnerships with those two countries since Juncker became Prime Minister, while at times it opposes the Netherlands.⁸⁴

It also prioritises issues:

“It has developed a pick-and-choose approach. In general, representatives of Luxembourg will attend a working group only when ‘interesting dossiers’ are on the agenda. (this does not apply to COREPER where all member states are present all

⁸² Dumont, Fehlen, Poirier in ‘Parteiensystem, politische Parteien und Wahlen’ in Lorig W. H., (2008) *Das politische System Luxemburgs. Eine Einführung*. VS Verlag für Sozialwissenschaften, p. 155

⁸³ Panke D., (2010) ‘Small States in the European Union: Structural Disadvantages in EU Policy-Making and Counter-Strategies.’ *Journal of European Public Policy*, Vol. 17, No. 6, p. 805

⁸⁴ Fretz J-M. in ‘The Foreign Policy of Luxembourg’ in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p.141

the time.) When national interests are threatened, Luxembourg has a very firm position that it will not allow to be watered down because it is a small state.”⁸⁵

Luxembourg’s governments and its diplomats have a reputation of being good, honest brokers and mediators- a quality often attributed to negotiators from small states because of the scarcity of their national interests.⁸⁶

Defending Luxembourg’s economic interests often coincided with the goal of furthering EU integration over the past fifty years. The promise of open markets and no tariffs suited a small export-led economy perfectly, as most of Luxembourg’s exports are geared towards neighbouring France, Belgium or Germany. Concerning the European Union more specifically, there are several objectives: the strengthening of the Commission, the continued use of the Community method, and being open to alliances.⁸⁷ Luxembourg is, in principle, in favour of strengthening the Commission’s prerogatives and competences: “Luxembourg trusts that the Commission as the ‘guardian of the treaties’ and with its ‘right of initiative’ will facilitate a fair balance of interests between large and small members.”⁸⁸ The Commission has not only been described as the guardian of the Treaties, but also as ‘the best friend of small states’.⁸⁹ Furthermore, Luxembourg staunchly believes in the Community method and advocates its continued use.⁹⁰ The following rules of thumb apply as guide to EU policy: that only the Commission has the right of initiative, a widespread use of qualified majority voting in the Council, an active role for the European Parliament and uniform interpretation of Community law by the Court of Justice.

⁸⁵ Bal L.J. in ‘Member States Operating in the EU Council of Ministers: Inside Impressions’ in Meerts P. W., Cede F., (2004) *Negotiating European Union*. Palgrave MacMillan, p. 137

⁸⁶ Hirsch, M., (2004) ‘Luxembourg at the Helm: Experience, Determination and Self-Denial.’ *Notre Europe Studies & Research* N°37.

⁸⁷ Frenzt J-M. in ‘The Foreign Policy of Luxembourg’ in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p.139- 142

⁸⁸ Ibid, pp140

⁸⁹ Kral D., Brinar I., Almar J., (2003) ‘The Positions of Small Countries towards Institutional Reform. From Tyranny of the Small to Directoire of the Big?’ *EPIN Working Paper* No. 6, p 9. Bunse S., Magnette P., Nikolaidis K., (2005) ‘Is the Commission the Small Member States’ Best Friend?’ SIEPS Report No. 9.

⁹⁰ Interview I

2.5. *Objective: to keep on punching above one's weight*

Although it is still overrepresented, the proportion of Luxembourg's weight in the total number of votes has steadily declined with successive enlargements. This phenomenon is not unique to Luxembourg: after every enlargement, each member state has lost voting weight and some of the bigger member states have always been and still are underrepresented. At the beginning of the EEC, Luxembourg had one vote out of 17 available (around 6 percent of the total votes), while Germany, France and Italy each had almost 25 percent of the total votes. In an EU of 15, they had 11.5 percent of the total votes and 7.5 percent under Nice in an EU of 27.⁹¹ Therefore, successive enlargements can potentially "jeopardise its protected status and limit room for special arrangements that suit the country."⁹²

Luxembourg seeks to maintain the balance between big and small member states in the EU institutions. Concretely, that would be the case if Benelux had the same voting weight as any of the big member states. Under the Treaty of Nice, that was achieved- the Benelux have combined 29 votes, just like France or Germany. Finally, Luxembourg had fiercely fought against a rotation of Commissioners, which it eventually lost during the negotiations of the Treaty of Lisbon.

3. Conclusion

Luxembourg's political system is characterised by the following attributes: budgetary discipline, political stability, small politics, consensual decision-making and institutional corporatism. Furthermore, it has a highly supportive relationship with the EU and is very selective in the way it acts on the European stage. A high performing economy and budgetary discipline have led to Luxembourg's status as one of the richest countries in the

⁹¹ Moberg A., (2002) 'The Nice Treaty and Voting Rules in the Council.' *Journal of Common Market Studies*, Vol.40, No. 2, p. 267

⁹² Frentz J-M. in 'The Foreign Policy of Luxembourg' in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p.142

world. Political stability and long-serving ministers have been conducive to having experienced politicians representing Luxembourg effectively in the EU. Furthermore, the number of ministerial departments usually exceeds the number of government members-which leads to better knowledge of transversal issues. Hirsch pointedly states “unlike its bigger partners, a small country cannot afford the luxury of changing its key political personnel continuously.”⁹³

Luxembourg is still a small, stable, wealthy and harmonious country, all of which makes it “easier to achieve national consensus in the policy-making process.”⁹⁴ However many experts warn that several important challenges lie in the not so distant future which, if not tackled, could shake these foundations: the integration and even the assimilation of non-national residents is becoming an acute issue for the state. The dependence of frontier workers in the overall economy and the fact that most citizens would rather work in the public administration than in the private sector is not a problem as such, but could generate a culture in which citizens work for the state, while ‘foreigners’ dominate the economy. Like many other European countries, Luxembourg will have trouble paying for its generous pension schemes and social security and lose its competitiveness on the international stage.⁹⁵ Furthermore, the fact that banking secrecy will slowly phase out and information will be shared from 2015 onwards is a big challenge for Luxembourg’s financial centre. While Luxembourg has ventured into the hedge funds market, the financial crisis and current proposals for further regulation by the EU mean that the government cannot afford to stand by and be idle. In sum, the current and the future government have to be proactive in order for the country’s residents, its society, economy and political system to “stay as they are”, as one of the great songs of national pride, ‘de Feierwon’ by Michel Lentz, goes. Pursuing the current “politics of the small steps” may prove to be ineffective.⁹⁶

⁹³ Hirsch M. in ‘Preface: About the Resilience of Small States’, in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. Xii

⁹⁴ Frentz J-M. in ‘The Foreign Policy of Luxembourg’ in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p.143

⁹⁵ Fontagne L., (2004) Rapport "Compétitivité du Luxembourg: Une paille dans l'acier". http://www.odc.public.lu/publications/perspectives/PPE_3.pdf

⁹⁶ Lorig in ‘Politische Kultur’ in Hirsch M., Lorig W. H., (2008) *Das politische System Luxemburgs. Eine Einführung*. VS Verlag für Sozialwissenschaften, p. 42

The geographical space that Luxembourg occupies within Europe conditions its identity, its relations and ultimately its policy effectiveness. Its strategy is to be increasingly active on specific issues, to form alliances both in the framework of the Benelux and with its two big neighbours, in order to remain an over-equal member state in the enlarged EU.⁹⁷ The various Luxembourg governments have often acted as skilled mediators between the other member states in negotiations. Its once potentially dangerous geographical location between France and Germany and the resulting trilingual peculiarity of its culture and society have turned into a considerable advantage in the EU context for assuming the role of translator and even broker in Franco-German relations. Luxembourg's policy style is characterised by a permanent search for consensus and therefore willingness to compromise.

“In Thorn's view, leaders of small countries had their use, particularly in the European set-up, as honest brokers: fluent in languages and able to interpret the different cultures, idioms and sensibilities of their colleagues because their own culture overlapped frontiers.”⁹⁸

Indeed, the culture of consensus and corporatism provide the government with an excellent training ground for developing the skills of a mediator, of searching for compromises and of developing an attitude of constructive bargaining. The objective to ‘stay what we are’ is deeply ingrained in the minds in Luxembourg. Considering how overrepresented the country is, it comes as no surprise that Luxembourg wants to remain an “over-equal member state of the EU.”⁹⁹ I would argue that there is no contradiction between the goals of compromise and being overrepresented; instead I would argue that one can only look for compromise if one feels valued and respected in the first place. Before turning to the framework on member state policy effectiveness in the EU, we shall investigate the literature up to date on how member states can get their preferences included in EU legislation.

⁹⁷ Panke D., (2010) 'Small States in the European Union: Structural Disadvantages in EU Policy-Making and Counter-Strategies.' *Journal of European Public Policy*, Vol. 17, No. 6, p.

⁹⁸ The Times: 'Gaston Thorn: Luxembourg's Honest Broker President of the European Commission' 28 August 2007.

⁹⁹ Frentz J-M. in 'The Foreign Policy of Luxembourg' in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. 139

Chapter 3: Member state policy effectiveness

1. Member state power in the EU: how should it be defined?

The question of how governments can be powerful or policy effective in the European Union's institutions over time has always attracted attention, but there is as yet no agreement on how to conceptualise or operationalise this variable. Max Weber's definition of power- the possibility to realize one's will even against the resistance of others- is still popular, but many scholars apply and analyse this concept in very different ways.¹⁰⁰ Intergovernmental explanations of European integration have postulated that national governments retain the power in the EU when it comes to decision-making and integration in general. However, how to measure power is contested:

“Intergovernmental explanations often speak of Germany, France or Britain as ‘powerful’ or ‘influential’ in negotiations, but such claims are rarely demonstrated by specifying what resources convey ‘power’ or which outcomes demonstrate that one country has been influential.”¹⁰¹

We shall look at the different studies of power or similar concepts in turn and discuss if they could be applied to the present research.

As Helen Wallace states,

“there are no agreed definitions of the forms of influence- or power- available within the EU and the ways these are exercised, nor of how to measure their impacts.”¹⁰²

¹⁰⁰ Weber in Bailer S., (2010) ‘What Factors Determine Bargaining Power and Success in EU Negotiations?’ *Journal of European Public Policy*, Vol. 17, No.5, p. 744

¹⁰¹ Moravcsik A., (1998) *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* Routledge/UCL Press, p. 53

¹⁰² Wallace H. in ‘Exercising Power and Influence in the European Union: The Roles of Member States’ in Bulmer S., Lequesne C.(eds): *The Member States of the European Union*, Oxford University Press, 2005, pp 36

Even the terminology to describe largely the same thing differs: some talk about power or more specifically bargaining power, others about influence or negotiation success, still others about leadership. There are several reasons why none of these concepts are used in the context of this research, which are addressed as the definitions come along.

Influence is often used as a synonym for power in pluralist approaches, as in Dahl's *Who governs?* Dahl first defines power or influence as "A has power over B to the extent that he can get B to do something that B would otherwise not do."¹⁰³ Lukes notes that

"a little later in the same article he describes his 'intuitive view of the power relation slightly differently: it seems, he writes, "to involve a successful attempt by A to get B to do something he would not otherwise do. Note that the first statement refers to A's capacity ('...to the extent that he can get B to do something...') while the second specifies a successful attempt- this, of course being the difference between potential and actual power, between its possession and its exercise. It is the latter- the exercise of power- which is central to this view of power."¹⁰⁴

This distinction seems quite useful and is replicated in the definition of this thesis, where the focus is on the exercise. Baillie's study on small state influence describes influence as "the desired effect on outcomes in which it has an interest."¹⁰⁵

Barry has tried to disentangle the relation between having power and getting the outcomes a government wants. He defines success as the probability of getting the outcome you want, and that success = luck + decisiveness.¹⁰⁶

"Luck is the probability of getting what you want without trying and decisiveness is the increase in the probability of getting what you want that occurs if you try. Power cannot be defined directly in terms of any of these because it is a capability rather than a probability. An actor has more power the greater the range of unfavourable

¹⁰³ Lukes, S. (2004) *Power. A Radical View*. Palgrave Macmillan, p. 16

¹⁰⁴ Ibid, pp 16, 17

¹⁰⁵ Baillie S., (1998) 'A Theory of Small State Influence in the European Union.' *Journal of International Relations AND Development*, Vol. 1, No. 3-4, p. 197

¹⁰⁶ Barry B (1980) Is It Better to Be Powerful or Lucky? Part II. *Political Studies*, Vol. 28, p.350

distributions of preferences within which he is decisive, in other words the more opposition he can overcome.”¹⁰⁷

Closely associated to luck is the concept of free rider: “provided your policy preferences are like those of people have power you will finish up with no less than they get, even though you have done nothing to bring about the outcomes that are mutually desired.”¹⁰⁸

These statements throw up some very interesting questions. It is clear that this definition of success relates to getting what one wants, and that power is something inherent to the actor in question. Secondly, the distinction between luck and decisiveness is useful in the sense that there is an emphasis on the actions of an actor. The free rider concept emphasises the importance of the other actors’ preferences and how the actor in question can be positioned in relation to them. It also underlines the importance of actor coalitions, and that success can be contingent upon other actors’ preferences.

State power is a classic concept of International Relations, where the notion of interest in the outcome and inter alia, the salience of an issue is taken into account. The natural sources of power are geographic size and position, natural resources and population. Power can also be measured by the level of industrial development, or in terms of GDP output.¹⁰⁹ Intangible sources, such as national image, public support, or ‘leadership’ can increase or diminish a state’s power. Nye defines state power in international relations:

“power is the ability to affect others to obtain the outcomes you want. One can affect others’ behavior in three main ways: threats of coercion (“sticks”), inducements and payments (“carrots”), and attraction that makes others want what you want.”¹¹⁰

This last aspect of power is called soft power and he argues it stems from three resources: culture (which can be attractive to others), political values and foreign policy.¹¹¹ However, it is debatable whether the distinction between hard and soft power is of much use in the daily policy-making process of the EU.

¹⁰⁷ Barry B (1980) Is It Better to Be Powerful or Lucky? Part II. *Political Studies*, Vol. 28, p.350

¹⁰⁸ Ibid, p.191

¹⁰⁹ Nye R.J., (1990) ‘Soft Power’ *Foreign Policy*. No. 80, Twentieth Anniversary, Autumn, p.154

¹¹⁰ Nye R.J., (2008) ‘Soft Power and Public Diplomacy.’ *The ANNALS of the American Academy of Political and Social Science*, Vol. 616, p. 94

¹¹¹ Ibid, , pp 96

The difficulties with applying any International Relations definition of state power to the context of EU negotiations are several, ranging from effectively excluding some states to undervaluing the importance of the unique decision-making procedures in the EU. Firstly, actors are classified according to their size. This implies that the bigger the state's resources, the more power it has. State power is relatively static in terms of the traditional (economic) indicators in which it is measured. This approach does not consider small states to be able to be policy effective at all. A different approach looks at case studies of small states, who often conclude that small states are not necessarily weak or powerless in specific issues.¹¹² This does not take into account the unique decision-making processes or the norms and values that are applied in the EU. The European Commission as agenda setter for legislation, and the enforcement mechanism operated by the European Court of Justice, make the EU fundamentally different to other international organisations where states negotiate freely. These definitions of power ignore the reality of the "multilayered EU negotiating system: 'interaction' and 'coordination'".¹¹³ Because a substantial part of sovereignty is vested in EU institutions, states

"have lost most of their 'freedom to decide' in negotiating certain issues. In other words, 'best alternatives to negotiated agreements' (BATNAs) are often absent: if matters are on the agenda, then the alternative of non-negotiation is no longer present. Here 'classic' theories do not hold, and only active pre-negotiation can provide states with something like a BATNA instrument. But even this is hardly true anymore."¹¹⁴

¹¹²Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd. Katzenstein P.J.: *Small States in World Markets*, Cornell University Press 1985, Goetschel L., (1998) *Small States Inside and Outside the European Union: interests and policies*. Kluwer Academic Publishers Boston. Bengtsson, R., Elgström, O. and Tallberg, J., (2004) 'Silencer or Amplifier? The European Union Presidency and the Nordic Countries.' *Scandinavian Political Studies*, Vol. 27, pp. 311–334. Maes I. and Verdun A., (2003) "The Role of Medium-Sized Countries in the Creation of EMU: The Cases of Belgium and the Netherlands". In *European Union Studies Association (EUSA) > Biennial Conference > 2003 (8th), March 27-29, 2003*, Nashville, TN, p. 31.

¹¹³ Cede in 'Introduction' in Meerts P. W., Cede F., (2004) *Negotiating European Union*. Palgrave MacMillan, p. 13

¹¹⁴ Meerts in 'European Union Negotiation' in Meerts P. W., Cede F., (2004) *Negotiating European Union*. Palgrave MacMillan, p.219

Beach and Mazzucelli have produced a comprehensive account of which EU institutions or member states played a 'leadership role' in the 'big bangs of European integration'. They define leadership as

“any action undertaken by an actor in order to attempt to solve collective action problems through the use of leadership resources (..) and as any action by one actor to guide or direct the behaviour of certain other actors (be they the whole group or only a smaller coalition) toward a certain collective goal.”¹¹⁵

Their study contributes to existing research in that it takes into account the fact that institutions such as the Council Secretariat could also influence constitutional negotiations. Furthermore they found that it mattered who provided leadership in Treaty negotiations for the efficiency and the distribution of gains in the final agreements. Leadership as defined by Beach and Mazzucelli is a concept which is not specifically including national preferences and policy objectives; instead the goal is to “solve collective action problems.”¹¹⁶ Solving a collective action problem however does not tell us whether a member state was able to get what it wanted. A government can decide to provide leadership for forging a consensus (to advance the common interest); it does not follow from this that it managed to include its policy preferences in the final agreement. It may have been overruled by the other member states' extreme preferences, or it may not have found enough allies for a blocking minority. While their theory of leadership can be applied to any EU institution and also to a specific member state, it does not aim specifically to be a theory of a member state's policy effectiveness or one that can explain European integration.

Tallberg meanwhile looks at the 'bargaining power' of a member state in the European Council, which he defines as

“the capacity of the chief executive to secure a favourable distributional outcome for the member state he or she represents – an agreement that as closely as possible reflects the interests of the particular member state.”¹¹⁷

¹¹⁵ Beach, Mazzucelli in 'Introduction' in Beach D., Mazzucelli C., (2007) *Leadership in the Big Bangs of European Integration*. Palgrave Macmillan, p. 2, 6

¹¹⁶ Ibid, pp 2

¹¹⁷ Tallberg J., (2007) 'Bargaining Power in the European Council.' *SIEPS Rapporteur*, No.1, p.10

In this definition, the accent is on capacity of the chief negotiator on the one hand and on the ‘interests’ of the member state on the other. This definition is valuable as the final agreement is compared to the interests, but why should it only apply to the European Council and the chief executive? Furthermore, the paper does not elaborate on how the ‘interests of the member state’ were established and computed, and unfortunately it does not tell us how the eventual outcome (bargaining power) has been assessed. In the context of the EU, we need a more precise concept, as we are dealing with legislation. It is not only about relationships with other states, but about negotiations on directives or regulations which have direct consequences on the daily lives of the citizens.

Finally, Bailer has variously used the concepts of power, bargaining power and negotiation success to analyse how member states get the outcomes they want in the European Union.¹¹⁸ In this case, negotiation success or bargaining power is an outcome, while power resources can lead to that outcome. Negotiation success seems to be too vague a concept as it refers to the outcome of negotiations. In this thesis, the focus of the analysis is on the final legislative outcome and not just the political agreement. We can see that there is no agreement on how these terms should be defined.

Having presented the various definitions of power, we now review how scholars have measured outcomes. In this case, establishing state preferences is necessary to establish to what degree the member state has been policy effective. Moravcsik defines state preferences as

“an ordering among underlying substantive outcomes that may result from international political interaction. Here it is essential- particularly given the inconsistency of common usage—to avoid conceptual confusion by keeping state ‘preferences’ distinct from national ‘strategies,’ ‘tactics,’ and ‘policies,’ that is, the particular transient bargaining positions, negotiating demands, or policy goals that constitute the everyday currency of foreign policy. State preferences, as the concept

¹¹⁸ Bailer Stefanie: *What factors determine bargaining power and success in EU negotiations?* Journal of European Public Policy, Vol. 17, No.5, 2010, pp 743-757, Bailer S., (2006) ‘The Dimensions of Power in the European Union.’ *Comparative European Politics*, Vol. 4, No.4, pp.355-378., Bailer S., (2004) ‘Bargaining Success in the European Union.’ *European Union Politics*, Vol.5 Issue 1, pp 99-123.

is employed here, comprise a set of fundamental interests defined across ‘states of the world.’ By contrast, strategies and tactics—sometimes also termed ‘preferences’ in game-theoretical analyses—are policy options defined across intermediate political aims, as when governments declare an ‘interest’ in ‘maintaining the balance of power,’ ‘containing’ or ‘appeasing’ an adversary, or exercising ‘global leadership’. Liberal theory focuses on the “consequences for state behavior of shifts in fundamental preferences, not shifts in the strategic circumstances under which states pursue them.”¹¹⁹

Firstly, Moravcsik is right to underline the importance of establishing what the state preferences are in a particular area. Secondly, it is constructive to distinguish between preferences and strategies, as they are not the same thing. However, those ‘shifts in the strategic circumstances’ cannot be ignored in studying the negotiation process and in evaluating policy effectiveness. These may impact on the negotiation strategy: for example, if one member state threatens to leave the negotiation table, the member state under scrutiny has to consider if it wants to make substantial concessions or not. These may not necessarily be completely in line with the state preferences. This is why negotiation strategies and the existing literature will be presented in more detail after presenting the factors which could cause policy effectiveness.

A systematic step-by-step guide on how to establish whether a member state has been powerful, or policy effective, would be a major contribution to research in the area. This guide would need to consider the multi-faceted decision-making procedures in the EU, and consider the actors involved. The European Commission and its proposal, the different levels of the Council and the progress of negotiations and the potential involvement of the European Parliament all need to figure in such an analysis. Some scholars have studied intensively the European Council, where the Heads of State and Government negotiate on the important issues. Bailer argues that instead one should focus explicitly on negotiations in the Council of Ministers, which she rightly describes as more crucial for EU legislation

¹¹⁹, Moravcsik A., (1997) ‘Taking Preferences Seriously: A Liberal Theory of International Politics.’ *International Organization*, Vol.51, No. 4, p. 519

and less investigated.¹²⁰ The present study hopefully manages to fill this gap in the research on policy effectiveness by taking all the different levels of the Council into account.

2. The sources of policy effectiveness

Before turning to the sources of policy effectiveness, one needs to identify when and where a member state has opportunities to be policy effective. The three stages of the development of policies are those of policy design, negotiation and implementation. Research variously focuses on one of these stages.¹²¹ Over the past decade, the focus of analysis has shifted from EU integration theories to the impact of the EU upon the domestic level through studies of ‘new governance’ or ‘Europeanisation’:

“The policy-oriented literature which has developed under the banner of new governance has clearly been an attempt to break away from intergovernmentalism and to give more importance to non-state actors involved in policy networks. In doing so, it has probably neglected the intergovernmental dimension of EU policy-making, which remains relevant.”¹²²

The literature provides a series of competing explanations on the successful exercise of policy effectiveness. Voting power or the lack of it is the most obvious indicator of the chance of being policy effective. The value of such an indicator is critically discussed, as it is not only an indicator, but also a result of policy effectiveness; furthermore, the problems of computing the data are presented. Secondly and intimately linked to voting power is the size of the economy of the member state. Institutional power, such as holding the presidency, has also attracted much scholarly research, and will be briefly introduced and copied to a certain extent in the framework. Individual-level factors, such as personality, experience and expertise are much less researched, but some studies treat this indicator as

¹²⁰ Bailer Stefanie: *What factors determine bargaining power and success in EU negotiations?* Journal of European Public Policy, Vol. 17, No.5, 2010, pp 744

¹²¹ Wallace H. in ‘Exercising Power and Influence in the European Union: The Roles of Member States’ in Bulmer S., Lequesne C., (2005) *The Member States of the European Union*. Oxford University Press, p.29

¹²² Bulmer S., Lequesne C. in Conclusion, in (2005) *The Member States of the European Union*. Oxford University Press, p. 390

well. Some political scientists have investigated whether party ideology plays a role in European Council negotiations or other fora, or whether domestic politics favours or hinders policy effectiveness.

2.1. Domestic politics

The idea that what happens at national level can influence a government's capacity to negotiate at international level has been covered extensively. Bailer notes that

“Schelling (1960) was among the first to illustrate the central role of strategies by demonstrating that the ‘voluntary sacrifice of freedom of choice’ of a government leader can lead to an unexpected strength in negotiations, because negotiation partners might thus be forced to make concessions. There is ample evidence of this strategy during EU negotiations: the already traditional pleading of the French government for the French farmers or the British and Danish eurosceptic public have all successfully been used to gain concessions and exemptions for national interests.”¹²³

Putnam has also suggested that the so-called paradox of weakness has implications for policy effectiveness in international negotiations.¹²⁴ Bailer however rejects that hypothesis in her research stating that “domestic constraints, measured by institutions or the preferences of the domestic level, are not related or associated with the power of a EU government.”¹²⁵ Domestic constraints can however shape the bargaining behaviour, the strategy of the government in EU negotiations. Moravcsik finds that domestic politics is an important element in determining member states' behaviour. Indeed, domestic politics shape the preferences of the state in the first place- so in order to find out what the government wants, we need to analyse the domestic level.¹²⁶

¹²³Bailer S., (2006) ‘The Dimensions of Power in the European Union.’ *Comparative European Politics*, Vol. 4, No.4, p. 361

¹²⁴ Putnam R. D., (1988) *Diplomacy and Domestic Politics: the Logic of Two-Level Games*. International Organization, Vol.42, No. 3, pp. 427-460.

¹²⁵ Bailer S., (2006) ‘The Dimensions of Power in the European Union.’ *Comparative European Politics*, Vol. 4, No.4 p. 373.

¹²⁶ Moravcsik A., (1993) ‘Preferences and Power in the European Community: A liberal intergovernmentalist approach.’ *Journal of Common Market Studies*, Vol. 31, No.4, p. 481

An influential study by Simon Bulmer provides a framework for analysing the behaviour of member states and how it affects EU policy-making. The basic unit of analysis is the member state. He argues that the relationships between domestic politics and EU policy-making can be linked to the policy-making structure and the attitude towards the EU in the member states. The concept of policy style is defined as

“the interaction between (a) the government’s approach to policy-making and (b) the relationship between the government and other actors in the policy process.”¹²⁷

The scale of differing policy styles could range from a coherent, single policy on one end to a sectorised European policy at the other. Differing national policy environments shape the way in which a minister can negotiate at the EU level, be it by taking into account other societal actors or sub-national actors. The concept of policy style is a means to “structure the examination of a member state’s behaviour in the EC.”¹²⁸ Bulmer recognises that the complexity of his approach make it a burdensome one for analysing policy-making from an EU perspective.¹²⁹ However, this does not mean that an approach should be discarded, but only that it needs to be simplified. Heipertz and Verdun argue that there is

“no neat automaticity or continuity of domestic influences on the European integration process. One of the few regular phenomena that to some extent structure domestic issues is the national election cycle, which, in some cases, can become crucial for explaining government behaviour at the European level.”¹³⁰

Hence, a case by case study is necessary in order to generate further data on the influence of domestic politics.

Some aspects of this approach are very useful for the research design of the framework employed in this thesis. In a sense, it acknowledges and internalises Bulmer’s statement that member states significantly shape the integration, and builds on his approach by trying to find the link between domestic politics and policy effectiveness. Like Bulmer’s, this approach not only focuses on factors which favour or impede policy effectiveness at the

¹²⁷ Bulmer S., (1983) ‘Domestic Politics and European Community Policy-Making.’ *Journal of Common Market Studies*, Vol. 21, No 4, p. 352

¹²⁸ Ibid, pp 360

¹²⁹ Ibid, pp 363

¹³⁰ Heipertz M., Verdun A., (2010) *Ruling Europe. The Politics of the Stability and Growth Pact*. Cambridge University Press, p. 43.

European level, but also looks at factors which play a role at the lower tier- the domestic politics level. Thus, certain elements of his approach are incorporated into the framework of this case study research: the importance of the policy style and the differing domestic policy environments have to be taken into account in Luxembourg's negotiation strategy. Furthermore, a description of the domestic policy environments within the member states provides important clues in explaining the outcomes of these interdependent negotiations.

Of course, some aspects of Bulmer's approach have to be cast aside for the purpose of this study. The attitude towards European integration may be a necessary factor in explaining why certain member states were in favour of a particular decision, but it is doubtful whether a pro- or anti-European stance affects policy effectiveness. Indeed, it may condition the negotiation strategy, but it may not necessarily determine whether a member state is policy effective. Furthermore, Bulmer and Lequesne consider the implementation phase and the effect of the EU on national institutions and policies.¹³¹ The implementation of policies is disregarded in this approach because it is a phase which does not give us any indications of whether a member state was policy effective or not. Instead, it only demonstrates *how* member states adapt to the domestic sphere what has been decided at the European level. Furthermore, the implementation phase can only be analysed in case studies of directives, not in the case of regulations. The Europeanisation of the dimensions, the mechanisms and outcomes of domestic change is left out as well; again because it is of little analytical value in terms of policy effectiveness- after all it purports to account for the impact of Europe on the member state.¹³²

2.2. *Voting power*

Because the voting weights of member states are not equal in EU institutions, voting power is one of the most dominant explanations of power in the EU. Voting power can be measured by calculating the expected power of a member state by the number of votes it holds in majority voting situations.

¹³¹ Boerzel in 'Europeanisation: How the European Union Interacts with its Member States' in Bulmer S., Lequesne C., (2005) *The Member States of the European Union*. Oxford University Press, p. 45

¹³² Ibid, p.34, 45

“The number of votes of a negotiator influences his probability to be the last necessary state to form a blocking minority in the qualified voting system or to build a winning coalition.”¹³³

The assumption is that more votes confer more power. When voting weights are discussed during Treaty negotiations, population is often invoked as an indicator to determine them.

“However, the vote distribution within the European Union also shows that not only measurable resources such as population play a role when distributing votes but also that norms like the protection of small states need to be considered in order to explain an overproportionally high share of votes of countries like Luxembourg.”¹³⁴

Jonathan Slapin, in his quantitative analysis of who is powerful during the negotiations of the Treaty of Amsterdam, provides some very interesting findings.¹³⁵ He tests the following five hypotheses: all member states are equal; large member states have more power than small states; member states with ratification pivots sceptical of EU integration are more powerful than all other actors; member states whose preferences are closer to the status quo are more powerful and informal agenda-setting confers power to supranational actors. His findings are that not all members have equal power and that size does not matter in negotiations- indeed large member states do not have more bargaining strength than the average member state; instead domestic ratification constraints seem to confer power. “States preferring less integration appear to outperform states desiring more integration. Supranational actors, as expected, have little power.”¹³⁶ Denmark, Austria and Sweden are the most powerful members, while Germany is not very powerful and Italy has least power in influencing outcomes. Member states which are close to the status quo and member states that experience domestic constraints are more powerful than others. Neither the Commission nor the EP is powerful in the negotiations, although his data is limited to the negotiations themselves, so preparatory work before the IGC is not included. His analysis has, as he himself is ready to admit, two important drawbacks: he assumes that all issues

¹³³ Bailer S., (2006) ‘The Dimensions of Power in the European Union.’ *Comparative European Politics*, Vol. 4, No.4 p. 358.

¹³⁴ Ibid, pp 360

¹³⁵ Slapin, J. B., (2006) ‘Who is Powerful? Examining Preferences and Testing Sources of Bargaining Strength at European Intergovernmental Conferences.’ *European Union Politics*, Vol.7, Issue 1, p.

¹³⁶ Ibid, pp 51

included in the treaty were of the same salience to all the member states, and he cannot account for logrolling across issues.

Hosli, using the Shapley-Shubik Index, finds that the shares in overall voting power differ when members act individually, or within 'voting blocs'.¹³⁷ Depending on which countries form a bloc, their voting power increases or stays stable. If countries such as the Benelux vote together, as a collectivity they do not win by forming an alliance alone.

"The axis Paris-Bonn, however, gave Germany and France a higher share in voting power than they would have combined individually. More strikingly, when these two countries together are assumed to hold an (informal) veto within the Council of the EU, their individual share in relative voting power in the present constellation of members, as measured by the Shapley-Shubik Index, is about twice the power of other states with 10 votes (the UK and Italy)."¹³⁸

There have been a multitude of quantitative studies on Council decision-making, especially on Treaty negotiations. It would be far too time-consuming to present them all, even if their results differ widely.¹³⁹ One considerable obstacle to the analysis of voting has been the fact that most Council decisions were taken by consensus, leaving explicit voting a very rare procedure, as Hayes-Renshaw et al. point out.¹⁴⁰ Indeed, data on voting has only been available since 1994, while for the period from 1994-1998, detailed data on QMV were not available. 30% of the decisions were taken under unanimity procedure, while 75 to 80% of QMV decisions were not explicitly contested at the Ministerial level. The data set was thus indeed very small, as only 20 to 25% of the decisions taken were explicitly contested.

¹³⁷ Hosli, M. o. Coalitions and Power: Effects of Qualified Majority Voting in the Council of the European Union. *Journal of Common Market Studies*, 1996, Vol. 34, No. 2, pp 270

¹³⁸ Ibid, pp 270

¹³⁹ Hosli M., Machover M., (2004) 'The Nice Treaty and Voting Rules in the Council: A Reply to Moberg.' *Journal of Common Market Studies*, Vol. 42, No. 3, pp. 497-521. Hosli M., Soetendorp B., (2001) 'The Hidden Dynamics of EU Council Decision-making.' *Acta Politica*, Vol. 4, pp. 38-54. Banzhaf J. F., (1965) 'Weighted Voting Doesn't Work: A Mathematical Analysis' *Rutgers Law Review*, Vol. 19, No. 2, pp. 317-343. Moberg A., (2002) 'The Nice Treaty and Voting Rules in the Council.' *Journal of Common Market Studies*, Vol.40, No. 2, pp. 259-282. Hayes-Renshaw F., Van Aken W., Wallace H., (2006) 'When and Why the EU Council of Ministers Votes Explicitly.' *Journal of Common Market Studies*, Vol. 44, No. 1, pp. 161-194.

¹⁴⁰ Hayes-Renshaw F., Van Aken W., Wallace H., (2006) 'When and Why the EU Council of Ministers Votes Explicitly.' *Journal of Common Market Studies*, Vol. 44, No. 1, p. 186

While this is a useful first step in the analysis of policy effectiveness, it fails to produce a comprehensive picture due to the consensual decision-making in the Council of Ministers.

Hayes-Renshaw, Van Aken and Wallace argue that consensus is the norm:

“ministers generally endorse collective decisions by consensus, even in those cases (some 70 per cent of the total) where they could activate qualified majority voting. To the extent that voting takes place in these latter cases, it occurs implicitly rather than explicitly, operates mostly at the level of officials rather than ministers, and is not recorded systematically in publicly accessible form.”¹⁴¹

Furthermore, the majority of the decisions over three months in 2004 were taken without discussion in the Council of Ministers, which means that they have all been agreed at a lower level. Member states vote explicitly in order to indicate either to the other member states or to their domestic constituencies that they have some concerns about the decision, even if there is no blocking minority. However, the votes in the Council were made public in 2006, so it is finally possible to conduct some major research in this area.

Another major problem with quantitative studies is that they do not take into account the policy preferences of the member states or agenda-setting rights in evaluating their power in negotiations. While some studies on non-cooperative game theory such as Widgrén include them in their models, they nevertheless paint an incomplete picture of the result of negotiations and policy effectiveness.¹⁴² Firstly, some decisions are taken by unanimity—thus the voting weights are, theoretically at least, of little value in the analysis of the outcome. While practically, unanimity always carries a price and the veto is something akin to nuclear option, it nevertheless urges member states to find a solution acceptable to all before deciding to put it to the vote. The other critique is that only in depth qualitative studies can really establish firstly the salience of the issue and secondly the preferences of a member state in a given negotiation context. Furthermore, as Hayes-Renshaw et al. note:

“Further work is needed on how the shadow of the QMV rule influences behaviour, whether to encourage implicit voting or to flush out where the potential blocking

¹⁴¹ Ibid, pp 161

¹⁴² Widgrén M. (2003) *Power in the Design of Constitutional Rules*.
<http://www.ucm.es/info/econeuro/documentos/documentos/dt232003.pdf>

minorities may impede an agreement. In qualitative interviews (both those conducted by us and those reported in case studies by others), insiders mostly concur that the swing factor – in particular in the working parties and senior committee deliberations that precede ministerial sessions — is whether there is a determined blocking minority. If there is, the proposal is stalled. If there is not, then marginal dissenters tend to switch their efforts to extracting rewards or concessions in return for withdrawing their opposition. An unexplored dimension here is whether blocking minorities are mainly construed in a mechanical and numerical count of votes, or whether opposition from a ‘critical proportion’ of larger Member States is functionally equivalent.”¹⁴³

Heisenberg argues in no uncertain terms on the use of quantitative analysis of member states’ powers in the EU that

“it may be time to admit that formal modelling of informal processes is not appropriate to analyse the complex and multifaceted workings of the EU.”¹⁴⁴

All this does not mean however that voting power should be entirely dismissed as a contributor to policy effectiveness. Instead, the angle should be adjusted in the analysis. Instead of a quantitative assessment of the effect of the voting power or the decision-making procedure, qualitative research could circumvent the problems identified above (consensual decision-making, no data on votes cast, no information on preferences, and taking the procedure and negotiation context into account). Interviews or expert surveys can help establish the degree of salience of an issue, and give information on the detailed preferences and also importantly, the negotiation strategy.

¹⁴³ Hayes-Renshaw F., Van Aken W., Wallace H., (2006) ‘When and Why the EU Council of Ministers Votes Explicitly.’ *Journal of Common Market Studies*, Vol. 44, No. 1, pp 184-185

¹⁴⁴ Heisenberg D., (2005) ‘The Institutions of “Consensus” in the European Union: Formal Versus Informal Decision-Making in the Council.’ *European Journal of Political Research*, Vol.44, p. 81

2.3. Economic weight

Turning to the other elephant in the room, Wallace argues that “economic weight also affects the influence that a member government can wield in the development of EU policies.”¹⁴⁵ Germany is the prime example- it is not only the largest economy, but also the first trade partner of all the other countries, and is one of the highest contributors to the EU budget. Therefore, Germany is listened to when it has concerns about trade- that is the assumption. Moravcsik argues that the

“broad lines of European integration since 1955 reflect three factors: patterns of commercial advantage, the relative bargaining power of important governments, and the incentives to enhance the credibility of interstate commitments. Most fundamental of these was the commercial interest.”¹⁴⁶

Moravcsik provided the world with a valuable theory on European integration based on member states’ preferences. According to him, “bargaining power based on asymmetrical interdependence explains bargaining outcomes.”¹⁴⁷ Because the focus is on bargaining power based notably on the economic weight of a state, he focuses only on the ‘big’ member states who are the most important in economic terms- Germany, France, the UK and Italy. This has been widely criticized and is a further drawback to using his theory as a foundation for an analysis of member state’s power.¹⁴⁸

Both qualitative (by Tallberg) and quantitative studies (by Bailer) find a positive correlation between economic power and EU negotiations. Tallberg finds firstly that the main factor of power in the European Council is aggregate structural power, defined by its territory, population, economic strength, military, capabilities, stability in the political system, administrative capacity, and secondly issue-specific power, defined by its resources,

¹⁴⁵ Wallace in ‘Exercising Power and Influence in the European Union: The Roles of Member States’ in Bulmer S., Lequesne C., (2005) *The Member States of the European Union*. Oxford University Press, p. 39

¹⁴⁶ Moravcsik A., (1998) *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* Routledge/UCL Press, p.3

¹⁴⁷ Moravcsik Andrew: (2008) "Preface (in English translation)," *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Chinese edition, Beijing) p. 10

¹⁴⁸ Good T. A., (2000) ‘Review of The Choice for Europe: Social Purpose and State Power from Messina to Maastricht.’ <http://www.h-net.org/reviews/showpdf.php?id=4515>, 2000, p. 2

commitment and alternatives in a particular area.¹⁴⁹ As in the context of voting power, it is assumed that more economic power resources result in more power in EU negotiations. But Council negotiations do not facilitate an exchange of power resources, as they are divided into different policy areas. Bailer divides the concept of power into exogenous resources and endogenous dimensions.¹⁵⁰ Voting and economic power (GNP value) are not the only factors experts considered in her study when judging the power of the governments in EU negotiations. Germany is judged to be less powerful than the UK. She then includes skill and information as well and finds that there is a North-South distinction, with Finland, Sweden, Denmark, the Netherlands being considered in general more powerful than Greece or Portugal or even Italy.

“The results also show that the first dimension comprising the exogenous power resources is by far the more dominant one. The second dimension explains a lot less than the economic power or the voting power of the EU member states. Nonetheless, the second dimension which considers more psychological and behavioural negotiation aspects adds a quality of negotiators which would be ignored by merely looking at votes or economic size.”¹⁵¹

Along the same lines, Beach and Mazzucelli argue that material leadership resources (such as “material wealth or the ability to change other actors’ dependence upon an agreement”) are vital in providing leadership in negotiations.¹⁵²

However, while Tallberg argues that aggregate structural power is central to bargaining power in the EU, he also concluded that there are exceptions: “even in this intergovernmental forum, strong states do not always prevail and weak states do not always suffer.”¹⁵³ Rostoks argues along the same lines that

“various aspects of power may be disconnected from each other, and state capabilities may vary depending on which elements of power are under

¹⁴⁹ Tallberg J., (2007) ‘Bargaining Power in the European Council.’ *SIEPS Rapporteur*, No.1, p. 7

¹⁵⁰ Bailer S., (2006) ‘The Dimensions of Power in the European Union.’ *Comparative European Politics*, Vol. 4, No.4 p. 369.

¹⁵¹ Bailer S., (2006) ‘The Dimensions of Power in the European Union.’ *Comparative European Politics*, Vol. 4, No.4 p. 371.

¹⁵² Beach, Mazzucelli in ‘Introduction’ in Beach D., Mazzucelli C., (2007) *Leadership in the Big Bangs of European Integration*. Palgrave Macmillan, p. 11

¹⁵³ Tallberg J., (2007) ‘Bargaining Power in the European Council.’ *SIEPS Rapporteur*, No.1, p.17

consideration. Military power may transform into economic power, but it doesn't have to. Economic power cannot be regarded as a given that can be used by the state to advance its interests. Economics, more often than not, is an autonomous sphere that is beyond direct state control and acts according to its own logic. Private businesses act as profit-seeking actors, and using them as instruments for enhancing state power may create adverse consequences both for the company and the state.”¹⁵⁴

One of the fundamental problems with using economic indicators is that “the analysis of voting power versus economic size also suffers from the fact that these two concepts are so strongly correlated that it is difficult to distinguish them in practice.”¹⁵⁵ Furthermore, “endogenous power resources are necessary to translate votes or economic strength into power and to make them effective.”¹⁵⁶ It could therefore be argued that for the sake of parsimony, voting and economic power could be conceptualized in a different way. If we look at the decision-making procedure, voting power and economic size are inherent in the conceptualization of such a variable. Furthermore, it would make more sense to look at whether the preferences of the member states are widely distributed or not, and whether these preferences are intense or not. This would give a better indication on whether a big or a small member state needs to put all its weight behind a certain proposal or not; after all, if France, the UK and Germany do not have strong, intense preferences on a Commission proposal, they will not waste their resources and will be more inclined to make concessions to a state which has intense and extreme preferences due to domestic constraints. While such a strategy complicates the analysis considerably, it nevertheless should provide a better explanation of policy effectiveness. On the other hand, if the biggest and strongest member states have intense and extreme preferences, it would impact negatively on the policy effectiveness of other states. By using these two different ways of measuring both economic size and voting power through 1) the decision-making procedure and 2) the

¹⁵⁴ Rostoks T. In ‘Small States, Power, International Change and the Impact of Uncertainty’ in Steinmetz R., Wivel A., (2010) *Small States in Europe*. Ashgate Publishing Ltd, p. 94

¹⁵⁵ Bailer S., (2010) ‘What Factors Determine Bargaining Power and Success in EU Negotiations?’ *Journal of European Public Policy*, Vol. 17, No.5, p. 745

¹⁵⁶ Bailer S., (2006) ‘The Dimensions of Power in the European Union.’ *Comparative European Politics*, Vol. 4, No.4 p. 360.

distribution and intensity of preferences within the Council, the framework is more parsimonious and at the same time more complete.

2.4. Institutional power

Scholars have also focused on the institution of the presidency of the Council of the European Union as a factor which gives a member state an additional and temporary resource to exercise power.¹⁵⁷ Every six months, a different member state has the opportunity to lead the Council of the EU. It was created as a response to the increasing complexity of issues presented to the member states and to the increasing mistrust of the Commission as leader of the negotiations. The member state that holds the presidency is expected to be a business manager, a mediator, a political leader and the external and internal representative. These should be exercised in an impartial, effective and efficient manner.¹⁵⁸ Quaglia and Moxon-Browne have undertaken a comparative case study of Italy's and Ireland's presidencies of 2003 and 2004. They argue that the roles of business manager and mediator have become more important since the enlargement, and the opportunity for showing political leadership has diminished. They find that

“intangible assets, such as knowledge of EU affairs (process expertise, content expertise and information); political credibility and reputation; and general attitudes towards European integration, are crucial in performing the roles of president-in-office effectively and legitimately.”¹⁵⁹

¹⁵⁷ Wurzel R. K. W., (1996) ‘The Role of the EU Presidency in the Environmental Field: Does it Make a Difference which Member State Runs the Presidency?’ *Journal of European Public Policy*, Vol. 3, Issue 2, pp. 272 – 291. Warntjen, A., (2007) ‘Steering the Union. The Impact of the EU Presidency on Legislative Activity in the Council’. *Journal of Common Market Studies*, Vol. 45, pp1135–1157. Tallberg, J. (2004): ‘The Power of the Presidency: Brokerage, Efficiency and Distribution in EU Negotiations’ *Journal of Common Market Studies*, Vol. 42, 2004, pp 999–1022. Wurzel, Rüdiger K. W., (2000) ‘Flying into Unexpected Turbulence: The German EU Presidency in the Environmental Field’. *German Politics*, Vol. 9, issue 3, pp. 23 – 42; Elgström O.: *European Union council presidencies: a comparative perspective*. Routledge 2003. Maurer, A., (2000) ‘The German Presidency of the Council: Continuity or Change in Germany's European Policy?’ *Journal of Common Market Studies*, Vol. 38, pp.44–47.

¹⁵⁸ Quaglia, L. and Moxon-Browne, E., (2006) ‘What Makes a Good EU Presidency? Italy and Ireland Compared.’ *Journal of Common Market Studies*, Vol. 44, Issue 2, p. 351.

¹⁵⁹ Quaglia, L. and Moxon-Browne, E., (2006) ‘What Makes a Good EU Presidency? Italy and Ireland Compared.’ *Journal of Common Market Studies*, Vol. 44, Issue 2, p. 349. Quaglia L., (2004) ‘Italy's Presidency of the European Union in 2003: A successful Business Manager?’ *South European Society and Politics*. Vol. 9, No 3, pp. 149-165.

Holding the presidency presents a country with two important power resources: asymmetrical access to information and asymmetrical control over the negotiation procedure. “Within the EU, the presidency is expected to be the liaison point for EU institutions and national governments and other political authorities.”¹⁶⁰

The presidency is also a platform for political influence. It manages the agenda, permitting to assign priority to competing political concerns.¹⁶¹ The brokering of intergovernmental agreements permits EU presidencies to select from multiple equilibria and steer negotiations towards outcomes they privately prefer. Tallberg found that institutional power factors, such as the threat of veto and the control of the presidency matter as well but are of secondary importance. Tallberg’s proposed theory is very interesting and is worth further investigation and research. The fact that he restricts it to the European Council is not readily understandable, since at first sight it could easily be applied to the Council of Ministers as well.

Elgstrom finds that small countries tend to make more successful presidencies than large ones.¹⁶² This is so because small countries have fewer interests to defend, and thus are more likely to act as impartial mediators than bigger states. The small size of their public administration also induces a close collaboration with the General Secretariat, and to a lesser extent the Commission. They are also more likely to search for consensus, as they are more aware of national sensitivities and are less likely to undertake unilateral initiatives.¹⁶³ This strand of the literature serves as one of the bases of the present thesis, and some elements are further put to the test here, albeit sometimes in slightly altered form. These are: issue-specific power and institutional sources of power (the power of the veto and the presidency, the participation by supranational actors).

¹⁶⁰ Quaglia, L. and Moxon-Browne, E.: ‘What Makes a Good EU Presidency? Italy and Ireland Compared.’ *Journal of Common Market Studies*, Vol. 44, 2006, pp 359

¹⁶¹ Tallberg J., (2006) *Leadership and Negotiation in the European Union*. Cambridge University Press, p. 84

¹⁶² Elgstrom in ‘The Honest Broker? The Council Presidency as a Mediator’ in Elgstrom, O. (ed.) (2003) *European Union Council Presidencies: A Comparative Perspective* (London: Routledge).

¹⁶³ Quaglia, L. and Moxon-Browne, E., (2006) ‘What Makes a Good EU Presidency? Italy and Ireland Compared.’ *Journal of Common Market Studies*, Vol. 44, Issue 2, p. 362

2.5. Individual-level factors

“Too often it is the structures of EU negotiations that are emphasised in studies, which strengthens the tendency to underestimate the influence of individuals and social processes on their outcome.”¹⁶⁴

Individual-level factors are difficult to measure, to categorise and to generalise; this is probably one of the reasons why they are often mentioned, but never presented in a systematic way. Instead, anecdotal evidence abounds in those works who mention the importance of individuals, their ‘charisma’, their cunning, their ‘reputation’ or their clumsiness.¹⁶⁵

Wallace notes a catalogue of factors of member states’ power in the EU and argues interestingly that social and economic practice and the ability to deploy arguments grounded in observable practice confer an advantage.¹⁶⁶ Persuasive ideas are also a means of power, as many of the principles of EU jurisprudence are borrowings from the experience of one member state. She further argues that due to the consensus-seeking culture in the institutions compelling demands on critical issues of domestic concern are usually met with accommodating decisions. Bailer also notes that the level of negotiation skill of a diplomatic delegations matters in terms of policy effectiveness:

“Negotiation skill describes a ‘party’s virtuosity in the bargaining process, its skill in making threats, commitments, or concessions, in deception or clarification, in gaining information about the opponent’.”¹⁶⁷

This seems plausible and will be investigated further in this thesis.

¹⁶⁴ Bal in ‘Member States Operating in the EU Council of Ministers: Inside Impressions’ in Meerts P. W., Cede F., (2004) *Negotiating European Union*. Palgrave MacMillan, p. 133

¹⁶⁵ Quaglia, L. and Moxon-Browne, E., (2006) ‘What Makes a Good EU Presidency? Italy and Ireland Compared.’ *Journal of Common Market Studies*, Vol. 44, Issue 2, p. 360

¹⁶⁶ Wallace in ‘Exercising Power and Influence in the European Union: The Roles of Member States’ in Bulmer Simon, Lequesne Christian : *The Member States of the European Union* Oxford University Press 2005, pp 38-42

¹⁶⁷ Bailer S., (2006) ‘The Dimensions of Power in the European Union.’ *Comparative European Politics*, Vol. 4, No.4 p. 360.

Beach and Mazzucelli suggest that reputation can also increase leadership. This reputation would be based on recognition of the utility of the actor's contributions, the legitimacy and/or reputation of the actor. They distinguish between the acceptability and the neutrality of an actor, arguing that sometimes a mediator who does have certain definite preferences can nevertheless be accepted to broker a deal.¹⁶⁸ Tallberg also includes individual-level factors, which he defines by the personality and personal authority, the level of expertise and standing in domestic politics of the chief negotiator. Individual level factors do not exclusively play a role at the highest levels, such as the European Council, but can also matter in COREPER.¹⁶⁹

Recently, Panke has argued that:

“states can influence in EU negotiations through three mechanisms: (1) they can use explicit or implicit threats in order to push for concessions (bargaining power); (2) they can seek to convince others to change preferences in the wake of compelling claims (argumentative power); and (3) they can use their reputation or draw on the reputation of others to pursue their self-interests (power of reputation). Bargaining, arguing and reputation-based influence differ not so much in the associated speech acts, but in the underlying mechanisms that cause other actors to adapt their preferences. Positional adaptations can be based on threats (bargaining), on high quality arguments (arguing), or on the reputation of a speaker qua institutional affiliation (such as a particular office or belonging to a certain state; reputational power). Reputational power is related to argumentative power since it influences whether other actors will adapt their preferences in the wake of a compelling argument. Yet it is not the same as argumentative power, since the acceptance of claims is not based on the quality of arguments, but on the reputation of the speaker. It is also related to bargaining power, since reputation also influences whether addressees adapt their preferences in the wake of threats. Yet reputational power is not the same as bargaining power, since addressees do not adapt their initial

¹⁶⁸ Beach, Mazzucelli in ‘Introduction’ in Beach D., Mazzucelli C., (2007) *Leadership in the Big Bangs of European Integration*. Palgrave Macmillan, p. 12

¹⁶⁹ Tallberg J., (2007) ‘Bargaining Power in the European Council.’ *SIEPS Rapporteur*, No.1

preferences owing to the size of the threat, but owing to the reputation of the initiator on carrying out the issued threats.”¹⁷⁰

These different dimensions of power are all related to various extents to individual-level characteristics and are in need of simplification. However, it is useful to distinguish between bargaining power and reputational power. This avenue of investigation needs to be explored further.

While most researchers such as Tallberg, Wallace and Beach and Mazzucelli focus on the higher levels, officials in the COREPER and national experts in the working groups should also be considered. After all, they do negotiate as well and take decisions which will become EU legislation. This is why individuals and their resources (expertise, experience and longevity) are considered in this thesis as influencing policy effectiveness.

2.6. Party coalitions and alliances at the European level

“Christian Democratic parties have been more closely associated with the founding of the European Union than any other party family. Each of the countries that joined the European Coal and Steel Community (1952) and the European Economic Community (1958) had influential or governing Christian Democratic parties, and all but one of the countries where such parties were strong (Austria) were part of the integration process.”¹⁷¹

It is therefore possible that parties and party ideologies matter in the European integration process, as Aspinwall has concluded in his study of the European Council. Hix tests whether party competition has an impact on the European Parliament’s legislative behaviour and finds that

“legislative behaviour in the EP is mainly along left—right lines, transnational party group affiliation is more important than national affiliation for determining how MEPs vote, different majority-commanding coalitions form on different issues, and

¹⁷⁰ Panke D., (2010) ‘Small States in the European Union: Structural Disadvantages in EU Policy-Making and Counter-Strategies.’ *Journal of European Public Policy*, Vol. 17, No. 6, p. 802

¹⁷¹ Ibid, pp 451

the difference between the simple majority and absolute majority rules has no effect on the voting behaviour of the two main party groups.”¹⁷²

It is a reasonable proposition to suggest that even in the Council of Ministers, party ideology matters and ministers are more likely to have the same visions as their party political counterparts from other member states, and thus find it easier to form coalitions with those than with others.

Hix has also studied the EU political space and identifies two dimensions: an Integration-Independence dimension, coming from the different identities and interests of national and territorial groups and a Left-Right dimension, emerging from the different interests of socio-economic groups.¹⁷³ Mattila has found that left-wing governments tend to vote less against the Council majority than right-wing governments, but that it matters more where the government stands on the independence versus integration dimension.¹⁷⁴ Tallberg proposes coalition building in the European Council as a strategy for pooling power through three layers of cooperation: country groupings, party networks, and issue coalitions.¹⁷⁵ A subsequent article in collaboration with Johansson on the impact of party politics in the European Council in two broad case studies however establishes that “negotiations along party divides are relatively rare in the European Council, where issue-specific, interest-based coalitions constitute the most prevalent form of actor alignment.”¹⁷⁶ But two case studies are not enough to disconfirm this hypothesis, and therefore the hypothesis that the more member state governments belong to the same party family as the government studied, the more likely it is policy effective cannot be entirely disregarded.

Aspinwall has found that left-right ideology and financial transfers from the European Union to member states can explain government support for European integration in the Council of Ministers from 1994 to 1999. During the negotiations of the Treaty of

¹⁷² Hix, S., (2001) ‘Legislative Behaviour and Party Competition in the European Parliament: An Application of Nominate to the EU.’ *Journal of Common Market Studies*, Vol. 39, Issue 4, p. 663

¹⁷³ Hix S., (1999) ‘Dimensions and Alignments in European Union Politics: Cognitive Constraints and Partisan Responses.’ *European Journal of Political Research*, Vol. 35, p. 92

¹⁷⁴ Mattila, M. (2004), ‘Contested Decisions: Empirical Analysis of Voting in the European Union Council of Ministers.’ *European Journal of Political Research*, 43, p. 29

¹⁷⁵ Tallberg J., Johansson K.M., (2008) ‘Party Politics in the European Council.’ *Journal of European Public Policy*, Vol.15, No 8, p.7

¹⁷⁶ Ibid, pp16

Amsterdam, he found that experience in the Second World War and financial transfers explained why governments chose cooperation within the EU.¹⁷⁷ This reinforces the idea that party alliances between individuals and coalitions within the Council based on parties are worth further investigation.

2.7. *The negotiation strategy*

Having established what the literature considers as state power in negotiations and the resources a government may use to get what it wants, we turn to the strategies, an understanding of which, some claim, is essential to any explanation of the outcomes of negotiations.¹⁷⁸ They can vary depending on the institutional context in which negotiations are carried out, the phase of the negotiation, on the level at which negotiations take place, and on the issue under consideration.¹⁷⁹ Zartman has divided negotiation processes into three phases: in the diagnostic phase actors prepare their positions and sound out the other actors; in the second phase they look for a formula or principle to conduct the third phase of negotiations, dealing with the details.¹⁸⁰ Hopmann has identified two paradigms of negotiation as either problem solving or bargaining. Bargaining, as negotiations are often defined by realists, is seen as a process in which unitary actors with fixed preferences are competitive, issue threats and promises, and would rather not have international institutions involved in the implementation of agreements. The goal of the problem solving approach to international negotiations (- a liberal view),

“sees obstacles to agreement arising not only because of abstract state interests but also because of the perceptions and interests of important political and economic actors within the state, so that negotiations must be sensitive to the needs of important domestic actors in other states.”¹⁸¹

¹⁷⁷ Aspinwall M., (2006) ‘Government Preferences on European Integration: An Empirical Test of Five Theories.’ *British Journal of Political Science*, Vol. 37, p. 89

¹⁷⁸ Duer A., Matteo G., (2010) ‘Choosing a Bargaining Strategy in EU Negotiations: Power, Preferences, and Culture.’ *Journal of European Public Policy*, Vol. 17, Issue 5, p. 683

¹⁷⁹ Hopmann T. P., (1996) *The Negotiation Process and the Resolution of International Conflicts*. University of South Carolina Press.

¹⁸⁰ Odell J. (2010) Three Islands of Knowledge about Negotiation in International Organizations. *Journal of European Public Policy*, Vol. 17, Issue 5, p.623

¹⁸¹ Hopmann T. P., (1995) Two Paradigms of Negotiation: Bargaining and Problem Solving. *Annals of the American Academy of Political Science*. Vol. 542, November, pp 30

Constructivist scholars such as Risse argue that “negotiators offer arguments to persuade others to change their thinking and agree on a course of action.”¹⁸² When negotiators deliberate, they seek the most efficient and effective outcome through persuasion and are willing to change their preferences to achieve that goal.

While much has been written on the classification of tactics, here we will look closer at the hard and soft bargaining tactics as discussed by Duer and Matteo. Soft bargaining is defined as

“the use of friendly tactics and hard bargaining as the reliance on conflictual or aggressive tactics. (...) Tactics such as signalling flexibility, making a conciliatory statement, praising the other side, seeking partners for compromise, and making a proposal for compromise can be characterised as soft bargaining. Among the equivalent tactics on the hard bargaining side are taking an explicit stance at the beginning of the negotiations, making a commitment not to compromise, criticising the other side, forming a defensive coalition, and issuing a threat. Hard and soft bargaining are ends of a continuum with an infinite number of intermediary strategies.”¹⁸³

Identifying these strategies, not only in the member state in question, but also in the member states who are showing an active interest in the negotiations, could help explain the final outcome of the negotiations, and also policy effectiveness. The effectiveness of these strategies depends greatly on the level of information of the others’ actual intentions and bottom lines. The more information a negotiator has about the others, the fewer opportunities they have to act strategically.¹⁸⁴ However, Duer and Matteo also argue that

“Actors do not choose their tactics independently of the tactics chosen by others: they are likely to make such choices in response to or anticipation of the tactics used

¹⁸² Odell J. (2010) Three Islands of Knowledge about Negotiation in International Organizations. *Journal of European Public Policy*, Vol. 17, Issue 5, p. 627

¹⁸³ Duer A., Matteo G., (2010) ‘Choosing a Bargaining Strategy in EU Negotiations: Power, Preferences, and Culture.’ *Journal of European Public Policy*, Vol. 17, Issue 5, p. 686

¹⁸⁴ Thibaut, Kelley (1959) in Bailer S., (2006) ‘The Dimensions of Power in the European Union.’ *Comparative European Politics*, Vol. 4, No.4 p. 362

by other actors in the negotiations. More precisely, actors engage in a sequential rather than simultaneous game, which means that they take account of the strategies chosen by the other actors.”¹⁸⁵

This statement can be linked to Putnam’s ‘two-level games’, where he identifies both the national and the international level of negotiations at which preferences are formed and strategies developed.¹⁸⁶ This has several implications for the study of policy effectiveness: firstly, the negotiation strategies of the most vocal member states have to be presented and taken into account. Secondly, if a change in negotiation tactic has been detected, it needs to be explained. Why does a government suddenly give in after negotiating hard for months? Why does a government suddenly issue threats? These questions have also implications on the outcome of policy effectiveness. If the member state in question moves from a hard bargaining stance towards a softer stance, does this indicate it “lost the game”? Has the pressure been too hard? Which factors drove this change?

3. Small states and their policy effectiveness in the EU

Musing on the power of small states in the European Union, Paul Meerts stated once that they

“have the power of innocence...and the power of the mosquito. The power of innocence lies in the fact that they are non-threatening, which may foster a good atmosphere and a readiness by the bigger member state to concede more than necessary. The lines of communication within the small country are shorter (coordinative power) and the number of issues at hand might be smaller (transparency power) than in the big country. This will enhance the effectiveness of the smaller party. The smaller party might be willing to invest more, especially if a central priority is at stake, and could therefore be more successful in the end.”¹⁸⁷

¹⁸⁵ Ibid, pp 690

¹⁸⁶ Putnam R. D., (1988) *Diplomacy and Domestic Politics: the Logic of Two-Level Games*. International Organization, Vol.42, No. 3, pp 427-460

¹⁸⁷ Meerts P., (2002) ‘The Negotiating Power of Small States in a Globalizing World: Options for Mongolia’.

Several authors argue that the Community method, which accommodates national concerns and interests and also tends to create consensus oriented outcomes, ensures that small states interests are considered.¹⁸⁸ They juxtapose this method to formal voting, where small states are more easily overruled. The Community method allows a member state- which has intense preferences on a particular issue- to continue negotiating until its objectives have been met.¹⁸⁹ However it could also be argued that the opposite is true for small states- that

“while small states can demand compensation for their minority position, their rights are less protected under a system of consensus-decision-making than in voting (with the exception of very intensely held preferences).”¹⁹⁰

Therefore, this aspect needs to be investigated further through case studies.

Panke has analysed how small states can overcome their structural disadvantages and be active in EU negotiations.

“Small states are most active in negotiations if they have non-interrupted administrative work environments, motivated staff, balanced systems for the development of national positions, and have experienced a learning curve through long membership durations and through holding the office of the presidency.”¹⁹¹

In another paper she tests whether the resources of bargaining, arguing and networking help small states lead to negotiation success for small states, even though they still face structural disadvantages which limit each of those resources. Members of COREPER and of working groups were asked to assess their own success in shaping and changing policies in three areas: environment, agriculture and economic policies.¹⁹² She found that the duration of EU membership is a significant factor, as being longer a member of the club

p. 9

¹⁸⁸ Baillie S., (1998) ‘A Theory of Small State Influence in the European Union.’ *Journal of International Relations AND Development*, Vol. 1, No. 3-4, p. 195.

¹⁸⁹ Heisenberg in in ‘What Kind of Negotiation does “Consensus Decision Making” Involve?’ in Meerts P. W., Cede F., (2004) *Negotiating European Union*. Palgrave MacMillan, p. 100

¹⁹⁰ *ibid*, pp 101

¹⁹¹ Panke D., (2010) ‘Small States in the European Union: Structural Disadvantages in EU Policy-Making and Counter-Strategies.’ *Journal of European Public Policy*, Vol. 17, No. 6, p. 799

¹⁹² Panke D., (2009) ‘Being Small in the Big, Wide World: The Power of Small States in international negotiations.’ *Paper prepared for the annual meeting of the American Political Science Association, Toronto*, p. 14

means that negotiators are more experienced in using different strategies and resources. She also found that overall, big states are more successful than small states, but the size is less significant than duration of membership. Furthermore, small states tend to prioritise their issues more than big states, which is compatible with many other findings.¹⁹³ Small states also use less bargaining strategies and instead focus on argumentative and networking strategies.

Baillie, in her preliminary study of Luxembourg, has put forward three factors which she expected to influence the desired effect on outcomes: the historical context, the institutional framework and conflict-avoidance negotiation behaviour.¹⁹⁴ She argues that being a founding member, having a strategic location between France and Germany and special resources which determined entry conditions such as steel production were giving Luxembourg the opportunity to take part in the negotiations of the ECSC as a skillful and resourceful partner:

“If a state finds itself in a strong position on entry as a result of particular and relevant circumstances or resources, it can negotiate special arrangements that place it in a favourable position, regardless of other factors which in theory would relegate it to a minor position.”¹⁹⁵

Once such behaviour has been institutionalised in one area, it has implications in other areas. The second explanation relates to institutionalist theory, procedures and principles. Firstly, quasi-federalist notions of decision-making and the *acquis communautaire*, through the strength of the status quo and institutional entrenchment give a small state some advantages in being influential. A small public administration may make decision-making more efficient and effective through

“a consensual policy style, generalists rather than specialists, personal relations and informal structures, natural co-ordination, limited hierarchical distances, autonomy of sub-units, and motivation.”¹⁹⁶

¹⁹³ See chapter on: The political system in Luxembourg.

¹⁹⁴ Baillie S., (1998) ‘A Theory of Small State Influence in the European Union.’ *Journal of International Relations AND Development*, Vol. 1, No. 3-4, p. 197

¹⁹⁵ Ibid, pp 200

¹⁹⁶ Ibid, pp203

Actor-related explanations are based on negotiation theory and linked to non-competitive behaviour, bilateral and multilateral cooperation, low-profile approach, and the role of honest broker. All of these explanations are observable in the case of Luxembourg. However, some of them can only be applied to Luxembourg- such as historical context and the particular negotiation behaviour. Thus, while this theory has some interesting aspects, such as path dependency, it can only really be applied to older and smaller member states, which restricts its generalisability. The aim of the present research is to find factors which, derived from the case study of Luxembourg, could potentially be applied to any member state, big or small, old or new, pro-European or not.

The small state literature provides a framework for analysis and adds a further dimension to the research which is relevant as many of the new member states could be qualified as small member states and face challenges similar to Luxembourg. Having identified both the advantages and challenges small states face in the European Union, with a particular focus on Luxembourg, we can observe that the literature still has quite an International Relations orientation to it. It applies some of these particular assumptions to the context of the EU, thereby neglecting to a certain extent the unique and complex structure of EU decision-making and changed realities.

One can stipulate without much controversy that the legal framework of the EU favours small states disproportionately, as it is not based on the principle that the largest member state can impose its views on the others. The underlying assumption is that size matters, but policy effectiveness in the European Union is not only based on the country's size. The power of a country in international relations theory is traditionally determined by its size. Size will indeed not be ignored by this study. It will always be in the back of our minds and brings certain modesty to this study. However this is not another contribution to the international relations' sub-division of the small state literature and theories. Small state concepts are not that easily applicable in a European Union context. The anarchy of the international system of states, its lawlessness, its confrontation-based negotiations and its realist notions of power and influence cannot be transposed to the EU's system. The weakness of small states (lack of natural and material resources, of administrative

capacities, of self-determination) does not preclude the basic principles of proportional equality and recognition of sovereignty that the European Union is based on.

In this chapter, the concept of member state's power in the EU has been critically analysed, but rejected for the purposes of this research. Instead, the term policy effectiveness has been chosen for reasons of clarity. Moravcsik's contention that state preferences should constitute one level of analysis is a valuable one. The resources of potential power have also been identified and discussed, and several of those are retained for further investigation in this thesis. The resources that deserve particular attention are the following: the decision-making procedure, the distribution and intensity of preferences, institutional resources such as holding the presidency, individual-level factors and domestic politics. Some of these will have to be slightly adapted to fit the dependent variable of policy effectiveness and are explored further in the following chapter.

Chapter 4: The analytical framework

1. Policy effectiveness

1.1. Assumptions of this framework

The previous chapter has presented the current state of the art in analysing and defining power and the conclusion was that it was a matter worth further investigation. This research is based on certain assumptions which frame the rest of the model. Measuring policy effectiveness in EU negotiations is a complex task. First, it is vital to establish whether the issue was salient for the member state in question. It seems logical that the selection of case studies should be based on whether the member state actually had an interest in the outcome at all, that the issue was affecting the member state in some way. Not every policy negotiated at the EU has the same political or economic impact in every member state. Luxembourg would have very little interest in policies to promote olive oil production, for example, but has a considerable interest in policies regulating financial services. On the other hand, policies to promote olive oil production are a very salient issue for Italy and Spain, and although they might be interested in policies regulating financial services, it is probably a less pressing concern as it is for Luxembourg.

After establishing a sufficient degree of salience of a potential case study, it is necessary to gauge the preferences of the government. How to determine what outcome a government prefers is one of the core tasks of this research- only if it is clear what the government wants is it possible to measure the final agreement against the preferences of the government. Sometimes this is very easy to establish: the government makes its preferences public in a statement, in interviews, in publications. However, more often than not, the preferences are kept secret from the public and, more importantly, from the other member states' negotiators. Often governments find this strategy necessary in order to be able to

negotiate freely from public pressure. In that case, the only way to find out what the bottom lines were, is to talk directly to the participants in these negotiations.

The term ‘policy preference’ contains several assumptions, which influence the rest of the model.

“Preferences are by definition causally independent of the strategies of other actors and, therefore, prior to specific interstate political interactions, including external threats, incentives, manipulation of information, or other tactics.”¹⁹⁷

While most quantitative studies assume that preferences are fixed, Peters finds that “preferences are unstable and uncertain and the decision that something needs to be done often creates the preferences rather than vice versa.”¹⁹⁸ Government preferences are indeed fluid, albeit only to a certain extent, and adapt necessarily to the political context in which the negotiations take place.¹⁹⁹ However, the basic premises of these preferences do not change; instead it could be argued that they are adapted to fit reality.

Another point in question is that some policy preferences may be more important than others for a government. Ranking the salience of preferences held could be considered a legitimate way to establish the priorities of a government. However, in the course of negotiations a member state may realise that it needs to readjust this ranking; if one policy preference is rejected outright by other member states, it may well be futile to pursue trying to get that preference included in the final legislation. Instead it must then focus on the other outcomes it would like to see included, and these become then a priority. Successive rounds of negotiation can also modify the zone of agreement and some issues may suddenly surface which were not anticipated at the start of negotiations. New proposals by other member states can lead the negotiations in very different directions and preferences have to be either created on the spot or adjusted.

¹⁹⁷ Moravcsik A., (1997) ‘*Taking Preferences Seriously: A Liberal Theory of International Politics.*’ International Organization, Vol.51, No. 4, p. 519

¹⁹⁸ Peters G., (1994), *Agenda Setting in the European Community*. Journal of European Public Policy, Vol.1, Issue 1, p20

¹⁹⁹ Putnam R. D., (1988) *Diplomacy and Domestic Politics: the Logic of Two-Level Games*. International Organization, Vol.42, No. 3, pp 427-460

The factors which are expected to lead to policy effectiveness can vary in intensity and relevance from case to case. Tallberg equally argues that bargaining power is unequally distributed, varies across cases, and may come in several forms.²⁰⁰ Again, Luxembourg may have more clout in the area of financial services than in maritime matters. It therefore depends on the policy area and the case selection should be conducted based on the (economic) salience of the issue for that member state.

2. The concept of policy effectiveness

How member states can be policy effective in EU negotiations is the central research question of this thesis. I propose that the concept of power should be replaced by another term which better reflects the context of EU decision-making. In the previous chapter, the various definitions of (bargaining) power, negotiation success, or influence have been analysed at length.²⁰¹ Instead of talking about power of a member state, could the concept of policy effectiveness be more appropriate?

In the context of new modes of governance, policy effectiveness is defined by Héritier as “the use of particular policy instruments, in such a way as to increase the chance to achieve the defined policy target.”²⁰² However, this refers not to the policy effectiveness of a member state in terms of getting what it wants. While it may be a little unorthodox, we can nevertheless tweak this definition to fit the purpose of this study. A member state’s government also has certain ‘defined policy targets’, i.e. preferences and objectives it wants to see included in the final legislation. A government equally has certain ‘instruments’ (strategy) at its disposal which it can employ in order to see its preferences included in the final legislation. In simple terms, we can thus propose the following: getting the right policy (for the member state concerned) accepted at the EU level is being policy effective. Using a straightforward definition, policy effectiveness is successful exercise of a member

²⁰⁰ Tallberg J., (2007) ‘Bargaining Power in the European Council.’ *SIEPS Rapporteur*, No.1, p. 7

²⁰¹ See pp 51- 55

²⁰² Héritier in ‘New Modes of Governance in Europe: Increasing Political Capacity and Policy Effectiveness?’ in Boerzel T., Cichowski R. A., (2003) *The State of the European Union: Law, Politics, and Society*. Oxford University Press, p. 113

state's ability to get its policy preferences included in the final legislative outcome. It is the successful exercise of that ability which constitutes the challenge for member state governments.

This definition focuses on the outcome of negotiations: the final legislation, as approved by the Council of Ministers (and sometimes also the EP in the case of co-decision or cooperation) and published in the Official Journal of the European Union (OJ). Therefore, one should not only look at the political agreement, but at the final legislative text- because member states' civil servants translate those political agreements into a legal text. Member states' experts can still interpret political agreements during the drafting of the legislative text. I would suggest the term 'policy effectiveness' is preferable to 'negotiation success' as it spells out clearly that policies are the focus of analysis, not negotiations. Furthermore, it has the advantage of talking about effectiveness, implying a possibility to measure the outcome- i.e. if a government has managed to include x amount of its preferences in the final legislation, it has been effective. 'Power' does not seem to capture that element, but focuses on the ability to realise one's will even against the resistance of others.²⁰³

The use of the term 'member state' is in this case not a nod of acknowledgment to the study of classical international organisations- it is used here for its simplicity. Wallace suggested using the more specific term "member governments", which makes sense as

"much of the focus is on the Council and the European Council, including national preparations for Council negotiations, and on the ways in which member governments seek to influence what happens in other EU institutions, for example, by efforts to influence the work of the Commission, or of members of the European Parliament."²⁰⁴

However, many of the subsequent case studies in that book referred to the member state itself ("Britain, France, the Benelux countries") or to the specific actor in question ("the British civil service", "Mitterrand"), so I decided to stick with the more familiar and

²⁰³ Weber (1921) in Bailer S. (2010) *What factors determine bargaining power and success in EU negotiations?* Journal of European Public Policy, Vol. 17, No.5, pp 744

²⁰⁴ Wallace H. in 'Exercising Power and Influence in the European Union: The Roles of Member States' in Bulmer S., Lequesne C., (2005) *The Member States of the European Union*. Oxford University Press, p. 28

popular use of the ‘member state’, while taking some aspects of Wallace’s definition of the ‘member government’. The term designates the representatives of the member states, i.e. the elected serving politicians, the officials or civil servants who negotiate on behalf of the member state. When talking about a member state, in the context of this research, the government, the officials and/or civil servants are referred to. Therefore, when there is a reference to a member state, I refer to the whole government and its officials who are involved in the decision-making process: the heads of government and/or state, the ministers, the officials from the Permanent Representation and the members of the other sub- Council of Ministers formations such as the Economic and Financial Committee, the civil servants and experts of the working groups, who are often coming from national ministries.

I assume that most policy preferences are relatively fixed and they are adapted to fit reality. However, the policy preferences of the other actors may force a member state to change its strategy or behaviour. As officials and ministers find out more about the positions of other member states, and of the limits of an emerging consensus, they have to take these into account when they devise and (possibly have to) adapt and change their position and strategy.

“National leaders must always think systemically about their position within a structure composed of the preferences of other states. Since the pattern of and interdependence among state preferences, like the distribution of capabilities and the distribution of information and ideas, lies outside the control of any single state, it conforms to Waltz’s own definition of systemic theory, whereby interstate interactions are explained by reference to ‘how [states] stand in relation to one another.’ Hence the causal preeminence of state preferences does not imply that states always get what they want.”²⁰⁵

While the strategy or behaviour is included in the description and analysis of the case studies in order to make sense of changing positions, the policy preferences are primarily compared to the outcome in the final legislation.

²⁰⁵ *ibid*, pp 523

The research process is divided into the following steps: Once the preferences of the member state in question are established, the Commission proposal is presented. The Commission proposal is an important element in the study of policy effectiveness, because it already delimits the innovations that are possible- including some options and excluding others. In some policy areas, the Commission proposal has considerable weight, but not that much in others- for example in matters concerning the Stability and Growth Pact its proposal weighs less than in Research and Development Policy. The final legislative outcome has to be juxtaposed to the member states' policy preferences, and one needs to establish what the similarities and the differences are in detail.

What are not included in this framework are the first and the last stage of negotiations: the stage of policy design and the implementation phase. At the stage of the policy design the Commission draws on a wide range of sources in developing policy proposals. While Wallace argues that "after all, one of the skills of successful negotiations is the ability to shape the foundations of the proposal on the table", in the context of this thesis the costs of analysing this stage would be prohibitive: the Commission draws on policy ideas not only from the member states' governments, but also from other experts of various organisations.²⁰⁶ Disentangling these inputs from member state's inputs and measuring their impact on the final Commission proposal would be far too time-consuming and expensive for the purpose of this thesis. Indeed, there is a whole subdivision of EU studies on the participation of organised interests in forging policy ideas.²⁰⁷ Maybe in a subsequent elaboration and testing of the framework presented here, the stage of policy design could be included in the analysis.

The implementation stage is irrelevant for the purposes of this analysis, as all the case studies are Regulations and directly applicable in each member state. If directives were

²⁰⁶ Wallace in 'Exercising Power and Influence in the European Union: The Roles of Member States' in Bulmer S., Lequesne C., (2005) *The Member States of the European Union*. Oxford University Press, p. 29

²⁰⁷ Wallace Helen S., Young Alasdair R.: *Participation and policy-making in the European Union*. Oxford University Press, 1997; Pijnenburg B., (1998) 'EU lobbying by ad hoc coalitions: an exploratory case study.' *Journal of European Public Policy*, Vol. 5, Issue 2, pp. 303 – 321; Michaelowa A., (1998) 'Impact of interest groups on EU climate policy.' *European Environment*. Vol. 8, Issue 5, pp. 152–160; Marks G., MacAdam D., (1996) 'Social movements and the changing structure of political opportunity in the European union.' *West European Politics*, Vol. 19, Issue 2, pp. 249 - 278

amongst the case studies, the implementation process would reveal the policy preferences of the member state, as it can shape the national legislation within the parameters set by the directive. The detailed implementation could also reveal preferences and could be used as a cross-check for the policy preferences expressed in interviews and public statements. I shall not elaborate on that point in this thesis, but it certainly is a valid area of research and if a directive were one of the case studies, it would have had to lean on the extensive literature on the implementation of directives.²⁰⁸

The focus of this research is therefore restricted to the negotiation process, specifically in the EU Council, where member states are the most involved and policy effectiveness is most easily measured. The negotiations take place in working groups, in the COREPER, the Council of Ministers and, if it is a contentious issue, even in the European Council. During the negotiation process, a zone of agreement usually emerges and changes amongst the member states.

“A simple comparison between position and outcome runs the risk of overestimating a country’s negotiation success, since a government could theoretically have chosen a median negotiation position in order to be on the winning side. In order to study actual negotiations and informal exchange processes, it is necessary to have negotiation position data from the beginning of each bargaining round and to compare them with the final bargaining result.”²⁰⁹

It is, then, necessary to study the strategy and behaviour of the member government. While this complicates the matter considerably, it is vital to include these for a simple reason: after all, the zone of agreement concerns only what is politically and realistically possible. Outlandish policy preferences and minority positions are more often than not modified in the course of negotiations. The degree of such change is important, as is the political will to come to an agreement. If the government does not change its preferences at all, this

²⁰⁸ Knill C, Lenschow A, (1998) ‘Coping with Europe: the Impact of British and German Administrations on the Implementation of EU Environmental Policy.’ *Journal of European Public Policy*, Vol.5, Issue 4, pp. 595 – 614; Lampinen R., Uusikylä P., (1998) ‘Implementation Deficit — Why Member States Do Not Comply with EU directives?’ *Scandinavian Political Studies*, Vol.21, Issue 3, pp. 231–25; Börzel T., (2000) ‘Why there is no ‘Southern Problem’. On Environmental Leaders and Laggards in the European Union.’ *Journal of European Public Policy*, Vol.7, Issue 1, pp. 141 – 162.

²⁰⁹ Bailer S., (2010) ‘What Factors Determine Bargaining Power and Success in EU Negotiations?’ *Journal of European Public Policy*, Vol. 17, No.5, p. 751

indicates that its preferences are extreme and intense; there is a political will to let negotiations fail if these preferences are not reflected in the final legislation. A change in strategy therefore has to be taken into account, as ignoring it would skew the outcome.

Furthermore,

“three particular isolation-avoiding practices have developed. The first, and perhaps the most obvious, is to put the onus on the Commission and the Council presidency to do their utmost to accommodate reasoned and apparently reasonable differences of position. Frequently, the accommodation is achieved through declarations in the Council minutes, and often attached to decisions taken in the end by consensus. Declarations in the Council minutes often also record points on which dissenting member governments have failed to achieve accommodation of their concerns.”²¹⁰

The material available on the Council’s website could be examined to explore this point further. A second practice is to use differentiated rules, exceptions, derogations or delays of implementation or transition periods. A third option is to include protocols and declarations to the treaties in order to “ring fence a possible minority position.”²¹¹ These three strategies were included in this research to give a better picture of whether a member state was policy effective, at what stage of the negotiations and to what extent. A mention in the Council minutes is only possible during the negotiation process, and shows that the member state is not happy about the directions the negotiations are taking. An attachment to a Council decision, a declaration or a protocol often shows that the member state was not policy effective, as this strategy is generally used to show disapproval. The inclusion of differentiated rules, exceptions or derogations should show that a member state was partially policy effective, as its preferences did not make it into the final legislation, but it still managed to get a special treatment.

In summary, measuring policy effectiveness is therefore conducted in five stages: 1) establish the policy preferences of the member state 2) examine the Commission proposal

²¹⁰ Hayes-Renshaw F., Van Aken W., Wallace H., (2006) ‘When and Why the EU Council of Ministers Votes Explicitly.’ *Journal of Common Market Studies*, Vol. 44, No. 1, p. 178

²¹¹ Ibid, pp 178

3) establish the strategy and the goals of the member state in the negotiations 4) present the final legislation 5) compare and contrast the final legalisation to the policy preferences and to the strategy and goals.

2.1. The categorisation of policy effectiveness

A simple categorisation of the degrees of policy effectiveness facilitates the understanding of the outcome and will be employed in this dissertation. High policy effectiveness is achieved when a member state manages to include all or most of its policy preferences (objectives) in the Council agreement and subsequently approved by the European Parliament, if necessary, in the final directive or regulation.

Medium policy effectiveness is achieved when a member state manages to include around half of its policy preferences in the final Council agreement and subsequently approved by the European Parliament, if necessary, in the final directive or regulation.

Low policy effectiveness is achieved when a member state manages to include only a few of its policy preferences in the final Council agreement and subsequently approved by the European Parliament, if necessary, in the final directive or regulation.

The simplicity of this categorisation has the advantage of being applicable to any case study- be it history-making, or meso-level, to any member state, big or small and any decision-making procedure.

3. What influences a member state's policy effectiveness?

3.1. Domestic politics

Scholars who focus their research on the influence of domestic politics in EU integration note that, “in order to understand state preferences, one would want to analyse internal

dynamics of the state and appreciate the importance of the domestic political context.”²¹² The expectation is that flexible, efficient coordination will help achieve policy effectiveness.

3.1.1. The approval procedure

Unlike international treaties, which have to be ratified by the national Parliaments in order to come into effect, some legislative acts decided at the EU level by the Council (and sometimes the European Parliament as well) do not require explicit approval by the national Parliament. Each case study on policy effectiveness has a specific legislative basis, whether they are Regulations, Directives or Decisions. All of these take precedence over national law and are binding on national authorities. Because this thesis only deals with regulations, the others are omitted in this presentation. A Regulation is similar to a national law and is directly applicable in all EU countries. A Regulation is passed either by the Council and the EP, or it can be passed by the European Commission alone. National governments or Parliaments are not involved in the implementation.

The policy preferences of a member state are shaped by its approval procedure:

“In some member states there is a kind of contract between the national government and the national political class that EU policy positions should be explicitly negotiated and ratified through a formal political process in some way (...) In other cases , however, the management and incorporation of EU decisions into the domestic process rests rather in the hands of the European specialists, consulting as and when appropriate with specialised interests, and often with very little regular engagement of national parliaments.”²¹³

Except for Directives, national parliaments are not required or even allowed to vote on any Regulation or Decision. However, it does not follow from this that national parliaments are completely excluded from the decision-making process in the EU. National parliaments still

²¹² Huelshoff (1994) in Heipertz M., Verdun A., (2010) *Ruling Europe. The Politics of the Stability and Growth Pact*. Cambridge University Press, p. 42.

²¹³ Wallace in ‘Exercising Power and Influence in the European Union: The Roles of Member States’ in Bulmer S., Lequesne C.(eds): *The Member States of the European Union*, Oxford University Press, 2005, pp 33-34

play a minor role in the national EU negotiating, but the involvement varies from country to country. The constitutional structure and political tradition and practice can all impede or favour the involvement and the participation of national parliaments in the EU.²¹⁴

Besides taking the involvement of the national parliament into account, governments also need to seek agreement of the coalition parties, the other societal actors, such as trade unions, business organisations, the central bank, bureaucratic agencies and even public opinion.²¹⁵ Within the government, the coalition partners have to agree on a position and yet have to be flexible enough to be able to negotiate. Strong party discipline increases the win-set by widening the range of agreements for which the negotiator can expect to receive backing. Even if formal ratification was not required, the negotiators of the member states have to take those stakeholders' views into account when dealing with other member states on EU laws. As Putnam argues,

“the possibility of failed ratification suggests that game theoretical analyses should distinguish between *voluntary* and *involuntary defection*. Voluntary defection refers to reneging by a rational egoist in the absence of enforceable contracts- the much-analyzed problem posed, for example, in the prisoner's dilemma and other dilemmas of collective action. Involuntary defection instead reflects the behavior of an agent who is unable to deliver on a promise because of failed ratification. Even though these two types of behavior may be difficult to disentangle in some instances, the underlying logic is quite different.”²¹⁶

The implication is that the more difficult the domestic approval procedure, the more likely the member state will be able to argue that it is constrained by these actors, and consequently can get more concessions and a deal closer to its preferences. As Schelling argued, ‘the paradox of weakness’ is the

²¹⁴ Ibid, pp 33-34

²¹⁵ Heipertz M., Verdun A., (2010) *Ruling Europe. The Politics of the Stability and Growth Pact*. Cambridge University Press, p. 42.

²¹⁶ Putnam R. D., (1988) *Diplomacy and Domestic Politics: the Logic of Two-Level Games*. International Organization, Vol.42, No. 3, p. 438

“paradox that the power to constrain an adversary may depend on the power to bind oneself; that, in bargaining, weakness is often strength, freedom may be freedom to capitulate, and to burn bridges behind one may suffice to undo an opponent.”²¹⁷

Complaining about the domestic constraints in which the negotiator is working is (in the words of one experienced British diplomat) “the natural thing to say at the beginning of a tough negotiation.”²¹⁸

On the other hand, the greater the autonomy of the decision-maker from domestic pressures, the weaker is its relative bargaining strength internationally.²¹⁹ Therefore, the degree of coordination of EU affairs with the other organisations, be they institutions such as the Central Bank or the social partners, need to be evaluated. If they are on the same line as the government, the member state is more likely to be policy effective. “Credibility (and thus the ability to strike deals) at Level II is enhanced by a negotiator's (demonstrated) ability to “deliver” at Level I.”²²⁰

In terms of finding out how the approval procedure impacts on policy effectiveness, the type of legislation analysed determines whether formal ratification by Parliament was necessary or not. If there was no formal ratification by Parliament necessary, then the tacit or explicit approval, or at least not public disapproval, of the other societal actors has to be established. Establishing this approval is done by analysing press statements by the various actors (Central Bank, trade and business unions) on the proposed legislation, and by interviews with those actors.

²¹⁷ Schelling T.C., (1960) *Strategy of Conflict*. Cambridge, Mass. Harvard University Press, p. 22

²¹⁸ Evans in ‘Building an Integrative Approach to International and Domestic Politics: Reflections and Projections’ in Evans P. B., Jacobson H. K., Putnam R. D., (1993) *Double-Edged Diplomacy: International Bargaining and Domestic Politics*. University of California Press, p. 441

²¹⁹ Putnam R. D., (1988) *Diplomacy and Domestic Politics: the Logic of Two-Level Games*. International Organization, Vol.42, No. 3, p. 449

²²⁰ Ibid, pp 438

3.1.2. Institutional coordination

An efficient coordination of the institutions involved in the negotiations is expected to lead to increased policy effectiveness.²²¹

“The very precondition for active engagement in the European policy-making process is to develop national positions and negotiation instructions in due time.”²²²

A close link between the Permanent Representation and the national Ministries is expected to play a positive role. The Permanent Representation does not only work between Brussels and the country, but also within a set of EU institutions. Does the staff of the Permanent Representation and the Technical Committee have the same policy preferences? It has often been noted that because

“France and the UK have a relatively centralised, decisive systems often allow them to steal a march on Germany, with its traditionally decentralised, occasionally chaotic system.”²²³

Therefore, having all the institutions involved in the decision-making process toeing the same line is an important factor to be policy effective. Good effective communication between civil servants and ministers, clear yet flexible mandates for the negotiators at the Technical Committee and the COREPER, short communication channels between the negotiators, all contribute towards achieving the common goal. Under time pressure to come to an agreement in the last phase of negotiations, institutional coordination is vital:

“in only a few days the working group and the COREPER may meet several times to clear up the last outstanding issues. Documents with the latest compromise proposals may be handed out by the presidency or by delegations only hours before a meeting or even during meetings. It is a major challenge for national coordination processes to keep up with the latest developments and to deliver a coordinated national point of view on time. Capitals may lose track of events and have to depend fully on their negotiators in Brussels. Member states who have given their

²²¹ Kassim H., Menon A., Peters G., Wright V. (eds), (2001) *The National Co-ordination of EU Policy: the European Level*, Oxford University Press.

²²² Panke D., (2010) 'Small States in the European Union: Structural Disadvantages in EU Policy-Making and Counter-Strategies.' *Journal of European Public Policy*, Vol. 17, No. 6, p. 807

²²³ Peterson J., Bomberg E., (1999) *Decision-Making in the European Union*. Palgrave Macmillan, p. 37

negotiators too little flexibility will lose considerably in the last phase of negotiations.”²²⁴

Flexible mandates of the negotiators are therefore thought to increase policy effectiveness. An often cited counterexample is Denmark, with its strong Committee on EU Affairs, which ministers have to ‘phone home’ to get further instructions on how to proceed in negotiations.

Kassim et al. have also found that across the EU, Prime Ministers

“play an increasingly central role in EU matters, a tendency reflected in growing institutional support for the office, foreign ministries retain an important role, though in all member states they are in a position of relative decline, and specialist bodies for cross-departmental coordination have been established.”²²⁵

It is expected that this ‘meddling’ of the Prime Ministers in individual ministries’ affairs has a negative impact on the overall coordination of institutions, as the authority structure will become increasingly blurred at the expense of the ministers. The negotiators at lower levels may receive conflicting instructions from their department minister, and then from their Prime Minister or even President. Moreover, the coordination with the national Members of the European Parliament is expected to influence positively or negatively the final outcome. If the national MEPs are in close contact with the government, it is more likely that they can be counted on trying to upload the national interests to the EU within the EP, especially within Committees.

3.2. *The negotiation context*

Decisions are shaped and framed by a multitude of actors, but they are taken by the Council and sometimes in conjunction with the EP. In the context of this analysis, the term “negotiation context” is understood purely in a formal legalistic sense (i.e. the applicable

²²⁴ Bal in ‘Member States Operating in the EU Council of Ministers: Inside Impressions’ in Meerts P. W., Cede F., (2004) *Negotiating European Union*. Palgrave MacMillan, p. 129

²²⁵ Kassim H., Menon A., Peters G., Wright V. (eds), (2001) *The National Co-ordination of EU Policy: the European Level*, Oxford University Press, p. 235

rules as defined by the treaties) and does not cover informal negotiation procedures. The Commission usually has the right of initiative, although in some areas such as justice and home affairs, individual member states can also introduce policy proposals. Member states are involved in almost every stage of the legislation process; at the stage of policy design, the negotiation of the policy, and at the implementation stage.²²⁶ They decide in one of the various levels of the Council, the COREPER or working group, and the level of ministers and increasingly even heads of state, what the shape and final outcome of the policy will be. The voting procedure is expected to play a role predominantly in the final stages of the negotiations. That does not mean however that the voting procedure is not at the back of the minds of negotiators at any other point of the discussions. The voting procedure is supposed to matter more, the higher the level in the Council is at which the decision is taken. This is so simply because if agreement has been found at the level of the working group or the COREPER, then it is likely that the issue was not highly controversial politically and rests on a broad consensus. If the EP has some say in that policy area, the national representatives are voting on the proposal or Common Position of the Council- to which we turn below.

3.2.1. The decision-making procedure

The first factor relates to the formal voting power of the member states: the voting procedure. Within the EU, decision-making procedures are often complex, reflecting both the relative political sensitivity of the issue at hand and the relative weight of a member state within the Council. The votes in the Council are distributed according to some sort of proportional representation, although the weighing is neither strictly proportional nor entirely logical.²²⁷ The voting weight of member states is both an outcome of policy effectiveness and a starting point for the evaluation of policy effectiveness. The voting procedure significantly conditions a member state's ability to achieve that all the policies it wants to be transposed at EU level are actually transposed at that level. Voting in the

²²⁶ Wallace in 'Exercising Power and Influence in the European Union: The Roles of Member States' in Bulmer S., Lequesne C., (2005) *The Member States of the European Union*. Oxford University Press, p.29

²²⁷ Bailer S., (2006) 'The Dimensions of Power in the European Union.' *Comparative European Politics*, Vol. 4, No.4 p. 358.

Council of Ministers can be classified under two headings: Qualified Majority Voting and Unanimity. QMV is calculated in different ways, depending which Treaty was in force at the time of the vote. Enlargements and the successive changes to the voting weights of member states potentially alter significantly relationships between the member states, and even the involvement of the European Parliament. Following the 2000 Inter Governmental Conference and the Nice Treaty, the number of votes allocated to each Member State has been re-weighted, in particular for those States with larger populations.²²⁸ Because the case studies range from 1996 to 2005, these changes in voting weights are expected to matter. Unanimity essentially entails that all member states either have to agree or at least not voice their disagreement through a veto; however they are perfectly entitled to voice their concerns over some particular issue that is included in the agreement and final regulation/directive.

Member states are able to defend their national interest through a veto. A member state can oppose a Community decision adopted by the majority if it considers its national interests to be seriously threatened. It is not so much the explicit use of the veto, but the implied threat to use it, which can lead the other member states and the Commission to search for ways in which that specific national interest is accommodated before negotiations start and even during negotiations. The Ionannina Compromise of 1994 and the emergency brake of the Treaty of Amsterdam have met the same fate as the Luxembourg Compromise and have hardly been used.

Many scholars have found that most decisions taken in the Council of Ministers are reached consensually, necessitating no explicit voting. Hayes-Renshaw et al. showed that the vast majority of decisions reached in the Council were not voted on, and that where there was a vote depends often on the issue area.²²⁹ If there is very little explicit voting, why does the decision-making procedure matter then?

²²⁸ European Commission, Glossary: Qualified Majority Voting. Accessed on 16. 02. 2009 and available at: http://europa.eu/scadplus/glossary/qualified_majority_en.htm

²²⁹ Hayes-Renshaw F., Van Aken W., Wallace H., (2006) 'When and Why the EU Council of Ministers Votes Explicitly.' *Journal of Common Market Studies*, Vol. 44, No. 1, p. 184

“From the perspective of interpreting consensus in the Council, it is important to recognize the common understandings that facilitate negotiations, such as the historical importance of the European project, the necessity of having either Germany or France supporting an initiative and the lack of an exit option or the threat of force.”²³⁰

The ‘shadow of the vote’ and the existence of a blocking minority go some way towards explaining the potential relevance of this factor in policy effectiveness. This nevertheless leaves the problem of measuring its validity in specific case studies. How can we know that the voting procedure, and more specifically the voting weight of the member state in question, played a part if there was no vote?

There are several ways to identify whether this variable played a part in QMV: firstly the voting weight is presented in relation to the other member states, and then calculated as a percentage to the qualified majority and the blocking minority. If it is possible to estimate the coalitions amongst the member states and calculate their combined voting weight, then the shadow of the vote and a potential blocking minority are sufficient to get the negotiators back on the table to try and accommodate the member state in question. If there is not a determined blocking minority, “then marginal dissenters tend to switch their efforts to extracting rewards or concessions in return for withdrawing their opposition.”²³¹ It seems therefore reasonable to expect, that even though a culture of non-voting and consensus-finding prevails in the Council, the voting procedure may influence policy effectiveness. Therefore the following propositions should be examined. Under unanimity, the member state is more likely to be highly policy effective. Secondly, I want to see whether, if the member state belongs to a blocking minority or is the decisive vote, it is more likely to be highly policy effective.

As a second step, the different possibilities of involvement of the European Parliament in negotiations will be presented (co-decision, consultation and cooperation- those used in these case studies). This is followed by a tentative appraisal of how the EP could influence

²³⁰ Heisenberg D., (2005) ‘The Institutions of “Consensus” in the European Union: Formal Versus Informal Decision-Making in the Council.’ *European Journal of Political Research*, Vol.44, pp. 65–90

²³¹ Hayes-Renshaw F., Van Aken W., Wallace H., (2006) ‘When and Why the EU Council of Ministers Votes Explicitly.’ *Journal of Common Market Studies*, Vol. 44, No. 1, p. 185

a member state's policy effectiveness. The co-decision procedure was introduced in the Treaty on European Union and strengthened by the Treaty of Amsterdam. It makes provision for a division of legislative power between Parliament and the Council of the European Union. In practice, co-decision has become the most important legislative procedure and was expanded to many policy areas under the Lisbon Treaty. It develops in three stages and gives Parliament a right of veto.²³² The threshold for an absolute majority is 369 votes out of 736. Under the co-decision procedure, an absolute majority is necessary for the vote on a second reading in order to reject the Council position at first reading or to adopt amendments.²³³

In the consultation procedure, Parliament is asked for its opinion on proposed legislation before the Council adopts it. In the cases laid down by the Treaty, the Council consults Parliament before taking a decision on the Commission's proposal and makes sure that its opinion is taken into account. The Council is not legally obliged to take account of Parliament's opinion but cannot take a decision without having seen it.²³⁴

The cooperation procedure was introduced in the Single European Act. The EP received more influence through being able to hold two readings instead of one. This procedure applies now only to the field of economic and monetary union. In the first reading, Parliament issues an opinion on the Commission proposal.

“The Council, acting by a qualified majority, then draws up a common position, which is forwarded to Parliament. (...) The Parliament examines this common position at a second reading, and within three months may adopt, amend or reject the common position. In the latter two cases, it must do so by an absolute majority of its members. If it rejects the proposal, unanimity is required for the Council to act on a second reading. The Commission then re-examines, within one month, the proposal upon which the Council based its common position and forwards its proposal to the Council; at its discretion it can include or exclude the amendments

²³² European Parliament: ‘The co-decision procedure.’ Accessed on 16. 02. 2009 and available at: <http://www.europarl.europa.eu/parliament/expert/staticDisplay.do?language=EN&id=55&pageRank=3>

²³³ http://ec.europa.eu/codecision/stepbystep/glossary_en.htm

²³⁴ European Parliament: ‘The consultation procedure.’ Accessed on 16. 02. 2009 and available at: <http://www.europarl.europa.eu/parliament/expert/staticDisplay.do?language=EN&id=55&pageRank=4>

proposed by Parliament. Within three months, the Council may adopt the re-examined proposal by qualified majority, amend it unanimously or adopt the amendments not taken into consideration by the Commission, also unanimously. In the cooperation procedure, the Council may still exercise a veto by refusing to express its opinion on the amendments proposed by the European Parliament or on the amended proposal from the Commission, thereby blocking the legislative procedure.”²³⁵

The European Parliament, depending on the decision-making procedure applied in the case study in question, can yield significant power over the final shape of legislation. There are several prominent and highly politicised cases where the EP voted against a Common Position of the Council under co-decision- the SWIFT directive being one famous example. The EP cannot be relied upon to just nod and agree. Theoretically, it can also propose significant amendments which would potentially undo all the work a member state’s representative has achieved in the Council. Under co-decision especially, but also under the cooperation procedure, it will be an advantage for the government in question that its MEPs belong to the same political party or coalition and therefore are more likely to support its position. Member states with only a small representation in the EP are expected to have MEPs toeing the same line as the government. Therefore, it could be expected that no involvement of the EP makes a member state more likely to be policy effective. Another possibility is that the member state’s preferences are close to that of the EP or the Commission; in that case it is more likely to be policy effective.

3.2.2. Time pressure

Time pressure is another factor and can originate from several sources: upcoming European Parliament elections and the election of a new Commission, the upcoming presidency of the Council, an approaching deadline of implementation of a certain policy; even domestic elections may create time pressure to find an agreement.

²³⁵ European Commission, (undated) ‘Glossary: The cooperation procedure.’ on 16. 02. 2009 and available at: http://europa.eu/scadplus/glossary/cooperation_procedure_en.htm

In the aftermath of EP elections the formation of committees leads to delays and inexperienced MEPs must familiarise themselves with the new material. Time pressure to pass a directive or regulation before the election could be a factor for reaching an agreement. Under co-decision, the EP has the power to reject a carefully-bargained agreement of the Council and can send it back to be re-examined. Under consultation, a favourable opinion of the European Parliament can strengthen the agreement's credibility. Similarly, the time around the election of a new Commission body increases pressure on the Commission, the Council and the EP to reach agreements. A new Commission college has to learn the ropes in the different policy areas before its members can effectively participate in and help shape the legislation process.

Time pressure to find an agreement within the Council before an upcoming presidency can come up for several reasons: the new presidency is hostile to any progress in that policy area, or it is not a member of the increased cooperation in that policy area (such as in monetary union, or in certain areas of justice and home affairs). If the issue under negotiation is part of a larger body of legislation, such as monetary union, there is often a date of implementation by which the issue has to have been negotiated, approved by all the relevant institutions and published in the Official Journal of the European Union. Those deadlines are often a stimulus for making certain options suddenly more attractive to the negotiators than they would otherwise have been. Finally, Heipertz and Verdun have argued that domestic elections in one of the member states may play a part as well.²³⁶

Time pressure can work both in favour and against a member state in being policy effective.²³⁷ The effect is more pronounced under the decision-making procedure of QMV than under unanimity. "The less time is available, the easier it is in a system of majority

²³⁶ Heipertz M., Verdun A., (2010) *Ruling Europe. The Politics of the Stability and Growth Pact*. Cambridge University Press, p. 42

²³⁷ Brookmire D. A., (1980) 'The Effects of Perceived Ability and Impartiality of Mediators and Time Pressure on Negotiation.' *Journal of Conflict Resolution*, Vol. 24, No. 2, pp. 311-327.

voting for leading majorities to win.”²³⁸ The member state is less likely to be policy effective if it is under time pressure to find an agreement under QMV. Time pressure can affect policy effectiveness negatively if the member state finds itself in a minority position due to extreme preferences under QMV. If the member state finds itself in a minority position and there is time pressure, then it is unlikely that its concerns would be fully addressed. Conversely, if the member state finds itself in the majority, time pressure can have the positive effect of persuading a recalcitrant member state to give in to the majority’s demands.

But even in a situation of unanimity voting, member states may be urged (informally by others) to stop dragging their feet to find an agreement because of time pressure. In that case, the effect of the pressure exercised on the member state depends on whether it is directed against a big or a small state. Smaller states, which have a smaller number of votes, are expected to feel this pressure more keenly than bigger states. Time pressure is measured firstly by objective factors, such as those mentioned above, and secondly by the qualitative appreciation of the negotiators themselves. If they felt under pressure to find an agreement, it is likely that this would have had an impact on their negotiation behaviour.

In short, institutions matter. This study does not ignore the decision-making procedure and the relative weight each member state has in the institutional set-up of the European Union. It is expected that the bigger the voting weight of a member state, the better it will be able to be policy effective. The voting procedure is expected to have a negative impact when it is QMV and co-decision with the EP. Furthermore, time pressure is expected to have a negative impact on policy effectiveness, as it leaves some options unexplored and leaves less time to find a consensus solution acceptable to everyone.

²³⁸ Pfetsch F. R. in ‘Institutions Matter: Negotiating in the European Union’ in Berton P., Kimura H., Zartmann W.E., (1999) *International Negotiations. Actors, Structures, Process, Values*. Macmillan Press, p. 200.

3.3. *Distribution and intensity of preferences*

Any member state's power, whether big or small, is naturally constrained by the policy preferences of the other member states in EU negotiations.²³⁹ A domestic politics approach is useful in determining member states' preferences. Public opinion, the general economic and political climates determine their negotiation behaviour. Their negotiation behaviour, depending on the intensity of the preferences held and on the strategy they choose, be it accommodating or radical, will condition the member state's power relative to the other players. The preferences of the other 14, 24 or 26 member states intervene in a member state's power to steer EU negotiations towards the preferred outcome. Therefore the number of actors, the distribution of preferences, and the intensity with which these preferences are held, need to be taken into account in a study of policy effectiveness.

3.3.1. *Number of actors*

Firstly, the number of actors in negotiations is supposed to have an impact on the policy effectiveness of a member state. As Wallace stated, with successive enlargements,

“the core characteristics of member states as such differ over time, altering the range of policy needs and objectives, and (...) the relationships among member states alter, changing coalition politics and patterns of influence within the EU.”²⁴⁰

To put it simply: If there are two actors in a negotiation, then their vote weighs half. In an EU of 27, the voting weight of every member state is significantly reduced. “The smaller the unit of decision-making, the more the preferences of the participants count.”²⁴¹

Furthermore, as an increasing number of small member states joined the EU and small states are now in the majority, it has been suggested that there are two consequences to

²³⁹ Putnam R. D., (1988) *Diplomacy and Domestic Politics: the Logic of Two-Level Games*. International Organization, Vol.42, No. 3, pp 427-460. Bulmer S., Lequesne C., (2005) *The Member States of the European Union*. Oxford University Press.

²⁴⁰ Wallace in ‘Exercising Power and Influence in the European Union: The Roles of Member States’ in Bulmer S., Lequesne C., (2005) *The Member States of the European Union*. Oxford University Press, p. 27

²⁴¹ Pfetsch F. R. in ‘Institutions Matter: Negotiating in the European Union’ in: Berton P., Kimura H., Zartmann W.E., (1999) *International Negotiations. Actors, Structures, Process, Values*. Macmillan Press, p. 199

these last enlargements: the first consequence relates to the attitude of big member states such as France, Germany, the UK, and to a lesser extent Italy and Poland. Big member states are afraid of losing influence in the EU institutions (tyranny of the weak- or the “Lilliput syndrome”²⁴²). An illustration of this point is when French President Chirac told Central and Eastern European countries before their accession to the EU to hold their tongues in the context of the Iraq invasion.²⁴³

The big member states attempt increasingly to coordinate their positions and take charge of the integration process. This in turn leads to fears of the small member states of a *directoire* of the big member states, who are afraid of being sidelined in the negotiation process and being presented with a *fait accompli* by the big member states in the Council, as during the Convention negotiations.²⁴⁴ More recently, in the negotiations of a tougher Euro stability package in Deauville, Luxembourg’s prime minister was “furious about Merkel’s and Sarkozy’s attempt to shape policy without consulting other leaders first. ‘The style is simply impossible,’ said Juncker.”²⁴⁵ The implication is that smaller member states were more likely to be heard before the last enlargement, and that the new small member states have more difficulties in finding a sympathetic ear of a big member state. Because there are more actors, the individuality decreases; it is more difficult to argue that one’s domestic politics are unique and one needs different rules. The understanding, and the willingness to understand and accommodate is also expected to decrease in a bigger Union. Therefore, small member states could be less likely than big member states to be policy effective in an enlarged EU.

The case studies of the present research happened in 1996, in 2003 and in 2005. Two case studies consisted of 15 member states in 1996 and 2003, while there were 25 member states in 2005. If the number of member states affects policy effectiveness negatively,

²⁴² Magnette P. Kalypso N., (May 2003) ‘Grands et petits Etats dans l’Union européenne: réinventer la balance.’ *Etudes et recherches Notre Europe*. No. 25, p. 11

²⁴³ *The Guardian*, (2003) ‘Eastern Europe dismayed at Chirac snub.’ 19 February.

²⁴⁴ Magnette P. Kalypso N., (May 2003) ‘Grands et petits Etats dans l’Union européenne: réinventer la balance.’ *Etudes et recherches Notre Europe*. No. 25, p. 8

²⁴⁵ *Der Spiegel*, (2010) ‘The Iron Chancellor in the Euro Trap.’ 28 October.

Luxembourg should have been more effective in two case studies (the SGP in 1996 and EC Reg. 883/2004 in 2003) than in the case study of the reform of the Pact in 2005.

3.3.2. *Distribution of preferences*

Not only has the number of actors increased and so the heterogeneity of preferences; the policies and cultures of the different member states' governments change over time. This means that the decision-making bodies become more heterogeneous and the zones of agreements become narrower. Research suggests that being closer to the Commission's preferences and proposals increases a member state's ability to get what it wants.²⁴⁶ In that sense, building an alliance with the agenda-setting Commission is still essential to success in negotiations. It has also been suggested that being closer to the alliance of France and Germany, if there is one, is almost a guarantor of policy effectiveness.

“In the EC's past (...), it has been observed that decisions were virtually never taken in practice against an alliance of *two* very crucial states: Germany and France. In quantitative terms, this basically implies that these two members shared a kind of informal veto power.”²⁴⁷

The Franco-German axis and its strength and cohesiveness could therefore be crucial in understanding whether a member state is policy effective. If the member state in question has preferences which are close to both France's and Germany's, then it is more likely to be policy effective. For example, when France and Germany joined forces in cracking down on banking secrecy, it was difficult for other member states to resist.

Coalition-building in the Council would be a way to overcome a wide distribution of preferences and could be an attempt to narrow the gap. However, apart from issue-specific coalitions, no stable coalitions across issues have been recorded.²⁴⁸ Bal argues that as a rule

²⁴⁶Bailer, S., (2004) ‘Bargaining Success in the European Union.’ *European Union Politics*, Vol.5 Issue 1 p. 115

²⁴⁷Hosli, M, (1996) ‘Coalitions and Power: Effects of the Qualified Majority Voting in the Council of the European Union.’ *Journal of Common Market Studies*, Vol.34, No. 2, p. 259

²⁴⁸ Hayes-Renshaw F., Van Aken W., Wallace H., (2006) ‘When and Why the EU Council of Ministers Votes Explicitly.’ *Journal of Common Market Studies*, Vol. 44, No. 1, p. 175

the factual interests of a member state are decisive for its choice of coalition, and that “normally two (coincidental) coalitions appear at each end of the spectrum (...) in the middle there is a large group of indifferent member states.”²⁴⁹ If there is a wide distribution of preferences, then the member state in question is less likely to be policy effective. In order to find out if there is a general, widespread consensus or diverging preferences amongst member states on a specific policy proposal, several options are available to the researcher. Firstly, if available official statements and press interviews by ministers or officials are analysed on their references to the details of the policy proposal. Secondly, interviews with participants in the negotiations give an insight into the distribution of preferences, and they also indicate which governments had the most extreme preferences. Council minutes often record if a particular member states has specific issues with the proposed legislation, and where disagreement is exposed by one or several member states.

3.3.3. *Intensity of preferences*

This factor relates to the degree of salience of an issue in other member states. The political context, in particular the other member states’ policy preferences and their intensity and the range of competing interests has an immediate effect on how a member state can ‘impose’ their policy preferences upon the final legal act. If there are polarised competing interests and ideological coalitions within the Council, a state’s policy effectiveness is negatively affected.

“Broadly at the EU level the European Council has emerged as the forum through which strategic choices are made and highly political bargains are struck. Specialist groups of ministers in the regular Council sessions are often not able to reach solid agreements without reference to heads of government.”²⁵⁰

²⁴⁹ Bal in ‘Member States Operating in the EU Council of Ministers: Inside Impressions’ in Meerts P. W., Cede F., (2004) *Negotiating European Union*. Palgrave MacMillan, p. 131

²⁵⁰ Wallace in ‘Exercising Power and Influence in the European Union: The Roles of Member States’ in Bulmer S., Lequesne C.(eds): *The Member States of the European Union*, Oxford University Press, 2005, pp 33

It could therefore be the case that the higher the level at which the decision is taken, the more intense the preferences are of at least one member state, if not more, depending on the voting procedure. Salient issues on a domestic level are likely to produce a less cooperative behaviour. Case studies abound where the intense preferences of one member state override any other preferences and the negotiations shift their focus onto that issue.²⁵¹ One of the most prominent ones would be the discussions of the EU budget in 1984, which turned into lengthy negotiations on the UK rebate demanded by Prime Minister Thatcher. A more recent example would be subsidising the German car industry, which could be considered against EU competition rules.²⁵²

If the preferences of one or more member states are intense and extreme, the member state in question is supposed to be less policy effective. On the other hand, if the other member states have no significant economic or political interest in a given matter, then the intensity of their preferences is assumed to be low. The member state in question is then more likely to be highly policy effective, as political concessions are easier to obtain if no one cares.²⁵³ Hence, it is expected that the intensity of other member states' preferences will influence policy effectiveness.

The intensity of a member state's preference can be gauged in several ways. Firstly, if a member state has extreme preferences, it often adopts a radical and non-accommodating attitude in the negotiations. The indicators of preference intensity by a member state's government are: official press statements, references in official Council documents to the problems a member state has with the legislation proposal, and through interviews. Derogations, exceptions, delays of implementation in the final Council agreement also often indicate that the member state did or could not budge on its behaviour. The more a specific member state is mentioned as having a problem, the more likely it is that its preferences were intense. It is relatively easy to measure the absence of intense preferences: if a member state is not mentioned by the interviewees when they talked about the

²⁵¹ Arter, D. (2000), Small State Influence Within the EU: The Case of Finland's 'Northern Dimension Initiative'. *Journal of Common Market Studies*, Vol. 38, pp. 677–697.

²⁵² *European Voice*, (2009) UK questions Opel deal. 24. September.

²⁵³ Bailer S., (2010) 'What Factors Determine Bargaining Power and Success in EU Negotiations?' *Journal of European Public Policy*, Vol. 17, No.5, p. 750

negotiations, it is assumed that that member state was not actively involved in the process and therefore its preferences were not intense. Furthermore, it is assumed that the higher the level of the Council at which the decision is taken, the more intense the preferences of at least one of the member states is under unanimity and QMV. Hence, the institution in which a decision is taken is an indicator of intense preferences and political salience.

3.4. The presidency

Chairing the presidency of the Council of the European Union offers a member state several resources it can use to be policy effective.²⁵⁴ The institution of the presidency has been created as a response to the increasing complexity of issues presented to the member states, to the increasing mistrust of the Commission as leader of the negotiations.

“Owing to its formal position, the presidency possesses a set of informational and procedural resources that can be used to encourage concessions and achieve convergence in EU governments’ negotiating positions.”²⁵⁵

Through the management of the agenda and the search for viable compromises, the presidency acquires an expertise in the dossiers under negotiation. The presidency has access to privileged information about member states’ preferences through bilateral encounters and the Council Secretariat. The member state that holds the presidency is expected to lead and manage EU negotiations, but not to defend its national interests simultaneously. It is expected that the member state that holds the chair is guiding the negotiations and brokering deals.

However, Tallberg has shown that some presidencies use the office to pursue private gains. Holding the presidency presents a country with two important power resources: asymmetrical access to information and asymmetrical control over the negotiation

²⁵⁴ Quaglia, L. and Moxon-Browne, E., (2006) ‘What Makes a Good EU Presidency? Italy and Ireland Compared.’ *Journal of Common Market Studies*, Vol. 44, Issue 2, p.

²⁵⁵ Tallberg J.: *The Power of the Presidency: Brokerage, Efficiency and Distribution in EU Negotiations*, Paper prepared for presentation at the EUSA’s 8th International Conference, Nashville, March 27-29 2003. pp

procedure.²⁵⁶ These resources, added to other resources the member state holds, can bring about policy effectiveness. Indeed, Tallberg argues that it is not enough to hold the presidency, and notes two caveats:

“first, the presidency’s brokerage efforts may be superfluous, to the extent that the bargaining parties themselves can identify a viable compromise, or redundant, if preferences are sufficiently divergent to prevent a zone of agreement from arising. Second, the individuals that perform presidency functions on behalf of their national governments may be more or less apt for their duties. Like other institutional platforms, the office of the presidency can offer individuals opportunities for influence, but cannot guarantee that these individuals at all times act skilfully on these opportunities.”²⁵⁷

Hence the inclusion of the following factor on individual-level factors.

While every member state held the office of the presidency roughly every 8 years before the enlargement to 27 member states, the importance of the presidency has been significantly reduced by the Treaty of Lisbon. There is now more formal coordination of the trio of three presidencies in devising a common political programme, leaving less autonomy to each presidency to construct the agenda. Furthermore, the Lisbon Treaty separates the European Council from the Council of the European Union, and the High Representative is now the Chairman, rather than the foreign minister of the member state that holds the presidency. It remains to be seen whether holding the presidency is still a coveted asset after a few experiences with this new arrangement. Nevertheless, as the case studies of this research are dated before the entry into force, it is still a factor worth exploring.

²⁵⁶ Tallberg J., (2006) *Leadership and Negotiation in the European Union*. Cambridge University Press, p. 29

²⁵⁷ Ibid, pp 220

3.4.1. Asymmetrical information

The General Secretariat of the Council provides the presidency with the preferences and negotiating positions of the member states, with advice on the decision-making procedures and the instruments available to the presidency and tactical and legal advice on negotiation procedures and possible courses of action. The confidential *Notes au Président* contain information on the background of the proposal, its legal basis, the voting procedure, the state of play in the negotiations, governments' negotiating positions and room for concessions, tactical brokerage advice, and alternative compromises.²⁵⁸ The second source of information is the confessionals, the confidential bilateral talks between the presidency and a member state.²⁵⁹ The sharing of information is the most important function of the confessional, but it also provides an opportunity to put additional pressure on reluctant ministers, and to offer unofficial side payments. The *tour des capitales* is another means of collecting information and exercising pressure. These bilateral talks allow ministers to inform the presidency about their bottom lines without sharing them with the other bargaining parties. As Beach argues, in order for a presidency to effectively supply leadership, it must possess "a combination of informational resources and the trust/acceptance of other governments."²⁶⁰ The presidency is also a platform for political influence. The brokering of intergovernmental agreements permits EU presidencies to select from multiple equilibriums and steer negotiations towards outcomes they privately prefer. Having access to information on other member states' preferences and red lines should enable a member state to steer negotiations towards an outcome it prefers; if those preferences are not too widely distributed.

How the member state in question managed to use this resource effectively for policy effectiveness is measured in the following way: press statements indicate how many times the presidency has met informally with the other participants at ministerial level.

²⁵⁸ Quaglia, L. and Moxon-Browne, E., (2006) 'What Makes a Good EU Presidency? Italy and Ireland Compared.' *Journal of Common Market Studies*, Vol. 44, Issue 2, p. 359

²⁵⁹ Tallberg J., (2006) *Leadership and Negotiation in the European Union*. Cambridge University Press, p.64

²⁶⁰ Beach D., (2007) 'Leadership in the History-Making Decisions of European Integration.' *Paper presented to Palgrave Studies in European Union Politics conference on "Studying the European Union: Current and Future Agendas"*. London, p. 20

Unfortunately, it is more difficult to establish the degree of contact between the presidency and other negotiators at the lower levels of the Council. Furthermore, in elite interviews, the participants in the negotiations were asked about their assessments of the presidency's involvement.

3.4.2. Asymmetrical control over the negotiation procedure

The second resource is the asymmetrical control over negotiation procedure and sessions through a range of procedural instruments. The presidency manages the agenda, permitting to assign priority to competing political concerns. It can shape the political priorities to a certain extent and determines the pace of Council negotiations by setting the schedule. It can determine the number of formal and informal negotiation sessions. It also sets the pace of the negotiations by deciding how often the meetings take place and how long they last. The longer a meeting is, the more a sense of urgency arises to find a solution to the problem at hand. Therefore, it can be stipulated that the control over procedure leads to more policy effectiveness. The presidency also has control over the method of negotiations (competing proposals or a single negotiating text). Choosing to present a single text for negotiation enables a member state that holds the presidency to include its own preferences in the policy proposal and effectively supplants the Commission proposal.²⁶¹

The pace of the negotiations can be easily established by looking at how many ministerial meetings were conducted on the policy issue in question under the presidency. If there are meetings which follow in quick succession, it can be argued that the presidency is creating time pressure to persuade recalcitrant member states to compromise and move towards a zone of agreement. Furthermore, the presidency can decide whether it uses a single text or several proposals. By choosing a single text, it has more control over what is included and what is not, and it can exclude certain options which it does not favour and include options which it does.

²⁶¹ Tallberg J., (2006) *Leadership and Negotiation in the European Union*. Cambridge University Press, p.118

3.5. *Individual level factors*

Another issue to consider is how and to what extent differences in individual attributes affect the policy effectiveness of heads of government and the officials and negotiators. As Bal states so eloquently, “a dark forest of procedures hides the importance of the human factor.”²⁶² Even if the heads of government may try to function as efficient and detached servants of the national interest, their negotiation behaviour and influence over outcomes may be shaped by factors such as experience, culture, personal visions, and trust. These individual-level factors include past relations, belonging to the same political family, experience and longevity, and being included in the small circle of actors who are delegated by the other member states to hammer out a compromise. We will explore each of these in turn.

3.5.1. *Past relations*

The importance of reputation and personal authority is a recurring theme in the participants’ own assessments of power and influence in the European Council. In particular, they underline the differences between individuals in terms of personal authority, respect, or trust. These are seen as attributes to be won and earned, rather than given by birth or appointment.²⁶³ Meerts’ research suggested that:

“character differences among negotiators have a greater impact on negotiation relationships and processes than culture. But for those who represent the states at the highest levels, personal characteristics may even be more relevant than for other representatives.”²⁶⁴

²⁶² Bal in ‘Member States Operating in the EU Council of Ministers: Inside Impressions’ in Meerts P. W., Cede F., (2004) *Negotiating European Union*. Palgrave MacMillan, p. 133

²⁶³ Tallberg Jonas: ‘Bargaining Power in the European Council.’ *Journal of Common Market Studies*, Vol. 46, no.3, 2008, pp 669

²⁶⁴ Bal in ‘Member States Operating in the EU Council of Ministers: Inside Impressions’ in Meerts P. W., Cede F., (2004) *Negotiating European Union*. Palgrave MacMillan, p. 226

If the negotiators have previous relations, then the member state is more likely to be policy effective. Examples would be the positive relations between Kohl and Mitterrand, who managed to find agreement on many very delicate topics. Negative examples would be Berlusconi's chairing of the presidency, where he was held "in rather low esteem" by several European governments and has been cited as one of the reasons why Italy could not broker an agreement on the Constitutional Treaty.²⁶⁵

Past relations can only be measured by the personal assessment of the negotiators themselves and of their assessment of the relations between other negotiators. While it is a very subjective measure and almost impossible to falsify except by the assessment of other people, it cannot be denied that the presence of 'chemistry' between individuals can significantly influence their willingness to find agreements and help each other out. Similarly, negative experiences of dealing with an individual can make the negotiator in question apprehensive and unwilling to compromise and give in.

3.5.2. *Same political family*

As presented in the literature review, party ideology has been proven to matter in the European Parliament. Is this the case as well in the Council? Aspinwall found a significant relationship between party ideology and the resulting ideology of the governments and their preferences regarding European integration.²⁶⁶ If the ministers from the same political family have similar preferences towards or against European integration, does this mean that they also have similar preferences in every policy area?²⁶⁷ Research has been relatively sparse on this aspect. This factor is applied only to the ministerial level, where it can be measured. Moreover it remains to be seen if this is still the case after the last two enlargements. In general, an increasing heterogeneity can be observed within party

²⁶⁵ Quaglia, L. and Moxon-Browne, E., (2006) 'What Makes a Good EU Presidency? Italy and Ireland Compared.' *Journal of Common Market Studies*, Vol. 44, Issue 2, p. 357

²⁶⁶ Aspinwall M., (2006) 'Government Preferences on European Integration: An Empirical Test of Five Theories.' *British Journal of Political Science*, Vol. 37, pp 81-111

²⁶⁷ Marks G., Wilson C. J., (2000) 'The Past in the Present: a Cleavage Theory of Party Response to European Integration.' *British Journal of Political Science*, Vol.30, No. 3, p. 433-459.

families. In Central and Eastern Europe, Christian Democrats did not manage to break through as a significant force in the political spectrum; furthermore, the few Christian Democratic parties that do enter government in these countries often have diverging ideas, visions and policies to the established Christian Democrats in Western Europe.²⁶⁸ Europe's Socialist parties have a different legacy and therefore a different ideological starting point, but are still more coherent. Right wing parties in Western and East and Central Europe are probably more similar than the previously mentioned party families. More research needs to be done in order to determine whether this relationship between party ideology and preferences regarding European integration is still valid. It could be that the more parties in government belong to the same political family as the member state in question, the member state in question then has more chances of being policy effective.

By counting how many ministers belong to the same political family, a first assessment can be made whether the minister in question could be in a minority position or not. If the minister in question belongs to the same political family as one of the important member states, such as France and Germany, then it can be assumed that they have the same preferences. In cases of high domestic political sensitivity, it is expected that nationality plays more of a role than political affiliation for MEPs and that they play an active role in persuading other MEPs of the importance of their government's position. They will try actively to shape the decision of the EP according to their government's strategy. The involvement and influence of national MEPs is measured by their interventions, role in committees, and by their vote on the particular case study. It is therefore possible that member state governments who belong to the same party or coalition party as a majority of their MEPs are more likely to be highly policy effective.

²⁶⁸ Bale T., Szczerbiak A., (2006) 'Why is there no Christian Democracy in Poland (And Why Does It Matter)?' SEI Working Paper 91.

3.5.3. Expertise and longevity

The time spent in government or in administration by the negotiators is reasonably expected to have an impact on the expertise of the negotiators, as the negotiators know how past negotiations and outcomes came about. They also know more about the positions and preferences of the other negotiators. Beyond the formal voting in the Council, which in practice is rarely used, “one must not forget that Europe has always been steered by diplomacy, negotiation and vision.”²⁶⁹ This means that each member state must present its arguments in a logical, consistent and clear fashion. One implication is that seniority in the club and earlier performance are perceived to matter.

In their comparison of the Italian and Irish Presidencies in 2003-2004, Quaglia and Moxon-Browne refer to “intangible resources”, like political credibility, expertise in EU affairs and attitudes towards EU integration as influencing a “good” presidency.²⁷⁰ They argue that these intangible resources facilitate the activities of a presidency. Tallberg refers to individual sources of power, namely personality and personal authority, expertise, and standing in domestic politics as sources of bargaining power in the European Council.²⁷¹ Personal authority is seen as an attribute to be earned, and seniority and earlier performance matter. As Philippe Schoutheete, a former Permanent Representative from Belgium testifies:

“Because participants are relatively few in number and personal relations important, the balance of power in the European Council is influenced by seniority. Newcomers will not be able to pull their full weight at first meetings. Heads of government of smaller member states can expect to exert more influence after several years of being present, particularly if they led a successful presidency.”²⁷²

²⁶⁹ Cambell J. in Newton G (ed), (2000) *Essays on Politics, Language and Society in Luxembourg*. The Edwin Mellen Press, p. 6

²⁷⁰ Quaglia, L. and Moxon-Browne, E., (2006) ‘What Makes a Good EU Presidency? Italy and Ireland Compared.’ *Journal of Common Market Studies*, Vol. 44, Issue 2, p.362

²⁷¹ Tallberg J., (2003) ‘The Power of the Presidency: Brokerage, Efficiency and Distribution in EU Negotiations.’ *Paper prepared for presentation at the EUSA’s 8th International Conference*, Nashville, pp. 28-32.

²⁷² Tallberg J., (2007) ‘Bargaining Power in the European Council.’ *SIEPS Rapporteur*, No.1, p. 30

Content expertise refers to technical knowledge of the issues under negotiation.²⁷³ The levels of technical knowledge by individual ministers depend on the duration of being in government and are a function of the other governments' trust. Moreover, those parties that possess superior knowledge of are also better positioned to identify potential agreements and to shape outcomes in their own favour. Content expertise is deemed very important, indeed a prerequisite for influence, by the heads of government.²⁷⁴ Particularly small countries have greater incentives to be well informed, since they cannot rely on structural power. This level of information extends to the preferences of the other member states as the possession of such is a condition for building coalitions and negotiating agreements. Process expertise refers to knowledge of the institutional framework of negotiations, including legal provisions and procedures. Preference information, finally, refers to knowledge of other parties' interests and domestic political constraints.²⁷⁵ Finally, it is expected that a low turnover will increase the levels of expertise of the negotiating staff employed. Panke argues that

“while small states face fewer financial resources, have fewer personnel in ministries, and carry lesser political and economic leverage; their hands are not tied by these size-related disadvantages. They can nevertheless successfully influence outcomes of international negotiations for issues on which they put priorities, if they use argumentative and networking strategies instead of bargaining strategies. This is especially effective if a small state can draw on experiences accumulated by being a member of the negotiation setting for some time and can use the gathered insights in the development of good arguments and the activation of broad networks.”²⁷⁶

Measuring longevity is very easy: one counts the number of years the official or minister has been in office. The assumption is that the longer s/he has been exercising that mandate, the more 'reputational advantages' s/he has. Experts and ministers acquire an 'institutional memory' if they have been in the same position over years. They know if and why

²⁷³ Beach, Mazzucelli in 'Introduction' in Beach D., Mazzucelli C., (2007) *Leadership in the Big Bangs of European Integration*. Palgrave Macmillan, p. 11

²⁷⁴ Tallberg J., (2003) 'The Power of the Presidency: Brokerage, Efficiency and Distribution in EU Negotiations' *Paper prepared for presentation at the EUSA's 8th International Conference, Nashville*, p. 30

²⁷⁵ Beach, Mazzucelli in 'Introduction' in Beach D., Mazzucelli C., (2007) *Leadership in the Big Bangs of European Integration*. Palgrave Macmillan, p.2

²⁷⁶ Panke D., (2009) 'Being Small in the Big, Wide World: The Power of Small States in international negotiations.' *Paper prepared for the annual meeting of the American Political Science Association, Toronto*, p. 22

something did or did not work in the past, they are more informed about the environment in which the legislation is to be applied and they know the legal procedures better. These assets are invaluable to negotiators in complex negotiations. By contrast, if a minister has just taken up his post, it often is difficult for him to actively participate in negotiations without the help of his advisers. An expert or COREPER official will also first have to fight his turf in these tightly knit communities.

3.5.4. The inclusion in the delegation of negotiations

The extent of the reputation can be easily measured in a common phenomenon in EU negotiations, which happens usually in the final phase of negotiations: the shift of the negotiations to a more restricted format and to secluded areas. Within the Council, not every member state has significant interests in every issue that is being negotiated. A member state can also decide that another member state is better placed to voice the same concerns it has. Member states can decide to form ad hoc alliances, and informally designate one member state to be the speaker for their entire group. The ‘real’ negotiations then take place within a small circle of member states, who try to reach a compromise. It is implicit in this task that if the members of that circle find an agreement, the whole group will accept it, as the members of that circle represent the different preferences (plus sometimes a broker/mediator). Héritier and Mair are studying a shift of decision-making from open, public areas to secluded areas in their SIEPOL project.²⁷⁷ Another possibility is that the member state stands alone with its extreme preferences and therefore has to be included in any discussions on solutions. Being included in the final phase of negotiations when only a few actors are charged to find an agreement gives a member state more opportunities to shape the final outcome. Being designated to be the speaker for an allied group, being designated as broker or being the member state with extreme and intense preferences, gives a member state a significant opportunity. With enlargement, it is expected that this phenomenon will be more pronounced, as it is more difficult to discuss issues and arrive at a common solution at 27 than at 15, 12 or 6. This phenomenon is

²⁷⁷Héritier A., Mair P., *SIEPOL Project*.

expected to occur not only at the higher levels of the Council- indeed it is expected that it can also happen in the COREPER, but not in the working groups. The reason for this is simple: if no agreement can be found at the level of working groups, it is usually because it is a politically sensitive issue and so the negotiators have no mandate to negotiate further and have to pass it onto the COREPER level.

4. Methodology

In order to strengthen my research findings I use methodological triangulation, as using several techniques to get the same information helps validate the findings and make them more reliable.²⁷⁸ The main methods of investigation include interviews and document analysis. This section presents the research design of my thesis, starting with the methods employed. Process tracing and interviews will be presented, along with the advantages and challenges that are inherent in these methods.

4.1. Interviews

Interviewing is an appropriate research strategy in Political Science and is used in qualitative and quantitative research. Elite interviews usually pursue to fulfil three objectives, as Goldstein notes:

“1) gathering information from a sample of officials in order to make generalisable claims about all such officials’ characteristics or decisions; 2) discovering a particular piece of information or getting hold of a particular document; 3) informing or guiding work that uses other sources of data.”²⁷⁹

In the context of this research, the second and third reasons fully justify the use of interviews- indeed, as Council negotiations are not made official, it is almost impossible to find out about the development of these negotiations any other way. Considering the

²⁷⁸ Kane E., O’Reilly-de Brún M., (2001) *Doing Your Own Research*, Marion Boyars Publishers, p. 108

²⁷⁹ Goldstein K., (December 2002) ‘Getting in the Door: Sampling and Completing Elite Interviews.’ *Political Science and Politics*, Vol. 35, No. 4, p. 669

delicate nature of my case studies, especially those on the SGP, interviews were indeed the major source of information. Furthermore, interviews constituted one major source of information on the positions of the governments, how they negotiated, what the compromise proposals were and how the final agreement came about. Finally, the information obtained through interviews is informing work that uses process tracing as well.

The target population was the Luxembourgish and European political elite. Their evaluation of Luxembourg's policy preferences, its performance in influencing EU negotiations and decision-making were the primary goals of investigation. Quota sampling was one of the techniques used to select the potential interviewees. The members of the group were not selected randomly, but they had to fulfil a set of characteristics which should be relevant to the topic.²⁸⁰ The main selection criterion was to include leaders from the institutions with political importance. In the case of Luxembourg's national elite, the characteristics of a potential interviewee could be:

- The person is or was a representative of its government or its people (Minister, MEP)
- The person has to work or worked in the national administration and his work must be linked directly to EU matters (national experts, members of the COREPER)
- The person has to be or was a representative of a national organisation at European level, or deal with European issues (trade unions, chambers of commerce)
- The person has to have worked for a Luxembourgish presidency (temporary staff)
- person is an official or has a political office within a national ministry

²⁸⁰ Ibid, pp 273

Concerning the European elite, the selection process was based on one major consideration: were they identified in official Council documents, press statements or by other interviewees as being key actors in these particular negotiations? It was therefore dependent on the following characteristics:

- The person is or was a representative of its government or its people (Minister, MEP)
- The person has to work or worked in the national administration and his work must be linked directly to EU matters (national experts, members of the COREPER)
- The person is an official or had a political office within an EU institution

Considering that Luxembourg is a country of half a million people, the domestic political elite is very small and any sampling technique has to take into account the constraints of the real world and be adaptable to the circumstances. This obviously posed some challenges to the validity of some of the findings, but could not be redeemed in any way. For example, Luxembourg's Finance Minister had only five civil servants to cover all the different policy areas, and only two of those dealt directly with one particular case study, the SGP. I managed to get an interview with one of those two officials, who was very helpful and informative, but he made it clear that the other official would not speak to me. However, I managed to interview most people I asked in Luxembourg, apart from the Prime Minister, who referred me to his official.

It was a different case in getting access to people at the European level. One of the problems was that the Council is a sort of 'black box' as it meets most of the times in secret. It was therefore difficult to gauge member states' preferences and behaviour and the negotiation process. While there were more people I could potentially ask for interviews, several factors were not playing in my favour: the political sensitivity of the case studies in question and the time elapsed since the negotiations were concluded. The 2005 reform of

the SGP and particularly the policy preferences and strategies of some member states' governments were still considered so sensitive in 2007, 2008 and to a lesser extent still in 2009 that I was denied interviews by some people (5) who had been directly involved in these negotiations. This was notably the case in the political elite in Germany where my repeated requests were either directly refused or simply ignored. This was also the case when asking for interviews on the EC Regulation 883/2004, where 2 crucial potential interviewees did not reply at all. This posed certain challenges to researching and validating certain strategies, but in those cases I managed to have recourse to other people who, while not directly present at the negotiations, had intimate and insider knowledge of the negotiation process.

The disadvantages of interviews are well known. The reliability of unstructured or semi-structured interviews can be put into question, as they were not standardised. There may also be a lack of comparability as the order of the questions may have changed. However, it seems appropriate to use this format, rather than as a classic interview of short questions and answers in order to inspire confidence and structure the interview as a conversation. Interviews can also be time-consuming and costly.²⁸¹ After I conducted two phone interviews, I realised that this was not an appropriate and effective way to get the information I needed. The interviewees did not share their frank assessments of the situation with me, and only gave me the 'sanitised', official press statement version of the events. My suspicion is that phone interviews do neither create sufficient 'intimacy' nor induce confidence in the interviewee to 'confide' and give their true analysis of what happened and why it happened. Indeed, my face-to-face interviews were much more successful in gauging sensitive information than my two phone interviews. I therefore decided not to use phone interviews anymore and focused on face to face interviews. This meant I had to travel to Belgium, to the Netherlands, to Luxembourg and to Germany on several occasions.

²⁸¹ Miller R. L., Brewer J. D. (eds), (2003) *The A-Z of Social Research. A dictionary of Key Social Science Research Concepts* Sage Publications, p. 169

The time elapsed since the negotiations took place proved to be quite a challenge in validating some of the statements or evaluations made by the interviewees. This was especially the case in the SGP in 1996 and the third case study on the EC Regulation 883/2004, where negotiations started in 1999 and finished in 2003. There were manifest (and hopefully no unspotted) moments of confusion by the interviewees on dates, specific elements of the proposals and of names. I counteracted these concerns by cross-checking these statements with other interviewees and press statements or other public documents where available. The interview techniques were semi-structured interviews. I found this necessary again for reasons of political sensitivity, as the case studies were either politically sensitive at the domestic level in Luxembourg, or they were particularly sensitive in one of the other major actors' constituencies. In total, a number of 18 interviews were conducted for this research. They have been given a random alphabetical letter in this thesis, starting with A. For the first two cases I have used the same interviews- so there was no need to give them a separate letter in both cases. I have given the interviewees of the third case study also a random alphabetical letter, starting with A. It has to be said that those interviewees were all either directly involved in these negotiations at an EU level, or were important national actors, and therefore the value and quality of these interviews was very high. This is why academic expert surveys would not have provided an accurate picture: they would have supplied information on public opinion or on the debates between political economists. Public opinion did not have a great influence in any of these case studies; the subject of monetary union is very complex, while frontier workers are just not a salient issue in most member states. Hence, public opinion is only mentioned when considered relevant to domestic politics and when it was mentioned by the actors themselves as a (potential) constraint.

4.2. Document analysis

One of the techniques used was the analysis of primary and secondary sources, and documents. Commission documents and official national positions, government speeches, and Council minutes provided efficient means for carrying out research. Press statements from the Presidencies offered valuable insights into the progress of the negotiations. To be

fair, there were not many official national positions available to the public, which complicated the matter of determining policy preferences of individual member states. Official statistics, both from the Luxembourg Institute of Statistics (STATEC) and Eurostat provided some quantitative data on the attitudes towards European integration and other issues which preoccupied Luxembourg residents.

The European Parliament was involved to different extents in the decision-making process of every case study. The EP Committee reports, publications and the transcriptions of the debates were also a source of information on the role its Members played in the process. The debates in the EP gave insights into the party positions and of national differences.

Internal validity was sometimes difficult to establish as negotiations in the Council of Ministers were held in secret. Specific proposals of amendment rarely reached the public domain, except for the press statements of the presidency which shed a veiled light over them. Therefore measuring the policy effectiveness of a member state through the amount of amendments it proposed and those that got accepted could not be applied here. However, official Council documents such as the Minutes provided an important source of information, notably on which particular person was negotiating, or whether one member state had concerns it wanted to voice expressly in the Minutes. The first clue led to potential interviewees, and identifying whether an issue was salient or not to that member state in question (if it is salient, the highest person in rank will attend). The second clue provided important information on what the sensitive points in the negotiations were for at least one member state. Usually those statements referred to the reluctance or downright opposition of a member state on a particular issue. From those statements it could then be inferred the details and intensity of that member state's policy preferences, and, by extension, its negotiation strategy. Finally, in combination with the interviews, a more complete picture of the policy preferences, the negotiation process and the final outcome could be established and Luxembourg's policy effectiveness could be evaluated through the use of mainly primary sources.

I used secondary sources in most stages of my research, as I needed a lot of information on, for example, the modalities of the SGP and its economic or political rationale, or the importance of economic and political ties between Luxembourg, France and Germany or between the Benelux countries. Secondary sources were useful as they involved generalization, analysis, interpretation, or evaluation of the final legislation in question, or of the issues surrounding it. Furthermore, I needed to do a lot of background research on the debates that were raging on the policies in question. So for example on the SGP, I initially had to compose a literature review on the modalities of the SGP before I could start the interview process. I had to familiarise myself with the concepts and consequences of budgetary coordination, of the debate between political economists on the usefulness of strict or lax rules of fiscal discipline, and its consequences on monetary union before I started asking questions to my interviewees. I felt that only if they would realise I was familiar with the issues under negotiation, they would be prepared to share their views and engage in the interview. This was not wasted time, as many of my interviewees actually asked me questions to find out my level of knowledge on the legislation under discussion! Newspaper articles, with their political bias, were also an object of the study, as they still gave an insight into how the media portrayed the Luxembourg government's performance at the European stage, and sometimes had insider information of the negotiation process. Using these sources was essential to find out the context and the issues of a particular case study, and helped both to prepare the interviews and to give a better description within the case study chapters. On the other hand, there is a dearth of secondary sources and political science analysis on the issue of frontier workers. It was difficult to find even primary sources (statistics, official ministerial documents) on the number of frontier workers in the member states! The primary sources of information in that case are therefore mainly European Commission, Council and EP documents, newspaper articles and regional government statistics. Secondary sources are few and far between- which shows that this case study fills a gap in the research on the legislation of the coordination of social security systems.

5. Contribution to the literature

Various methods of investigation enable both a deeper understanding of the phenomena at hand and enable one to cross-check data gathered from different sources. In this section I have presented the rationale for the different methods, such as interviewing elites and document analysis. While the challenges of this particular research method have been openly acknowledged, the resources at my disposal and the constraints of the institutions under investigation hopefully excuse the imperfections.

This framework aims to explain how we can analyse and assess a member state's policy effectiveness in the EU. The definition focuses on the outcome of negotiations: the final legislation, as approved by the Council of Ministers (and sometimes also the European Parliament in the case of co-decision or cooperation). It identifies several factors which condition policy effectiveness: domestic politics, the decision-making procedure, the distribution and intensity of preferences of the other member states, the office of the presidency, several individual-level factors. The framework suggests that a combination of several of these factors is necessary in order to be policy effective. Just like the domestic approach, it can be argued here that this framework

“might be accused of having somewhat mixed intellectual parentage but it is arguably more embracing and/or more realistic as a device explaining Community negotiations than the alternatives on offer.”²⁸²

²⁸² Bulmer S., (1983) ‘Domestic Politics and European Community Policy-Making.’ *Journal of Common Market Studies*, Vol. 21, No 4, p. 363

Table 4.1: The framework for assessing policy effectiveness

Negotiation context	Distribution and intensity of preferences	Presidency	Individual-level factors	Domestic politics
<i>Decision-making procedure</i>	<i>Number of member states</i>	<i>Asymmetrical information</i>	<i>Past relations</i>	<i>Approval procedure</i>
<i>Time pressure</i>	<i>Distribution of preferences</i>	<i>Control over procedure</i>	<i>Experience, longevity</i>	<i>Institutional coordination</i>
	<i>Intensity of preferences</i>		<i>Inclusion in the delegation to a small circle of actors</i>	

In order to manage expectations, it has to be made clear what this framework does not do: it does not pretend to be a general theory of EU integration, or of member states' actual power. This framework postulates that policy effectiveness is relational and conditional, and that it varies from case study to case study. Indeed, the variation in the degrees of policy effectiveness is a permanent feature of EU negotiations. No member state can expect to be highly policy effective in every negotiation. It cannot be expected that every member state's resources matter in every case to the same extent- simply because the environment in which decisions are taken changes. This framework does not assume that all the conditions under which outcomes come about are stable all the time.

My research fills the gap between research on intergovernmentalism which focuses on big states, Tallberg's study of the power of member states when it chairs the presidency, and Beach's model on leadership in high profile constitutional negotiations. It hopefully complements Bailer's research on member state power in the EU. It tries to find out how a

country is able to shape outcomes in its favour, while not necessarily being a leader in negotiations. Too often, the focus of research has been on how member states provide “leadership” in high politics issues or Treaty negotiations- ignoring all the other cases of legislation which are equally important and may even affect citizens more. Indeed, a lot of research analyses how Treaty negotiations change the balance of power (i.e. the decision-making procedures and the voting weights) between member states. This is a valuable area of study as these voting weights are an indication of the policy effectiveness of each member state *at that point in time*. But this sort of research ignores that these voting weights and procedures are only *the starting point* of analysis of policy effectiveness in any policy area. Indeed, it would be preposterous to assume that because Spain managed to get more votes than Poland during the Nice Treaty negotiations, it will always and in every case study be highly policy effective and more effective than Poland. The other gap this research intends to fill is one of case studies: Luxembourg is an understudied case, an academic omission which should not be condoned because of its small size. The choice of using Luxembourg as a case study has other reasons as well: if a tiny member state such as Luxembourg can be policy effective then, arguably, any member state can. Luxembourg has extremely limited administrative resources, and while “being wealthy doesn’t hurt”, it still suffers from structural disadvantages which it has to try and overcome.²⁸³ With the arrival of two other very small member states, Malta and Cyprus, and the possible accession of Iceland, it seems a long overdue subject of analysis of how these member states can get what they want. Finally, the choices of cases in which Luxembourg was or was not policy effective reflect both everyday legislation and high politics.

²⁸³ Hey J.K.A., (2003) *Small States in World Politics*, Lynne Rienner Publishers.

Chapter 5: The Negotiations of the Stability and Growth Pact in 1996, 1997

1. Introduction

This first case study treads on sensitive and highly political grounds: the budgetary policies of governments. It deals with how much governments should spend and, inter alia, how much say EU institutions should have over these policies. Luxembourg's policy effectiveness in the negotiations of these issues is the focus of this case study. The Treaty on Economic and Monetary Union organised the coordination of economic policies through different measures, and among them was the control of excessive public deficits. The Stability and Growth Pact (SGP) was going to complete the Treaty in terms of the operationalisation of the surveillance of public deficits and of the strengthening of the excessive deficit procedure (EDP).²⁸⁴

This case study argues that Luxembourg was highly policy effective in these negotiations, as it managed to shape the compromise it proposed to France and Germany according to its own preferences. The case of the creation of the SGP was selected for this study because it throws up several intriguing questions. Why was Luxembourg's young Prime Minister hailed as the "hero of Dublin" when those who called the shots in these negotiations were clearly German Chancellor Kohl and French President Chirac? It was widely argued that the PM successfully played the role of broker between Chirac and Kohl.²⁸⁵ The question is whether Luxembourg was able to influence the outcome according to its preferences. Finally it was also a case of high politics- an area where small countries usually are not expected to play a role and be policy effective.

²⁸⁴ Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure

²⁸⁵ *Die Welt*, (1996) 'Praise for the Summit saviour, Luxembourg Prime Minister Negotiates Compromise for Stability Pact'. 16 December.

The first part of this chapter explains the context in which the SGP came into being, followed by the Commission proposal. Then the final outcome of the negotiations will be presented. We then turn to the discussion of the results: Was Luxembourg policy effective in these negotiations? The following sections deal with Luxembourg's domestic politics, the decision-making procedure and the diverging preferences of the member states on the usefulness and on the functioning of the SGP. The next section analyses whether the Irish presidency had an influence on the negotiations, or whether individual-level factors played a role. The findings suggest that institutional factors like holding the office of presidency of the Council of the European Union is not sufficient to be automatically designated as leader in sensitive negotiations, but that other structural and individual factors come into play, such as a government's reputation on the issue at hand. Finally, a careful assessment will show that reputation was the major factor for Luxembourg's policy effectiveness, combined with the unique factors of institutional coordination that existed at the domestic politics level.

2. Issue and context

2.1. The build-up to the negotiations

The Maastricht Treaty did not specify the modalities of the coordination of fiscal policies among the prospective Eurozone members after the Euro would be the single currency. Until the summer of 1995, actual implementation of the convergence criteria was not yet satisfactory in every respect. The degree of convergence reached varied among member states: while 11 of the 15 member states were in acceptable distance from the price stability and interest rate differential criteria, the fiscal positions of the public sector did not look so good. Only two member states fulfilled the convergence criteria: Luxembourg and Germany. From an economic perspective, it seemed necessary to provide better budget coordination for several reasons: 1) a need for consolidation 2) concerns about externalities 3) the credibility of the European Central Bank 4) the need for a more coherent framework

of economic policy coordination.²⁸⁶ The need for consolidation of state budgets resulted from the expansionary fiscal stance of most member states since the welfare state started to grow. High inflation rates at the time caused rising interest rates, which in turn induced underemployment, reduced investment and weak growth. Furthermore depreciation due to fiscal profligacy would affect the whole currency zone. The credibility of the ECB independence and the “no bail-out clause” were causes for concern if one member state should follow an unsustainable fiscal stance. The no bail-out clause stated that neither the ECB nor the EU would provide funds to or buy bonds of a national government that became insolvent. However, the ECB would eventually be forced to buy government bonds, thereby causing eventually the price levels to rise. Finally, the last concern was about economic policy coordination.

Politically, there were two options to prevent fiscal profligacy of member states. One was to make the rules legally binding through a Treaty modification or through a Protocol annexed to the Treaty; and the other was to keep the modalities as voluntary agreements, thereby risking their not being followed by all the member states.²⁸⁷

2.2. *Setting the stage for the idea of a Stability Pact from 1995 to 1996: a German idea?*

Germany, the Netherlands, Austria and the Nordic States favoured a clear and rules-based system that would contain quantified budgetary deficits. The German government was concerned that the independence and monetary policy of the European Central Bank would be undermined by the unsound fiscal policy practices of the member states and the ECB would have to assume the burden of price stability on its own.²⁸⁸ The need grew for Germany to obtain clear modalities for enforcing at least the deficit criterion.

“The sanctions became the subject of a public debate orchestrated by Bundesbank President Hans Tietmeyer. The debate picked up during autumn 1995. (...) Waigel

²⁸⁶ Heipertz M., Verdun A., (October 2004) ‘The Dog that Would Never Bite? What we can Learn from the Origins of the Stability and Growth Pact.’ *Journal of European Public Policy*, Vol. 11, Issue 5, pp. 766, 767.

²⁸⁷ Ibid, pp 766, 767

²⁸⁸ Stark J. in ‘Genesis of a Pact’ in Brunila A., Buti M., Franco D. (eds), (2001) *The Stability and Growth Pact. The Architecture of Fiscal Policy in EMU*. Palgrave, p. 83

and Kohl were now under severe political pressure for several reasons. Public opinion was becoming very negative towards EMU in Germany. The SPD opposition party was making populist remarks on the dangers to stability stemming from the EMU project and demanding stricter rules, thereby literally mirroring Bundesbank statements.”²⁸⁹

The German Finance Ministry started to sound out major member states’ responses to its ideas, which were then floated under the name of “fiscal policy Schengen agreement.”²⁹⁰ The main problem seemed to be getting an agreement between the executive branch and the Parliament to agree to a modification of national budget law and of the budget implementation process in accordance with the consolidation requirements of the Maastricht Treaty. Waigel’s proposal recommended that government deficit should not exceed 1 % of GDP (as opposed to 3 % for accession) and that, should a Member State exceed this threshold, the sanctions laid down in the Treaty would be applied automatically. Furthermore, a “European Stability Council” would review the main features and goals of the Stability Pact, report on the implementation of the commitments and decide on exemptions from the observance of the upper deficit limit in the case of extreme exceptional circumstances. Reasons would be given for such divergence and a special convergence plan would have to be presented for its correction. The Commission’s role would be restricted to presenting the deficit data.

“The cornerstones of a common approach to national fiscal policy would be:

- Sustained support for ECB monetary policy through spending discipline and consistency in the public sector policy;
- Sparing use of financial markets;
- A ceiling on the government share in order to provide the public and private sectors with room for manoeuvre;

²⁸⁹ Heipertz M., Verdun A., (October 2004) ‘The Dog that Would Never Bite? What we can Learn from the Origins of the Stability and Growth Pact.’ *Journal of European Public Policy*, Vol. 11, Issue 5, p. 769.

²⁹⁰ Stark J. in ‘Genesis of a Pact’ in Brunila A., Buti M., Franco D. (eds), (2001) *The Stability and Growth Pact. The Architecture of Fiscal Policy in EMU*. Palgrave, p. 84

- Greater preponderance in public expenditure of general government investments operating under near-market conditions and the promotion of private investments²⁹¹

Waigel's proposal was timely as some sort of secondary legislation was necessary to lay out the sanctions mechanism of Article 104 of the Treaty of Maastricht. Therefore an opportunity arose to develop a preventive part in parallel. The southern member states (especially Italy) were the cause for concern for the Germans in a monetary union, not only with respect to their important public debts, but also the Italian political tradition of using inflation to overcome internal difficulties.²⁹² The Benelux states and Denmark, on the contrary, and even to a certain degree France with the U-turn of Mitterrand's policies of 1983, had effectively abandoned their monetary policies and associated with the Bundesbank. They had learned to live with stable prices and a stable currency and to use other instruments of adaptation if necessary. The position of Germany, then, was very clear: it wanted to establish a Stability Pact according to its own vision- but how did the Commission react to a proposal which effectively sidelined it?

3. The Commission proposal

In a note to the Monetary Committee, the Commission positioned itself on the German initiative of a Stability Pact in March 1996. It considered the 1 percent of GDP deficit target as arbitrary, and that once a medium term budgetary target well below the 3 percent of GDP was retained at the national level, there would be no need for additional constraints on the public debt-GDP ratio.²⁹³ The Commission also considered that, in view of the differing degrees of real convergence and demographic outlooks among member states, there were different constraints that member states face. Small countries additionally would need more budgetary manoeuvre in order to deal with cyclical developments. Furthermore it included an increased role for itself in the surveillance of budgetary positions- that it

²⁹¹ Ibid, pp87

²⁹² Interview E

²⁹³ European Commission, (1996) 'A Stability Pact to ensure Budgetary Discipline in EMU (Note for the Monetary Committee)' II/163/1996. 18 March.

could make a report and adopt an opinion on the risk of an excessive deficit. While there were more notes from the Commission to the MC, the general thrust of its suggestions was that automatic sanctions would not be appropriate for economic and political reasons.

The Commission, prompted by the Council, released its own proposal in October 1996.²⁹⁴ It developed the preventive arm of the SGP as a device for economic policy coordination. It believed that 3 percent of GDP should be the reference value maintained without the automatic application of sanctions, and instead advocated that the decision to impose them should be taken by the Council of Ministers. The Commission, together with some countries, felt that the Council should be left with some degree of discretion. It stated that the legislative basis for the commitment to apply rigorously the procedures of the Treaty should be a Declaration by the European Council.²⁹⁵ It suggested that the vote on imposing sanctions on a noncompliant member state should be taken by unanimity. Sanctions should not exceed 0.5% of GDP. Finally, it suggested that it should make a recommendation to the Council as to the existence or not of an excessive deficit on the part of a member state.

4. The timeline of the negotiations

The negotiations on the creation of the SGP were held in the Monetary Committee, the Ecofin Council, and the European Council and at Franco-German meetings. The MC had already settled most of the issues apart from the EDP.²⁹⁶ While member states agreed to the German demands on the principle of mutual surveillance and prevention of excessive deficits, the triggering of automatic sanctions, the definition of a ‘severe recession and exceptional circumstances’ were hotly disputed.²⁹⁷ The MC presented three possible definitions of a “severe recession” to the ECOFIN in Dublin.²⁹⁸ These were the proposals

²⁹⁴ European Commission, (1996) ‘Commission proposal for a Council Regulation on the strengthening and the surveillance of budgetary positions. Commission proposal for a Council Regulation on speeding up and clarifying the excessive deficit procedure.’ Com (96) 486 final.

²⁹⁵ Ibid.

²⁹⁶ Interview E

²⁹⁷ Stark J. in ‘Genesis of a Pact’ in Brunila A., Buti M., Franco D. (eds), (2001) *The Stability and Growth Pact. The Architecture of Fiscal Policy in EMU*. Palgrave, p. 95

²⁹⁸ Ibid, p. 98

that the Finance Ministers (and later on, the heads of state and governments) were asked to work on.

At the informal Council of Finance Ministers and the European Council in Dublin on 12-13 December 1996 the main point of contention was the automatic imposition of sanctions. The German government called for a clear definition of, and restriction on, extenuating circumstances which were countered by a (French) insistence on the discretionary powers of the Council. It was also clear to Germany that

“the Stability and Growth Pact would be the main protection for small states from the bad behaviour of the large member states. If a small state makes a mistake, the big states do not feel the consequences as much. But if a large member state makes a mistake, we have a different situation in the monetary union and all the member states feel the consequences, with possibly higher interest rates²⁹⁹”.

Germany adopted again the traditional role of protector of the small states in the EU. Meanwhile, the talks were interrupted several times both to give the Irish ECOFIN chairman Quinn an opportunity to work out a compromise proposal and to attempt to reconcile French and German demands. Waigel argued it was no longer possible to turn away from the resolutions of Verona and Florence without sacrificing credibility.³⁰⁰

In the first phase of the negotiations, the Finance Ministers tried to clarify the implementation and acceleration of the EDP.

“The chairman proposed that, as a matter of principle, the Commission treat a deficit ceiling violation as exceptional in its mandatory report only if it were accompanied by a decline in real GDP of at least 1.5 per cent. If the decline in GDP lay between 0.75 per cent and 1.5 per cent the Council was to decide whether it was possible to justify the deficit in terms of exceptional circumstances.³⁰¹”

²⁹⁹ Interview A

³⁰⁰ Stark J. in ‘Genesis of a Pact’ in Brunila A., Buti M., Franco D. (eds), (2001) *The Stability and Growth Pact. The Architecture of Fiscal Policy in EMU*. Palgrave, p. 98-99

³⁰¹ Ibid, pp 99

This proposal met with considerable opposition, especially by France who insisted on more discretionary leeway for the Council irrespective of the decline in GDP. The French were particularly intransigent and it has been suggested the Finance Minister Arthuis had no leeway in the negotiations.³⁰² Indeed, Chirac held a national television interview on the proposed Stability and Growth Pact (among other issues) that evening and Arthuis had been instructed that he should not make any concessions or let the negotiations progress until Chirac came to Dublin. Chirac was furious about the automatic sanctions proposal and saw it as an attack on French sovereignty. During this interview, he said :

“The Stability and Growth Pact, as devised by some German technocrats, has evolved in the framework of the European negotiation and will be what it must be, that is simply a guardrail to prevent people who are not very serious letting themselves go in the management of their currency in this or that country.”

When the journalist noted that the negotiations were not finished yet, he replied:

“On the Stability Pact, I would simply like to say a word. I approved the Maastricht Treaty, as you know, without enthusiasm. Not because of the convergence criteria, that is to say the obligation not to exceed a certain level of debt, because I was very much in favour of that and they are simply rules of good conduct. The convergence criteria in the Maastricht Treaty are simply crash barriers which one puts on a road to prevent an imprudent car falling in the ravine. Those are the convergence criteria, and when we say: we will make a Stability Pact to prevent certain countries, which will be in the currency zone, giving themselves too many facilities, we are right. A rule of the game is necessary, otherwise we have certain disadvantages.”³⁰³

He went on to state that the EU needed a political institution which is parallel to the European Central Bank. This institution would have to be the European Council. Those member states in the Eurozone would have to form a political power which could indicate clearly to the monetary power what its limits for action were, to which it would be accountable, just like in the US or in Germany. The assembly of Heads of State and

³⁰² Interview A, G

³⁰³ Chirac Jacques, (1996) Intervention télévisée de M. Jacques Chirac, Président de la République, interrogé par Mme Jacquemin et M. Durand, M. Adler , M. Chain et M. Field. Palais de l'Élysée. 12 December.

Government should be able to give directions to the monetary institution. He clearly did not want the ECOFIN to arrive at an agreement before or during that interview, without his involvement. These statements indicate that he did not envisage automatic sanctions and still questioned the independence of the European Central Bank. When he arrived at the meeting in Dublin, negotiations could finally progress.

The next morning, the European Council met without having a preliminary agreement of the Finance Ministers. Kohl had the idea of charging Juncker with mediating an agreement, but Chirac wanted to discuss it in the large circle of the Council. Wim Kok, the Dutch Prime Minister, supported fully Kohl's idea, and so an ad hoc group was created.³⁰⁴ Jacques Chirac, President of France, Helmut Kohl, Chancellor of the Federal Republic of Germany, and John Bruton, Prime Minister of the Republic of Ireland, charged Jean-Claude Juncker to mediate between Theo Waigel and Jean Arthuis, Finance Ministers of Germany and France respectively. An informal working group was set up; composed of a French, a German and a Luxembourg delegation (their deputies were included).

Juncker realised that an agreement was possible and suggested that the exact figures be omitted and should be mentioned in a Council Resolution, not in one of the two Regulations.³⁰⁵ This legal distinction weakens the importance of these figures and increases the discretionary powers of the Council. He proposed furthermore that, concerning the grey areas between the agreed figures of a decline of GDP, the Council should hear the defence of the member state concerned and that the decision on a resolution against a member state should be taken by qualified majority vote. The result was a compromise which stipulated that a recession of less than 0.75% "as a rule" does not qualify as exceptional whereas a recession of over 2% automatically does. If the recession lies between those two figures, the Ecofin Council decides whether or not it is deemed exceptional. If the EDP is started, only EMU member states have a vote. Heipertz and Verdun have described the pact as the "institutionalization of a political pledge to aim for low deficits."³⁰⁶

³⁰⁴ Interview E

³⁰⁵ Interview

³⁰⁶ Heipertz M., Verdun A., (October 2004) 'The Dog that Would Never Bite? What we can Learn from the Origins of the Stability and Growth Pact.' *Journal of European Public Policy*, Vol. 11, Issue 5, p. 770.

5. What is the Stability and Growth Pact?

The Stability and Growth Pact (SGP) which emerged as a consequence

“represents a new historical development. For the first time a number of sovereign countries adopt a set of common fiscal rules and an elaborated multilateral surveillance mechanism.”³⁰⁷

It was laid down in two Council Regulations and a Resolution of the European Council. The first Regulation 1455/97 ‘on the strengthening of surveillance of budgetary positions and the surveillance and coordination of economic policies’ was based on Article 99 and addressed the preventive side of the Pact. The second Regulation 1456/07 ‘on speeding up and clarifying the implementation of the excessive deficit procedure’ was based on Article 104 and addressed the dissuasive side. The Resolution of the European Council provided political guidance to the parties who implement the Pact. The SGP was based on two pillars: on the one hand, a multilateral surveillance of the budgetary situations through stability programmes which were presented annually to the Commission and the other member states, and on the other through the Excessive Deficit Procedure (EDP).

5.1. *The preventive side of the SGP*

The first Regulation established an early-warning system in order to prevent a government deficit exceeding the 3 percent public deficit/ GDP reference value. Even though the Treaty of Maastricht set out the criteria of 3 per cent deficit and 60 per cent debt, the debt criterion was absent from the EDP. The procedure was as follows:³⁰⁸ Eurozone Member states had to submit Stability programmes focused on the public finances and included ‘a medium-term objective of a budgetary position close to balance or in surplus and the adjustment path towards this objective’. These programmes would be examined by the Eurogroup within at most two months of the submission of the programme. The Council assessed ‘whether the

³⁰⁷ Brunila, Buti, Franco, in ‘Introduction’ Brunila A., Buti M., Franco D. (eds), (2001) *The Stability and Growth Pact. The Architecture of Fiscal Policy in EMU*. Palgrave, p. 1

³⁰⁸ Cabral A. in ‘Main Aspects of the Working of the SGP’ in Brunila A., Buti M., Franco D. (eds), (2001) *The Stability and Growth Pact. The Architecture of Fiscal Policy in EMU*. Palgrave, p. 140-141

medium budget objective in the stability/convergence programme provides for a safety margin to ensure the avoidance of an excessive deficit'. The Council then issued an opinion on the programme and could suggest modifications to adhere to this goal. The opinion and possible recommendation of the Council had to be based on a recommendation of the European Commission. The implementation of the programmes was monitored by the Council. If it identified a significant divergence of the budgetary position, then a recommendation could be made to the member state concerned to take the necessary adjustment measures. What was noticeable was that neither the Commission nor the Council were obliged to submit either an assessment or a recommendation. If this divergence persisted or worsened, the Council issued another recommendation to the member state to take prompt corrective measures, but this time the recommendation would be made public. The early warning system was applied individually to each member state, but the Council also issued an overall assessment as to whether the content of the Stability programmes facilitated the coordination of policies and whether the economic policies of the member state concerned were consistent with the Broad Economic Policy Guidelines (BEPG).

5.2. The dissuasive side of the SGP

The goal of this early warning system was to prevent a member state from finding itself in an excessive deficit situation. However, this situation might occur if an unexpected situation raised the deficit or the Council recommendations were not observed. Therefore Article 104 of the Treaty laid out the Excessive Deficit Procedure from its identification to its correction. Several opportunities to correct the excessive deficit were given to the member state concerned. If it did not take corrective action, the pressure by the Council increased, eventually leading to pecuniary sanctions. The Regulation clarified and set precise deadlines to the steps of this procedure. As Stark explained, "Article 104 punishes not the sin but the failure to repent."³⁰⁹ The main aspects of the EDP were the definition of 'excessive deficit', the time span up to the application of sanctions, the deadline for the

³⁰⁹ Stark J. in 'Genesis of a Pact' in Brunila A., Buti M., Franco D. (eds), (2001) *The Stability and Growth Pact. The Architecture of Fiscal Policy in EMU*. Palgrave, p. 82

correction of the excessive deficit, the assessment of the results of the corrective action taken, and finally, the application of sanctions and the amounts and mechanisms of the sanctions.

A government deficit was not considered excessive if ‘the excess over 3 per cent of GDP is only exceptional and temporary and the government deficit ratio remains close to the reference value’.³¹⁰ The SGP foresaw that a deficit over 3 per cent could be considered exceptional if 1) it resulted from an unusual event outside the control of the member state (for example, a natural disaster) or 2) it resulted from a severe economic downturn. A severe economic downturn was defined as an annual fall of real GDP of at least 2 per cent. If the Council decided that the circumstances were exceptional or temporary, then no excessive deficit existed and no EDP was launched against that member state.

On the other hand, if the Council decided that an excessive deficit existed, the procedure continued and ‘exceptional or temporary conditions’ could not be invoked anymore at any later stage of the procedure. This left considerable room for political discretion for the Eurogroup. The Commission always prepared a report when there was (or it looked likely to be) a deficit over 3 per cent, even if there were exceptional and temporary circumstances under Article 104 (3). This report initialised the EDP and was then sent to the Economic and Financial Committee (EFC) for its opinion. Taking this opinion into account, the Commission had to decide whether the deficit was excessive or not. If it did decide so, it sent a recommendation for a Council decision. If the economic downturn was over 2 percent of real GDP, the Commission would note this in its report and the EFC would consider that the excessive deficit was not excessive and the EDP would stop here. If the economic downturn was less than 2 percent of real GDP, the member state concerned could present arguments justifying the excessive deficit, if the annual fall in real GDP was at least 0.75 percent. If this fall in real GDP was less than 0.75 percent, exceptional circumstances could not be invoked.

Only between 0.75 and 2 percent could a member state try to convince the others that no EDP should be launched. Again, there was considerable room for political discretion for the

³¹⁰ Article 104 Treaty on the European Union

Eurogroup. The time span up to the application of sanctions was ten months. The data had to be sent by 1 March or 1 September. The Council had to decide at the latest on whether an excessive deficit exists three months after. If the Council made a recommendation to the member state concerned, the latter had four months to redeem the situation. If the Council esteemed that no effective measures had been taken, within a month it would give a notice to the member state. If that member state failed to comply with that notice, sanctions would be imposed within two months.

The issue of the deadline for the correction of the excessive deficit was addressed in the Regulation and in the European Council Resolution. As Cabral noted however,

“there is the possibility of allowing a longer period for the correction of the excessive deficit, because the Pact states that the above mentioned rules holds unless there are special circumstances. This suggests that the Council did not want to be very rigid in this area, recognising that there might be cases in which the correction of a deficit might require more time: the specific situation of each excessive deficit and the causes behind it should be examined by the Council. The second comment is on the ambiguity of the term ‘identification’; it is difficult to accept any way of identifying an excessive deficit other than a Council decision for that purpose. Identification may not be the same as occurrence.”³¹¹

The Council had to assess the results that the corrective action by the member state have produced on the basis of actual data of the budgetary outcome of a year already elapsed. The Council also had discretion on the time limit to give to the member state concerned. If the excessive deficit was not corrected within that time limit, then the Council automatically moved into the domain of the sanctions. The application of the sanctions was not automatic but was based on a decision of the Council. The sanction was a non-interest bearing deposit, which was kept until either it was turned into a fine after two years if the excessive deficit was not corrected or it was returned to the member state before the two years if the Council considered that the excessive deficit had been corrected. Once a year, the Council assessed whether the excessive deficit had been corrected. If this was not the

³¹¹Cabral in ‘Main Aspects of the Working of the SGP’ in Brunila A., Buti M., Franco D. (eds), (2001) *The Stability and Growth Pact. The Architecture of Fiscal Policy in EMU*. Palgrave, p. 147

case then the sanctions would be intensified through imposing a new non-interest bearing deposit. No single deposit could exceed 0.5 percent of GDP. The sanctions were distributed to those member states which have adopted the single currency and did not have an excessive deficit. Their share was proportional to their share in total GDP.

6. Luxembourg's policy effectiveness

Having presented the build-up to the creation of the SGP, the Commission proposal and the timeline of the negotiations, we can now turn to the discussion of the results. What did Luxembourg seek in this agreement? Was it policy effective? If so, which factors influenced this policy effectiveness?

6.1. Luxembourg's preferences and strategy

Luxembourg's national interests, as a small state, were naturally biased towards the enforcement of rules and norms rather than voluntary agreements in international relations. Thus on that point Luxembourg's preference was naturally closer to that of Germany's and the Netherlands', in the sense of having secondary legislation on the budgetary surveillance and the EDP. On the other hand, Luxembourg usually preferred communautarian agreements to intergovernmental agreements like Schengen- it wanted to see the Commission involved in the process of assessing budgetary positions and medium-term objectives. Waigel's proposal of an intergovernmental agreement was thus received with mixed feelings by Luxembourg.³¹² The government wanted to have a stable framework of budgetary surveillance and relatively clear definitions of an excessive deficit, with the Commission involved in most stages of the whole procedure. Furthermore, as a small state, even a wealthy one, Luxembourg was interested in accommodating cyclical developments in a flexible way- thus it was against an automatic imposition of sanctions in the case of an excessive deficit. Verdun and Heipertz state that, in general, Luxembourg was closer to France for reasons of balancing German predominance, but unfortunately they do not

³¹² Interview E

elaborate on which points or on how they arrive at such a conclusion.³¹³ Nevertheless, I would argue that the government was in favour of budgetary rigour and that it should be enforced on a European level: “Luxembourg was supportive of the Germans- without doubt- from the start.”³¹⁴

6.2. *Was Luxembourg policy effective in the creation of the SGP?*

Luxembourg managed to achieve most of the objectives it had set for the creation of the SGP in 1996, although not necessarily in those two days in Dublin. In fact it was achieved earlier. It could be argued indeed that Luxembourg was “band-waggoning” a lot in this case. Luxembourg has always had a tradition of trying to have a balanced budget, and was the only member state, along with Belgium, who had any experience of belonging to a monetary union. It could be argued that this new EU monetary union was a step for both further independence and interdependence for the small country within a bigger framework. Indeed, Luxembourg’s position changed from one having no control of its monetary policy to a position of having one Member of the Governing Board of the System of European Central Banks, with the same voting rights on monetary policy as any other member of that currency union. Luxembourg did have an interest in having a rules-based SGP, as its experiences in the currency association with Belgium and in the ERM demonstrated the potential pitfalls of the new currency union and its possible consequences for the Luxembourg economy.

Of the issues that were not very controversial in Dublin anymore, the involvement of the Commission was something that Luxembourg had wanted. The process of the EDP was stretched over a period of roughly a year, on the basis of a Commission recommendation and a decision by QMV by the Council. The medium term objectives were also included in the annual stability programmes- an aspect of the preventive side of the SGP which was of importance to Luxembourg. There was a real need for agreement for the Luxembourg government, and Prime Minister Juncker actively worked towards that goal as mediator

³¹³ Heipertz M., Verdun A., (2010) *Ruling Europe. The Politics of the Stability and Growth Pact*. Cambridge University Press, p. 21

³¹⁴ Interview A

between the two main actors. It was clear that these tensions had to be resolved sooner rather than later, and these few controversial issues could not be allowed to jeopardise the introduction of the Euro. The government realised that the discussions had been going on for over a year and only a few, delicate issues had to be resolved. These were not insurmountable, as the government discovered, and devised compromise solutions accordingly.

Furthermore, the legal basis and therefore strength of the criteria for claiming a deficit was not excessive were watered down- on a proposal by PM Juncker to put them in a Resolution instead of a Regulation. More specifically, member states undertook not to

“invoke the exceptional nature of a deficit linked to an annual fall in GDP of less than 2% unless they are in severe recession (annual fall in real GDP of at least 0.75%).”³¹⁵

Having presented the issues and the context of these negotiations and looked at what Luxembourg wanted and what it eventually got, the following sections present the analysis and discussion on which factors influence a member state’s policy effectiveness.

7. Discussion

7.1. Domestic Politics

7.1.1. Luxembourg: From one currency union to another

One of Luxembourg’s biggest national interests in European integration was access to the markets of France, Germany and other European countries. A common currency was therefore a significant improvement for economic relations. Luxembourg was already in an economic union and monetary association with Belgium. The Belgo-Luxembourg Economic Union (UEBL) was created in 1922. Belgium and Luxembourg had separate

³¹⁵ European Council, (1997) ‘Resolution of the Amsterdam European Council on the stability and growth pact’. Official Journal C 236 of 02.08.1997.

currencies (the Belgian Franc BEF and the Luxembourgish Franc LUF) but had parity exchanges and could be used in both countries. The monetary policy was effectively under the control of the Belgian monetary authorities, even though a common institution regulated the exchanges. These are two important differences with the current European monetary union: firstly, there was no single currency used by several member states, but parity between two currencies; secondly, there were no common decision-making institutions in the Belgo-Luxembourg currency association.

Luxembourg has a long tradition mostly of cooperation, but also of conflict with Belgium on their currency association. In 1982, the decision of the Belgian government to unilaterally devalue the Belgian Franc by 8.5 percent to cut their debt strongly upset the Luxembourg government. For Luxembourg's Prime Minister Pierre Werner, this decision constituted a violation of the principle of co-decision of the Belgo-Luxembourg monetary protocols. On June 1st 1983 the 'Institut Monétaire Luxembourgeois' (IML) was created, allowing the Grand Duchy to affirm its monetary identity and to be an equal partner with the other member states in the European Monetary System (EMS). The IML was not yet a central bank in the strict definition of the term- but there was an intention to give the IML all the necessary competencies to fulfill the role of a central bank in case the Luxembourg government decided to end the monetary association with Belgium.

In 1993, a meeting of European Finance Ministers had to decide on the appreciations and depreciations of the EMS currencies and on the fluctuation margins. Germany threatened to walk out of the currency union project, and the Netherlands threatened to do the same. France was asking for an appreciation of the DeutschMark, and because Belgium had such high debts and deficits, they would certainly have sided with France. If Belgium stayed in the monetary association and tied its destiny with France, Luxembourg would have to leave the EMS with Belgium. But the Finance Minister stated that he would join Germany and the Netherlands. The Luxembourg government took the secret decision to print bank notes and coins. Billions of new Luxembourgish Francs were stored in a secret location.³¹⁶ The Luxembourg government felt sidelined and ignored by the Belgians and needed an

³¹⁶*Berliner Zeitung* (2001) 'In einer Stunde war das Thema Euro durch.' December 31.

element of pressure to bring the Belgians round. Therefore, Luxembourg's position was historically closer to the Dutch and the Germans, but a certain feeling of solidarity and the many connections between the two countries' monetary institutions impeded them from voicing their concerns in public. Indeed, this dramatic action was only made public in 2001.

Luxembourg's institutions were thus ill-prepared for being an equal partner in a true monetary union. Institutions had to be created and laws passed to establish a fully independent central bank with the necessary competencies.³¹⁷ The currency association with Belgium was, on the whole, satisfactory and a success. Indeed, the currency association lasted over 70 years. But in times of crisis, the Belgian authorities did not always take into account the economic situation in Luxembourg, but were rather more concerned with their own interests. This section also demonstrates that Luxembourg and Belgium had some sort of experience of currency associations before the ERM was instituted. This new EU monetary union was a step for both further independence and interdependence for the small country within a bigger framework. It could also go some way explaining why Luxembourg did have an interest in having a rules-based SGP, as its experiences in the currency association with Belgium and in the ERM demonstrated the potential pitfalls of the new currency union and its possible consequences for the Luxembourg economy.

Luxembourg's government did not encounter domestic much pressure on the issue of the SGP. As regards the finer details of budgetary rigour and surveillance and coordination of economic policies, the philosophy had always been to have a balanced budget or in surplus. Luxembourg's economy is characterised by stability, low inflation and unemployment, moderate growth and high-income. The government has managed to keep the budget in balance or in surplus over the last decades. It was exempt from certain European trends and constraints on holding a pro-European stance, and from many of the constraints faced by the main players in the project of economic and monetary union. The domestic political

³¹⁷ Elting H-H., (1997) 'The Belgium- Luxembourg Monetary Association. The effects of EMU on the Institut monétaire luxembourgeois.' Briefing 25. European Parliament Task Force on Economic and Monetary Union. 17 January, p. 3

context was much more favourable to an unequivocal commitment for the project. The stability of the successive governments and the favourable public opinion and economic context all contributed to this. Therefore the government always leaned more towards a strict interpretation of the Pact.

Coordination between and within ministries was not a significant factor, as the final negotiations were held in a small ad hoc group at the ministerial and Heads of State level. Nevertheless, one factor which played a very important role was the fact that Prime Minister Juncker was simultaneously the Finance Minister, thereby being able to attend and negotiate both in the Ecofin and in the European Council. At the ECOFIN Council, two advisors could aid their Minister, while at the European Council no advisors were allowed to be present in the negotiations. The Finance Ministers had to inform their Heads of State or Prime Ministers on the progress of the negotiations and the changing positions of the other member states. Misunderstandings were likely to happen in these situations when negotiations moved rapidly.³¹⁸

Expertise and knowledge were unevenly dispersed in the Council of Ministers and in the European Council. Only someone who could negotiate between the Ministers of Finance and the Heads of State and government and who had the expertise would make it possible to get out of the impasse. As no agreement could be found at the lower levels, i.e. at the Monetary Committee, and only partial agreement at the ECOFIN Council, the issue had to be referred to the level of heads of state and government, some of whom had only limited expertise in monetary issues of this kind. Kohl had asked Juncker to mediate between his government and the French government in an ad hoc group comprising a Luxembourgish, a French, a German and an Irish delegation, later to be followed in the European Council meeting by an ad hoc group between Kohl and Chirac and Juncker. An informal working group was set up, composed of a French, a German and a Luxembourg delegation (their deputies were included). Luxembourg participants in the working group were Juncker, Robert Goebbels (Minister of the Economy), and Yves Mersch. Luxembourg's former PM Jacques Santer was also present as he was the Commission President. As Juncker was

³¹⁸ Interview E

chosen to hammer out a compromise, he had the opportunity to shape the possible solutions presented to the other players according to his own ideas.

7.2. The negotiation context

Whether the decision-making procedure mattered in Luxembourg's policy effectiveness is a matter of discussion; after all the decision was supposedly taken consensually. In the case of the creation of the SGP in 1996/1997, the decision-making procedure was QMV in the Council for both Regulations. Qualified Majority (QMV) had as its basis of Article 205 of the EC Treaty in 1996. Under the Maastricht Treaty, the voting weights were distributed as follows in the Council:

Table 5.1 : Voting weights in the Council in 1996:

Country	Votes
France, Italy, Germany, UK	10
Spain	9
Belgium, Greece, Portugal, The Netherlands	5
Austria, Sweden	4
Denmark, Ireland, Finland	3
Luxembourg	2
QMV	62
Total	132

Source: European Commission.³¹⁹

There were two broad camps within the Council: on the French side, there was Italy, Portugal Belgium and Greece. Germany could count on the support from the Netherlands,

³¹⁹ Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts.

Finland, Sweden and Austria. As argued above, Luxembourg was probably between the two camps, while there is no clear cut information on Ireland and Spain. Therefore, the votes were distributed more or less equally in this case; moreover it was clear that only a consensus between these camps would ensure that the political agreement would be honoured afterwards. Most importantly, it was necessary to get France and Germany to agree on it. While Germany could still issue the credible threat of leaving the monetary union, it was also clear that a monetary union without France would not make much sense either. Therefore voting weights mattered in a secondary way.

The involvement of the European Parliament varied. While the EP was ‘cooperating’ with the Council on the drafting of the Regulation 1466/97 on the surveillance of budgetary positions, it was only consulted on the drafting of Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure. There were two divisions within the EP during their debates on these Regulations: the first and dominant division ran along party lines (left-right cleavages) and the second ran along national lines. However, the EP cooperated and consulted well with the Council.

No agreement would have delayed the timely introduction of ERM II and of the Euro as a currency. Furthermore, the sensitivity of the budgetary issue in any domestic politics and the implications for the sovereignty of setting up the budget could not be underestimated. After all, it was and is a domain of national sovereignty to set up the national budget. Yet there was a consensus for the creation of improved budgetary coordination among Eurozone members and a strong political will for agreement. Considering that the final regulations had to be drafted either with the consent or cooperation of the European Parliament, the heads of state knew it would take some months before the Regulation would be drafted, approved and enter into force. Hence time pressure nudged both camps to come to an agreement.

In conclusion it can be argued that the negotiation context mattered only to a low extent in this case. Because the decision was taken consensually and the two alliances had roughly the same voting weight, it was clear that the outcome would be found in the middle- where

Luxembourg was positioned. The decision-making procedure in the Council and in the EP mattered only indirectly. The most significant element was the time pressure- this has been repeatedly stressed by the interviewees.³²⁰ We shall now look deeper into these two camps, focusing on Germany and France.

7.3. The preferences of the member states

The positions and strategies of the most important players in these negotiations - naturally Germany and France - were instrumental in realising the grand project of economic and monetary union. The empirical evidence gathered indicates that the national debates in these countries, the ideologies and internal domestic institutional struggles for determining the strategy of both countries are firstly, not as straightforward as commonly assumed and, secondly influence significantly the outcome of the eventual negotiations. The first section analyses therefore the German domestic struggles for a common position on EMU and presents their allies, while the second section looks at the French domestic struggles and presents their respective allies.

7.3.1. Germany

Initially, the Germans showed little enthusiasm for the project, and in purely economic terms, “there was precious little advantage for the Germans in a monetary union.”³²¹ Tsoukalis affirmed that “what finally tipped the balance was the perceived need to reaffirm the country’s commitment to European integration in the wake of German unification.”³²² Economically, export-oriented West Germany had profited from a free trade zone while politically, its binding into an EEC helped to alleviate any fears of German dominance. When the Wall came down, the regeneration of East Germany was a political and social priority, and this resulted in huge costs for West Germany. The transfer payments to East

³²⁰ Interview A, G

³²¹ Tsoukalis in ‘Economic and Monetary Union’ in Wallace H., Wallace W., (2000) *Policy-Making in the European Union*, Oxford University Press, p.164

³²² Ibid, pp164

Germany totaled approximately 600 billion Euro by 2000, and high expenditure and low growth increased public debt from around 42 per cent to over 60 per cent in 1997.³²³ From the 1990s onwards, the cross-party consensus, the public opinion on the ‘Westbindung’, market pressures and the economic benefits of the larger EEC market slowly changed due to the consequences of reunification and European integration.

We have a very clear indication of Germany’s preferences through the proposal for a ‘Stability Pact for Europe’ by Theo Waigel, its Finance Minister.³²⁴ It recommended that government deficits should not exceed 1 % of GDP (as opposed to 3 % for accession) and that, should a Member State exceed this threshold, the sanctions laid down in the Treaty would be applied automatically. Furthermore, a “European Stability Council” would review the main features and goals of the Stability Pact, report on the implementation of the commitments and decide on exemptions from the observance of the upper deficit limit in the case of extreme exceptional circumstances. Reasons would be given for such divergence and a special convergence plan would have to be presented for its correction. The Commission’s role would be restricted to presenting the deficit data. One interviewee summarised it as follows:

“We wanted as little room for manoeuvre as possible for member states and for the Commission. For the ECOFIN Council we wanted as least discretionary room as possible. This certainly was a maximal position which was very difficult to push through. But we argued that these sanctions are not an invention of this new SGP, but they are explicitly foreseen in the Treaty of Maastricht.”³²⁵

Turning towards the domestic actors, several observations can be made. The Christian Democratic Union (CDU-CSU) were in a coalition government with the Liberal Party (FDP) from 1980 to 1997, during which time the CDU/CSU held the Chancellorship (Helmut Kohl) and the CSU the post of Finance Minister (Theo Waigel), while the FDP held the Foreign Office (with Hans- Dietrich Genscher and from 1992 Klaus Kinkel). The

³²³ Sloam, J., (2003) ‘Responsibility for Europe’: The EU Policy of the German Social Democrats since Unification.’ *Journal of German Politics*, Vol.12, No. 1, p. 63

³²⁴ Stark J. in ‘Genesis of a Pact’ in Brunila A., Buti M., Franco D. (eds), (2001) *The Stability and Growth Pact. The Architecture of Fiscal Policy in EMU*. Palgrave, p. 85

³²⁵ Interview A

European agenda of Kohl and Genscher had a federalist flavour, in line with the tradition of Christian Democrats, with ideational concepts such as subsidiarity, personalism and the social market.

There are several actors in the German political system which influenced its position on EMU from 1989 to 1997: on the one hand the Federal Finance Ministry, the Federal Ministry for Economics and the Bundesbank who could be classified as the financial élite. On the other hand there was the Chancellor and his office and the Foreign Office who could be considered the foreign policy élite. The other actors would be the German public, the Social Democratic Party (SPD) and the Bundestag. The financial élite's guiding principle was "sound money". The belief in this primacy of economics and price stability led it to demand strict budgetary and fiscal policies in EMU, otherwise high interest rates and inflation would be the consequence. For the Bundesbank, automatic sanctions were of an absolute necessity. The Finance Ministry promised the Bundesbank to do what was possible.³²⁶ The foreign policy élite

"did not have any principled objections to the quest for a purely stability-minded EMU as promoted by the financial élite. However, most Chancellors and Ministers of Foreign Affairs did object to the primacy of economics that the German financial élite advocated."³²⁷

The opposition SPD's European policy has been shaped by several circumstances during the 1990s: it was in opposition from the start of the EMU project in the 1980s until 1997, after the creation of the SGP. Reunification radically changed the environment for EU policy-making in the SPD which encouraged a more short term and materialistic approach to international relations and also had a psychological effect in terms of the increased self-confidence in international affairs. Oskar Lafontaine, Rudolf Scharping and Gerhard Schröder were the high profile leaders who tried to gain votes by being against the EMU project. A new approach to EU policy after the elections in 1994 was characterised by pragmatism and ideological flexibility. It was also more closely linked to Germany's

³²⁶ Interview E

³²⁷ Segers M., Van Esch F., (2007) 'Behind the Veil of Budgetary Discipline: The Political Logic of the Budgetary Rules in EMU and the SGP.' *Journal of Common Market Studies*, Vol.45, No. 5, p. 1091

national interests, which could capture the party and the electorate.³²⁸ In this sense, the SPD set as a pre-condition for accepting EMU an EU Social and Employment Policy, or wanted to change EU member states' budgetary contribution rules which would alleviate the national budget. Hence, the political pressure from the opposition was quite intense in Germany.

The issue of EMU was highly politicised and reflected the fears of a weak currency. The German public regarded the D-Mark as a symbol of economic recovery after the Second World War and of newly restored international esteem.³²⁹ It was apprehensive of a monetary union on a European level whose success chances were unpredictable and in some which members had notorious budgetary deficits and a different monetary culture to the stability-oriented policies of the Bundesbank. The public opinion at that time can be split in two camps: those in favour of monetary stability and modest government spending cut back to pre-unification levels- and the increasing group of those who, after reunification, saw the spectacular rise in unemployment and expected the government to stimulate growth and economic welfare.³³⁰

This national context until the actual negotiations in 1996 on the SGP is thus heavily shaped by German reunification and its political, economic and social consequences, which could be summarized as follows: low economic growth, rising budget deficits and debt, rising structural unemployment both in the East and West, a decline in support for further EU integration, a decline in cross-party consensus on the necessity of a federal vision of Europe, and the uncertainty of monetary stability in times of crisis if EMU would move forwards. All very good reasons indeed to push for hard and stringent quantified rules for a European-wide coordination of national budgetary and fiscal policies!

³²⁸ Sloam, J., (2003) "Responsibility for Europe": The EU Policy of the German Social Democrats since Unification.' *Journal of German Politics*, Vol.12, No. 1, p. 61

³²⁹ Stark J. in 'Genesis of a Pact' in Brunila A., Buti M., Franco D. (eds), (2001) *The Stability and Growth Pact. The Architecture of Fiscal Policy in EMU*. Palgrave, p83

³³⁰ Donnelly S., (2004) *Reshaping Economic and Monetary Union*. Manchester University Press, p. 33

7.3.2. *France*

The French government, on the other hand, opposed many of the ideas of the German government. The fact that there was “not a unique French vision of European integration but rather a spectrum between two poles: wanting integration and wanting to preserve national sovereignty” was evident in French support for EMU. French policy-makers have been caught in a dilemma with regard to the construction of the economic dimension of EMU: on the one hand the supranational consequences of a dirigiste approach to macro-economic policy and, on the other hand, a Gaullist reflex to retain sovereignty as much as possible and to insist upon intergovernmentalism in EU-level macroeconomic policy-making.³³¹

The French thus paradoxically wanted a European economic government, yet also maintain intergovernmental policy-making and considerable margins for manoeuvre. The dirigiste approach is characterised by state intervention in the economy, by the belief that control over economic and monetary policy should not be separated, by the perception that low inflationary economic policies can be maintained by democratically elected officials, guided by enlightened bureaucrats and advisers (notably those from the French Treasury and, in particular, the elite corps of Financial Inspectors); and power considerations within the French administration. One interviewee assessed the French position as follows:

“The rationale behind the SGP proposal was accepted by France, but as the negotiations went on, the discussion focused on one point- not on the preventive side, but on the execution in the case of deciding on the existence of an excessive deficit. Here the sovereignty question played a role: a European institution decides in the area of national budgetary policy which they saw as untouchable, a sovereign area, and they would not take this.”³³²

Nationally, several events stood out: the referendum on the Treaty of Maastricht, the economic turmoil and the replacement of François Mitterrand by Jacques Chirac as

³³¹Howarth D. J., (2005) ‘Making and Breaking the Rules: French Policy on EU ‘gouvernement économique’ and the Stability and Growth Pact.’ *EloP*, Vol.9, No 15, p.1

³³² Interview A

President of the Republic. François Mitterrand from the Socialist Party (PS) was the President of the Republic from 1981 to 1995. Together with Helmut Kohl, he is seen as one of the main architects of EMU. The ratification of the Treaty of Maastricht through a referendum in 1992 was a risky decision by Mitterrand. 48.95 per cent voted against, while only 51.05 per cent voted for the Treaty; over 30 per cent of the electorate abstained.³³³ The opponents were mainly the Front National, the far left and some people from the RPR, like Charles Pasqua. The RPR endorsed the Treaty, as did the socialists. This showed the limits of French public approval towards integration.

In 1995, the Gaullist Jacques Chirac (RPR) became the President with a majority in the Assembly. Chirac was resolutely against any formal restrictions to the national budgetary policies by the EU, on the grounds of sovereignty when he entered the negotiations on the SGP.

“The interest of the French government was to hold on to power while achieving EMU as a way to rein in the monetary rule of the Bundesbank and at the same time acquire a global reserve currency. The interest of the French opposition parties was to undermine the government through suggesting to the public that EMU amounted to a ‘German dictate’ on fiscal rigour that would worsen the unemployment situation.”³³⁴

The Socialist Party, led by Lionel Jospin, the candidate for the Gauche Plurielle and future Prime Minister in 1997, and Dominique Strauss-Kahn, future Finance Minister, ran their national campaign on EU economic governance in June 1997. They were campaigning to boost employment and revive growth at the expense of fiscal austerity. Jospin also insisted on a review of the SGP, even though it had not even been formally adopted by the Council and the EP when he came into power.

France always advocated horizontal coordination, but was much more skeptical towards vertical coordination between the national and EU level. It also advocated a stronger ‘gouvernement économique’ which should at least complement what it considered the

³³³ France Politique: <http://www.france-politique.fr/referendum-1992.htm>

³³⁴ Heipertz M., Verdun A., (2005) ‘The Stability and Growth Pact- Theorizing a Case in European Integration.’ *Journal of Common Market Studies*, Vol. 43, No 5, p. 992

excessive competencies of the ECB. Behind all this lay the issue of sovereignty and the French concern for a loss of influence. Another sensitive point for France was public opinion as evidenced during the referendum of the Maastricht Treaty and the economy. Thus the domestic political context and the political culture were important factors when considering the successive French governments' approach to the SGP. More specifically, they wanted more political discretion in the Council concerning the detailed steps of the EDP, a limited role for the Commission, and as little interference from the EU institutions in national budgetary matters as possible. The inclusion of the debt criterion in the SGP and the EDP in particular was not welcome, as France was struggling with its high public debt ratio.

Did the preferences of these two member states impact on Luxembourg's policy effectiveness? It is clear that the distribution and intensity of the preferences by these two main actors is crucial in understanding the outcome, but also it determined the degree of Luxembourg's policy effectiveness. France and Germany were crucial in getting an agreement, and the other member states had implicitly delegated their votes to one of the two. Because their preferences were so divergent, and Luxembourg's preferences were to be found in the middle, it actually got quite a lot of what it wanted. These two states had to move towards a compromise and towards the middle ground, which is where Luxembourg's preferences just happened to lie. But was that all there was to this case study? After all, the Irish government chaired the Council formations- could it have had an impact we have so far ignored?

7.4. The presidency

The Irish presidency of the European Council could have played the role of mediator and leader in Dublin. We shall see however that the resources conferred to the office of the presidency were not sufficient to guarantee a country the automatic leadership of sensitive negotiations. The Irish presidency did not possess any of the other resources necessary to take advantage of the opportunities the Chair presented to them. The presidency was not

trusted by the main actors to be able to conclude an agreement, as none of the Irish negotiators had much experience of Council negotiations.³³⁵ In the ad hoc group that was created on the insistence of German Chancellor Kohl, the Irish played only a marginal role and were only included on protocol. None of the interviewees could even remember what the Irish position was on the issue. Ireland had a relatively young Rainbow coalition government which took office in December 1994. Furthermore this government had not been elected but came into office after a coalition breakdown. The Labour party had no government or EU experience at all, and Ruari Quinn, the Finance Minister, had only been in office since May 1995. It has also been suggested that the Irish government did not realise the potential political difficulties that lay in the creation of a Stability and Growth Pact and thus had not examined the dossier in detail.³³⁶ The domestic standing in politics, the level of expertise and the personal authority were thus insufficient to Ireland's designation as leader of the negotiations. Therefore, this case study is a clear example where a presidency is effectively excluded from exercising any influence on the negotiations and the final outcome.

7.5. Individual level factors

In 1996, the quality of past relations between the key negotiators played an important role in the agreed outcome on the SGP. Kohl's appreciation for Juncker was, and is obvious:

“The fact that Juncker exists is lucky for Europe. He is in the way he thinks and acts and with his friendly manner a strong positive point in European politics. And he is a wonderful example of the fact that it does not matter how big the country one comes from is. A big influence can also come from a small country like Luxembourg. It depends on stature, on personality and on competence.”³³⁷

Whether a government belongs to the same political family as most other governments, should also be considered when assessing policy effectiveness. In 1996, France was governed by the right wing Jacques Chirac. Germany was governed by the Christian

³³⁵ Interview A, E, C

³³⁶ Interview E, G

³³⁷ Kopeinig M., (2004) *Jean-Claude Juncker- Der Europäer*. Czermin Verlag GmbH Wien, p. 40

Democrat Helmut Kohl, and Luxembourg was also governed by the Christian Socialists (CSV) in coalition with the Socialists (LSAP). Belonging, like Kohl, to the family of European Christian Democrats, Juncker had been very close to the German Chancellor. The European Christian Democrats “shared a strong European commitment and a discourse on European unity.”³³⁸ Kohl had famously stated that economic and monetary integration was an issue of “war and peace in the 21st century.”³³⁹ This was and still is a rhetoric employed by Juncker as well. They endorsed not only EMU, but advocated for a Political Union. Furthermore, as Johansson argued, the Maastricht Treaty negotiations were led by a coalition of Christian Democrats (Germany, Italy, Luxembourg, Belgium, the Netherlands and Greece).³⁴⁰ They also dominated the three presidencies charged with the two IGCs on the Treaty (Italy, Luxembourg and the Netherlands). They held various meetings and organized conferences between the members of the EPP ahead of the IGCs.

The political longevity of Christian Socialist (CSV) Jean-Claude Juncker is the stuff of legends. Jean-Claude Juncker became Minister of Labour and Minister Delegate for the Budget in 1985 and presided over the Social Affairs and Budget Councils during the Luxembourg European Council presidency. In June 1989, he became Finance Minister and has occupied this function for 20 years. This means that he was present at every negotiation on economic and monetary union. In 1989, he also became Minister for Employment. After being re-elected again in 1994 and the resignation of Prime Minister Jacques Santer, he kept both his posts as Finance Minister and Minister for Employment, but he also became Prime Minister.³⁴¹

Communication problems between the French and the German delegations led to the translation service generously offered by Jean-Claude Juncker during the Council negotiations. Neither Waigel nor Arthuis could speak the other’s language. Nor did Kohl

³³⁸ Johansson, K. M., (2002) ‘Another Road To Maastricht: the Christian Democrat Coalition and the Quest for European Union.’ *Journal of Common Market Studies*, Vol.40, No. 3, p. 880

³³⁹ *New York Times*, (1995) ‘Kohl Casts Europe’s Economic Union as War and Peace Issue.’ October 17.

³⁴⁰ Johansson, K. M., (2002) ‘Another Road To Maastricht: the Christian Democrat Coalition and the Quest for European Union.’ *Journal of Common Market Studies*, Vol.40, No. 3, p. 876

³⁴¹ SIP (2009) ‘Le Premier Ministre. Jean- Claude Juncker.’ Available at: <http://www.gouvernement.lu/gouvernement/premier-ministre/index.html>

speak French or English or Chirac, who did, German.³⁴² French and German are official languages of the Grand Duchy. It has always been part of the job description of a Minister in Luxembourg to know what was happening in its neighbouring countries. Therefore, the negotiators were well aware of the public and political debates in France and Germany. An excellent understanding of both neighbours' concerns and languages enhanced their negotiating capacities with the two countries. Hence past relations, belonging to the same political family and having experience and expertise in this matter gave Juncker a natural advantage to be designated to broker the compromise. Individual-level factors certainly played a big role in Luxembourg's policy effectiveness in this case study.

8. Conclusion

Luxembourg's policy effectiveness in the creation of the SGP was high because most of its preferences were to be found in the final agreement: the involvement of the Commission in budgetary surveillance and in the initialisation and process of the EDP was guaranteed; there were clear definitions of when a deficit was considered excessive and when not; and these were really quite strict, even if their legal basis was not as strong as hoped. Finally, and importantly, the project of monetary union was on track and could go into the final phase prepared. This outcome came about through several factors: the governing Christian Social People's Party (CSV), the exceptionally long career of the current Prime Minister Jean- Claude Juncker, the economic union with Belgium and their monetary association.

Several interesting points on how to be policy effective result from this analysis. It may have been unusual that a member state different from the presidency office holder is officially charged with conducting the negotiations and playing the role of broker. It cannot be disputed that the fact that Juncker was both PM and Finance Minister did contribute to his designation as broker. But the negotiating skills, personal relations and hands-on experience of Juncker were the main reasons why he was trusted with resolving this sensitive issue. Secondly, Juncker was an intimate friend of Kohl. Thirdly, the personal

³⁴² Interview E

mediating skills and experience in EU affairs of Luxembourg's Prime Minister and Finance Minister greatly contributed to the French acceptance of the modalities of the SGP.³⁴³ Juncker had acquired the technical skills during the negotiations of the Treaty of Maastricht and was familiar with its clauses. It is widely acknowledged in political science literature that monetary union was a French project with German principles, i.e. that the content of EMU reflects the strict and prudent preferences of the West German financial élite, which went far beyond mere coordination.³⁴⁴

However, with changing heads of state and different economic climates, would Juncker still be called upon to mediate between the big member states on this issue at a later date? In other terms, do personal relations between the negotiators play an overriding factor in the choice of broker or can this variable be ruled out with certainty? On another issue, we can see that certain issues can be taken away from the finance minister and be appropriated by the head of state for political reasons. Finally, a safe conclusion can be drawn from this analysis: the decision-making procedure did not play a role in these negotiations. Indeed, it was the consensus-seeking culture, which came to the fore in the process of these negotiations. The fact that the delicate part of the negotiations was not held among all the 15 member states, but among a small circle of actors, implies that a delegation of the actual negotiations took place. This may be due to the time pressure for an agreement or the political nature of the issue, and suggests an implicit trust and confidence in this circle of actors which would defend broadly the positions each member state considered its own.

³⁴³Tallberg J., (2007) 'Bargaining Power in the European Council.' *SIEPS Rapporteur*, No.1, p. 28

³⁴⁴ Segers M., Van Esch F., (2007) 'Behind the Veil of Budgetary Discipline: The Political Logic of the Budgetary Rules in EMU and the SGP.' *Journal of Common Market Studies*, Vol.45, No. 5, p. 1090, Interview A

Chapter 6: Luxembourg's role in the Reform of the Stability and Growth Pact

1. Introduction

Having presented and analysed Luxembourg's role and policy effectiveness in the creation of the Stability and Growth Pact, this chapter will address the question if Luxembourg was equally policy effective in the Pact's reform. The agreement on said reform was concluded under the Luxembourg presidency in the first half of 2005 and was welcomed by most member states but it was much criticised in the media. As Luxembourg had the presidency, it wanted to conclude the negotiations on the new SGP under its watch and to get a result which would stay as close as possible to the old SGP.³⁴⁵ However, while it achieved an agreement, Luxembourg's policy effectiveness was low in this case, because the rules were made more flexible. Considering the constraints of extreme preferences of the major players, Luxembourg managed to get an agreement in the first place, increase the preventive side of the Pact, and prevent the creation of a list of factors that could be invoked at any stage of the EDP to escape sanctions. A comparison between Luxembourg's preferences and the outcome will however reveal that Luxembourg was not really able to be policy effective on several issues, such as the extension of the deadline to correct excessive deficits, the "chapter headings" or relevant factors for not starting an EDP and the general weakening of the Pact. The reasons for this low policy effectiveness can be traced back to France and Germany's intransigence. Some factors, which had played a role in 1996, did not come into play in 2005- such as institutional coordination, individual-level factors; even holding the presidency did not improve Luxembourg's policy effectiveness.

This case was selected because many factors stayed constant under the creation and the reform of the SGP (such as the reputation of the Prime Minister and Finance Minister Jean-

³⁴⁵ Interview B

Claude Juncker, domestic politics, the decision-making procedure; Luxembourg even had the added advantage of holding the presidency) yet the outcome in terms of policy effectiveness was different. Several elements had changed: the reform of the SGP was one of the first major changes in legislation in matters of economic and monetary governance where the new members of Central and Eastern Europe were allowed to participate in the voting in the Council. Whether they made a difference will be shown in this chapter. Furthermore, the Eurogroup (the group of the Finance Ministers of the Eurozone) had just been set up and was the main forum for the negotiations, sidelining to a certain extent the non-Eurozone members. Therefore, this case study could bring new insights into which combined factors are necessary for policy effectiveness and functions as something of a control study for the first case study.

The following section presents the drive towards reform and the crisis of 2003, with the Excessive Deficit Procedure held in abeyance for France and Germany, and the origins of the changed preferences of the main players. The next section presents the European Commission's proposal, gives a brief timeline of the negotiations and the outcome. A discussion on the factors will reveal why Luxembourg was policy effective.

1.1. The build-up to the reform from 2002-2005: The SGP is dead''

Even before the decision to hold the EDP in abeyance for France and Germany in 2003, the issue started to unravel when Chirac started the debate on the future of the SGP after the Barcelona Council on May 14, 2002. Greece was exposed by Eurostat for falsifying its statistics at the time of entry into EMU III and for several years subsequently. The German SPD- led government barely escaped sanctions on its excessive budget deficit in 2001. It was under considerable pressure from the EU institutions and internally from the Bundesbank to correct the deficit. Yet it was trying to escape sanctions and put forward measures to correct the deficit. By September 2002, it was clear that Italy, Portugal, France

and Germany all ran the risk of breaching the SGP rules. Even the President of the Commission infamously called the Pact “stupid.”³⁴⁶

In November 2003, after the SGP had been in force for only four years, the Conclusions of the Ecofin put into question some fundamental rules, namely the importance of the Commission’s recommendation and the rule that all member states are equal in EMU.³⁴⁷ The Council had decided to suspend the EDP against France, Germany and Portugal.³⁴⁸ How could it come to this? In August 2002 the public deficit for Portugal for 2001 was 4.1 per cent. The European Commission issued a report and the Ecofin Council deemed the deficit excessive, and thus started the first EDP in the history of the Economic and Monetary Union. However, this EDP was soon to be overshadowed and swallowed up in the debates over France’s and Germany’s deficits.

The Council had asked Germany and France to take effective action for deficit reduction. However, the Commission found that France had not taken effective action and Germany had adopted inadequate measures to implement the Council’s recommendations. The Commission therefore issued recommendations to the Council to advance with the proceedings.³⁴⁹ During the negotiations on whether an EDP should be set in motion, the reasons behind the German government’s decision to fight against an EDP were twofold: firstly considerations of domestic politics in the form of elections, and secondly the cost of reunification made it necessary and inevitable that a higher deficit of 3 per cent be incurred. It argued that these were exceptional circumstances and as such should be taken into account. Furthermore, it also argued that pro-cyclical policies were necessary.³⁵⁰ One participant analysed the German change of heart as follows:

“I think that the German government waited to be reelected before changing its position. It was largely a circumstantial decision, not an ideological one. The Pact

³⁴⁶ *BBC News website*, (2002) ‘Row over “stupid” Budget Rules.’ 17. October.

³⁴⁷ *The Independent*, (2002) ‘Analysis: ‘Stupidity pact’ crumbles as euro’s foundation stone.’ 23 October.

³⁴⁸ Council of Economic and Financial Affairs, (2003) 2546th Council meeting: ‘Implementation of the Stability and Growth Pact, France and Germany.’ 14492/1/03 REV 1 (Presse 320) 15. 25 November. p. 15

³⁴⁹ European Commission, (2003) ‘Recommendation for a Council Recommendation to France with a view to bringing an end to the situation of an excessive government deficit- Application of Article 104 (7) of the Treaty.’ SEC (2003) 516 final 07.05.2003.

³⁵⁰ Interview C

was mostly a German creation which turned against its initiators. It took them a while to realise, and when they realised, they changed indeed their position by 360 degrees.”³⁵¹

Indeed, only in July 2003, Eichel had

“stopped short of echoing President Chirac's call for a relaxation of the rules, saying the finance ministers knew how to apply the rules in a "reasonable and coordinated way.”³⁵²

Yet only two days later, Chancellor Schröder called Chirac's comments “great and really very important.”³⁵³ The impression of the other negotiators was that the German government had lost its spirit of fiscal stability, and sight of the consequences of its stance for monetary union. Instead it was only concerned with domestic politics.

The French government argued in its defence that in the face of an economic downturn, pro-cyclical policies were necessary to stimulate the economy. It seems that the French wanted to lay the blame partly with the Commission and the Council:

“France and Germany were paying for an implementation of the Pact which was not well executed beforehand. In 2000, France and Germany were allowed to implement economic policies like tax reductions and redistributions of what was called ‘the fruits of growth’ in France. These policies were to some extent the mistake of the Council and of the Commission who let them follow these policies. We had not quite yet understood that all these additional resources that the states had were linked to the economic growth of the time and that it was not a durable situation. In this sense, France and Germany paid for a collective past mistake, and, the economic situation worsening, did not manage to keep the deficit below 3 per cent.”³⁵⁴

Clearly, Germany and France did not want an EDP and so, rather than trying to adhere to the rules of the game, provoked a crisis which was intended to change those rules. With

³⁵¹ Interview F. *Business Week*, (2002) ‘So Much for Europe's Fiscal Discipline: The EU is facing a Crisis as Budgets balloon and Nations square off.’ 3 June.

³⁵² *BBC News website*, (2003) ‘Chirac's Budget Plea creates EU Storm.’ 15 July.

³⁵³ *Deutsche Welle*, (2003) ‘Schröder Fans the Flames of Pact Dispute.’ 17. July

³⁵⁴ Interview F

Germany being one of the pivotal players and now in the same camp as France, the path towards reform was laid. Thus on 25 November 2003, the Finance Ministers voted to suspend the sanctions mechanism of the excessive deficit procedure against France and Germany.³⁵⁵ The Council Conclusions of 25 November 2003 did not follow the advice of the Commission to take the excessive deficit procedure against France and Germany a step further, but instead adopted a series of concerned requests.

What could have been the Council's motives for voting to hold the procedure in abeyance? An important aspect of the voting procedure is that other "fiscal sinners", i.e. member states that also run danger of encountering the launch of an excessive deficit procedure are not excluded from voting. In this case, France could vote against or for Germany, and vice versa. France and Germany had clearly decided to provoke a crisis and force a debate on reform. Another factor is that only countries that have adopted the Euro are allowed to vote on decisions on the Article 104(9) of the Treaty. Therefore, countries like Denmark, Sweden and the UK were excluded from the vote. For Luxembourg, the motives for suspending the sanctions mechanism were twofold and purely strategic: firstly, due to the general economic slowdown, Luxembourg found itself in the position of a general budget surplus of only 0.8 percent, and a deficit of -1.2 percent in 2003, down from 2.4 percent. Budget forecasts were gloomy and predicted a higher deficit for 2004. Secondly, with Germany and France being the biggest investors in Luxembourg's financial sector, imposing fines on both could have a potential backlash on the Luxembourg economy in the form of a loss of investment. Luxembourg's economy in the years of 2002 to 2004 was equally affected by the economic downturn. For the first time in years, the government faced a sharp decline in its budgetary balance and even a deficit instead of the usual balance or surplus.³⁵⁶ Given the economy's high degree of openness, it has always depended heavily on foreign investments, especially from the neighbouring countries France and Germany. Ireland voted against sanctions, as it had received a recommendation in 2001 reprimanding it for its pro-cyclical fiscal policies when the guidelines called for a tight

³⁵⁵ Council of Economic and Financial Affairs, (2003) 'Implementation of the Stability and Growth Pact, France and Germany.' 14492/1/03 REV 1 (Presse 320) 15. 25 November.

³⁵⁶ Interview G, see table on Luxembourg' budgetary situation in chapter

fiscal policy to quell an overheating economy.³⁵⁷ Portugal and Italy voted against for obvious reasons: they too had problems with adhering to the budgetary discipline imposed by the SGP.

Some observers were of the opinion that the rules were in practice different when addressed to bigger member states (France, Germany) than to smaller ones (Ireland, Portugal). Already a year earlier in 2002, Hans Gert Pöttering was warning Commission President Prodi of this danger:

“We think that it is unacceptable for small countries like Portugal to get a letter from the Commission, while the large countries get off the hook. You keep the small fish and let the big ones go. If that is the policy in Europe, then Europe is on the wrong course. I would call upon the Commission to act to ensure that we can give them once again our full support. But I think that confidence has been severely damaged, and I hope that you will be able to restore confidence.”³⁵⁸

However, one participant identified additional reasons, beyond strategic arguments, for this behaviour of small countries:

“I didn’t expect us to have a qualified majority in favour of the Commission Recommendation but I certainly didn’t expect a qualified majority against the Commission, because I thought the Irish and the Luxembourgers...but they were impressed by the big two. There were probably contacts behind the scenes asking them to be cooperative. It was one of the worst nights in my career in Brussels.”³⁵⁹

It would appear indeed then, that in practice no decision can be made against a coalition of France and Germany. Furthermore, it shows that the small countries were outvoted.

The Commission subsequently filed a claim with the European Court of Justice against the Council on the enforceability of the Pact in the context of the required cooperation between the two institutions. On 13 July 2004 the ECJ rendered its judgment.³⁶⁰ The ruling

³⁵⁷ Hodson D., Maher I., (October 2004) ‘Soft Law and Sanctions: Economic Policy Coordination and the Stability and Growth Pact.’ *Journal of European Public Policy*, Vol. 11, p. 804

³⁵⁸ Pöttering H-G, (2002) ‘Speech in the European Parliament’. 21 October.

³⁵⁹ Interview C

³⁶⁰ European Court of Justice, (2004) ‘Judgment of the Court of Justice in Case C-27/04. Press release No 57/04’. Available at: www.curia.europa.eu

underlined the fact that the Council could not suspend a procedure when the conditions provided by the SGP were not met. It encouraged those who argued for a change in the legal text. The Council preferred to deal with issues of a political sensitivity on its own and was not very happy with the interference of the ECJ. Therefore, it decided to reform the Pact. The French and German governments had reached their goal by using their sheer size and weight in the Council of Ministers in combination with other big and notorious fiscal sinners.

1.2. "A political gesture that we overcame 2003"

These events undermined the credibility of the SGP. It had been breached several times by the major (and other) EU states and it seemed quite iniquitous to preserve strict rules when the biggest economies could not adhere to them. Furthermore the economic climate was improving in the Eurozone from 2004 onwards. The political heat was off the topic so it could be discussed in a calm manner. The financial markets had not reacted negatively to the suspension of the EDP against these two major EU states, yet negative comments in the media and from the Commission and the ECB abounded and gave the Council a bad image, with it accused of not being credible.³⁶¹

The biggest member states, the German and French governments, were showing no intention of taking radical measures to conform to the modalities of the SGP. The political will to reform was therefore clearly present for several reasons. France and Germany especially advocated more flexibility of the rules, while the ECB and the smaller member states, especially the Netherlands, Austria and Finland were afraid that lax budgetary policies of the big member states would destabilize the Euro. The Dutch had been against a change for a long time, but had realised that when big member states flout the rules and always vote against an EDP for another member state, then the Pact does not function at all.³⁶² So they agreed to a reform for practical reasons:

³⁶¹ Leblond P., (2006) 'The Political Stability and Growth Pact is Dead: Long Live the Economic Stability and Growth Pact.' *Journal of Common Market Studies*, Vol.44, No. 5, pp. 969-990, *The Independent*, (2004) 'Euro Stability Pact Rulebook in Chaos after Court Ruling.' Stephen Castle, 14 July.

³⁶² Interview D

“I think that everyone wanted an agreement. The situation was appeased in relation to the 2003 crisis and simultaneously having a new Pact was a way of coming out of the story head high: there were indeed problems, we took them into account and we changed things. Yes, we wanted a new agreement, but it was *in fine* in the interests of everybody, as a political gesture that we overcame 2003.”³⁶³

The opponents of a reform were in a minority, as already shown during the Eurogroup vote on the EDP against France and Germany. First, the Communication of the European Commission will be presented, continuing with a description of the final legislative outcome, while the final section presents a discussion of Luxembourg’s policy effectiveness and what influenced it.

2. The Communication of the Commission: the carrot and the stick

The revised Communication of the Commission of September 2004 entailed a refocusing of the SGP, for which there were three elements: clarifying and rendering operational the debt criterion, identifying country-specific medium-term budgetary objectives and defining the adjustment path in the excessive deficit procedure, taking into account issues relating to the sustainability of public finances.³⁶⁴

The Commission argued that the new Stability and Growth Pact should clarify the basis for assessing the "satisfactory pace" of debt reduction provided for in Article 104(2)(b) of the Treaty. In defining this "satisfactory pace", account should be taken of the need to bring debt levels back down to prudent levels before demographic ageing had an impact on economic and social developments in member states. Member states’ initial debt levels and their potential growth levels should also be considered. Annual assessments could be made relative to this reference pace of reduction, taking into account country-specific growth conditions.

³⁶³ Interview F

³⁶⁴ European Commission, ‘(2004) Communication from the Commission to the Council and the European Parliament - Strengthening economic governance and clarifying the implementation of the Stability and Growth Pact.’ COM(2004) 581 final.

The Commission wanted to allow for more country-specific circumstances in defining the medium-term deficit objective of ‘close to balance or in surplus’. The operational specification of the medium-term budgetary objective of ‘close to balance or in surplus’ had been left open by the SGP and, in practice, a balanced budget position in cyclically-adjusted terms every year throughout the cycle was required for most member states. Uniform objectives for all countries did not appear appropriate and lacked an economic rationale. The Commission stated that a medium-term objective could be based on current debt levels, taking into account their development over time. Furthermore, factors such as potential economic growth, inflation, the existing implicit liabilities related to ageing populations, the impact of structural reforms or the need for additional net investment should also be considered.

Concerning the EDP, the Commission recognised that the scenario of slow but positive economic growth is not considered in the existing regulatory framework. It envisaged a rethinking of the adjustment path once a country breaches the 3 per cent deficit threshold and/or a redefinition of the exceptional circumstances clause. It also wanted to simplify the concepts of ‘abruptness of the downturn’ and ‘loss of output relative to past trends’, while any change to the definition of this clause should be examined in combination with changes to the deficit adjustment path. It suggested that the pace of adjustment could differ between countries, with the appropriate adjustment path being defined on the basis of the economic conditions and debt levels of the member state in question. The Commission also considered taking into account the reasons behind the excessive deficits and the policies implemented, but gave no precise indications of how this would happen.³⁶⁵

On the preventive side of the SGP, it demanded a reinforcement of the commitment of the member states to pursue sound and sustainable fiscal policies through peer pressure. The Treaty establishing a Constitution for Europe would also bring in new provisions, such as the Commission's direct ‘early warnings’ and the Council's decisions launching the excessive deficit procedure in the light of the Commission's proposals (rather than

³⁶⁵ European Commission, ‘(2004) Communication from the Commission to the Council and the European Parliament - Strengthening economic governance and clarifying the implementation of the Stability and Growth Pact.’ COM(2004) 581 final.

recommendations). This, it argued, would clarify the complementary roles of the Council and the Commission. The broad economic policy guidelines (BEPGs) could be more effectively used to address the issue of good policy in good times. The proposal also suggested that the coordination of budgetary policies be enhanced, through giving a greater role for stability and convergence programmes in defining a medium-term strategy at the start of a new government's term of office.³⁶⁶

Finally, the Commission wanted to establish minimum European standards for the institutional set-up of statistical authorities. The Commission would have liked to see other member states putting pressure on countries that do not respect their legal obligations deriving from the Treaty and public opinion being made aware of the situation. It highlighted national institutions' role in the budgetary process and envisaged measures to improve transparency and to make member states even more accountable as regards their budgetary policy.³⁶⁷

In summary, the Commission (re-)introduced the debt criterion, which was in Article 104 of the Maastricht Treaty, but absent from the SGP, and it wanted clarification on hitherto discretionary aspects of the EDP. It also demanded a reduction of the Council's involvement in the early warning system. Meanwhile it allowed for more time in the adjustment path, and it considered additional factors to be taken into account when assessing the budget deficit.

³⁶⁶ European Commission, ' (2004) Communication from the Commission to the Council and the European Parliament - Strengthening economic governance and clarifying the implementation of the Stability and Growth Pact.' COM(2004) 581 final.

³⁶⁷ European Commission, ' (2004) Communication from the Commission to the Council and the European Parliament - Strengthening economic governance and clarifying the implementation of the Stability and Growth Pact.' COM(2004) 581 final.

3. Timeline of the negotiations

The official review process started with a Communication from the Commission in September 2004 upon request of the European Council on 18 June 2004 and the final legislative act was approved on 27 June 2005. Under the Dutch presidency, a preliminary informal meeting of the ECOFIN in Scheveningen was on the issues of improving the efficiency and effectiveness of the Eurogroup and on the strengthening of policy coordination.³⁶⁸ Luxembourg's Prime Minister Juncker was elected as President of the Eurogroup at this meeting and would start in this function in January 2005.³⁶⁹ It was soon clear that the preferences were too widely dispersed and that, because Finance Minister Zalm was most vocal in airing his ideas on the topic, the Dutch could not be effective mediators.

The SGP reform was debated at four ministerial meetings in Luxembourg. The first meeting was on 18 January 2005. The Luxembourg presidency expected that a political agreement on new implementation rules for the Pact would be realised before the European Council on 22 and 23 of March 2005. After this initial meeting, Juncker declared himself particularly satisfied that a preliminary agreement around the three essential ideas was reached. These were:

“the interpretation of the treaty is not put into question, not even a comma; the implementation of the Excessive Deficit Procedure is not put into question, and following from this, the Commission's right of initiative stays intact, and there is no discussion anymore on taking entire blocks of expenditure out of the implementation of the Pact.”³⁷⁰

After this meeting, Juncker visited Schröder in Berlin to sound out the positions more clearly. They agreed not to take out entire blocks of expenditure from budgetary calculations, but to create a concise and precise catalogue of budgetary expenditure which could lead to a more differentiated appreciation of a member state's deficit by the

³⁶⁸ Banque de France, (2004) Press release: 'Europe – Main EU coordination mechanisms.' Informal ECOFIN in Scheveningen, 10-11 September.

³⁶⁹ *European Voice*, (2010) 'Juncker re-appointed as Eurogroup president.' 18 January.

³⁷⁰ SIP, (2005) 'Article d'actualité : Jean-Claude Juncker préside les réunions du Conseil "Affaires économiques et financières" et de l'Eurogroupe à Bruxelles.' 17.01.2005-18.01.2005.

Commission and the Council. Juncker, then, initially gave in to German demands on the creation of a list.³⁷¹ Schröder said at one point during the negotiations that he “trusted the Prime Minister’s exceptional political dexterity.”³⁷²

On February 16 the Eurogroup met again, with some progress.³⁷³ The Eurogroup President said he was optimistic about the possibility of reaching an agreement in March, and especially about the fact that “the points of view have narrowed considerably” and should allow the presidency to present a compromise at the next Eurogroup and Economic and Financial Affairs Council meetings of 7 and 8 March 2005. Juncker also stated that questioning the right of initiative of the European Commission in the application of the SGP would not be an issue.

“It should be clear that it will not be left to the discretion of a Member State as to whether the excessive deficit procedure will be implemented. This is reserved to the Commission, which will report to the Council and which will draw appropriate conclusions.”³⁷⁴

Juncker also reported that the Eurogroup and the Council agreed to strengthen the preventive framework of the pact, which obliges member states to allocate possible budget surpluses to the reduction of the deficit and of public debt so that there would be more latitude during periods of low economic growth.

On 7 and 8 March the Eurogroup, after meeting for 9 and a half hours, had to note that no agreement was in reach.³⁷⁵ The Ecofin also came to the same conclusion, considering the reservations of some non-Euro members towards the utility of a reform of the Pact. The compromise proposal of the presidency found agreement on a certain number of issues, most notably the necessity of member states making more efforts (in budgetary consolidation) during good economic periods in order to have more flexibility in periods of

³⁷¹ SIP, (2005) ‘Communiqué : Accord sur la réforme du pacte de stabilité et de croissance.’ 21.03.2005.

³⁷² SIP, (2005) ‘Article d’actualité : Entrevue du Premier ministre Jean-Claude Juncker avec le chancelier allemand Gerhard Schröder à Berlin’ 21.01.2005

³⁷³ SIP, (2005) ‘Article d’actualité : Réunions de l’Eurogroupe et du Conseil “Affaires économiques et financières” à Bruxelles’ 16.02.2005 - 17.02.2005.

³⁷⁴ SIP, (2005) ‘Article d’actualité : Réunions de l’Eurogroupe et du Conseil “Affaires économiques et financières” à Bruxelles’ 16.02.2005 - 17.02.2005.

³⁷⁵ SIP, (2005) ‘Article d’actualité : Jean-Claude Juncker préside les réunions de l’Eurogroupe et du Conseil Affaires économiques et financières’ 07.03.2005 - 08.03.2005.

economic slowdown. However, the issue of a list of factors, to be taken into account during the qualitative appreciation of a slight excessive deficit over the 3 per cent, was still on the table; and if such a list was deemed appropriate, there was as yet no consensus on which factors should be included. Juncker was also not afraid to threaten to walk away from the negotiations himself if no agreement could be found on whether to include a list of factors to judge the existence of an excessive deficit.³⁷⁶ He argued that he would not conclude any reform just for the sake of it. Most participants saw this as a mere threat, but his public warning just got them back to the negotiating table with new ideas.³⁷⁷

The meeting on 22 and 23 March 2005, the Eurogroup came to an agreement after lengthy discussions. The Eurogroup and the Council of Finance Ministers agreed to reinforce the preventive side of the Pact forcing the member states to allocate possible budgetary excesses towards reducing the deficit and the public debt, in order to be able to have more latitude during low economic growth periods.

4. The revised Pact: what does it mean?

The SGP was based on two Regulations and a European Council Resolution. A positive aspect was that both the Maastricht fiscal policy criteria – 3 per cent of GDP for the budget deficit and 60 per cent of GDP for the debt level – remained unchanged. The new Council Regulation 1055/2005 amending Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies set out that

“in light of the economic and budgetary heterogeneity in the Union, the medium-term budgetary objective should be differentiated for individual Member States, to take into account the diversity of economic and budgetary positions and

³⁷⁶ SIP, (2005) ‘Article d’actualité : Jean-Claude Juncker préside les réunions de l’Eurogroupe et du Conseil Affaires économiques et financières’ 07.03.2005 - 08.03.2005.

³⁷⁷ Interview D

developments as well as of fiscal risk to the sustainability of public finances, also in the face of prospective demographic changes.”³⁷⁸

Furthermore, accent was put on saving and debt reduction in good economic times; unexpected additional revenues should be used for debt and deficit reduction. The Council, when assessing the adjustment path toward the medium-term budgetary objective, should also take into account whether a higher adjustment effort was made in economic good times, whereas the effort may be more limited in economic bad times.

“For ERM2 Member States, the Council shall examine if the Member State concerned pursues the annual improvement of its cyclically adjusted balance, net of one-off and other temporary measures, required to meet its medium-term budgetary objective, with 0,5 per cent of GDP as a benchmark.”³⁷⁹

The new Council Regulation 1056/2005 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure stipulated that member states avoid an EDP if they experienced any negative growth at all (previously the criteria was 2 percent). No EDP would be launched against a member state experiencing a protracted period of stagnation or of a very low annual GDP volume growth relative to its potential. Instead, if it was a ‘temporary deficit’ they could draw on more ‘relevant factors’ to avoid an EDP. Rather than prescribing a list of factors, the reform foresaw chapter headings, like potential growth, the economic cycle, structural reforms (pensions, social security), policies supporting Research and Development, and medium-term budgetary efforts (consolidating during good economic times, debt levels, public investment).³⁸⁰ Equally, member states which spent on efforts to

“foster international solidarity and to achieving European policy goals, notably the reunification of Europe if it had a detrimental effect on the growth and fiscal burden of a member state”³⁸¹

³⁷⁸ EC Council Regulation 1055/05 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies

³⁷⁹ EC Council Regulation 1055/05 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies

³⁸⁰ EC Council Regulation 1055/05 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure Article 1, par 2

³⁸¹ EC Council Regulation 1055/05 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure Article 1, par 2

could evoke these too. Furthermore, if an EDP was launched against a member state, the deadlines for the implementation of the proposed corrections were extended from 4 to 6 months. Finally, due consideration was to be given to the implementation of pension reforms in their budgetary assessments relating to the excessive deficit procedure. Carrying out such reforms may lead to a short-term worsening of public deficits, but a long-term improvement in the sustainability of public finances.³⁸²

5. Luxembourg's policy effectiveness

5.1. Luxembourg's preferences of the Stability and Growth Pact and the strategy

Luxembourg had no major difficulties in adhering to the criteria of the original SGP. However, it did not follow from this that Luxembourg's position was purely neutral and that it assumed simply the role of broker. Indeed, Luxembourg was very interested in the eventual outcome and wanted to keep the SGP as strict as possible. The reason is simple: a soft SGP and noncompliance by one or more member states would have an impact on the whole Eurozone and thus Luxembourg's economy as well- as can be evidenced by the Greek bailout. It can be safely argued that Luxembourg found itself in the small group of orthodox defenders of a strict SGP, along with the Dutch, the Finns, the Austrians, and the Spanish. One participant offered the following analysis:

“The ‘hero of Dublin’ invented the SGP. He was convinced of the idea. Luxembourg is also a country that traditionally understood the philosophy of budgetary rigour and could not understand that those parameters would suddenly be useless. It was politically quite easy because we did not care whether the excessive deficit was set at -3 or -5 or -2 per cent. Luxembourg was therefore seen by the others as neutral but the PM's personal involvement was a guarantee for those hardliners that he would not want to abolish the SGP as he had participated in the creation of the SGP. If he would have wanted to abolish the SGP, he would have

³⁸² *Euractiv*, (2007) ‘Stability and Growth Pact’ 7 July 2006, updated 19 February 2007

implied that what they had done 9 years ago was stupid. He had participated in the genesis of the Pact and did not want to abolish it or completely reinvent it.”³⁸³

The Luxembourg government made it a priority to conclude these negotiations under its presidency, as this gave it more influence over agenda-setting, the drafting of the proposals and it had asymmetrical information on the other member states’ positions. The most important mission of the Luxembourg presidency was to avoid a fundamental political crisis and the explosion of the SGP. Considering the polarised positions within the Council, it in fact had little political leverage.³⁸⁴ It had to move towards the positions of France and Germany; it was evident that it had to make political concessions. But the basic strategy was to give in as little as possible to them and to keep the SGP as strict as it could. Treaty modifications were out of the question for them, such as modifications of the 3 per cent and 60 per cent.³⁸⁵

Luxembourg had an inclination towards the Dutch position. It has been indeed suggested that the Netherlands had been allowed by Luxembourg to play a far bigger role than they should have by their natural importance in the negotiations, and that the Netherlands were the troublemakers, not France and Germany.³⁸⁶

Hirsch described Juncker’s preferences on a reform as follows:

- “- taking into account economic cycles (reducing debt during a period of good economic conditions, allowing the automatic stabilisers to operate if the market slows down);
- taking into account the criterion of the sum of the debt and its development;
- intelligent accounting of surpluses: it is not a case of counting the surpluses put aside in prosperous times as a deficit when a government uses them when the economy slows down;

³⁸³ Interview B

³⁸⁴ *European Voice*, (2005) ‘Juncker must keep à la carte stability pact off menu.’ 10 March.

³⁸⁵ Interview B

³⁸⁶ Interview B, C

- neither is he an advocate of excluding spending on such areas as research and military investments from the deficit calculation because this, in his opinion, would be tantamount to opening Pandora's box.³⁸⁷

Concretely, Luxembourg would have liked to include the debt criterion in the calculation of the deficit. It wanted to avoid the creation of a list of factors which allowed a member state to escape an EDP at all costs, and it wanted to avoid the possibility that this list could be invoked at any stage during the EDP.

5.2. *Was Luxembourg policy effective in the reform of the SGP?*

Luxembourg managed to achieve a few of the objectives it had set for the reform of the SGP in 2005, but by no means most or all of them. It can therefore be argued that Luxembourg was “low in policy effectiveness” in these negotiations. One of the objectives was to get an agreement as close as possible to the old SGP. That was only partially achieved. The Commission still has the right to issue recommendations and early warnings, there were no Treaty modifications, no list of pertinent factors, economic good times had been emphasised, structural reforms in the calculation of the deficit were included, and the situation of a slight and temporary excessive deficit was clarified. On the other hand, the debt criterion had been abandoned, “chapter headings” and a list of relevant factors had been created, and timeframes to correct the excessive deficits had been enlarged. The role of the Commission was weakened, and the role of the Council strengthened.

If we look back at the mission statement of the government, the first objective was to avoid a fundamental political crisis in the EU. That was achieved. In 2005, the priority for the presidency was to get an agreement that would work and would not leave the Eurozone without any rules on budgetary discipline. Considering that Germany had threatened to walk away from the negotiation table and ‘destroy’ the Pact, it was absolutely necessary to

³⁸⁷ Hirsch, M., (2004) ‘Luxembourg at the Helm: Experience, Determination and Self-Denial.’ *Notre Europe Studies & Research N°37*, p.27. Available at: <http://www.notre-europe.asso.fr/IMG/pdf/Etud37-en.pdf>.

find a solution which Germany, the biggest economy of the Eurozone, would accept, even if that meant softening the Pact.

6. Discussion: which factors mattered?

6.1. Domestic politics

As Heipertz and Verdun note,

“the SGP dossier was and is by its nature the subject of international negotiation and interaction, hence an arena where only a very narrow set of domestic actors can wield strong influence on governments, and where exclusively governmental actors are involved in the actual deliberations at the European level. Therefore, in the SGP case, the only potentially strong domestic actors are central banks and political parties. To a lesser extent, an important role is also played by specific lobby groups (such as trade unions or banking associations), mainly via their influence on public opinion that in turn bears on the behaviour of parties.”³⁸⁸

However, other factors should be taken into account when one is defining domestic politics: the approval procedure and the quality of institutional coordination. In the years before the reform, public finances had not been in surplus as the public was used to. Luxembourg had not voted for the continuation of the EDP against France and Germany. Approval in Luxembourg was relatively easy to achieve in the reform of the SGP, as the two regulations did not have to pass Parliament and even though the Central Bank of Luxembourg’s director criticised the agreed outcome.

Institutional coordination was very important during the presidency as information had to be gathered and processed on many different levels. The Luxembourg presidency invested considerable human resources in the running of the presidency. Within the Finance

³⁸⁸ Heipertz M., Verdun A., (2010) *Ruling Europe. The Politics of the Stability and Growth Pact*. Cambridge University Press, p 44

Ministry, a new advisor to the Finance Minister was employed who was, together with the other main advisor, the main coordinator for the sharing of information, the drafting and the negotiations. They had the process and the technical knowledge to steer negotiations.

However, Luxembourg's government had another advantage that applies to very few states, namely the fact that the Prime Minister was also Finance Minister, and incidentally also had been elected President of the Eurogroup. Juncker had taken on his function as President of the Eurogroup on 1 January 2005, and became simultaneously acting President of the Council of the European Union, while being Prime Minister and Financer Minister. One negotiator argued that

“it helped that he was president of the Eurogroup. I didn't doubt that we wouldn't finish it. It was not clear that it would happen under Luxembourgish presidency, but certainly Juncker was the best player in the field. He is a Christian Democrat which makes him a compromise man and he is Luxembourgish which also makes him a compromise man- and he was the longest sitting Minister of Finance....He cheated of course by being PM at the same time. So he had a link with the European Council, he knew everybody and he could do a bit of arm-twisting.”³⁸⁹

In some countries, the Finance Minister and the Head of State or Government were often not on the same wavelength, and had different priorities and visions of what would be an appropriate reform. This often led to power struggles between the Finance Ministries and the offices of the Head of State or Government. These dual visions within individual governments created either a situation where Finance Ministers would agree on something, but this agreement would not be approved by the Heads of State, and Finance Ministers would have to go back to the negotiation table, which was embarrassing and time-consuming. The other possibility was that Finance Ministers would have to interrupt negotiations to check with the Head of State whether the proposal was acceptable to the Head of State, making other Finance Ministers question the credibility of the Finance Minister in question. These were problems of institutional coordination which Luxembourg did not have; instead it was able to negotiate on both levels, and could shape the agreements. As Juncker himself stated in the European Voice: “I often observe the

³⁸⁹ Interview C

following when I sit around the European Council table: I see that heads of state and government say the opposite of what their finance ministers have said a few days or weeks before,” Juncker said. “I regret the lack of co-ordination.”³⁹⁰ This is a problem that he rarely encountered with himself, as he admitted in another interview.

Information on France’s and Germany’s positions was vital, and both the Finance Ministries and the office of the President or of the Chancellor had to be consulted.

“We already tried in the EFC to narrow the options as far as possible and to define them as much as possible to try and solve several things. But in many cases that was not possible and many capitals argued they were political questions. Not only in Paris and Berlin were the negotiations a matter for the head of state or government. Therefore it was difficult for the EFC members to pronounce themselves on an option, because they had to go back home and hold internal consultations to see what was acceptable for the heads of state and governments as they often saw the issue differently to the finance ministers in many countries. Consequently our work in the EFC was focused on getting a clear picture of the battlefield. The political questions became fewer and fewer or became more detailed. In the discussion one member would agree to give in on one issue and when one made concessions then we could maybe change one or two options or merge them into one by consensus, but then we had to ask the ministers what they wanted.”³⁹¹

Experience had shown Luxembourg’s negotiators that there was a rift between the Finance Ministries and the offices of the Heads of State in both Paris and Berlin. The problem of having two different visions within one government complicated the negotiations to a significant degree, as the credibility of the negotiators suffered. Their strategy was to know all the sensitive issues for each member state, so as to be able to propose compromises. In Germany the Chancellor’s line was to soften the Pact or else destroy it for electoral reasons, while the Finance Minister adhered to the basic lines of the existing Pact. In France, the Elysée also understood the issues differently to Bercy. Therefore, the danger was always that no agreement would be found at the level of the Finance Ministers, and the issue would be tabled at the European Council. It was implied that, if this happened, any progress in the

³⁹⁰ European Voice: Juncker re-appointed as Eurogroup president. 18.01.2010

³⁹¹ Interview B

negotiations would come to naught, as Heads of State or Government simply were not familiar enough with the SGP and the wildest ideas would have suddenly appeared.

It was vital that agreement was found among Finance Ministers, but it was also vital that Luxembourg knew what Heads of State were expecting in general terms of the reform. Access to these people was essential, and only someone who played in both the arena of the Finance Ministers and the arena of the Heads of State and Government, could combine and frame these expectations in a coherent package. Juncker had this privileged access and could therefore anticipate the reactions of the Heads of State and Government. As a small country, the circuits of the communication flow were very tight and only a selected few were directly involved in the preparations of the working documents. The communication network was also kept small and the presidency managed through this method to include all the main actors in a 'circle of trust' and so knew what their bottom lines were. This is an example of the specificity of Luxembourg's political system at the time, just as in the creation of the SGP in 1997. Furthermore, it is a specificity of Luxembourg which is partly due to its smallness. This institutional coordination worked well on the lower levels as well, as we will see in the dealings with the major players within the capitals during the presidency.

6.2. The decision-making procedure

In matters concerning economic governance, the Eurogroup and the Economic and Financial Committee (EFC) play a central role alongside the Council of Finance Ministers (ECOFIN). Even though the Eurogroup is only an informal forum for discussions among the finance ministers of the Eurozone, it

“pre-agrees all critical Council decisions with relevance for the euro area member states, it also functions as a forum where ministers decide on the overall orientation of economic governance in the euro area and establish common interpretations of EMU's core policy instruments. This might seem surprising given that the group is

not mentioned by the Treaty (...) and lacks any formal decision-making competences.”³⁹²

Puetter describes the EFC as the senior expert committee in charge of EMU affairs: Its task is to review the economic and financial situation in the EU and to act as an advisory body to the Commission and the Council. All substantial issues for discussion within the Eurogroup are prepared within this committee. The role of the EFC as a *de facto* preparatory body for the Eurogroup is based on an agreement with the non-euro countries. Through the involvement of the non-Euro EFC members in the preparations, the out-group is kept informed on the Eurogroup’s agenda. Furthermore, the EFC secretariat, the committee’s so-called Eurogroup working party and the respective Eurogroup presidency share the work of the more detailed preparations. COREPER is not involved in the preparatory process.³⁹³

The decision was taken under Qualified Majority Voting in the ECOFIN Council and in a cooperation procedure with the European Parliament on the issue of surveillance and coordination of economic policies, while the EP was only consulted for the changes of the EDP.³⁹⁴ QMV has as its basis of Article 205(2) of the EC Treaty. Following the 2000 intergovernmental conference and the Nice Treaty, the number of votes allocated to each Member State has been re-weighted, in particular for those States with larger populations.³⁹⁵ This came into force on 1 November 2004 and necessitated a QMV of 231 votes of 321, while the blocking minority was 67 votes. Under the Nice Treaty the votes were distributed as follows among the members: Germany, France, the UK and Italy received 29 votes, Spain and Poland 27, the Netherlands 13, Belgium, the Czech Republic, Hungary, Greece and Portugal 12, Austria and Sweden 10, Finland, Denmark, Lithuania, Slovakia and Ireland 7 votes. Luxembourg, Latvia, Slovenia, Cyprus, Estonia received 4

³⁹² Puetter U., (2004) ‘The Role of the Eurogroup in EMU and the SGP.’ *Journal of European Public Policy*, Vol. 11 No. 5, p. 855

³⁹³ Ibid, p. 859

³⁹⁴ European Parliament, (2005) ‘European Parliament legislative resolution on the proposal for a Council regulation amending Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies’ (COM(2005)0154 — C6-0119/2005 — 2005/0064(SYN))

³⁹⁵ European Commission, Glossary: Qualified Majority Voting. Accessed on 16. 02. 2009 and available at: http://europa.eu/scadplus/glossary/qualified_majority_en.htm

votes, while Malta had 3 votes.³⁹⁶ The member states of the Eurozone commanded the vast majority of the votes (191 votes in total) in the Ecofin in 2005. Consequently, agreement there is often only a formality whenever Eurozone ministers reach a consensus among themselves prior to a Council meeting. Comparing the voting weight of the Eurozone member states with the voting weight of the non-Eurozone member states in 2005, the Eurozone's weight was 191 votes against the 130 votes of the outsiders. This still left the non-Eurozone members the theoretical possibility of constructing a comfortable blocking minority if they wanted to go against a pre-agreement of the Eurogroup- a far flung possibility though. Verdun and Schure argued that there was a clear division between large and small states in the negotiations.³⁹⁷ If we count the Netherlands, Austria, Finland, Spain, Luxembourg in the camp of the hardliners, they were short of a blocking minority (61 votes instead of 67). Hence, it was clear from the start that France, Germany and Italy could get their way.

Under the consultation procedure, the European Parliament is asked for its opinion on proposed legislation before the Council adopts it. The Council consults the EP before taking a decision on the Commission's proposal and makes sure that its opinion is taken into account. The Council is not legally obliged to take account of its opinion but cannot take a decision without having seen it.³⁹⁸ This applied to EC Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure. The cooperation procedure applied to the amendment of EC Regulation 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies, just like in 1997.³⁹⁹

³⁹⁶ Moberg A., (2002) 'The Nice Treaty and Voting Rules in the Council.' *Journal of Common Market Studies*, Vol.40, No. 2, p. 263

³⁹⁷ Schure P., Verdun A., (2008) 'Legislative Bargaining in the European Union.' *European Union Politics*, Vol. 9, No. 4, p.

³⁹⁸ European Parliament: 'The consultation procedure.' Accessed on 16. 02. 2009 and available at: <http://www.europarl.europa.eu/parliament/expert/staticDisplay.do?language=EN&id=55&pageRank=4>

³⁹⁹ European Commission, 'Glossary: The cooperation procedure.' on 16. 02. 2009 and available at: http://europa.eu/scadplus/glossary/cooperation_procedure_en.htm

Under the cooperation procedure, the EP gave the proposed Common Position of the Council a scathing report. The tone of the second reading's explanatory statement could not have been more condemnatory:

“the fact that the Council did not, in its Common Position, accept any of the amendments submitted by the European Parliament mirrors once more the obvious democratic deficit in the architecture of economic governance in place. While the European Parliament made the utmost effort to complete the two readings within the shortest possible time frame, the Council totally ignores the position of the European Parliament and even goes so far as to name the European Parliament the scapegoat for the failure or delay of the reform of the Stability and Growth Pact should the Common Position not be speedily adopted. The Rapporteur wants to express his strong disapproval of this obvious lack of respect for the Parliament and lack of political will to truly cooperate with the Parliament in the process of reforming the Stability and Growth Pact.”⁴⁰⁰

Yet, due to the pressure from the Council, and more specifically from the Luxembourg presidency, the EP adopted a resolution approving the Council's common position. The EP approved the common position even though this did not respect its position from the first reading. MEPs rejected the amendments of the Economic and Monetary Affairs Committee, voting by 257 votes in favour to 309 against 1 abstention, not to reinstate amendments which had aimed at ensuring a stricter application of the preventive arm of the pact. Time pressure certainly played a role in getting the Council to adopt a common position and the EP's approval. Due to the tabling of at least 4 Eurogroup and Ecofin meetings in such a short space of time (January, February and March), the presidency created a sense of urgency within the Council. However this sense of urgency was real. The reason for exercising pressure was simple, yet very effective: the next presidency was to be held by the British, who could have either delayed further negotiations for another 6 months, as it is not a member of the Eurozone and as they would have control over the

⁴⁰⁰ European Parliament, (2005) 'Recommendation for second reading on the Council Common Position for adoption of a Council regulation on amending Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies.' PE 359.997v02-00, p.8

agenda. Considering that the British Finance Minister is not a member of the Eurogroup, it was hardly a priority of the British to pass this. As mentioned above, the Luxembourg presidency exercised a lot of pressure on the EP to approve the Common Position, even though it did not take any of the EP's amendments on board. The EP wanted to pass a reform, but realised that passing it under a British presidency was highly unlikely, and so was forced by the Council to accept the agreement as it stood. In the end, the final legislative act was approved on 27 June 2005, three days before the British presidency took over the helm of the Council. A close call indeed!

In conclusion, we can clearly see that the negotiation context mattered to a great extent in these negotiations and had a considerable negative effect on Luxembourg's policy effectiveness. The European Parliament did not have sufficient powers to influence the outcome enough because of the cooperation and assent procedures, and was at the mercy of the Council. Time pressure probably helped to force the small member states into agreeing what was, in their view, a weaker pact.

6.3. Member states' preferences:

"the good, the bad and the ugly" or how large states dominate small states

Several proposals were floated in the run-up and during the negotiations which lasted from September 2004 to March 2005. The issues which were rarely mentioned as contentious in the interviews were: the promise to keep budget deficits low in 'good economic times' and to increase the peer pressure. The contentious issues were the inclusion of the debt criterion next to the budget deficit criterion; the timeframe before sanctions would be increased after an EDP was launched; a potential list of factors to be invoked to escape an EDP, and at what stage of the procedure these could be invoked. The most contentious issue in the reform negotiations was a possible list of relevant factors to allow a member state to escape an EDP when the economic decline of real GDP is in the grey area of 0.75 per cent and 2 per cent. These factors could then be calculated out of the budget deficit.

6.3.1. Germany

The German government was prepared to start a major political crisis in the EU and wanted to destroy the SGP if its demands for more flexibility were not met.⁴⁰¹ It was using to a full extent its biggest member state status in these negotiations and threw all its political weight behind it. Schröder abandoned the prudent political stance that former German governments had adopted in EU negotiations and dismissed the long-standing political dogma in German politics of a prudent fiscal policy and monetary stability. It is possible he did not want excessive budget deficits and economic mismanagement to become an election theme in 2006. He threatened to walk away from the negotiation table.⁴⁰² But the government also had previously faced severe criticisms from within his country, namely from the CDU and the Bundesbank, who accused it of jeopardising monetary stability and managing the federal budget in an irresponsible manner.⁴⁰³ Werner Becker from the Deutsche Bank presented the following German demands:

- “1. Excessive deficit proceedings are to be initiated against a country with a budget deficit exceeding 3% of GDP ‘only if a member state has made serious errors’.
- 2. The Commission and the Council should take ‘qualitative’ factors into account in addition to the quantitative 3 per cent rule, both when deciding whether a deficit is excessive and – should deficit proceedings be deemed necessary – when structuring the consolidation timetable. The federal government seeks to draw up a list of qualitative factors that is as comprehensive as possible, paying special attention to:
Structural reforms like Agenda 2010:
 - Quality of government expenditure: e.g. proportion allocated to education, research & development and capital expenditure
 - Low inflation is to be regarded as positive
 - Special burdens like German reunification (net transfers of around EUR 80 billion p. a.)

⁴⁰¹ Interview B, D

⁴⁰² Interview B,C

⁴⁰³ Interview A

-Net contribution to EU budget / solidarity payment (2003: about EUR 6.9 billion)”,⁴⁰⁴

The German government favoured a list of relevant factors which could be invoked at any stage in an EDP, even when it was already in motion and just before sanctions would be decided.⁴⁰⁵ Among the factors, it wanted the burden of reunification included. The initial SGP foresaw on the contrary that exceptional circumstances can only be invoked at the beginning of the procedure when the Commission has issued a Recommendation and this is up for a decision at the Eurogroup. It also wanted a detailed list instead of a vague list, and wanted it written in a Regulation to make it binding and legal. Several factors were mentioned: burden of reunification, contributions to the EU budget. It has been suggested that the German government wanted to reform the Pact in such a way which would create a situation in which Germany would not have an excessive budget deficit anymore.

6.3.2. *France*

The French government had always been slightly reluctant to accept the SGP rules. The culture of the 5th Republic always saw monetary policy as a political and economic instrument, and did not see monetary stability as a valuable goal in itself like the Germans had done. It wanted more flexibility in the corrective arm of the SGP, i.e. in the excessive deficit procedure. Furthermore, it had been pressing for reform since 2002, so it was willing to compromise a lot because the cost of no agreement would have been very high for the French. Chirac’s popular support in France was very low and his credentials for reforming the French economy had been waning for some time. The French government wanted an agreement and was broadly in favour of the idea of a list of factors, but did not want to accept the explicit “burden of reunification” advocated by the Germans. It also advocated a list of factors to be taken into account before the initiation of an EDP, such as “military expenses, development aid, administration costs and pensions” listed as relevant factors. This list amounted to almost 30% of the budget that could be calculated out of the EDP and

⁴⁰⁴ Becker W., (2005) ‘Reform of the Stability and Growth Pact- A Licence To Run Up Debt.’ *EU Monitor. Deutsche Bank Research*. 28 April.

⁴⁰⁵ Interview B, C

consequently its position was slightly discredited. The French government also wanted to change the grey area of discretion for the Eurogroup if a decline in real GDP was noted between 0.75 per cent and 2 per cent.⁴⁰⁶

One participant analysed the positions of France and Germany as follows:

“The position of France had the same interests as the Germans in the short term, but not in the long term. They were allies up to a point. The Germans had absolutely no intention to consolidate. They expected that they would be in a situation of excessive deficit for 3 or 4 years and wanted to be left alone in the medium term. They wanted to give themselves margins and wanted to be allowed by the reform of the SGP to perform big tax reductions, along the lines of reduce to re-bounce. They wanted to do big structural reforms, and therefore their deficit would rise because they needed these reforms to be re-elected. Because they thought the reforms were appropriate, the money would flow in and then they would be able to repay the deficit.”⁴⁰⁷

The French faced a great challenge with their public debt and the civil servants realised that they need to reduce both the deficit and the debt but also that it was politically impossible to get quickly out of the situation. The Pébureau Report, an independent report, had illustrated the problems. One participant said:

“They wanted to be left alone in the short term but they did not play as much on gaining time as the Germans. The French and the Germans had converging interests up to a point- but then they diverged as one looked closer. The French also agreed on the relevant factors etc. But they were more serious in their way- in the economic rationale and in terms of what they wanted- than the Germans. On the whole the idea of the Germans was to create an instrument which would not bother them because otherwise they would not hesitate to destroy it. The French on the other hand wanted to keep the instrument, were convinced that it would help them in the medium term to solve their structural budgetary problems but they also did not want to be bothered in the short term.”⁴⁰⁸

⁴⁰⁶ Interview A, B, C, E

⁴⁰⁷ Interview B

⁴⁰⁸ Interview B

The Italian government wanted infrastructure and investment in the Mezzogiorno to be included in the relevant list of factors.⁴⁰⁹ Greece stated that it, Belgium and Italy (the countries having the highest public debts) would not agree to the Commission's proposal on upgrading the special weight the issue of a member-state's public debt has on the Pact. As regards time limits which must be provided for member-states with excessive deficits to return to the path of fiscal stabilization, the member states 'governments did not appear ready to agree on the Commission's proposals.'⁴¹⁰

6.3.3. *David versus Goliath? The Netherlands and other hardliners...*

Schure and Verdun explain in their article on legislative bargaining in the EU that there were three different preferences by the three groups of member states: the small states preferred 'Commission discretion', medium sized states preferred 'no Council discretion', and big member states preferred 'Council discretion'.⁴¹¹ They tested this assumption positively on the preferences of the member states in the reform of the SGP.

The Dutch government wanted to keep as close as possible to the old SGP, calling for stricter enforcement on the preventive side of the Pact, especially on the sustainability of public finances (with regards to old age pensions). Its position was very much in line with the ECB. It wanted to avoid countries running excessive deficits and endangering monetary stability. The Dutch Finance Minister wanted to prevent a list of factors and the exclusion of expenditure from the budget calculations. The Austrians also wanted a strengthening of the rules, as it is in their fiscal tradition to have healthy budgets.⁴¹²

One member of this hardliner group pointed out that they had two possibilities:

“we could either stick to the old pact, which would mean that nothing happened, that it was effectively dead; or we could try to reach a compromise which would be

⁴⁰⁹ Interview C

⁴¹⁰ Greek Embassy, (2004) 'EU finance ministers exchange views on reshaping of Stability Pact'. 13 September.

⁴¹¹ Schure P., Verdun A., (2008) 'Legislative Bargaining in the European Union.' *European Union Politics*, Vol. 9, No. 4, p. 481-482

⁴¹² Interview C

balanced. This would mean that we would be more restrictive elements for the good times and also more opportunities for the Commission to intervene. Then we could have some flexibility during the bad times. That would be an acceptable compromise. It was unacceptable to exclude certain kinds of expenditures. I was willing to accept an extra year, or if it's a very small excessive deficit over 3 per cent, that we would be flexible under certain circumstances.”⁴¹³

Their aim was to get a framework around these exceptions favoured by the Germans and the French. So the Dutch tried to include terms like ‘benchmarks’, ‘medium-term objectives’, or ‘temporary’.⁴¹⁴

Emotions were running high when asked about the economic rationale for a flexibilisation of the rules. As one participant put it:

“These are more political interests. Many countries, especially the smaller countries, said that they cannot accept the request of the big countries- those big countries who defined what EMU should look like, those big countries who defined what the criteria should be and those big countries for which the criteria were designed. That those big countries should dictate to them, after they had redirected all their policies towards adhering to the SGP, what the new SGP should look like- just because it doesn't suit them any longer.”⁴¹⁵

There was the concern that prospective Eurozone members of East and Central Europe would find it politically difficult to sell budgetary consolidation to domestic opinion if the current Eurozone members relaxed the rules. Some of the non Euro members equally had an interest in these negotiations, but experienced the disadvantage of being excluded from the negotiations in the Eurogroup, which weakened their position considerably. One participant explained this argument very forcefully:

“If the small countries support this, then no one can ever again ask them to consolidate because the SGP says so. If the SGP is watered down now, then the small countries cannot guarantee that they can bring up the political force to

⁴¹³ Interview C

⁴¹⁴ Interview D

⁴¹⁵ Interview B

implement a budgetary policy which is conform to the SGP. This was argued especially by the small countries, also those from Central and Eastern Europe, who were not yet in the Euro area, and more specifically the Baltic States, who were at the time very much influenced by the Swedish and Finnish budgetary policies. They argued very forcefully that the parameters should not be allowed to be watered down because, for them, they were the only arguments in order to reduce their high deficits, with all the big social costs involved. They had to say: those are the parameters, we have to do this to join the Euro, to respect the SGP, in order to avoid sanctions. If you take this anchor away from us, then we are politically not credible anymore, then we cannot implement those policies anymore. Those were more political and emotional argumentations. But indirectly they are economic interests: the non Euro members wanted to keep the parameters because they needed them to implement those policies which would allow them to join the Euro. On the other hand the watering down of the criteria would have allowed them to join the euro quicker. There was certain ambivalence and it depended on how serious they were.”⁴¹⁶

The costs of a breakdown of negotiations would have been disastrous: budgetary coordination within the EU would not make sense without Germany as the biggest economy, inviting other member states to flaunt the Maastricht criteria. The consequence of this would be that the ECB would find it very difficult to make confident forecasts on monetary inflation and on setting interest rates. Furthermore, it would have undermined confidence in the EU's fiscal framework and the sustainability of public finances in Eurozone countries. As Verdun and Schure argue,

“it became clear that the coalition of small and medium-sized member states was unable to persuade France and Germany to consider a Pact with less discretion.”⁴¹⁷

The policy preferences were very polarised on this issue; two camps can be clearly identified. In one corner, we have France, Germany, Italy and other ‘fiscal sinners’ fighting against the Netherlands, Austria, Finland and other small countries such as Luxembourg.

⁴¹⁶ Interview B

⁴¹⁷ Schure P., Verdun A., (2008) ‘Legislative Bargaining in the European Union.’ *European Union Politics*, Vol. 9, No. 4, p. 481

Hence, there was less leeway in these negotiations for Luxembourg, as on this occasion it found itself in the wrong corner against the might of France and Germany.

6.4. The Luxembourg presidency

The presidency of the European Council in the second semester of 2004 was held by the Netherlands. The Netherlands did not have time to spend on negotiations on the SGP reform other than to hold two meetings in the Ecofin which started the negotiations. However, these Ecofin Council meetings had other Excessive Deficit Procedures running against several Member States. The first meeting, which was informal, was held on September 10th 2004 in Scheveningen and had several items on the agenda, namely the Greek deficit and the discussion of the Commission Communication. It was the desire of many countries not to start under the Dutch presidency because nobody could imagine that Dutch Finance Minister Zalm would preside over the discussion in a manner that would induce consensus. As one participant put it:

“It was the sometimes explicit, sometimes implicit desire of many countries that it should run under Luxembourgish presidency, even though they were put more in the hardliner camp, but as people to whom one can talk. At that moment, many heads of state and government had pronounced themselves on the issue and so it was thought a good idea that one who plays in both clubs would lead the negotiations. This was not the case for Zalm, who could not do the communication with the heads of state as easily because, as finance minister, he would never have had the access to Chirac or Schröder.”⁴¹⁸

But Luxembourg had intensive contacts with the previous Dutch presidency. At the end of the Dutch presidency, Gerrit Zalm and his team came to Luxembourg and they explained their strategy. They were in favour of more restrictive elements during the good times and for the possibility of the Commission to intervene in good times, and then more flexibility

⁴¹⁸ Interview B

when bad times came.⁴¹⁹ Since December they had been working continuously on the updates of this working document. This was necessary to establish a guide to the reform.

The procedures of drafting and negotiating were as follows: the Eurogroup came together, then around 5 people drafted a proposal. At the time the secretariat of the EFC had no secretary, because its former secretary, Günter Grosche, retired in December 2004. As the Eurogroup was a new institution and the presidency had not had that much experience in administrative matters, they hired Günter Grosche as advisor to Juncker as president of the Eurogroup. He was personal representative of the President of the Eurogroup and participated as such in the meetings of the Eurogroup. Because he was a known figure in the Ecofin to the ministers and had occupied a neutral position, he read out the summary in the mornings of the meetings because we wanted to avoid the Prime Minister being directly attacked as president of the Eurogroup. He was the link between the Eurogroup and the Ecofin. However, the German government did not appreciate Mr Grosche's presence and consequently he had to stop this activity, but continued as Juncker's advisor. The Luxembourg Finance Ministry staff wrote the conclusions, and sometimes they included some political interpretations. The meetings would start with a summary of the preceding meeting, then the negotiations would continue.

The Luxembourg presidency received some criticisms from the start, notably from the Germans. The chairman of the EFC, Caio Koch-Weser, who was also State Secretary in the German Federal Ministry of Finance, prepared the first couple of meetings, trying to influence the agenda and direction of the negotiations. The chairman of the EFC should have taken the position of a consensus builder. However, this was very difficult for him, as he also had to push a specific national agenda while at the same time being the referee. The Luxembourg presidency wanted to avoid an excessive German influence, and others were not prepared to accept Koch-Weser's leadership in the negotiations. So the Luxembourg Finance Ministry took advantage of its prerogative to set the agenda and draft the

⁴¹⁹ Interview B, C

preliminary proposals, thereby taking charge of the negotiations and sidelining Koch-Weser.⁴²⁰

The presidency worked with both secretariats, the secretariat of the Committee on Economic and Financial Affairs and the Council Secretariat. In the case of the Council Secretariat, they worked with them on procedural and legal matters, even though they also discussed economic matters with them. With the DG ECFIN secretariat, they discussed mostly the economic aspects, and they drafted documents together. On a personal level the working relations were very good. They also had good working relationships with Commissioner Almunia.⁴²¹ The presidency wrote the draft proposals with the people from the Secretariat, who were delegated there by the Commission.. The presidency always sent them their work, so that they could check how it fits in the discussions, and who was likely to oppose the proposals. The distribution network consisted of Paris, Berlin, The Hague, Brussels (because their member of the ECFIN was in charge of the issue), Cabinet Almunia, of the secretariat of the DG ECFIN and of the Council. They always sent them a preview before they sent the proposals to everyone. This allowed them to collect opinions from the Commission, who are the guardians of the treaty, then the ‘demandeurs’, and then some neutral people. The key ‘demandeurs’ were always consulted before the document was released to the others.

One member of Luxembourg’s negotiations team provided the following analysis:

“I think that the presidency exercised a strong power. It depends on the determination of the presidency. But it was exactly because of Koch-Weser’s bias that a neutral deal-broker was not possible. Koch-Weser was especially angry, as it was an institutional coup d’état against him, taking his powers away. All these dossiers came under the presidency, even the drafting. It was not possible otherwise. No discussions on this subject were held in the EFC on our document- we gave it directly to the ministers. A presidency’s power is what one makes of it; it can go far beyond agenda-setting. It depends on how one wants to do it.”⁴²²

⁴²⁰ Interview B

⁴²¹ Interview B

⁴²² Interview B

Thus the Luxembourg presidency was in permanent contact with all the negotiating parties, and Juncker visited and received some Heads of State and Finance Ministers over the course of the three months. The Dutch were briefed on the discussions with the others.⁴²³ The Dutch and Austrians did not coordinate their positions, but it has been suggested that this happened more or less spontaneously.⁴²⁴ While the Dutch Finance Minister was a known and vocal hardliner for a strengthening of the Pact, the Austrian Finance Minister was more subtle in his declarations. The presidency motivated them to oppose France and Germany because many other member states were silent on the issue. The presidency urged them that they should be very hard in the negotiations and give up very little because, as a presidency, Luxembourg needed this pressure to balance that coming from the other side.⁴²⁵ Furthermore, we have seen already that the Luxembourg government was leaning towards their position and consequently needed someone who would voice its views.

We can see that both holding the presidency and coordinating effectively between the different institutions had an impact on Luxembourg's partially successful strategy. It fully exploited the access to information on the other member states' preferences and its control over the negotiation procedure, but as argued before, it had very little leeway against the demands of France and Germany.

6.5. Individual-level factors

Individual-level factors are based on past relations, political longevity and experience and belonging to the same political family. Past relations between Luxembourg's negotiators and the other main actors had changed since 1997. While Luxembourg still presented the same Prime Minister, France the same President, Chirac, and The Netherlands the same finance minister, Zalm, in Germany the SPD ruled. While there has been some evidence that Juncker and Schröder got on well in general, on this issue they were clearly divided.

⁴²³ Interviews B, C

⁴²⁴ Interview C

⁴²⁵ Interview B

Nevertheless, praise for Luxembourg's presidency on forging an agreement, and more specifically Juncker, abounded. The new French Finance Minister Thierry Breton congratulated Juncker for the "masterful direction" of these negotiations of this historical debate.⁴²⁶ One participant praised him:

"He did a good job with respect to the Germans. He convinced them about certain things. Because Zalm was too direct for Mr Eichel, the Dutch were no longer effective in negotiations. I think we got much more than we expected from the start. We were not completely sure about Juncker's position, because he is on very good terms with the large countries, so we were not always sure if he would be an honest broker. But he was."⁴²⁷

On a less serious note, Zalm said after the success of finding agreement on the SGP that

"he [was] prepared to contact the Pope if Juncker can now get a deal on the EU's next sticky problem, the financial perspectives for 2007-13."⁴²⁸

Unfortunately, the agreement on the financial perspectives only came about under the British presidency, so Zalm could not be called upon to fulfil his promise. Another participant in these negotiations said: "Jean-Claude Juncker has a lot of experience, and he is a smooth operator."⁴²⁹ The personal expertise, seniority and reputation of Juncker had a major impact on the participants' willingness to cooperate and come to an agreement. Again, the unique double advantage of having access to both the Heads of State and to the Finance Ministers gave Juncker an extraordinary access to information about the preferences of these negotiators, and gave ample opportunities to play with several levels within a member state. "Contrary to many discussions that came after, a lot of the details were discussed at length and there were very detailed talks on the more technical issues at the ministerial level."⁴³⁰ This is an indication of the fact that ministers had to be well prepared because the discussions, and here Juncker's experience of being finance minister

⁴²⁶ SIP, (2005) 'Communiqué : Accord sur la réforme du pacte de stabilité et de croissance.' 21.03.

⁴²⁷ Interview D

⁴²⁸ *European Voice*, (2005) 'Blessed are the deal-makers.' 24 March.

⁴²⁹ Interview H

⁴³⁰ Interview B

for over 13 years came into play. Furthermore, it seems that ambiguity was the negotiation strategy of Juncker:

“I think that Juncker was very effective in the idea that on the one hand I keep the Netherlands in and on the other I keep France and Germany. I imagine that was the strategy, then the rest would follow. Juncker was smart. He did an extremely good job, also taking positions when necessary.”⁴³¹

While in Dublin in 1996, Christian Democrat Prime Minister Juncker had a powerful ally in Germany’s Christian Democratic Chancellor Kohl and his CSU counterpart Finance Minister Waigel, the situation had changed in 2005. Germany was governed by a SPD-Green coalition who did not share the same values as Luxembourg’s CSV. France was governed by Chirac’s centre-right RPR, then UMP, which was following a more dirigiste approach in budgetary and monetary affairs. The Netherlands were governed on the other hand by the Christian Democrats CDA (Prime Minister Balkenende’s party) in coalition with the liberal Party for Democracy and Freedom (VVD) which is more economically liberal and held the Finance Ministry under Zalm. As argued elsewhere, Luxembourg’s government was closer to the Dutch, belonging as they did to the same political family.

The small circle delegated to find a solution included the Netherlands, France, Germany and Luxembourg. All but one of the interviewees hailed Juncker’s and the staff’s competence as a major factor. Acquiring the trust of all the major players, having personal qualities such as appearing as honest broker and being a “compromise man” while also taking a stand, seem to have been crucial in getting an agreement. The Luxembourg presidency focused on two axes of communication: one with France and Germany, and the other with Austria and the Netherlands. These two also embodied two opposing visions of the reform, and represented the main actors of each camp. In the Dutch camp, we can include Austria, Spain, Finland, and Commissioner Solbes. The French and German camp incorporated Italy, Greece, Portugal, and Belgium. Their strategy was to know all the sensitive issues for each member state, so as to be able to propose compromises. Referring to the relations with the Luxembourg presidency, one participant said:

⁴³¹ Interview C

“They were very good. We talked a lot to them, and they knew exactly what we wanted. They also knew exactly what the other big member states wanted. They did the go-between between France and certain member states and the Dutch and certain others on the other hand.”⁴³²

We can see from this analysis that past relations, belonging to the same political family and expertise could have had a significant impact in Luxembourg’s policy effectiveness in this case. Indeed, all but one of the interviewees (who was not included in the ‘circle of trust’) have hailed Juncker’s and the staff’s competence as a major factor in getting an agreement. However, even though present, this factor did not increase Luxembourg’s policy effectiveness in this particular case. These individual-level factors did not seem to shift other negotiators’ preferences. It was clear that reputation and individual-level factors could not make up for the polarised preferences.

7. Conclusion

The previous sections have shown that Luxembourg managed to achieve some of the objectives it had set for the reform of the Stability and Growth Pact, but by no means most or all of them. Therefore, it could be argued that Luxembourg was low in terms of policy effectiveness. If we look back at their mission statement, the first objective was to avoid a fundamental political crisis in the EU. That was achieved. The second objective was to get an agreement as close as possible to the old SGP. That was only partially achieved. The Commission still has the right to issue recommendations and early warnings, there were no Treaty modifications, no list of pertinent factors, economic good times had been emphasised, structural reforms in the calculation of the deficit were included and the situation of a slight and temporary excessive deficit was clarified.

On the other hand, the debt criterion had been abandoned, “chapter headings” had been created, and time frames to correct the excessive deficits had been enlarged. The reasons

⁴³² Interview F

for this “low policy effectiveness have also been identified in this analysis: The major factor impeding or favouring a member state’s policy effectiveness is the position of other member states in relation to the preferences of the member state in question. The constraints on these particular negotiations have been identified and discussed at length above. There was a general consensus in the Eurozone member states’ governments on loosening the Pact’s provisions for strengthening the preventive side and weakening the dissuasive side of the EDP. It has been shown that the political will to reform was clearly present, except in Germany, whose government was prepared to let the negotiations fail if its excessive deficit situation was not resolved by the new SGP.

Luxembourg clearly favoured the Dutch version of a new pact, and gave it more importance in the negotiations than it would have had otherwise, thereby serving its own interests. However, as Germany had moved closer to France’s vision of a Pact, the Netherlands could not do much to prevent a flexibilisation of the rules. If Germany and France have roughly the same visions then the small countries have little chance of being policy effective. This finding confirms previous statements that no decision would be taken against an alliance of both countries.⁴³³ It also confirms that under QMV, it is much more difficult to be highly policy effective. Finally, it has been shown that the European Parliament, although it has been granted some powers in monetary matters, could not use them and was not only overruled by the Council, but was also effectively neutralised by time pressure and by considerations of monetary stability.

The following factors did not have a positive impact on policy effectiveness: holding the presidency of the Council of the European Union, reputation and domestic politics. Luxembourg’s presidency achieved to get an agreement, but not necessarily one which it had in mind. While the personal expertise, seniority and reputation of Juncker had a major impact on the participants’ willingness to cooperate and come to an agreement, it did not shift the preferences of Germany and France towards its own preferred outcome. The decision-making procedure of QMV was clearly not in Luxembourg’s favour as it found

⁴³³ Hosli M., (1996) ‘Coalitions and Power: Effects of the Qualified Majority Voting in the Council of the European Union.’ *Journal of Common Market Studies*, Vol.34, No. 2, pp. 255-273.

itself in a minority position. The process and content knowledge, stemming partially but not only from holding the presidency, and the coordination of the staff at the Finance Ministry with all the critical players, did not bear fruit. Time pressure had a negative impact in the sense that the hardliners had to give in to French and German demands. Similarly, while the approval procedure had been easy and institutional coordination was extraordinarily high and used to a maximum extent, it did not bring the intended results.

Chapter 7: Luxembourg's role in the negotiations of the EU Council Regulation 883/2004 on the coordination of social security systems, subsection Unemployment benefits

1. Introduction

Moving on from monetary union into the area of social security, this case offers a different insight into how a member state can be policy effective in EU negotiations. While the first two cases were moving in the lofty dimensions of high politics, this case goes down to the nitty-gritty details of everyday decision-making which nevertheless has a deep impact on people's everyday lives. In the context of the overarching principle of free movement of people in the European Union, an effective and fair coordination of social security systems is essential to make this principle a working reality. In December 1998 reform was initiated by the Commission who wanted to remove the obstacles to the free movement of persons created by the coexistence of different national social security systems within the internal market. More specifically it planned to establish the principle of the State of last employment to be competent in all areas of social security, notably in the area of unemployment benefits for frontier workers.⁴³⁴

Luxembourg had a considerable interest in this specific point, as 38 percent of total employment is occupied by non-residents in Luxembourg and these represent 20 percent of all non-resident workers in the EU. The Commission proposal entailed that unemployment benefits should be paid by the member state where the former employee was working, not where he was residing, for a maximum period of six months. Luxembourg could not accept

⁴³⁴ European Commission, (1998) 'Proposal for a Council Regulation (EC) on coordination of social security systems'. COM/98/0779 final-AVC 98/0360. Official Journal C038, 12/02/1999. P0010.

this for several reasons: firstly because the financial burden on its system of benefit payments would be considerable; secondly for domestic political reasons and finally secondly because of the absence of harmonisation of social security payments in the European Union.⁴³⁵

On December 1, 2003 the Council of Ministers decided that the country of employment pays three months of benefits to the country of residence, or 5 months for people who worked there for at least 12 of the last 24 months, to the rates applicable in the country of residence. In effect the competency stayed with the country of residence but the country of employment participates in the payment of benefits. The principle that was retained in the regulation is that Luxembourg pays only three months benefits to the country of residence for those persons who lost their job. However this disposition did not apply to Luxembourg. EC Regulation N° 883/2004 stipulated that although the country of employment would contribute for at least three months, the country of residence would still be the one paying the unemployment benefits. Luxembourg would only be liable to pay 5 months of unemployment benefits if it chose to start and conclude bilateral agreements with its neighbours. So Luxembourg got an exception for the 5 months financing and a delay of application for registering frontier workers at the job-seeking agency.⁴³⁶ The regulation was initially going to enter into force in 2007. But the implementing Regulations 988/2009 and 987/2009 were only approved in September 2009, so finally it entered into force in 2010. Therefore Luxembourg could be said to have been medium policy effective in these negotiations.

This case was chosen for several reasons. Firstly, it was hailed as a success by the government in Luxembourg to defend its particular labour market and social security system. Secondly, and as opposed to the other two case studies, the decision-making procedure did not only involve unanimity in the Council, but also co-decision with the European Parliament- one of the most difficult procedures within the EU system. This case

⁴³⁵ Interviews A, B, C

⁴³⁶ SIP, (2003) 'Article d'actualité : François Biltgen présente l'accord relatif aux prestations de chômage pour travailleurs frontaliers'. 1.12.2003.

study also differs in one important aspect to the other two: it was a very low profile and technical issue, even though it impacts on peoples' rights and lives in a significant way. Finally it was a very interesting case because agreement was happening in the shadow of enlargement and because Luxembourg's position was opposing European integration and harmonisation- something of a rarity!

This chapter argues that Luxembourg's strategy of giving in as little as possible and as late as possible in an environment of unanimity worked. A strategy of distributive bargaining in an environment of low salience proved to be fruitful. If an issue is of little interest to the big member states, the Commission proposal is abandoned in favour of a sub-optimal agreement, and secondly that the EP can exert significant pressure on member states, and finally that European governance is sometimes based on the delegation of negotiations to a small circle of actors.

The following section presents firstly, the European Commission's proposal, then continues with a timeline on the negotiations and presents the agreed outcome. The next section presents the main features of Luxembourg's welfare system and the importance of frontier workers for the labour market. Luxembourg's aims, strategy and policy effectiveness will also be presented. Finally, the factors which played a role in Luxembourg's medium policy effectiveness are analysed. Was unanimity the main reason for Luxembourg's policy effectiveness? Did the European Parliament play a role in these negotiations? Which other member states had a stake in these negotiations? Did domestic politics influence the position of the government?

1.1. The build-up to the modernization from 1993-1998: in the name of transparency and simplification.

The coordination of social security systems was developed and had expanded over 30 years into a wide array of regulations, directives, special clauses, exemptions and case law. The member states' very different social security schemes offered a wide variety of rights to

workers and the self-employed, including levels of benefit. The coordination of social security was considered as an important step towards fulfilling the objective of free movement of persons. Even before the decision to reform the whole Regulation 1408/71 was taken in 1998, a previous Commission proposal which dealt specifically with the situation of frontier workers was published in 1992. This proposal already entailed that the country of last employment, not of residence would be responsible for unemployment benefits. It also already recognised that Luxembourg has a specific situation and the Commission wanted to change the rules but give Luxembourg a transition period of 10 years. The EP then issued an opinion in which it suggested the transition period for Luxembourg be reduced to 5 years. The proposal was shot down by 6 or 7 member states, so that the Commission abandoned the issue without ever formally withdrawing it.

In line with the call for simplification made at the Edinburgh European Council of December 1992 and in the interests of transparency and readability, the Commission considered it appropriate to simplify the coordination rules. Indeed this was one of the arguments, along with making bridges between national legislations and, more importantly, introducing some innovations towards harmonizing legislation, which were put forward to justify a reform of this immensely complicated and politically sensitive dossier. Furthermore data-processing and exchange had changed considerably over the last 30 years, and new rules had to be introduced to take those into account. The proposal was created within the framework of second phase of the SLIM-programme (Simpler Legislation for the Single Market). Finally, the changes in national legislation and the interpretations and case law of the European Court of Justice since the 1970s had to be taken into account appropriately and included in the new proposal.⁴³⁷ Since the coming into force of the Amsterdam Treaty, the proposal has as its legal base Articles 18, 42 and 308 TEC.

⁴³⁷ European Commission, (1998) 'Proposal for a Council Regulation (EC) on coordination of social security systems'. COM/98/0779 final-AVC 98/0360. Official Journal C038, 12/02/1999. P0010.

2. Meanwhile, in Luxembourg...

2.1. *Frontier workers and their unique contribution to the economy*

The problem the Luxembourg government foresaw with the Commission proposal was that it would put a huge financial burden on Luxembourg's national budget because of the sheer number of frontier workers in the country. When the welfare state was created, the capital as well as the workforce in the steel industry came from abroad.⁴³⁸ Today the situation has not changed significantly: multinational companies and migrants and frontier workers play a crucial role in Luxembourg's economy.

The number of both foreign residents and frontier workers from the neighbouring regions of Saarland and Rhineland- Palatinate in Germany, Wallonia in Belgium, and Lorraine in France has steadily increased since 1983. While in 1984, around 10 percent of the total workforce were frontier workers in Luxembourg, the latest statistics show that they count now for over 40 percent of the workforce.⁴³⁹ The percentage of nationals working in Luxembourg has been declining over the years, with a steady progression both of foreign residents and frontier workers. While in 1970, Luxembourg nationals made up over 70 percent of the salaried work force, this was reduced to 35.5 percent in 2001. In comparison, frontier workers made up less than 10 percent in 1970, but this number increased to around 37.5 percent of the workforce employed in Luxembourg in 2001. The obvious explanations for this increase are the comparatively high unemployment rates in the neighbouring regions, the higher salaries in Luxembourg, and the lower taxation rates.⁴⁴⁰

The flux of frontier workers between Saar-Lorraine-Luxembourg-Rhineland-Palatinate-Wallonia shows the attractiveness of Luxembourg in 2001. The region attracting the most frontier workers was Luxembourg: the total number of workers crossing the border from

⁴³⁸ Kerschen N., (undated) *Entwicklungspfade von den Ursprüngen hin zu Europa : Das luxemburgische Wohlfahrtssystem*.

⁴³⁹ SIP, (2003) 'Portrait économique et social du Luxembourg'

⁴⁴⁰ Brosius J., (2007) *La recherche d'emploi des frontaliers au Luxembourg*. CEPS/INSTEAD No 26. 26 September.

Belgium, France, or Germany totalled 96 100. In comparison, Rhineland-Palatinate attracted 2470 frontier workers from the other countries (except the Saarland), while Wallonia saw 3300 workers crossing the border and the Saarland 26 100 (except the workers from Rhineland-Palatinate).⁴⁴¹ In the regions around Luxembourg, Saarland, Rhineland-Palatinate, Lorraine and Wallonia, the unemployment rates of June 2008 varied from 5.4 percent in Rhineland-Palatinate to 13.4 percent in Wallonia (national figures). The number of unemployed people was estimated around 500 000 persons and the total population was 11 million. It was estimated that the number of frontier workers in Luxembourg exceeded 150 000 in 2008. Of these, around 50 percent came from France, 26 percent from Belgium and 24 percent from Germany.⁴⁴² The percentages of Luxembourg nationals, foreigners living in Luxembourg, and frontier workers working in the different sectors of the economy are illustrative of the dependencies of the labour market on foreign and frontier workers. 40 percent or more of the construction, real estate and service to companies, financial services, trade and transport and communication sectors were dependent on frontier workers in March 2002.⁴⁴³ The importance of the frontier workers has increased both in numbers and consequently in the domestic political debate in Luxembourg.

Many of the frontier workers are employed in Luxembourg on the basis of either short term contracts or fixed term contracts. In most other countries, unemployment benefits are considered an insurance, similar to a medical insurance. In Luxembourg it is not an insurance, but it is a right to a replacement salary which is guaranteed by the state. Benefit is paid for twelve months on a sliding scale:

- first six months – 80 percent of basic salary (85 percent if applicant has a dependent child), up to 2.5 times the social minimum wage;
- last six months - the same percentage of basic salary, up to 2 times the social minimum wage.

The amount was reduced if the unemployed person lived with someone who earned more than twice the social minimum wage. Benefits were automatically indexed to changes in the

⁴⁴¹ SIP, (2003) 'Portrait économique et social du Luxembourg' p. 40

⁴⁴² Administration de l'Emploi Luxembourg, (undated) Report.

⁴⁴³ SIP, (2003) 'Portrait économique et social du Luxembourg' p. 41

cost of living. To qualify for unemployment a person needed to have worked in Luxembourg for at least 26 weeks in the last twelve months and to have left the job for reasons not of his or her own free will.

It has been almost impossible to calculate or project the estimated number of frontier workers that would benefit from receiving unemployment benefits in Luxembourg. There was almost no reliable statistics available on the number of unemployed frontier workers because they have to register with the job-seeking institution of their country of residence, not with Luxembourg's ADEM. The only way to find out how many people who used to work in Luxembourg and have lost their job is by looking at the claims form E301 which is issued when a frontier worker loses his job and has to apply for unemployment benefits in his home country.

Table 7.1: The number of claims forms E301 delivered to frontier workers:

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008
Germany	992	1.595	1.497	1.972	1.859	1.898	2.610	2.092	2.315
Belgium	581	885	774	898	730	683	905	662	601
France	5,024	7,504	7,631	8,988	8,029	7,541	10,506	8,942	10,407
Total	6,597	9, 984	9,902	11,858	10,618	10,213	14,021	11,696	13,323

Source : Ministère du Travail⁴⁴⁴

The claims form E301 proves the period of employment of the frontier worker in Luxembourg so that he can claim unemployment benefits in his country of residence. While frontier workers benefited relatively more from the periods of high growth and high employment in Luxembourg than resident workers, it is not altogether surprising that they are relatively more affected in this period of low, or even negative growth.⁴⁴⁵

⁴⁴⁴ Ministère du Travail: Rapport d'activité 2008 http://www.mte.public.lu/ministere/rapports-activite/rapport_act_2008.pdf pp170

⁴⁴⁵ Statec, (2009) 'Note de conjoncture 2009'.

http://www.statistiques.public.lu/fr/publications/series/noteConjoncture/2009/note_conjonct_02_09/note_conjonct_02_09.pdf pp58

At first sight it may seem that these statistics are a good indicator of unemployment among frontier workers. However, there are several problems with it: firstly, in Belgium, frontier workers are not required to present this particular claims form to claim unemployment benefits. This means that the number presented in the table above may well not represent the true extent of Belgian frontier workers who had lost their job. Secondly, most of the French frontier workers are working in the interim sector, meaning that they have usually short periods of unemployment in which they have to claim the E301 form. This may then lead to one frontier worker claiming 10 E301 forms a year, which may inflate and distort the numbers of unemployed frontier workers.⁴⁴⁶ As frontier workers rarely register with the ADEM, this may be one indicator, albeit a distorted one, for finding out the extent of unemployment among frontier workers. If we look at the evolution of unemployment in Luxembourg since 2001, we can see that the total amount has almost doubled.

Table 7.2. Evolution of the number of claims for unemployment benefits in Luxembourg since 2001:

Year	2001	2002	2003	2004	2005	2006	2007	2008
Number of claims	5.522	6.692	8.103	8.710	8.983	9.266	9.029	10.016

*Source: Ministère du Travail*⁴⁴⁷

If we look at the evolution of unemployment benefits paid out, we can see that there has been a tripling of the total amount since 2001.⁴⁴⁸

⁴⁴⁶ Interview with a civil servant

⁴⁴⁷ Ministère du Travail, 'Rapport d'activité 2008'

⁴⁴⁸ Ministère du Travail: Rapport d'activité 2008 http://www.mte.public.lu/ministere/rapports-activite/rapport_act_2008.pdf, p.161

Table 7.3. Evolution of unemployment benefits paid out (in millions Euro):

Year	2001	2002	2003	2004	2005	2006	2007	2008
Millions	42	60	90	109	121	121	123	130
Euro								

While the number of claims has doubled in the years 2001 to 2008, the actual total sum paid out for unemployment benefits has more than tripled. This suggests that not only unemployment levels have risen, but also that cash benefits have risen enormously. This shows clearly the potential financial impact if frontier workers were to get their unemployment benefits from their state of last employment, Luxembourg. All this shows the important consequences an unemployment benefit law based on the State of last employment could potentially have on Luxembourg in the face of an economic downturn. In the face of massive redundancies, the financial costs for paying these unemployment benefits would be enormous for the Luxembourg social security systems.

3. The Commission proposal: a slap in the face for Luxembourg?

On December 12 1998 the Commission issued a new proposal which would apply the same rules to all areas of social security: the competent state would be the state of last employment, including unemployment benefits and without a transition period for Luxembourg. The then Commissioner said that the current Regulation 1408/71 was totally unintelligible, that it was evidently not working well.⁴⁴⁹ The stated purpose of this Regulation was to coordinate the Member States' social security legislation. However, as the Economic and Social Committee points out, its scope was in fact greater, since it introduced important amendments to the way certain matters are regulated compared to the current rules.⁴⁵⁰ The Commission wanted to establish a direct link between country of

⁴⁴⁹ Interview A

⁴⁵⁰ Economic and Social Committee: Opinion of the Economic and Social Committee on the 'Proposal for a Council Regulation (EC) on coordination of social security systems' 15.03.2000. OJ C75/29

employment and social security systems. The whole proposal covered such a wide range of important issues such as pensions, invalidity benefits, or sickness benefits, but for the purpose of this analysis, only the question of the financing of unemployment benefits for frontier workers will be considered.

As for the definition of the "competent" State, the old Regulation 1408/71 laid down rules (Title II of the Regulation) which determined which country's legislation applied in the event of a conflict between the laws of two or more Member States. The principle was that a person is subject to only one country's legislation which, as a rule, is that of the Member State in which he or she is employed or self-employed. The State of employment was as a rule thus the 'competent State' and the rights of the worker/self-employed person to social security benefits are decided by that State. However, the exception was unemployment benefits for frontier workers, where the competent State was the State of residence, and this was one of the exceptions the Commission wanted to get rid of.

Article 5 of the Commission proposal entitled "Waiving of the residence rules" stipulated that "a benefit due under the legislation of one or more Member States may not be refused or subjected to any reduction, amendment, suspension, withdrawal or confiscation on account of the fact that the beneficiary resides in the territory of a Member State other than that in which the institution responsible for providing benefits is located. This would apply to unemployment benefits. Article 51 set out the unemployment benefit conditions for unemployed persons who, during their last employment, resided in a Member State other than the competent State, which in this proposal would be the country of last employment.

"A person insured against unemployment who, during his last activity as an employed or self-employed person, resided in the territory of a Member State other than the competent State and who makes himself available to the employment services in the territory of the State in which he resides, shall receive the benefits provided by the competent institution in accordance with the provisions of the

legislation of the competent State as though he were available to the employment services of the said State.”⁴⁵¹

Furthermore, the frontier worker has the right to choose between making himself available to the employment services of the State of last employment or the State of residence. These two articles constitute the crux of this chapter. The Commission wanted to establish the rule that

“firstly, persons are subject to the legislation of one Member State only, and secondly that a person pursuing a professional activity in a Member State is subject to the legislation of that State (*lex loci laboris*); and lastly that persons not pursuing a professional activity are subject to the legislation of the Member State where they reside. It is to be noted that persons who have the right to a social security benefit by virtue of pursuit of a professional activity (sickness/unemployment benefits) and who no longer pursue such activity, are nevertheless considered to be continuing to pursue it”.⁴⁵²

The waiving of the residence rule, which would apply to unemployment benefits as well, and the proposal that the State of last employment would pay for the unemployment benefits of frontier workers, were the main issues which were worrying the Luxembourg government. An account of this reform proposal’s long path towards agreement will be presented to facilitate an understanding of the complexity of the negotiations.

4. The Council and European Parliament negotiations: a long and winding road

On the 12 December 1998, the Commission submitted to the EP the proposal for a European Parliament and Council regulation on the coordination of social security systems.⁴⁵³ In the EP Committee on Employment and Social Affairs, Jean Lambert was appointed Rapporteur in July 1999. The EP was very interested in the situation of frontier

⁴⁵¹ European Commission, (1998) ‘Proposal for a Council Regulation (EC) on coordination of social security systems’ COM/98/779 final Explanatory Memorandum.

⁴⁵² European Commission, (1998) ‘Proposal for a Council Regulation (EC) on coordination of social security systems’ COM/98/779 final Explanatory Memorandum.

⁴⁵³ (COM (1998) 779-1998/0360 (AVC)

workers and played an active role in the negotiations of the issue analysed in this case study. On 27 January 2000 the Economic and Social Committee gave its opinion by 79 votes to 5 with 20 abstentions.⁴⁵⁴ The ESC welcomed the waiving of residence rules without comments and broadly agreed with the proposal of the Commission. It made no comment either on the unemployment for frontier workers, indicating a clear acceptance of the Commission's proposal on this matter. As Rob Cornelissen, Head of the Unit 'Free Movement of Workers and Coordination of Social Security Schemes' in DG Employment and Social Affairs pointed out, no significant progress was made in the institutions of the Council from 1998 until 2001.⁴⁵⁵ This lack of progress allegedly stemmed from the fact that there was no real order in which issues were negotiated, nor was there general agreement on principles or parameters around which discussions could centre and progress.

The European Council, gathered in Stockholm on 23 and 24 March 2001, mandated the Council to start working on certain parameters for the modernisation of the Regulation 1408/71 by the end of 2001. On 8 October 2001 the President of the Council concluded that there was room for further discussion, since there were still differences of opinion on making the State of last employment responsible for such provision. Some fears were expressed that, if this was the case, the authorities responsible for helping to find new jobs would not be the same as those responsible for paying unemployment benefits and would not be located in the same State. In addition, the financial burden would be unfairly distributed.

Three months later however, the Council of Employment and Social Policy managed to adopt some parameters for the modernisation of Regulation 1408/71 on 3 December 2001.⁴⁵⁶ It distinguished between general parameters, which would help for changing very technical provisions, and specific parameters. Among the general parameters, parameter 4 concerned the waiving of the residence rule, which the Council recognised as essential to

⁴⁵⁴ Economic and Social Committee, (15 March 2000) Opinion of the Economic and Social Committee on the 'Proposal for a Council Regulation (EC) on coordination of social security systems'. OJ C75/29

⁴⁵⁵ Cornelissen R., (2009) 'Presentation at the TRESS Seminar in the UK.' Accessed on 20.12.2009 and available at: www.missoc.org/TRESSNEW/PUBLIC/SEMINARS/.../UK_2009_6.ppt

⁴⁵⁶ Employment and Social Policy Council meeting 3 December 2001 C/01/451
http://www.ispesl.it/dsl/dsl_repository/Sch39PDF08Marzo06/Sch39PayDiffGendDOC.69216.pdf

compliance with the basic principles of Community law. Continued work was made provisional on the situation of frontier workers with regard to unemployment benefits (parameter 10). This indicated that no consensus was found on this chapter. Nevertheless, the Council noted that certain benefits should not be exportable, particularly when they were closely linked to the social context of a specific Member State (mixed-type non contributory benefits) or should be exportable only within certain limits or certain situations (unemployment).

“The specific parameter 10 on the unemployment chapter must be simplified while respecting the current coordination rules. In the case of an unemployed person who, when last in employment, was resident within the territory of a Member State other than the competent State, the main aim is for that person to be integrated as well as possible into the labour markets. It will also be necessary to ensure adequate social protection for the unemployed person, to take account of the financial aspects of the question and to guarantee effective control.”⁴⁵⁷

These general and specific parameters were critical for Luxembourg. While the general parameter 4 already mentioned that unemployment may not be included in the waiving of the residence rule, the specific parameter 10 remained very vague and did not give any indication on who would eventually pay for unemployment benefits for frontier workers. Luxembourg had been able to ward off the possibility that the State of last employment would be paying the unemployment benefits for frontier workers. While it was set in the general parameter that the waiving of the residence may not apply to unemployment, it was unclear whether it would also not apply to unemployment for frontier workers.

Pressure was starting to be felt by the Council as the EP elections loomed only 2 years ahead and enlargement was equally just around the corner. The Barcelona European Summit of March 2002 asked the Council to conclude its work so that the Regulation could be adopted before the end of 2003. Between June 2002 and June 2003 work was continued; however, it is not clear if the Danish presidency of the second half of 2002 put much emphasis on this issue.

⁴⁵⁷ Employment and Social Policy Council meeting 3 December 2001 C/01/451

At the last meeting of the EP Committee on Employment and Social Affairs on 11 June 2003, it adopted the draft legislative resolution by 19 votes to 15, with no abstentions. The only committee which delivered an opinion was the Committee on Legal Affairs and the Internal Market. Two Luxembourg MEPs were present at the vote: Robert Goebbels (LSAP- replacing Anne E.M. Van Lancker) and Claude Turmes (Déi Gréng- replacing Hélène Fautre). On 3 September 2003, the EP ended its first reading by proposing 47 amendments. On 10 October, the Commission approved the amended proposal and published its amended proposal on 14 October 2003.

On 20 October 2003 Minister Biltgen suggested that the country of residence stayed competent for the payment of unemployment benefits, but that the country in which the person was last employed pays three months of unemployment benefits, at the same rates applied in the resident country, to the relevant institutions of that country. Furthermore he made clear that Luxembourg would not pay 5 months of unemployment benefits. A certain number of member states asked to raise the length of the payment to six months. This would apply to those employees who had worked at least 12 months during the last 24 months in the country of last employment.

On December 1, 2003 the Employment and Social Policy Council came to an agreement. It was decided that the country of last employment would pay three months of benefits to the country of residence, or 5 months for people who worked there for at least 12 of the last 24 months, to the rates applicable in the country of residence. The Italian presidency noted that

“only two outstanding issues connected with this problematic dossier, which has been on the table of the Council since 1999, concerned the issues of the provisions regarding the unemployment chapter.”⁴⁵⁸

The agreement came about over the weekend before between the Ministers of Luxembourg, France, Belgium and Germany- indeed Luxembourg’s Minister had called them over the phone to hammer out a compromise. On 26 January 2004, the Council approved the

⁴⁵⁸ Employment and Social Policy Council meeting 1 and 2 December 2003 15443/03 (Presse 354)

common position, and work started on transforming it into a legal text. On 20 April 2004, the EP adopted two amendments to the common position, which were also approved by the Council. On 29 April 2004, the Regulation 883/2004 was adopted by the Council and the EP. On the 1 May, the EU was enlarged to 27 Member States, and in June the elections were held. A close call indeed!

5. The final outcome: Regulation 883/2004

The Regulation 883/2004 ensued, after approval by both the EP after the second reading and the Council in an Agriculture and Fisheries Council without debate in April 2004.⁴⁵⁹ Article 7 concerned the waiving of residence rules. This article applies to Articles 64 and 65, but only within the limits inscribed therein. Article 65 of the final Regulation stipulates that

“the State of last activity would reimburse unemployment benefits for a minimum of three months; and that the period of reimbursement would be extended to five months where the person concerned has, during the preceding 24 months, completed periods of employment or self-employment of at least 12 months in the Member State to whose legislation he was last subject, where such periods would qualify for the purpose of establishing entitlement to employment benefits”.

“The second issue concerned Luxembourg's request for a specific transitional period in view of the need to reinforce its employment services that would result from frontier workers being able to register additionally with the employment service of their State of last activity. The Council agreed that a two-year transitional period should be granted to Luxembourg”.⁴⁶⁰

In Article 86 on bilateral agreements, it is stated that as far as relations between, on the one hand, Luxembourg and, on the other hand, France, Germany and Belgium are concerned, the application and the duration of the period referred to in Article 65(7) shall be subject to the conclusion of bilateral agreements. In the section on transitional and final provisions,

⁴⁵⁹ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004. OJ L166 30.04.2004

⁴⁶⁰ Employment and Social Policy Council meeting 1 and 2 December 2003 15443/03 (Presse 354)

the Regulation states in Article 87 that the provisions of the second sentences of Article 65(2) and (3) shall be applicable to Luxembourg at the latest two years after the date of application of this Regulation.

6. Luxembourg's policy effectiveness

6.1. Luxembourg's preferences and strategy

The most important issue was the waiving of the residence rule in Article 5 of the proposed Regulation. If that was achieved, then the work would already be half accomplished, and details would only concern the amount of the reimbursement towards the country of residence. The State of last employment was supposed to cover all the benefits for the person employed, regardless of whether this person lives in the same Member State. This change in policy by the Commission was justified on the grounds that it contributed to one of the essential aims of the EU, namely it was supposed to improve the free movement of people. The waiving of residence rule was based on the principle of equality, and entailed that citizens covered by the regulation would enjoy the same rights and would be subject to the same obligations as the nationals of the Member State in which they reside and/or work. It is based on three basic elements: assimilation of the facts, aggregation of periods, and retention of rights, regardless of the citizen's place of residence.⁴⁶¹ Luxembourg's second objective was to get a delay of implementation for the registration of frontier workers at the ADEM. Luxembourg's unemployment agency had been criticised for not being pro-active enough and notoriously understaffed. The reform that was underway was contested domestically.

The government of Luxembourg wanted to keep the status quo on this issue. It did not accept the Commission's proposal as it was published. These extreme preferences led the government to adopt a distributive bargaining strategy where it tried to gain as much as

⁴⁶¹ Economic and Social Committee, (2000) *Opinion of the Economic and Social Committee on the "Proposal for a Council Regulation (EC) on coordination of social security systems*. OJ C75/29 of 15.3.2000

possible without regard for the benefits that other member states or indeed frontier workers would gain. The motto was “to give as little as possible only if we absolutely have to.” The Minister had given clear instructions to let agreements fail at lower levels, and ordered it to the level of Ministers, thereby creating an atmosphere of tension in this extremely complicated and technical dossier. The instructions to the working group and the COREPER were to block the proposal until the end.⁴⁶²

The reputation of a team of negotiators depends also on its coherence on the one hand, and on the clever use of the different strands of visions on the other hand. Clearly, using a discourse of Europeanisation and combining it with a discourse on national interests played out well in the end. To be precise, if one argues that one wants to further European integration but just cannot accept one particular point of a regulation, one is more likely to gain some understanding from the other negotiators, than if one adopts a die-hard approach. As the Minister for Employment Biltgen argued,

“Luxembourg has a tradition of being listened to, because we usually are playing a more pro-European role and are seen as brokers, and not defending a national position”.⁴⁶³

Specific references to Luxembourg’s special situation were made in official Council documents, indicating that Luxembourg was willing to let this regulation drag indefinitely until its demands were at least partially satisfied.

The issue was whether the country of last employment is responsible for the payment of unemployment benefits to frontier workers. Luxembourg’s government had realised however that the winds had changed since the first Commission proposal in 1993. It also realised that it could not block the proposal indefinitely because “at one point it would have been overrun.”⁴⁶⁴ Traditionally, Luxembourg always set out its position clearly and explained it, and said that it was ready to negotiate, in order to participate in the negotiations and to get something afterwards which would be advantageous. While Luxembourg had always argued that the frontier workers should be taxed in the state of

⁴⁶² Interview B

⁴⁶³ Interview B

⁴⁶⁴ Interview A

employment, it realised that its position on the issue of paying unemployment benefits for frontier workers was illogical. The strategy was to argue, that due to the wide disparity in national legislation, it was simply too difficult to develop a system in which the state of last employment was responsible for unemployment benefits. It questioned the practicability of tracing the unemployed frontier worker. What if he was working already again in his state of residence, but still continued to receive unemployment benefits from Luxembourg? Luxembourg also criticised the proposal that an unemployed frontier worker has the choice to register at the job seeking agency either in his state of residence or in the state of last employment, as in no other area of social security does the person have the choice between two different systems.

Once the parameters were in place, and unemployment was not going to be included in the waiving of the residence rule, Luxembourg's government had to find a solution to the demands that the state of last employment would pay back to the country of residence a portion of unemployment benefits. Again, this still was related to financial interests: how many months would the state of last employment pay back to the country of residence? The Commission proposal had meant that a frontier worker who was employed for less than 12 months would have 3 months of his unemployment benefits reimbursed by Luxembourg to the job-seeking agency of the country of residence. If he had worked there for more than 12 months, this reimbursement would increase to 6 months. Luxembourg argued that it could compromise and pay 3 months back, but that 6 months would be excessive. With its approximate 140 000 frontier workers, a high proportion of them in temporary positions, and the rising costs of unemployment benefits for the state's budget, the financial burden this proposal imposed on Luxembourg would have been considerable. The government and its negotiators therefore had to stress again and again that it was not defensible politically at home to agree to the Commission's proposal.

The duration of payment only became an issue after it became clear that the residence rule would still be applicable to the payment of unemployment benefits. The agreement was quickly reached on the amount of 3 months of paying the unemployment benefits back to the country of residence. However, the outstanding issue was whether 5 or 6 months would

be payable if the unemployed frontier worker had been working there for more than 12 months. Luxembourg did not accept this last formula and insisted it would become too costly for its administration. The other big economic interest for Luxembourg was that the unemployed frontier worker would be able to register with the country's job-seeking unemployment agency. Minister Biltgen argued that the government needed time to implement its reforms, and that only then could Luxembourg realistically fulfil its obligations towards the frontier workers.⁴⁶⁵

6.2. Was Luxembourg policy effective in these negotiations?

Luxembourg managed to get a transitional period of 2 years for frontier workers to register at its employment services, and it got the chance to form bilateral agreements with its neighbouring states on paying 5 months of unemployment benefits to the state of residence-bilateral agreements which it was never intent on realising. Furthermore, the waiving of the residence rule is not applicable to unemployed frontier workers.

Luxembourg managed to achieve some of the objectives it had set for the reform of the Regulation 1408/71, but not all of them. Therefore, it could be argued that Luxembourg was medium policy effective in this case. If we look back at its mission statement, the first objective was to avoid the inclusion of the principle of the country of employment in the financing of unemployment benefits. That was achieved but with the caveat of financing 3 months payable to the country of residence.

The second objective was to get delays of implementation. That was achieved, in subsequent negotiations it was established that Luxembourg will only implement these measures in 2012, rather than 2007 as originally planned. On the other hand frontier workers can register at both the resident and work-related unemployment agency, which will include them in the unemployment statistics, which enables the institutions to gather more reliable statistics on the available labour market in the *Grande Region*.

⁴⁶⁵ Interview C

Finally, why did Luxembourg come up with the solution of bilateral agreements, which would be negotiated on the reimbursement of 5 months of unemployment benefits? The Minister explained the ulterior motives behind this:

“We have an interest of working together with their administrations and finding things out. If we want to find out more what happens on our labour market, then we need to know more about what happens with those people- do they look for jobs in Luxembourg or not? Do they work in their country or not? For example, we pay partly invalidity pensions to former frontier workers which raises our unemployment statistics and we don’t even know if those people work in their home country or not. (There is the potential problem of fraud.)”⁴⁶⁶

Leaving it up to the member states to conclude bilateral agreements was effectively taking the issue out of the hands of the Commission. The fact that Luxembourg got in effect an exemption to pay 5 months of unemployment benefits to the country of residence has to be counted as a success. Indeed, this disposition would only be implemented if Luxembourg and the neighbouring decide to conclude bilateral agreements. So far, no country has shown any intention of initiating such negotiations.

7. Discussion

7.1. *Domestic politics*

This section will present the institutional factors which played in Luxembourg’s favour: the approval procedure related to the main domestic stakeholders, the absence of domestic debate and the subsequent freedom of the government to pursue freely its negotiation strategy. Finally, it is important to address the question of the coordination between ministries and the different levels of negotiation, and to assess the level of mobilisation of MEPs in the process.

⁴⁶⁶ Interview B

Firstly, an assessment of the political sensitivity of the large number of frontier workers in Luxembourg will shed light on the reasons for the extreme preferences the government was holding. It was clear to the Minister of Employment Biltgen and the entire coalition cabinet of Christian Socialists (CSV) and the Liberals (DP) that this was a politically charged issue, which could potentially bring a lot of negative press and a public opinion backlash of nationalistic sentiments. The Minister was under pressure from the cabinet that he should, under no circumstances, give up the principle of the state of residence in unemployment benefits.⁴⁶⁷ Both Luxembourg's massive economic dependency on frontier workers and their perceived linguistic influence had influenced the domestic political debate. They were and are undoubtedly seen as a valuable asset for business and the economy, contributing a high percentage to the growth of national GDP and productivity. Their skills and expertise made them sought after in the job market.

However it was also argued that because living costs were much lower in France, Belgium and Germany, they were willing to work for a lower salary than the residents, thereby taking away jobs from the residents.

“Levels of poverty and income inequality in Luxembourg are among the lowest in the world and that the 'depth' of poverty is comparatively low. When examining the Grande Région, Luxembourg stands apart as one of the richest regions in Europe and disposable incomes in Luxembourg are some 70% higher than in the neighbouring regions.”⁴⁶⁸

These lower living costs have even induced an increasing number of Luxembourg's residents to become frontier workers themselves.

Therefore, the economic advantages and disadvantages of the presence of frontier workers was and is a delicate subject, just by the fact of their sheer numerical importance. This has obviously been a favourite issue with the populist right wing ADR, who regularly called for

⁴⁶⁷ Interview B

⁴⁶⁸ Allegrezza S., Jesuit D. and Heinrich, G. A., (2004) 'Poverty and Income Inequality in Luxembourg and the Grande Région in Comparative Perspective.' *Socio-Economic Review*, Vol. 2, p. 263.

stricter language requirements in employment, and for a reduced dependence on frontier workers. It argued that national unemployment would decrease and that there would be fewer frontier workers if language requirements were reinforced. On the other hand, it seemed that the mainstream parties felt it was too much of a hot potato to discuss the issue openly. There were only some anecdotal calls for reducing the economic dependence on frontier workers and improving Luxembourg's education system to alleviate unemployment, especially with regards to the least qualified people.

The perceptions of the roles which frontier workers played in Luxembourg's society meant that approval for the Commission proposal would have caused considerable political damage to the government in an election year (2004). The findings suggested that the debate was low on this issue in the national political parties, trade unions and other fora. However, this does not mean that the issue was entirely uncontested.

The CSV (Christian Social People's Party) and the liberal DP (Democratic Party) were in coalition at the time. The CSV was responsible for Employment and Social Affairs, with Minister François Biltgen and Minister of Families, of Social Solidarity and of Youth Marie-Josée Jacobs being present at all negotiations. The LSAP (Luxembourg Socialist Worker's Party) was in opposition, but Robert Goebbels, MEP was member of the EP Committee on Employment and Social Affairs. Claude Turmes, MEP for the Greens, was also a member of this Committee. It seems that cross-national solidarity with frontier workers was low, as interviews suggested that even the LSAP viewed the issue as being of vital national interest rather than a European-wide issue to increase the rights of frontier workers.⁴⁶⁹ It was argued by the LSAP that considering the lower costs of living in the neighbouring countries, it was not really a problem that frontier workers receive their unemployment benefits from their state of residence. However, it considered it fair that Luxembourg contributes towards their unemployment benefits.⁴⁷⁰

⁴⁶⁹ Interview A

⁴⁷⁰ Interview I

Furthermore, the trade unions were not very vocal either. There are two general trade unions in Luxembourg. The Luxembourg Christian Trade Union (LCGB) is associated with the Christian Social People's Party (CSV), while the (bigger) Independent Trade Union Federation of Luxembourg (OGBL) is officially independent, but linked to the LSAP. Both the LCGB and OGBL have secretaries for frontier workers for every neighbouring country. Curiously the LCGB indicated that they chose not to take a position on the proposed reform.⁴⁷¹ Even though the LCGB has a secretary concerned with the rights of frontier workers, no opinion on this matter was publicly issued. As one member put it:

“In the area of social security- and I include here unemployment- we do less LCGB politics but national politics; on the whole in a very discreet manner in Brussels because we run really on a nationalist track there. It is clear however for a trade unionist that someone who works here and becomes unemployed should have the opportunity to register at our unemployment agency and receive his unemployment benefits here. This is the general position. But a small country which has so many frontier workers, 140 000! It is a financial burden which is enormous. This is why this issue was debated very discreetly.”⁴⁷² On the one hand, they draw some of their membership from frontier workers, but on the other, their main concerns are the resident workers.

This evidence indicates that the political elite were showing a united front in paying unemployment benefits for frontier workers. This is possibly linked as well to the Luxembourg model of the tripartite: it may have been decided in that confidential forum that the trade unions would not interfere on the government's line. It was easy to get the position approved by the major stakeholders involved: business organisations, all the political parties and even the trade unions were on the same line as the government. As one participant put it:

“We were informed about the negotiations in Brussels, and the difficulties ensuing. Just before the end, we were also informed that this could be a compromise which

⁴⁷¹ Interview E

⁴⁷² Interview F

Luxembourg would bring into the discussions. We gave our agreement to that compromise. It was a compromise which was supported by the social partners.”⁴⁷³

Public opinion would have probably been against it, had it been aware of the Commission’s proposal. Economic interests are often used as very persuasive arguments in EU negotiations and have to be taken seriously. This seemed to be the case here as well, even when one of the richest member states argued it could not afford to pay such an admittedly small price and in spite of all the revenues it received from frontier workers’ taxes. As shown in the section on Luxembourg and its frontier workers, Luxembourg was the country that would be most affected financially by the waiving of the residence rule.

Moving on to the coordination of institutions, several things are to be noted: while unemployment benefits are dealt with in most member states under the Ministry of Social Affairs or under similar denominations, in Luxembourg both the Ministry of Employment and the Ministry of Social Security negotiated this issue. The coordination between the Ministry of Social Security, which was responsible for the overall negotiations on this Regulation, and the Ministry of Employment, responsible for the particular issue of unemployment benefits, was essential to an effective negotiation strategy. While the Ministry of Employment was apparently not involved in the first phase of the negotiations, it took over the reins in the negotiations when the hot phase started. At the lower level of the working group on Social Security, the official representing Luxembourg had a very flexible mandate and no specific instructions. This unnerved some officials in the Ministry of Employment, who intervened and informed the Minister of this situation. The Minister then instructed the officials in the working group and in the COREPER to block the issue and let it rise to the level of the Council of Ministers, where he would be able to influence more effectively the negotiations. Both ministries agreed that they cooperated well, and that information flowed constantly on the status of negotiations from the Ministry of Social Security to the Ministry of Employment. Therefore, the fact that two ministries were involved did not impede Luxembourg’s policy effectiveness.

⁴⁷³ Interview F

Furthermore, Luxembourg enjoys continuity in its administrative and diplomatic personnel, most of whom are more than familiar with the EU dimension to their work. One participant offers the following self-assessment:

“Luxembourg does not have a big turnover. We have a certain advantage in having a smaller workforce than others because we are a small country. A lot of our officials are obliged to know the European dossier. Often we cannot go into so much detail as the others because they have more staff resources. But that reflex of knowing EU issues is there. That reflex is also 100% present in the political class. Every politician, whether in government or not, is aware that part of his work is at the European level. In other countries it is different. We have the huge advantage of having politicians who are more embedded in the EU than most of the other member states’ politicians as a rule and on a more regular basis”.⁴⁷⁴

This can give it certain advantages, like the historical memory of the staff, who know the negotiations process, the legislation and how it came about, what the problems were and are.

“In such a technical issue as social security, what really helps a country to defend a position is not the size of the country or its population but the profound technical knowledge of the issue and proposal. There are some countries, and Luxembourg is one of them, where there is a very good knowledge of both the law and the implementation”.⁴⁷⁵

What is curious is that during the Belgian presidency in 2001, when the political agreement for the parameters for the reform of the Regulation 1408/71 was formed, the Council document stated that Luxembourg was represented by the Minister for Social Affairs Marie Josée Jacobs and by the Prime Minister Juncker.⁴⁷⁶ Considering that this was a meeting of the Employment and Social Affairs Council, why was the Prime Minister present? The only other item debated that day that could have fallen under his remit were the Broad Economic Policy Guidelines. There were no other Finance Ministers or Prime Ministers present at this

⁴⁷⁴ Interview A

⁴⁷⁵ Interview E

⁴⁷⁶ Employment and Social Policy Council meeting 3 December 2001 C/01/451

meeting. I could not establish whether the PM had any obvious involvement in those negotiations. Nevertheless, it seems that the PM had managed to negotiate the particularly fuzzy parameter on the unemployment benefits for frontier workers.⁴⁷⁷

Finally, the national government mobilised its MEPs effectively to influence the Committee on Social Questions. Robert Goebbels, a Socialist MEP, had repeated contacts and used his networks to persuade the Committee Members that special arrangements for Luxembourg had to be accepted, considering the exceptional nature of its labour market, and of the consequent political sensitivity of the issue. Furthermore, two of Luxembourg's MEPs were present at the vote in the Committee: Claude Turmes (Greens) and Robert Goebbels (LSAP). They were explaining the problems Luxembourg would have to the EP Committee and played an active role in getting its agreement on the Council position.⁴⁷⁸

7.2. The negotiation context

The most difficult decision-making procedure was applied in the area of social policies, and more specifically in the coordination of social security systems: unanimity in the Council of Ministers and co-decision with the European Parliament. Considering both this difficult procedure and the vast scope of the reform of the Regulation 1408/71, it was little wonder then that the discussions lasted almost a whole parliamentary term of 5 years!

This procedure ran as follows: the EP analysed the Commission's proposal and the Committee on Employment and Social Affairs adopted a legislative draft resolution. The Committee on Legal Affairs and the Internal Market also delivered an opinion. The Commission produced an amended proposal. During all this time, negotiations ran parallel in the various levels of the Council: in the working group, in the COREPER and at the level of Ministers. After the Council reached a consensus, the EP proposed and voted amendments, on which the Commission gave a commentary, which would be taken into account when the Council voted on the amendments of the EP. The amended adopted

⁴⁷⁷ Interview C

⁴⁷⁸ Interview B

proposal went back to the EP who gave its second reading. Then the Council published a common position, on which the Commission writes a Communication. Finally the regulation was drafted and published.

As one participant put it:

“Unanimity is a big point. Most of the time, we do try to find a consensus on a text. Social security touches an essential element of the public, so each member state’s concern is taken into account. There are no small or big member states in the negotiations.”⁴⁷⁹

Clearly, here is an apparent contradiction in the way this is phrased. While unanimity is an important factor, there is always a quest for compromise in the Council in social security legislation.

Meanwhile, the European Parliament had not been happy at all since 1998: Some MEPs were indeed very interested in the coordination of social security system, and mostly in frontier workers. One interviewee argued that:

“there was an evolution in the EP: they were traditionally on the side of the Commission, but after a while they realised that they could not win on every point. This is normal in every negotiation; in the beginning you expect to win everything but then you are willing to give up certain points because you get certain others. The initial strong opposition of the EP led to negotiations in a constructive debate with Mrs. Lambert who had to convince the other members of the Committee to accept the package. One must not forget that it was only one point, one detail in the whole reform of the Regulation 1408/71. Mrs. Lambert played a very positive role in making the negotiations constructive and produced good results⁴⁸⁰.”

The EP in its first reading on the proposal on 17 June 2003 provided a definition of frontier worker in its Amendment 16 of Article 7 point (c a) (new):

“Frontier worker means any person pursuing an activity as an employed or self-employed person in the territory of a Member State and who resides in the territory

⁴⁷⁹ Interview E

⁴⁸⁰ Interview A

of another Member State to which he returns as a rule daily or at least once a week.”⁴⁸¹

No mention was made of the waiving of the residence rule.

Members of the European Parliament were conscious that frontier workers were directly in their line of responsibility. A frontier worker could not go to an MEP of his region or country, but had to seek support from an MEP of their country of employment. The situation of frontier workers therefore was at the very least a bilateral, at most even a European issue, which they were responsible for. Furthermore, “it would be a positive point which they could stress during elections: they did something to improve the situation of frontier workers.”⁴⁸² Some MEPs therefore were wholly in favour of the Commission’s proposal that the country of last employment should be responsible for frontier workers in all matters relating to health care and taxation. Dutch MEP Ria Oomen was particularly adamant to secure more rights for frontier workers. However, Luxembourg’s MEPs were much more inclined towards the position of their national government, realizing the financial burden that the Commission’s proposal entailed for their constituents.⁴⁸³

Time pressure was an important factor in the negotiations: the elections of the European Parliament in June 2004 were approaching and because of co-decision it was clear to the Council and the Commission that agreement had to be found and the legislation had to be passed by the current legislature. A new Parliament would have delayed legislation considerably because a new Committee would have to be appointed and would have had to get to know the dossier and the issues from scratch. Enlargement also put pressure on finding an agreement, as the ten new member states’ governments would have joined the negotiation table and could potentially have unravelled these numerous carefully agreed compromises on the previous chapters of a very sensitive political nature. Luxembourg was under pressure to give in from various sources: the Commission, the European Parliament, the presidency of the Council and the other member states. As one participant argued,

⁴⁸¹ European Parliament, (2003) ‘Report on the proposal for a European Parliament and Council Regulation on coordination of social security systems’ PE 324.285.

⁴⁸² Interview H

⁴⁸³ Interview F, G

“The pressure was on us because if we blocked one point, we blocked the whole package. This is why this point was excluded again and again while we continued working on the other points. When everything else was agreed, Luxembourg still had a veto on one point. Then they had to pressure Luxembourg so that it would give up that veto.”⁴⁸⁴

While at the lower level of the Council, no pressure was felt, at the COREPER France, Germany and Belgium appeared to be pushing Luxembourg towards accepting the Commission proposals. At the level of Ministers, meanwhile, the pressure was coming from the European Commission and from certain MEPs. The Minister was told that he was blocking reform on a whole package, not just an isolated issue, and that it was unacceptable. The difficulty of verifying whether this was a concerted and conscious act by the parties involved has been noted above. One could argue that this would be beyond the point anyway, as the perception of pressure is probably as significant as the actual pressure. What was clear was that the Luxembourg government felt under pressure to solve this problem and contribute to an agreement. The personal report of the Belgian representative in the COREPER mentioned that before the grand political agreement in December 2003, “we had to exercise a lot of pressure on Luxembourg on the unemployment chapter.”⁴⁸⁵

At the Employment and Social Policy Council of 20 October 2003 under the Italian presidency, the text makes a specific reference to Luxembourg. It states that

“due to a specific need of Luxembourg to mitigate the consequences of the current draft of Chapter 6 (unemployment benefits), agreement on this chapter had to be delayed until December. It is recalled that due to the complexity and urgency of this file, it was decided to reach agreement in Council on a chapter-by-chapter basis. Partial agreements have already been reached under the Spanish, Danish and Greek presidencies. Final approval will be subject to agreement on the text as a whole, pending which agreements on the different chapters are considered provisional.”⁴⁸⁶

⁴⁸⁴ Interview B

⁴⁸⁵ Interview D

⁴⁸⁶ Employment and Social Policy Council meeting 20 October 2003. 13538/1/03/REV 1 (Presse 302)

The Italian presidency of the Council was felt to exercise considerable pressure and to jeopardise Luxembourg's achievements in order to please the European Parliament.

This, along with the impending EP elections and enlargement to 27 member states, put quite intense pressure on Luxembourg, indicating quite clearly that if it failed to find an agreement on this issue, then it would endanger all agreements that had been found before. Neither the Council nor the Commission considered isolating the issue from the rest of the reform just to get a reform. One interviewee explained:

“There is a point in every delicate negotiation, after a certain amount of time, where all the member states are ready or willing to negotiate and accept a text in which they did not get everything they had imagined in the beginning, and then it works.”⁴⁸⁷

Pochet noted that three factors seemed to have been decisive for the adoption of the reform: firstly, the fear that any change would be impossible at 25 member states and therefore feeling that a compromise had to be reached rather than risking no change at all over the foreseeable future. Secondly, the end of the legislature of the EP would have postponed the examination of the changes for a considerable while. This pressure was also felt within the EP and helped avoiding institutional blockages. Finally, the revision method of adopting chapter by chapter allowed finding compromises to be spread out over time.⁴⁸⁸

What emerges is the realisation that the negotiation context, i.e. the decision-making procedure and the time pressure exerted mattered considerably in Luxembourg's eventual policy effectiveness. Indeed, unanimity was almost a guarantee that its concerns would be heard. But what about the other member states? Was the payment of unemployment benefits for frontier workers a salient issue in those domestic politics?

⁴⁸⁷ Interview A

⁴⁸⁸ Pochet, P., (2007) ‘Social Europe : Still binding regulations?’ *Paper prepared for the EUSA Tenth Biennial International Conference, Montréal, Canada, p.*

7.3. Member states' preferences

Other member states' preferences were very difficult to gauge because most interviewees remembered primarily the special situation of Luxembourg and the negotiations conflicts it caused. Furthermore, the time lapse and the natural disinclination of national governments to make their negotiation positions public did not help. The only clear evidence of a defined preference was found in Belgium and Italy, which expressed a clear choice in favour of the rule of the state of last employment. It was certainly in Belgium's financial interests, even if we only look at the figures for the Walloon province in 2004: there was a total flow of 37 055 people from Wallonia to the neighbouring countries, while it only received 4 711 frontier workers.⁴⁸⁹ One participant had recorded in her notes:

“it was clear that Belgium was very much in favour of the Italian presidency re-opening the debate on the state of last employment being responsible for the payment of unemployment benefits.”⁴⁹⁰

Here is a clear indication that Belgium and Italy had supported the Commission's proposal.

By looking at statistics, where available, on the number of frontier workers in other member states, it is possible to get an approximate handle on the intensity of interest in this particular issue. The last report on frontier workers in the European Union dates from 1997, and while these may have been useful at the start of the negotiations on the reform of the 1408/71, they were already outdated in the hot phase of the negotiations in 2003.⁴⁹¹ This report concluded that the country with the most frontier workers is Switzerland with a total of about 150 000, followed by Germany with a total of about 77 000, and Luxembourg with about 54 000. The increase of the number of frontier workers is a staggering 300 per cent for Luxembourg in 2009.

⁴⁸⁹ Interregionale Arbeitsmarktbeobachtungsstelle (2005) 'Grenzgänger und grenzüberschreitender Arbeitsmarkt in der Großregion. Themenheft im Rahmen des Gesamtvorhabens „Stand, Perspektiven und Handlungserfordernisse des Arbeitsmarkts der Großregion bis 2020', p. 20

⁴⁹⁰ Interview D

⁴⁹¹ Directorate General for Research, (1997) 'Working Paper on Frontier Workers in the European Union.' Social Affairs Series - W 16A -

If we compare Luxembourg's situation with other member states, the reason why the financing of unemployment benefits to frontier workers was not a hot potato becomes obvious. In the Bodensee region, which covers Austria, Switzerland, Liechtenstein and Germany, the total flow of frontier workers was a total of 32 000 in the summer of 2006.⁴⁹² Between Southern Sweden and Eastern Denmark, over the Oresund Bridge, the total flow of frontier workers was 17 100 people in November 2007, which was a new record.⁴⁹³ If one compares these cross-border flows to the flux of incoming frontier workers of 140 000 in the direction of Luxembourg, one can see why other member states were not that emphatic about the issue.

While fear of the impending enlargement to much poorer Eastern neighbours could have been a potential factor for some member states like Germany and Austria to support Luxembourg's position, this does not transpire from the interviews. While this may be puzzling, it has to be remembered that both countries had imposed transitional restrictions on the free movement of workers from most of the new member states. For the purposes of this analysis, only the situations of countries with a direct border to a new member state are portrayed below. The Accession Treaty allowed for the introduction of 'transitional measures'. Commonly referred to as the '2+3+2-year arrangement', this scheme obliged the member states to declare in May 2006, and again in May 2009, whether they would open up their labour markets to workers from the A-8 (Poland, Lithuania, Latvia, Estonia, the Czech Republic, Slovakia, Hungary and Slovenia) or keep restrictions in place. Italy had initially restricted access but dropped the restrictions. Greece dropped all restrictions as of May 2006 for the 2004 accession member states but introduced some restrictions on Bulgaria and Romania, which it lifted in 2009. All restrictions will be lifted in January 2014. Like Austria, Germany insisted on continuing transitional restrictions on workers from the former communist states, beyond its eastern borders. Workers from these countries have to apply for work permits before 2011. Austria especially insisted on this because of its perceived high unemployment. To illustrate this practice: a bilateral Commission, composed of Ministers of Austria and Hungary, regulates the number of

⁴⁹² Euregio Bodensee, (2007) *Arbeitsmarkt Sommer 2006*

⁴⁹³ Tendes Oresund (undated) 'Number of commuters'.

Hungarian frontier workers that are allowed to work there. This Commission gave 2 550 Hungarians a work permit in 2008, and there was a hot debate in Austria whether an additional 100 or 200 frontier work permits would be issued.⁴⁹⁴ These are undoubtedly very small numbers compared to Luxembourg's situation. Therefore, the number of frontier workers from the former communist states and paying their unemployment benefits was indeed practically irrelevant for them, at least in the near political future.⁴⁹⁵

Germany's governmental position, on the other hand, was ambivalent according to the sources.⁴⁹⁶ There is a supposedly more or less evenly balanced flow of frontier workers in the West and South, so the calculation was that it would not lose from a change of rules proposed by the Commission. The transitional measures on free movement of workers from the East would mean that it would, at least as long as those measures were in place, not lose from the Commission's proposal. The reason for calling Germany's position ambivalent is that there is conflicting evidence on its position. It seems that interviewees at different levels of Council negotiations had a different perception of its position. One interviewee argued that Germany was on Luxembourg's side:

“The Germans and the Dutch were against it- they were our allies. We were never isolated during the negotiations on the parameters. There was a group of member states who said that they did not want to change anything in unemployment. Those were not hard discussions because the Council and the presidency realised it was useless because the proposal would never be unanimously adopted; which is why we stayed with the old principle.”⁴⁹⁷

Another stated that the Germans were

“in a process where they drive things forward and the Germans could not say ‘we play completely against it just because of that problem’. The reform of the 1408/71 was a whole package. The Germans saw that they got what they wanted on other

⁴⁹⁴ *ORF*, (2008) ‘Konflikt um Grenzgänger-Kontingent’. 16 December.

⁴⁹⁵ Interview B

⁴⁹⁶ Interviews A, B, C, D

⁴⁹⁷ Interview C

points in the 1408/71, which nuanced their position on frontier workers in the East even more.”⁴⁹⁸

Meanwhile, at the level of the Council of Ministers, there was no perceived support for Luxembourg’s position that the country of last employment should be totally excluded from any payments towards the unemployment benefits of frontier workers.

This section has clearly illustrated the problems that may arise in analysing Council negotiations and member states’ preferences. There is conflicting evidence, which can be explained in several ways: 1) The interviewees had either not remembered what a government stood for, or they confused the position of a member state on this particular issue with another issue. Sometimes, the issue of an unemployed person being able to move to another member state to find work and receive unemployment benefits from that member state was raised and discussed at length, before coming back to frontier workers. 2) There was a coordinated effort by some national governments to exercise pressure at different levels of the Council. 3) There was a certain lack of coordination within a government’s administration on the position, thereby producing different variations of positions. Within the Council documents, there is no explicit mention of other member states taking an active interest in this issue. However, within the European Parliament, there was clear support for the Commission’s proposal as evidenced by a factsheet and its readings.

It can be concluded that there were no clear cut potential allies for Luxembourg on this issue. Luxembourg could not, as it tends to do, hide behind powerful allies and let them do the ‘dirty work’ for it. It had to stand up for itself. It had to argue convincingly that it could not afford to pay for the unemployment benefits of frontier workers, even though it is one of the richest member states in the EU and collects taxes from frontier workers which go towards the *Fonds National pour l’Emploi*, i.e. the fund which pays out unemployment benefits to resident workers. It therefore needed a lot of understanding from other governments.

⁴⁹⁸ Interview A

7.4. The different presidencies: did they influence the outcome?

In the case of the payment of unemployment benefits for frontier workers, the major presidencies under which first, the parameters and then the final agreement came about, were the Belgian and the Italian presidencies of 2001 and 2003. They both had an interest in the issue and drove negotiations forwards but did not manage to be policy effective on the specific issue in question. The Belgian presidency was an honest broker in these negotiations and facilitated the agreement on the parameters. It had wanted the principle of country of last employment to be applied to unemployment benefits and those proposals failed, while the Italian presidency wanted to have payments over a longer period of time, but those did not go through either. Instead, it was even effectively excluded from the final negotiations in which the parties concerned reached an agreement. Indeed, the agreement was finalised between the Ministers from Luxembourg, Belgium, Germany and France, and then presented at the meeting of Ministers. The Council of Ministers agreed that leaving these four countries to do bilateral agreements was acceptable as it did not affect them and was no major impediment to EU integration of the social security systems.

The Belgian government considered its flows of frontier workers to be roughly equal, that is, it sent off about the same amount of frontier workers as it receives.⁴⁹⁹ It is difficult, if not impossible to substantiate this statement, as statistics are surprisingly hard to find. However, I do suspect that there are more frontier workers in the neighbouring states from Belgium than the other way around.⁵⁰⁰ The Italian government played a curious role in the negotiations: it seems it wanted to change the agreed parameters during its presidency in the second half of 2003. It was under pressure to get an agreement by the Council and the EP before the end of its presidency. Some evidence suggests that the Italian presidency tabled a proposal which changed the agreed parameters on unemployment. This was done because the Italian presidency, according to one source,

⁴⁹⁹ Interview H

⁵⁰⁰ See evidence on p.233

“felt they had not given enough to the EP beforehand, and the only chapter left was unemployment benefits where they could give something. So they decided to change this chapter’s parameter back to the original Commission proposal.”⁵⁰¹

It may have been that the presidency was under pressure from the EP’s Group on Social Questions- or it may have been that it followed its own agenda and decided to try and negotiate a different deal for unemployment benefits. The idea that the Italian presidency was under pressure from the EP is therefore not to be dismissed lightly and is evident in the following statement:

“The EP has always shown a great interest in the problems encountered by migrant workers and the self-employed working in another Member State and has adopted various resolutions in an attempt to improve their conditions.”⁵⁰²

In conclusion, the Belgian presidency facilitated agreements on the parameters and assumed the classic role of mediator and broker in 2001. The negotiations of the parameters had been a complicated and lengthy process which had demanded considerable diplomatic skills of this presidency. Meanwhile, considering that the Italian presidency had been effectively excluded from the final agreement after having tried to unpack some agreed principles, it came as no surprise that it was neither considered as mediator nor had an influence on the final outcome.

7.5. Individual-level factors: under pressure?

Reputation was assessed in three ways: past relations between Ministers and staff and belonging to the same political family, the experience and longevity of the Minister and his diplomatic staff, and being included in the circle of actors who finalise the agreement.

As only the neighbouring countries were directly touched by Luxembourg’s extreme preferences, the composition of their governments is only considered here. In France Chirac had been president since 1995, and the centre right UMP Jean-Pierre Raffarin was Prime

⁵⁰¹ Interview A

⁵⁰² European Parliament Factsheet from 10.10. 2000: http://www.europarl.europa.eu/factsheets/4_8_4_en.htm

Minister from 2002 until 2004. The Minister for Social Affairs, of Employment and Solidarity Francois Fillon had been in this post during this entire time. Meanwhile in Germany, the SPD-Green Alliance had won the elections for their second mandate in 2002 and both the Minister for Health and Social Security Ulla Schmidt and the Minister for the Economy and Employment Wolfgang Clement were SPD members. Gert Anders, also SPD, was State Secretary at the Ministry for the Economy and Employment and responsible for these negotiations. In Belgium, the first Verhofstadt government was in power from July 1999 to June 2003. The Minister for Social Affairs and Pensions was Frank Vandenbroucke (PS) and the Minister for Employment was Laurette Onkelinx (PS). As all of these belonged to a different political family compared to Luxembourg, it therefore seems that this factor would have had no (or very little) influence on the similarity of their positions or on the quality of their relations. In terms of longevity and experience, only the Belgian Vandenbroucke could present the same credentials as Luxembourg's Minister for Employment. They had both been in government since 1999 and thus were involved in these negotiations from the start and knew each other quite well.

In fact it was Luxembourg, not Belgium that took the initiative for finding a compromise and contacted the concerned other member states. In this case, the relations between political actors were significant in the negotiations. The Minister used his personal networks to hammer out a political agreement with the Ministers of France, Germany and Belgium. He called them over the weekend and proposed he would be willing to pay 3 months if a sentence was included which said that they would conclude bilateral agreements, so those additional 5 months' payments would not be applicable to them. He then argued in the Council of Ministers that Luxembourg had a problem, but that the four countries who were affected had found an agreement and that all the others should note this and agree.⁵⁰³

The reputation that Luxembourg's officials and ministers pride themselves on being both pro-European and honest broker has been confirmed in this case study. Both an official and

⁵⁰³ Interview B

the minister, Biltgen, emphasised the importance of compromise and of being pro-European. Biltgen offered the following self-assessment:

“What marked me was that I had to find an agreement which did not leave Europe standing out in the rain *and* one which I could defend at least a bit at home. If we do have an interest, then we say “Hey we also have an interest!” but we try not to have an excessively national position and other countries do the same. What is our advantage is that we engage in negotiations to find compromises.”⁵⁰⁴

This section showed that reputation and personal relations were not as crucial as in the other case studies, but were a side factor. Furthermore, the pressure that the negotiators felt forced them to find and accept a compromise proposal. As in the case of the reform of the SGP, reputation and expertise had some impact on getting an agreement, and that the negotiations are often better handled in a small circle of actors, whose agreement ensures the acquiescence of the other actors. Personal contacts between ministers were necessary to get an agreement. However, considering the low level of polarised interests involved in this issue, it is probably safe to assume that it was far easier to find a compromise than in the case of the SGP.

8. Conclusion

The previous section has shown that Luxembourg managed to achieve some of the objectives it had set for the reform of the Regulation 1408/71, but not all of them. Therefore, it could be argued that Luxembourg was “medium policy effective” in the outcome of these negotiations. If we look back at its mission statement, the first objective was to avoid the inclusion of the principle of the country of employment in the financing of unemployment benefits. That was achieved but with the caveat of financing 3 months payable to the country of residence. The second objective was to get delays of implementation. That was achieved, in subsequent negotiations it was established that Luxembourg will only implement these measures in 2012, rather than 2007 as originally planned. On the other hand frontier workers can register at both the resident and work-

⁵⁰⁴ Interview B: emphasis added

related unemployment agency, which will include them in the unemployment statistics. The constraints and advantages for Luxembourg's government on these particular negotiations have been identified and discussed at length above. There was a general consensus in the member states' governments on simplifying the coordination of social security systems by applying universally the principle of the country of last employment. Luxembourg was the main troublemaker in the Council of Ministers, dragging its feet on agreeing to a reform, until the pressure increased so much that it found eventually a way outside the Community framework.

The domestic politics factor must always be at the forefront when analysing any negotiations on EU regulations or directives. The absences of a national debate and of pressure by the public, trade unions or the opposition parties, certainly gave Luxembourg more freedom in the negotiations. While the government argued convincingly in the Council and the EP that it could not politically afford to agree to the waiving of the residence rule, or to pay more than 3 months of unemployment benefits to the state of residence, the actual pressure was more latent and anticipated rather than manifest and open. Finally, the coordination between Ministries and the low turnover of staff ensured that Luxembourg's strategy of negotiation was coherent and effective.

The decision-making procedure at least partly determined the outcome of negotiations. Unanimity was certainly a factor which played in Luxembourg's favour. In this case, the power of co-decision of the European Parliament meant that Luxembourg did not only have to convince the member states, but also the MEPs who had significant divergent interests to Luxembourg's interests in the outcome. While other member states were not that concerned about this issue, it could be argued that it was almost easier for Luxembourg to persuade the Council, than it was to persuade the EP. Finally when the issue is salient, the positions taken are more likely to be reflective of real preferences. It has been shown that the political will to reform was present both in the Commission, the EP and among a majority of member states in the Council. The fact that the Commission decided to squeeze into a single regulation such major issues as pensions, cross-border health care, invalidity benefits, and unemployment benefits also proved decisive in getting an agreement: by

linking all the issues and their agreements, it was less possible to drag the issue indefinitely and to block negotiations. Time pressure was an important factor in the negotiations: the elections of the EP in June 2004 were approaching and because of co-decision it was clear to the Council and the Commission that agreement had to be found and the legislation had to be passed by the current Parliament. A new Parliament would have delayed legislation considerably because a new Committee would have to be appointed and would have had to get to know the dossier and the issues from scratch. Enlargement also put pressure on finding an agreement, as the ten new member states' governments would have joined the negotiation table and could potentially (and probably would have) started to unravel these numerous carefully agreed compromises on the previous chapters of a very sensitive political nature.

But due to unanimity in the Council, the relative disinterest of many member states in this detailed matter, and the extraordinary economic interests of Luxembourg, the government managed to persuade the Council into a sub-optimal agreement and maintain its economic interests. It managed to get the Council to accept bilateral agreements, which would not be in the remit of the Commission, and which were never intended to materialise. Therefore, the institutional factors of unanimity and of domestic politics played a crucial part in these negotiations, while reputation played a much less important role. In summary, it was ultimately a specific problem that only Luxembourg experienced. If a member state argued convincingly that it had a significant economic interest in an area, then it would be listened to by the other member states. The argument that a regulation has to be defensible politically at home is a very strong one. However, whether this argument was the biggest factor in Luxembourg's success is debatable: would Luxembourg have been able to achieve the result under Qualified Majority Voting? Or if France or Germany had had vested financial interests?

Chapter 8: Findings

1. Assessing Luxembourg's policy effectiveness in the European institutions

This model explains how a member state is able to successfully exercise its ability to include its preferences in the final legislative outcome. Measuring policy effectiveness is conducted in five stages: 1) establish the policy preferences of the member state 2) present the Commission proposal 3) establish the strategy and the goals of the member state in the negotiations 4) present the final legislation 5) compare and contrast the final legalisation to the policy preferences and to the strategy and goals. There are variations in the degree of policy effectiveness- often a member state cannot get everything it wants. For the purpose of this study, a three degree classification of outcomes has been devised: high, medium and low. The way in which policy effectiveness was measured here allows for it being highly variable across particular decisions and occurring through processes both implicit and explicit.

The research design of this thesis involved 3 case studies analysing the role and impact of Luxembourg's government in achieving policy effectiveness in different EU negotiation contexts. The creation and subsequent reform of the Stability and Growth Pact of 1997 and 2005 constitute the first two case studies, where Luxembourg was said to have played a role. The final case study dealt with the rather technical issue of the payment of unemployment benefits for frontier workers in the broader reform of EC Regulation 1408/71, agreed in 2004. A focused inquiry addressed the same question in all the chapters, explaining whether, how and to what extent Luxembourg was able to be policy effective. In this thesis I have sought to complement existing research on policy effectiveness, leadership in EU negotiations and power of member states.⁵⁰⁵ Four broad factors which

⁵⁰⁵ Schure P., Verdun A., (2008) 'Legislative Bargaining in the European Union.' *European Union Politics*, Vol. 9, No. 4, pp 459-486.

Beach D., Mazzucelli C., (2007) *Leadership in the Big Bangs of European Integration*. Palgrave Macmillan.
Bailer, S., (2004) 'Bargaining Success in the European Union.' *European Union Politics*, Vol.5 Issue 1, pp.

influence a state's ability to be policy effective are put forward. Several questions are asked: How do the domestic politics influence the ability of a member state to shape regulations and directives? To what extent do the preferences of the other member states interfere in policy effectiveness? Does holding the presidency of the Council make a member state policy effective? Do intangible resources matter at all? Is the negotiation context the major constraint/ aid in policy effectiveness?

In the following sections, the findings are discussed in more detail, and related to existing findings and theorising in the literature. The evidence from each case study supports some, but not all the propositions. I then discuss which combined factors lead to policy effectiveness. The chapter concludes with a reflection on the challenges of this research and proposes new avenues for further investigation. We shall now turn first to a systematic evaluation of Luxembourg's policy effectiveness, followed by a discussion on the factors that influenced it.

Luxembourg managed to achieve most of the objectives it had set for the creation of the SGP in 1996. Luxembourg had an interest in having a rules-based SGP, as its experiences in the currency association with Belgium and in the ERM demonstrated the potential pitfalls of the new currency union and its possible consequences for the Luxembourg economy. Because the preferences of France and Germany were so divergent, and Luxembourg's preferences were to be found in the middle but closer to Germany's, it actually got quite a lot of what it wanted. This confirms the study by Arregui and Thomson who find that if a member state has extreme positions, it is less likely that it is close to the decision outcome.⁵⁰⁶

During these negotiations, Luxembourg was clearly in favour of an agreement of binding rules for budgetary discipline and sanctions for the non-respect of those. In its view, these

99-123. Tallberg J., (2008) 'Bargaining Power in the European Council.' *Journal of Common Market Studies*, Vol. 46, No. 3, pp. 685–708

⁵⁰⁶ Arregui J., Thomson R., (2009) 'States' Bargaining Success in the European Union.' *Journal of European Public Policy*, Vol. 16, No. 5, p. 669

would guarantee the smooth introduction of the Euro as a currency and keep it stable, which was a necessary prerequisite for the continued good functioning of its economy. Luxembourg was therefore interested in getting an agreement which was not based on the smallest common denominator, and actively shaped the outcome of the negotiations. Luxembourg was highly policy effective in uploading its economic interests in these negotiations. This case study shows that Luxembourg either needs to have Germany or France on its side if it wants to be policy effective in QMV or, at the very least they need to be indifferent.

Luxembourg managed to achieve some of the objectives it had set for the reform of the Stability and Growth Pact in 2005, but by no means most or all of them. If we look back at their mission statement, the first objective was to avoid a fundamental political crisis in the EU. That was achieved. In 2005, the priority for the Luxembourg presidency was to get an agreement that would work and would not leave the Eurozone without any rules on budgetary discipline. It was close to the Dutch position on a stricter version of the SGP, but they were in a minority. Considering that France and Germany were on the same page and Germany had threatened to ‘destroy’ the Pact, it was absolutely necessary to find a solution which Germany, the biggest economy of the Eurozone, would accept, even if that meant softening the Pact. The role of the Commission was weakened, and the role of the Council strengthened. Another objective was to get an agreement as close as possible to the old SGP. That was only partially achieved. The Commission still has the right to issue recommendations and early warnings, there were no Treaty modifications, no list of pertinent factors, economic good times had been emphasised, structural reforms in the calculation of the deficit were included and the situation of a slight and temporary excessive deficit was clarified. On the other hand, the debt criterion had been abandoned, “chapter headings” had been created, and time frames to correct the excessive deficits had been enlarged. Hence, Luxembourg was low in terms of policy effectiveness in these negotiations.

Luxembourg managed to achieve about half of the objectives it had set for the reform of the Regulation 1408/71, but not all of them. Therefore Luxembourg was “medium policy effective” in the outcome of these negotiations. If we look back at their mission statement, the first objective was to avoid the inclusion of the principle of the country of employment in the financing of unemployment benefits. That was achieved but with the caveat of financing 3 months payable to the country of residence. The second objective was to get delays of implementation. That was achieved, in subsequent negotiations it was established that Luxembourg will only implement these measures in 2012, rather than 2007 as originally planned. On the other hand frontier workers can register at both the resident and work-related unemployment agency, which will include them in the unemployment statistics, and benefit from training. This has the advantage of giving Luxembourg more information on the neighbouring labour markets.

2. Discussion

2.1. How did the domestic level influence the ability of a member state to influence the three regulations?

As regards the creation of the SGP, domestic approval was quite easy to achieve in Luxembourg. At the Dublin Council meeting in December 1996, Luxembourg’s government did not receive much pressure from the domestic side. The government leaned more towards a strict interpretation of a Pact. In addition, the population has been historically one of the most enthusiastic towards European integration. Therefore, the political problems and constraints arising from low public support for an economic and monetary union were not acute in Luxembourg. Monetary policy is a very technical subject and the costs are widely distributed; therefore it is unlikely that public opinion was very informed on the subject.⁵⁰⁷ In 1996 institutional coordination was a significant factor, but one which cannot be applied to other member states, because the Prime Minister and the

⁵⁰⁷ Heipertz M., Verdun A., (2010) *Ruling Europe. The Politics of the Stability and Growth Pact*. Cambridge University Press, p. 43

Finance Minister was the same person: Juncker. This gave him ample access to both the Finance Ministers and the Heads of State or Government. Hence domestic approval had no impact whatsoever, but institutional coordination had a positive impact on Luxembourg's policy effectiveness.

As for the reform of the SGP in 2005, approval was easy to achieve. However, in the years before the reform, Luxembourg had to incur a slight deficit for the first time. The public finances had not been in surplus as the public was used to. The director of the Central Bank of Luxembourg criticised the outcome. Luxembourg was holding the presidency; therefore the reform was more prominent in the country than it would otherwise have been. However, the complexity of the matter and the economic consequences were difficult to grasp for the public.

In 2005, institutional coordination was very important during the presidency as information had to be gathered and processed on many different levels. It was vital that agreement was found among Finance Ministers, but it was also vital that Luxembourg knew what Heads of State were expecting in general terms of the reform. Access to these people was essential, and only someone who played in both arenas, the arena of the Finance Ministers and the arena of the Heads of State and Government, could combine and frame these expectations in a coherent package. This is an example of the specificity of Luxembourg's political system at the time, just as in the creation of the SGP in 1997. A minister with two posts is quite common in Luxembourg; many ministers occupy more than one post. This not only improves coordination but also improves the knowledge of the ministers of transversal issues. Furthermore, Luxembourg's administration had developed excellent working relations with the Commission, the Secretariat of the Council and of the ECOFIN. As a small country, the circuits of the communication flow were very tight and only a selected few were directly involved in the preparations of the working documents. In short, given that domestic approval of the deal was easy to achieve and the level of institutional coordination was very high and efficient, the conditions for policy effectiveness were laid. However, it did not lead to high policy effectiveness.

In the case of unemployment benefits to frontier workers, it was easy to get the position approved by the major stakeholders involved: business organisations, all the political parties and even the trade unions were on the same line as the government. The Minister was under pressure from the cabinet that he should, under no circumstances, give up the principle of the state of residence in unemployment benefits. As demonstrated in the chapter, the financial consequences for the state would, relatively speaking, have been enormous. Frontier workers themselves were absent from the debate. Constraints of domestic politics mattered in the negotiation strategy of the Luxembourg government. National and EP elections were around the corner, and the Minister for Employment could argue that if the principle of the country of employment was retained, he would see a backlash of nationalist sentiments and a shift of his party's support towards the more nationalist and Eurosceptic ADR. It is interesting to note that these negotiations were not politicised at all until the negotiations were concluded. Clearly, the government had decided not to hold press conferences on the issue until an agreement had been reached.

Institutional coordination was very important as many levels, and two Ministries negotiated on the issue from 1999 to 2003. Again, Luxembourg had an institutional specificity in this matter which could potentially have a negative impact: while at the EU level and in many member states, unemployment falls under the responsibility of the Ministry of Social Security, it is the responsibility of the Ministry of Employment in Luxembourg. The coordination between the Ministry of Social Security, who was responsible for the overall negotiations on this Regulation, and the Ministry of Employment, which was responsible for the particular issue of unemployment benefits, was essential to an effective negotiation strategy. The Ministry of Employment took over the reins in the negotiations when the final phase of the negotiations started. The Minister had given clear instructions to let agreements fail at lower levels. Both ministries agreed that they cooperated well, and that information flowed constantly on the status of negotiations from one Ministry to the other. Furthermore, both ministries were held by the CSV party. Finally, the national government mobilised its Members of the European Parliament effectively to influence the EP's Committee on Social Questions. This spontaneous inter-institutional coordination certainly helped getting the Council position through Parliament.

2.2. *Was the negotiation context a contributing factor in policy effectiveness?*

The first factor we considered was that the number of member states would affect Luxembourg's policy effectiveness. The fewer member states were involved, the more policy effective Luxembourg would be. The case studies of this thesis happened in 1996, in 2003 and in 2005. Two case studies count a total of 15 member states, while there were 25 member states in the other case study. If the number of member states affects policy effectiveness negatively, Luxembourg should have been more effective in two case studies (the Stability and Growth Pact in 1996 and the payment of unemployment benefits to frontier workers in 2003) than in the case study of the reform of the Stability and Growth Pact in 2005. This has been confirmed by the present research.

In the case of the creation of the SGP in 1996/1997, the decision-making procedure was QMV in the Council for both Regulations- therefore we expected Luxembourg to not be policy effective. There were essentially two opposing preferences on the scope and content of a SGP, embodied by France and Germany. The respective alliances of these two camps were of roughly equal weight in terms of voting. Furthermore, it was clear that when France and Germany had found an agreement, the other member states would support it. Luxembourg was positioned in the middle but leaning towards the German side and therefore highly policy effective, regardless of QMV.⁵⁰⁸ The involvement of the European Parliament varied from cooperation to consultation. The EP did not play a major role in this case, as pressure to implement the last stage of EMU did not give it time to influence the Council Common Position.

The same voting procedures were applied in the reform of the SGP in 2005.⁵⁰⁹ The winds had changed by 2005- no longer did the German government embrace the vision of 'Stability', but had been converted to the French insistence on 'Growth', leaving the Dutch

⁵⁰⁸ Arregui J., Thomson R., (2009) 'States' Bargaining Success in the European Union.' *Journal of European Public Policy*, Vol. 16, No. 5, p., p. 656

⁵⁰⁹ European Parliament, (2005) 'European Parliament legislative resolution on the proposal for a Council regulation amending Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies' (COM(2005)0154 — C6-0119/2005 — 2005/0064(SYN))

to be the main advocate of low national budget deficits and coordination of economic policies. France and Germany wanted more flexible rules. It was clear that the Dutch and Luxembourg found themselves in a minority on this issue. The distribution of votes shows that France and Germany could count on many partners, and they were not willing to accept anything less than a more flexible pact which would shield them from an EDP. While in 1997, the EP was satisfied with how it was consulted and how it cooperated with the Council, in 2005 the second reading's explanatory statement was scathing.⁵¹⁰ In this case, QMV led as expected to low policy effectiveness for Luxembourg. The EP wanted to pass a reform, but realised that passing it under a British presidency was unlikely, and so was forced by the Council to accept the agreement of the Council as it stood. This case study confirms Hosli's research that Germany and France together hold an informal veto power.⁵¹¹

The situation with time pressure was slightly different in 2005: the Euro was introduced and was stable; the markets had neither reacted in a negative way to the Excessive Deficit Procedures held in abeyance for France and Germany, nor to the ECJ ruling that the Council was allowed to hold EDPs in abeyance in the first place. However there was a real sense of urgency. The reason was simple: the next presidency was to be held by the British. Taking all this into consideration, the negotiation context significantly impacted in a negative way on Luxembourg's policy effectiveness.

Moving on to the final case study, the negotiation context mattered greatly. The decision-making procedure applied here was unanimity in the Council of Ministers and co-decision with the EP. In this case we expected high policy effectiveness for Luxembourg because of unanimity and under the condition that its preferences were close to that of the EP. Luxembourg was the main troublemaker in the Council of Ministers because of its extreme

⁵¹⁰European Parliament, (2005) 'Recommendation for second reading on the Council Common Position for adoption of a Council regulation on amending Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies.' PE 359.997v02-00, p.8

⁵¹¹ Hosli, M, (1996) 'Coalitions and Power: Effects of the Qualified Majority Voting in the Council of the European Union.' *Journal of Common Market Studies*, Vol.34, No. 2, p. 259

preferences in the Council, and it could not count on the EP's support. The fact that the Commission decided to squeeze into a single regulation such major issues as pensions, cross-border health care, invalidity benefits, and unemployment benefits proved decisive. By linking all the issues and their agreements, it was less possible to delay the issue indefinitely and to block negotiations- for Luxembourg, but also for the EP. Unanimity allowed Luxembourg to drag its feet until the Council eventually found a way outside the Community framework. The EP was not happy at all about this deal, but because of time pressure and because it was only a small detail in an otherwise huge reform, it approved it. A new parliamentary election would have delayed legislation considerably. Enlargement also put pressure on finding an agreement, as the ten new member states' governments would have joined the negotiation table.

If a member state has extreme preferences under unanimity and co-decision, it is likely to be medium policy effective- at best. This can be witnessed in this case where Luxembourg's objective was to keep the status quo while all the other actors, including the EP, were willing to lift the exception within the Regulation and establish the principle of country of employment. Luxembourg was under pressure to give in from various sources: the Commission, the EP, the presidency of the Council and the other member states. However, due to unanimity in the Council, the effective inter-institutional coordination with the national MEPs to influence the Parliament, and finally and most importantly, the relative disinterest from the other member states, especially France and Germany, an agreement was found which saved the face of the government. This is not in line with other research on extreme preferences in the Council, which identifies the extremity of the position as the "largest and most debilitating effect on member states' bargaining success."⁵¹² Furthermore, this case study also does not support the finding that under co-decision, a member state is more likely to be policy effective if its position is close to that of the Commission.⁵¹³ This certainly calls for more research of extreme preferences under these conditions.

⁵¹² Arregui J., Thomson R., (2009) 'States' Bargaining Success in the European Union.' *Journal of European Public Policy*, Vol. 16, No. 5, p., pp 669

⁵¹³ Arregui J., Thomson R., (2009) 'States' Bargaining Success in the European Union.' *Journal of European Public Policy*, Vol. 16, No. 5, p., pp 671

2.3. How did the distribution and intensity of preferences within the Council affect Luxembourg's policy effectiveness?

There were two camps within the Council in the first case study, represented by two big member states: France and Germany. As argued above, these had roughly equal voting weights. As Segers and Van Esch show in their historical analysis of the French and German positions on EMU budgetary discipline, “one may conclude that negotiations concerning European monetary integration have always involved simultaneous struggles on both the French and the German domestic level. On the European level, debates took place between the more ‘monetarist’ French on the one hand and the more ‘economist’ Germans on the other.”⁵¹⁴

The German government intended to establish some sort of binding rules after monetary union was in place. It was pushing for hard and stringent quantified rules for a European-wide coordination of national budgetary and fiscal policies. France advocated a stronger ‘gouvernement économique’. More specifically, they wanted more political discretion in the Council concerning the detailed steps of the EDP, a limited role for the Commission, and as little interference from the EU institutions in national budgetary matters as possible. The inclusion of the debt criterion in the SGP and the EDP in particular was not welcome, as France was struggling with its high public debt ratio. France and Germany were crucial in getting an agreement, and the other member states had implicitly ‘delegated’ their votes to one of the two. Luxembourg was leaning towards the German version of a Pact, but not on every issue. Because Germany was the main state who had to be satisfied, it was clear that Luxembourg found itself, this time at least, in the right camp.

In 2005, there was a clear division between large and small states in the negotiations, as Verdun and Schure already suggested.⁵¹⁵ This analysis confirms their findings. Considering the polarised positions within the Council, Luxembourg had, in fact, little political leverage.

⁵¹⁴ Segers M., Van Esch F., (2007) ‘Behind the Veil of Budgetary Discipline: The Political Logic of the Budgetary Rules in EMU and the SGP.’ *Journal of Common Market Studies*, Vol.45, No. 5, p. 1091

⁵¹⁵ Schure P., Verdun A., (2008) ‘Legislative Bargaining in the European Union.’ *European Union Politics*, Vol. 9, No. 4, p. 459

It was clear that Germany and France had their own agenda and just would not budge on their positions. To explain it in Putnam's terms of "win-sets", the Germans moved their win-set to such an extreme end of the spectrum of possible win-sets that only a small win-set was possible at all.⁵¹⁶ Germany found this issue very salient and threw all its political weight behind it. The German government favoured a list of relevant factors which could be invoked at any stage in an EDP, even when it was already in motion and just before sanctions would be decided. The French government had been pressing for reform since 2002 and did not want to find itself in an excessive deficit situation anymore, but realised that its high public debt was unsustainable in the long term.

The Dutch government wanted to keep as close as possible to the old SGP, calling for stricter enforcement on the preventive side of the Pact, especially on the sustainability of public finances (with regards to old age pensions). The Dutch Finance Minister wanted to prevent a list of factors and the exclusion of expenditure from the budget calculations. The Austrians also advocated a strengthening of the rules. Luxembourg had an inclination towards the Dutch position. In the end, considering the widely distributed and intensely held preferences within the Council, the most important mission of the Luxembourg presidency was to avoid a fundamental political crisis and the explosion of the SGP. It had to move towards the positions of France and Germany, because their preferences were so intense (or salient) and therefore this factor had a significant negative impact on Luxembourg's policy effectiveness.⁵¹⁷

As for the last case study, I have elaborated in the chapter on the difficulties of gauging other member states' preferences on this detailed issue. While fear of the impending enlargement to much poorer Eastern neighbours could have been a potential factor for some member states like Germany and Austria to support Luxembourg's position, this does not transpire from the evidence. There were no clear cut potential allies for Luxembourg on this

⁵¹⁶ Putnam R. D., (1988) *Diplomacy and Domestic Politics: the Logic of Two-Level Games*. International Organization, Vol.42, No. 3, pp. 427-460

⁵¹⁷ Arregui J., Thomson R., (2009) 'States' Bargaining Success in the European Union.' Journal of European Public Policy, Vol. 16, No. 5, p., pp 669

issue. Hence, it is assumed that the preferences were neither widely distributed nor intense in the Council. In this case, the distribution and intensity of preferences impacted positively on Luxembourg's policy effectiveness because they were absent.

2.4. Do the presidencies have an impact on a member state's policy effectiveness?

Luxembourg did not have the presidency in 1996, but Ireland was holding the chair of the Council. The Irish presidency did not possess any of the other resources necessary to take advantage of the opportunities the Chair presented to them. It was not trusted by the main actors to be able to conclude an agreement. None of the participants could even remember what the Irish position was on the issue. It has also been suggested that the Irish government did not realise the potential political difficulties that lay in the creation of a SGP and thus had not examined the dossier in detail. The domestic standing in politics, the level of expertise and the personal authority were thus insufficient to Ireland's designation as leader of the negotiations. Therefore, this case study is a clear example where a presidency is effectively excluded from exercising any influence on the negotiations and the final outcome. Instead, Luxembourg's Prime Minister Juncker led the negotiations and proposed alternative solutions to the two main visions of fiscal coordination. The compromise solution that Juncker proposed was fully in line with Luxembourg's ideas on the topic, which coincided with German concerns. Luxembourg was Germany's ally in the negotiation process, but was not necessarily perceived as such by the French. Steering the negotiations in the direction which the government secretly favoured is an ability which is not necessarily linked to holding the presidency, but depends on other factors like the distribution of preferences, individual-level factors and institutional coordination.

Moving on to the reform of the Stability and Growth Pact in 2005, the opposite outcome to the previous case study can be observed. We have an example of a presidency which took advantage of all the resources a presidency has to offer, but did not manage to be policy effective. The Luxembourgish presidency was indeed able to take full advantage of the

asymmetrical information, of agenda setting and of procedural control. The Luxembourg government had made it one of its priorities to conclude the negotiations on the reform of the SGP under its presidency. During many bilateral meetings with all the major actors, Germany, France and the Netherlands, at the levels of Finance Ministers, Prime Ministers or Presidents, but also at the levels of civil servants and advisers, the presidency had considerable access and asymmetrical information on their respective positions and bottom lines. However Luxembourg was low in policy effectiveness despite holding the Presidency. This confirms other studies which have produced the same results.⁵¹⁸

In the case of the payment of unemployment benefits for frontier workers, the major presidencies under which first, the parameters and then the final agreement came about, were the Belgian and the Italian Presidencies of 2001 and 2003. But the agreement was finalised between the Ministers from Luxembourg, Belgium, Germany and France, and then presented at the meeting of Ministers. The Council of Ministers agreed that leaving these four countries to do bilateral agreements was acceptable and was no major impediment to EU coordination of the social security systems. Hence, it did not matter whether Luxembourg held the presidency or not; it managed to be medium policy effective anyway.

2.5. Did individuals matter in terms of policy effectiveness?

In 1996, the quality of past relations between the key negotiators played an important role in Luxembourg's policy effectiveness. Luxembourg is literally wedged between France, Belgium and Germany. It is part of the job description of a Minister in Luxembourg to

⁵¹⁸ Arregui J., Thomson R., (2009) 'States' Bargaining Success in the European Union.' *Journal of European Public Policy*, Vol. 16, No. 5, p., pp 655-676. Tallberg J., (2006) *Leadership and Negotiation in the European Union*. Cambridge University Press. Elgstrom, O. (ed.) (2003) *European Union Council Presidencies, A Comparative Perspective*. London, Routledge.

know what is happening in its neighbouring countries. Therefore, the negotiators were well aware of the public and political debates in France and Germany. An excellent understanding of both neighbours' concerns and languages enhance their negotiating capacities with the two countries. France was governed by the right wing RPR Jacques Chirac and Germany was governed by the Christian Democrat Helmut Kohl. Juncker had been very close to Kohl, who apparently used to call him "Junior". He had been present at every Council negotiation on monetary and economic union since the 1980s, he had the necessary expertise and the diplomatic skills to mediate efficiently between France and Germany. This gave him an expertise which many Finance Ministers did not have. Because he was Prime Minister simultaneously, he had access to the European Council as well. Kohl had asked Juncker to mediate between his government and the French government in an ad hoc group comprising a Luxembourgish, a French, a German and an Irish delegation, later to be followed in the European Council meeting by an ad hoc group between Kohl and Chirac and Juncker. This factor was, indeed, one of the main elements for Luxembourg's high policy effectiveness in the creation of the SGP.

Many of the above noted phenomena apply to some extent to the 2005 reform of the SGP. The personal expertise, seniority and reputation of Juncker had a major impact on the participants' willingness to cooperate and come to an agreement. The process and content knowledge, stemming partially but not only from holding the presidency, and the coordination of the staff at the Finance Ministry with all the critical players, also played in Luxembourg's favour. Again, the unique double advantage of having access to both the Heads of State and to the Finance Ministers gave Juncker an extraordinary access to preference information. Experience had also shown the Luxembourg negotiators that there was a split between the Finance Ministries and the offices of the Heads of State in both Paris and Berlin. Contrary to the creation of the SGP, there was no small group as such that negotiated the outcome; however it was clear that the main actors in these negotiations were the Dutch, the French and the Germans. In this case study, individual-level factors were present but did not have an impact on possible policy effectiveness.

In the final case study, individual-level factors were rarely mentioned by the interviewees. However past relations, experience and longevity must have played a role in these outcomes. Luxembourg's strategy of negotiation was to give in as little as possible. The Minister for Employment had been in government since 1999, and his officials in the Permanent Representation and in the Technical Committee had been working in their function since the early 1990s, thus acquiring on these crucial levels of the negotiations very detailed knowledge of the whole implementation of the Regulation 1408/71. Luxembourg's Minister for Employment Francois Biltgen and his team in the Permanent Representation and the working group initiated a compromise by talking to the respective ministers and officials from France, Germany and Belgium. Again, we have evidence of the negotiations taking place among a small circle of actors. Hence, this factor impacted in a slightly positive way on Luxembourg's medium policy effectiveness.

3. Conclusion

3.1. Which factors produce policy effectiveness?

This chapter has presented the findings of the research conducted over the past four years. It has dealt with the question of member state policy effectiveness in the EU, and showed in three case studies how it was achieved. The outcomes show that Luxembourg was once high, once medium and once low in terms of policy effectiveness.

The policy effectiveness model developed here was an attempt to go beyond the intergovernmentalism theory, which denies small countries any effectiveness on the basis of their own negotiating skills or resources.⁵¹⁹ It also tested the assumption that Luxembourg always 'gets lucky', and that it often gets more than it should deserve.⁵²⁰ While leadership in constitutional negotiations and in holding the EU presidencies has been

⁵¹⁹ Moravcsik A., (1998) *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* Routledge/UCL Press.

⁵²⁰ Slapin, J. B., (2006) 'Who is Powerful? Examining Preferences and Testing Sources of Bargaining Strength at European Intergovernmental Conferences.' *European Union Politics*, Vol.7, Issue 1, p. 66

analysed and theorised, notably by Beach and Mazzucelli and Tallberg, comparative studies on member states' individual policy effectiveness have often been only descriptive without trying to tease out the more generalisable factors which led to that effectiveness.

Table 8.1 : How did these factors influence Luxembourg's policy effectiveness (PE)?

Factor	Lux PE in SGP 1996	Lux PE in SGP 2005	Lux PE in EC Reg 883/2004	Relevance of factors:
Domestic politics				?
<i>Domestic approval</i>	0	0	1	No
<i>Institutional coordination</i>	1	0	1	Yes
Negotiation context				Yes
<i>Number of actors</i>	1	0	0	No
<i>Decision-making procedure</i>	0	-1	1	Yes
<i>Time pressure</i>	0	-1	-1	Yes
Preferences in the Council				Yes
<i>distribution</i>	1	-1	1	Yes
<i>intensity</i>	1	-1	1	Yes
Presidency				No
<i>Control over procedure</i>	0	0	0	No
<i>Asymmetrical information</i>	0	0	0	No
Individual-level factors				Yes
<i>Past relations</i>	1	0	0	No
<i>Same political family</i>	1	-1	0	No
<i>Expertise and experience</i>	1	0	1	Yes
<i>Inclusion in the circle of actors</i>	1	0	1	Yes
Total points	8/11	-5/11	6/11	
Outcome	high	low	medium	

-1=negative impact; 0= no impact; 1= positive impact

If there are at least 2 occurrences of -1, then the factor has a negative impact. If there are at least 2 occurrences of 0, then the factor has no impact. If there are at least 2 occurrences of 1, then the factor has a positive impact.

This table summarises neatly the results of this research, and demonstrates which factors had a positive and which a negative influence on Luxembourg's policy effectiveness. Qualitative comparative analysis would not have been an appropriate strategy to discuss these findings, as

“contrary to conventional wisdom, a full-blown QCA cannot be meaningfully applied to just two, four or eight particular cases [...] Rather its full potential unfolds in studies based on mid-size N.”⁵²¹

The table shows which factors did not have an impact at all- the most clear-cut result we find is that the office of the presidency does not have an impact on a member state's policy effectiveness, whether it holds the office itself or another member state. From these three case studies, we cannot derive conclusive results on the relevance of the impact of domestic politics. However, I would suggest this is largely due to the nature of the case studies, and therefore it should not be disregarded. The findings are also in line with other research in that they corroborate the fact that decision-making procedures and time pressure do matter.⁵²² These results show also that individual-level factors clearly matter when searching for ways to be policy effectiveness, and they call for more research.

The table gives an account of the outcomes, with the results being quite consistent with the factors' impacts. Hence, the first case study shows that Luxembourg was highly policy effective, due to the positive impact of the factors of the distribution and intensity of member state preferences and because individual-level factors gave it powerful allies. The second case study shows clearly a result of low policy effectiveness, due to the negative impact of the negotiation context and the preferences in the Council. The third case study produced medium policy effectiveness, due to the positive impact of domestic constraints

⁵²¹ Wagemann C., Schneider C.Q., (2010) Qualitative Comparative Analysis (QCA) and Fuzzy Sets: Agenda for a Research Approach and a Data Analysis Technique. *Comparative Sociology*, Vol. 9, p. 377

⁵²² Bailer S., (2010) 'What Factors Determine Bargaining Power and Success in EU Negotiations?' *Journal of European Public Policy*, Vol. 17, No.5, pp. 419-431.

and a low distribution of preferences in the Council. We shall now look in more detail at the relevance of each of these factors in turn.

Putnam's theory of two-level games has also been included in this analysis, with its emphasis on the domestic politics side in analysing a member state's policy effectiveness in the EU. All the case studies were based on Regulations, which are directly applicable in all the member states and so did not require to be ratified by national Parliaments. The approval procedure only impacted in a positive way in the case of EC Reg. 883/2004, but this may be due to the exceptional nature of monetary policies, as suggested both by Putnam and by Heipertz and Verdun.⁵²³ Putnam states in his article on diplomacy and domestic politics,

“When the costs and /or benefits of a proposed agreement are relatively concentrated, it is reasonable to expect that those constituents whose interests are most affected will exert special influence on the ratification process. One reason why Level II games are more important for trade negotiations than in monetary matters is that the “abstention rate” is higher on international monetary issues than on trade issues. Another factor fostering abstention is the greater complexity and opacity of monetary issues”.⁵²⁴

This study also confirms that domestic constraints can have a positive impact on policy effectiveness.⁵²⁵ Institutional coordination was proven to have a positive impact in two cases. This confirms research by Bindi, who argued in her study on Italy's policy ineffectiveness that it was largely due to a lack of coordination of EU policies at the national level, paired with a lack of coordination with the Permanent Representation.⁵²⁶

In the negotiation context, it was found that the number of actors did not matter in all but one case study. The decision-making procedure had less of a negative impact on policy

⁵²³ Putnam R. D., (1988) *Diplomacy and Domestic Politics: the Logic of Two-Level Games*. International Organization, Vol.42, No. 3, pp. 427-460. Heipertz M., Verdun A., (2010) *Ruling Europe. The Politics of the Stability and Growth Pact*. Cambridge University Press, p. 44.

⁵²⁴ Putnam R. D., (1988) *Diplomacy and Domestic Politics: the Logic of Two-Level Games*. International Organization, Vol.42, No. 3, pp. 445

⁵²⁵ Putnam R. D., (1988) *Diplomacy and Domestic Politics: the Logic of Two-Level Games*. International Organization, Vol.42, No. 3, pp 427-460

⁵²⁶ Bindi F., (2011) *Italy and the European Union*. Brookings Institution Press.

effectiveness that might have been thought initially, as it had a positive impact in the EC Reg. 883/2004 under unanimity and co-decision, but had no impact in the creation of the SGP and was only negative in its reform. While in the case of EC Reg. 883/2004 under unanimity, Luxembourg's government had intense and extreme preferences, it managed to take full advantage of the threat of veto to force an agreement which suited it. The two SGP cases, while both under QMV, produced different levels of policy effectiveness. QMV did not impede or favour policy effectiveness for the first case study, but had, as expected a negative impact in the 2005 case. So why is there this discrepancy between the two SGP cases? Firstly, in the creation of the SGP, Luxembourg found itself leaning towards the German side, but was still in the middle of the policy spectrum. Secondly, the vote distribution was roughly equal. In the 2005 reform Luxembourg, while still having the same preferences, found itself at one extreme of the policy spectrum, with the biggest member states at the other end. Finally this research concurs with other studies that the European Parliament, even though it has increasing powers, is still far less powerful than the Council of Ministers.⁵²⁷ It also confirms Widgrén's rule of thumb that "the higher the majority threshold in the [Council of Ministers], the less the EP is able to wield influence on EU decisions."⁵²⁸ Finally time pressure was found to matter in every case study but not necessarily in Luxembourg's favour; in the SGP 1997 case it had no impact; in the SGP 2005 it was the upcoming British presidency which had a negative impact, and in the unemployment case study it was the upcoming enlargement and EP elections which had a negative impact. Therefore, it can be said that time pressure impacted in two of three cases in a negative way on policy effectiveness.

The distribution and intensity of the preferences of the other member states is the major impediment, but also contributor, to policy effectiveness. If the other member states (particularly if they are large) have intense and extreme preferences, then a member state is less likely to be policy effective, as any win-set has to move towards that intense preference (as in 2005). On the other hand, if the other member states show a relative disinterest, then

⁵²⁷ Napel, S., Widgrén M., (2009) 'The Inter-Institutional Distribution of Power in Co-Decision.' *Social Choice and Welfare*, Vol. 27, p. 129-154

⁵²⁸ Widgrén M., (2009) 'The Impact of Council Voting Rules on EU Decision-Making.' *CESifo Economic Studies*, Vol. 55. No. 1, p. 53

the member state is more likely to be policy effective (as in 2003). Finally, if the member state finds itself in a median position, it is also more likely to be policy effective (as in 1996). This factor probably needs to be refined and probably redefined in light of these findings.

The hypothesis that individual-level factors, i.e. past relations, belonging to the same political family, expertise and longevity would benefit policy effectiveness also produced mixed results. In the SGP in 1996, it was definitely a positive factor; however while this factor was also present in the reform of the SGP it did not bear fruit due to Germany's intransigence. In the last case study, individual-level factors mattered only to a certain extent. These findings give some credence to Tallberg's and Bailer's propositions that individuals matter.⁵²⁹ It is surprising that this factor seems to have been the single most positive influence on Luxembourg's policy effectiveness in the three cases.

Tallberg, in his study on EU Presidencies and their influence, has provided a useful framework to analyse how a member state can shape outcomes while being the Chair of the Council.⁵³⁰ My findings support many of his, notably that a presidency can make use of the additional information and the control of the agenda to shape the policy process. However, it has also confirmed that holding the presidency alone does not an emperor make. Indeed, it was found that the Presidency did not impact in a single case the outcome in a positive way. The biggest single factor in determining whether a member state can be policy effective is, as expected, the distribution and intensity of the preferences of the other member states in the Council. This factor recurs in every combination of factors that is necessary for policy effectiveness.

⁵²⁹ Tallberg J., (2008) 'Bargaining Power in the European Council.' *Journal of Common Market Studies*, Vol. 46, No. 3, p. 685–708. Bailer S., (2006) 'The Dimensions of Power in the European Union.' *Comparative European Politics*, Vol. 4, No.4, pp. 355-378.

⁵³⁰ Tallberg Jonas: *Leadership and Negotiation in the European Union*. Cambridge University Press, 2006

3.2. *How to be policy effective in EU negotiations: a guide*

The previous section has demonstrated whether the factors selected for this research had any relevance on Luxembourg's policy effectiveness. We can now tentatively argue which factors influence policy effectiveness in a positive way based on our findings. In Luxembourg's case, the negotiation context did not have a positive impact on policy effectiveness. This is hardly surprising, considering its small voting weight in the Council and the EP. Time pressure affected policy effectiveness in a negative way. Furthermore, the office of the presidency did not have a positive influence either- which is contrary to previous findings on when Luxembourg held the presidency.⁵³¹ However it is in line with other studies on the impact of Presidencies.⁵³² The evidence is inconclusive on the impact of the approval procedure but, again, this is related to the nature of the case studies rather than a valid indication of its impact. Institutional coordination did seem to have a positive impact on the overall policy effectiveness, which previous studies have also confirmed.⁵³³

The two factors that show a positive result are the preferences in the Council and the individual-level factors. Expertise and experience, and being included in the restricted circle of actors who eventually decide on the final agreement are factors which should be paid more systematic attention in studies on member state power and EU negotiations. Only then is it possible to get a comprehensive picture of why some governments manage to get their preferences included in the final legislative agreement. Belonging to the same political family did not seem to influence policy effectiveness in a positive way in these three case studies. Neither did past relations seem to affect Luxembourg's policy effectiveness- a somewhat counter-intuitive finding as many of its politicians stress the fact that they need to have good personal relations with their counterparts. However, Bazerman et al. have found many authors find that "individual differences offer limited potential for

⁵³¹ Hirsch, M., (2004) 'Luxembourg at the Helm: Experience, Determination and Self-Denial.' *Notre Europe Studies & Research* N°37. Available at: <http://www.notre-europe.asso.fr/IMG/pdf/Etud37-en.pdf>.

⁵³² Tallberg Jonas: *Leadership and Negotiation in the European Union*. Cambridge University Press, 2006

⁵³³ Kassim H., Menon A., Peters G., Wright V. (eds), (2001) *The National Co-ordination of EU Policy: the European Level*, Oxford University Press.

predicting negotiation outcomes.”⁵³⁴ This is probably related to the prominence of the distribution and intensity of preferences factor. This seems to be the overriding factor which plays in favour of Luxembourg’s policy effectiveness. Clearly, the lower the distance between Luxembourg’s preferences and the preferences of a significant number of other member states, the more likely it is to be policy effective. Furthermore, if a country such as Luxembourg has different preferences to a coalition of France and Germany, it is very unlikely to be highly policy effective. As Barry has argued, “it is better to face a divided opposition than a united one (divide et impera) and that the most advantageous position in a triad arises when the other members quarrel.”⁵³⁵ At the very least the others must be indifferent, and even then the member state has to be actively involved and shaping the negotiations if the Commission has planned something that it does not agree with.

To summarise:

1) a member state is highly policy effective if: a) there is QMV and the member state’s preferences are to be found in the middle of the spectrum, b) it has good individual-level factors working in its favour c) time pressure is high, d) institutional coordination works well, e) domestic approval is easy (SGP 1996)

2) a member state is medium policy effective if: a) there is unanimity in Council and the member state’s preferences are extreme b) the distribution of preferences is not wide and the intensity of preferences is low, c) approval at home is difficult. (EC Reg. 883/2004)

3) a member state is lowly policy effective if: a) there is QMV and the member state’s preferences are to be found at one end of the spectrum, b) there is a wide distribution and high intensity of preferences, c) time pressure is high (SGP 2005)

⁵³⁴Bazerman MH, Curhan JR, Moore DA & Valley KL. (2000) Negotiation. *Annual Review of Psychology*, Vol. 51, p. 281

⁵³⁵ Barry B (1980) Is It Better to Be Powerful or Lucky? Part II. *Political Studies*, Vol. 28, p. 341

3.3. What is so special about Luxembourg?

The previous section has shown that the findings do not give a clear cut answer on what makes a member state policy effective- in fact, the most straightforward answer would be: it depends. Luxembourg has been highly policy effective in the creation of the SGP, due to Jean- Claude Juncker's double hat of Finance Minister and Prime Minister, as well as his expertise and his personal relations with other Heads of State. In the reform of the SGP, Luxembourg was not policy effective despite holding the presidency. Juncker was President of the Eurogroup and still had that same double hat as well. The widely distributed and intense preferences of France and Germany combined to produce an agreement which Luxembourg did not favour, but had nevertheless helped to produce. Finally, in Regulation 883/2004 Luxembourg was able to be medium policy effective because of domestic constraints, a low distribution and intensity of preferences of the other member states and because of unanimity. A variety of a combination of factors can thus lead to policy effectiveness, which does not speak in favour of the simplicity of this framework, but does reflect reality quite accurately.

Finally, some of the observations that refer above to the uniqueness of Luxembourg's role and characteristics shed an interesting light on future possibilities of policy effectiveness. In reference to its size, several observations can be made. It is a country that is deeply dependent on the positions of the other member states in order to be policy effective. Luxembourg either needs to have Germany or France on its side if it wants to be policy effective in QMV or, at the very least they need to be indifferent. Because it is such a small country there are some inherent disadvantages the government faces in EU negotiations, such as a small voting weight in the Council and the European Parliament. As shown in the introduction, until the first enlargement it was a dummy country whose vote did not matter. While still overrepresented compared to its population, it is very rare that it can be a pivotal player. The government has to work intensely on the quality of personal relations with members of the French and German government in order to be heard by them in the Council. The government needs to tread carefully whenever France and Germany unite, as their alliance may not always be in its favour. Secondly, Luxembourg cannot impose its

vision if the preferences of the others are widely and intensely distributed. Luxembourg needs big strong allies or at least their indifference in order to be policy effective.

Another observation is that a stable political system in a small state can produce the important factors which enhance its policy effectiveness. In that sense, it is undisputed that holding two or more ministerial posts, especially the PM and Finance Minister simultaneously, has significantly increased Luxembourg's chances of policy effectiveness in two cases. Indeed, the fact that a minister occupies two posts is quite common in Luxembourg; many ministers occupy more than one post. This not only improves coordination but also improves the knowledge of the ministers of transversal issues. It also has a direct impact on an increased institutional coordination and increased reputation, expertise and improved past relations. It remains to be seen how Luxembourg's policy effectiveness will fare now that PM Juncker has given up this double post and Luc Frieden is now Finance Minister. Another insight that results from this research is that Luxembourg's MEPs, even if they do not belong to the coalition government of the time, still lobby for the government's position in the EP. This may be both related to the stable political system and to the size of the country. As there are only 6 MEPs, they are well aware that of their responsibility to make Luxembourg's voice heard in the European Parliament. Furthermore, most parties send their (former) political heavyweights in the race for the elections; most of the current MEPs have held ministerial posts, or some other high political offices before. They are therefore often well versed in EU Council negotiations before they move on to the European Parliament.

If we want to draw lessons from this research on Luxembourg's policy effectiveness in the EU, what stands out most is that Luxembourg is deeply dependent upon individual-level, almost personalised factors rather than other factors which may be more permanent. We can see that historically Luxembourg has instead been able to rely on precisely these individual-level factors. Luxembourg is widely regarded as a trusted, competent partner and sometimes even leader in EU negotiations and decision-making.⁵³⁶ It has also been noted

⁵³⁶ Hirsch, M., (2004) 'Luxembourg at the Helm: Experience, Determination and Self-Denial.' *Notre Europe Studies & Research* N°37. Available at: <http://www.notre-europe.asso.fr/IMG/pdf/Etud37-en.pdf>.

that the credibility, experience and diplomatic skills of Luxembourg's Prime Ministers has led them to be designated President of one of the most important European institutions: the European Commission, thereby reaching international visibility and respect. Indeed, two former Prime Ministers have so far been appointed by the European Council to that post: Gaston Thorn and Jacques Santer. Pierre Werner was charged to develop the first paper on a possible monetary union in the 1970s. Jean-Claude Juncker's name, the Prime Minister since 1995, has regularly been tipped for subsequent nominations for the posts of Commission and European Council President.⁵³⁷ Furthermore, Luxembourg, as the smallest member state, was sometimes allocated Commission portfolios which are considered as some of the more important ones: in the 1970s, its Commissioner was responsible for Competition under Jenkins; in the early 1990s, it was allotted the agriculture portfolio, and under the Barroso II Commission, Viviane Reding is currently responsible for Justice, Fundamental Rights and Citizenship. The country and its politicians have managed to turn a weakness into an advantage in terms of its small number of staff and double ministerial hats. However politicians, even of exceptional political dexterity and of great technical expertise, sometimes lose elections or decide to retire from politics.

These resources are unstable and this presents a danger to Luxembourg's policy effectiveness in general. As *European Voice* notes dismissively on Juncker's ability to become a good and effective President of the European Council:

“Juncker's popularity in Paris and Berlin owes much to his skills as a fixer, derived from his long membership of the most powerful EU institutions, the European Council and Ecofin, the finance ministers' Council (...). But what Europe and the Eurozone needs in that position is not a fixer who owes his political fortune to accommodating the demands of the most powerful member states, but a real political heavyweight who commands respect in international financial institutions.”⁵³⁸

⁵³⁷ *Financial Times*, (2009) ‘Juncker takes on Blair for EU presidency.’ 27 October.

⁵³⁸ *European Voice*, (2008) ‘Jean-Claude's halo is starting to wear a bit thin’. 22 May.

This statement may be excessively negative but it nevertheless shows the inherent vulnerability of any politician from such a small country and, by implication, the precariousness of its policy effectiveness.

4. Reflections and further research

How member states can successfully defend their national interests or impose their policy preferences in EU negotiation processes is the central question of this research. Three broad areas are covered in this thesis: European decision making processes, EU policy making, and the political system of Luxembourg. Policy effectiveness has been defined as the successful exercise of a member state's ability to include most of its policy preferences into the final legislation. The factors that are considered to influence policy effectiveness included domestic politics, such as the approval procedure and institutional coordination. The distribution and intensity of other member states were proven to matter greatly. The negotiation context, more specifically the decision-making procedure and time pressure played a role as well. Furthermore, individual-level factors such as experience, past relations or belonging to the same political family are rarely systematically included in research, but I have attempted to include these in qualitative terms.⁵³⁹

4.1. Looking back

Reflecting on the framework of this thesis, a number of remarks on the research design can be made and several questions can be raised. First, the measure of policy effectiveness used here is relatively cumbersome: at the beginning it is necessary to establish the policy preferences of the member state, then to present the Commission proposal, followed by establishing the strategy and the goals of the member state in the negotiations. The final

⁵³⁹ But see Mattila, M. (2004), 'Contested Decisions: Empirical Analysis of Voting in the European Union Council of Ministers.' *European Journal of Political Research*, 43, pp. 29–50. Tallberg J., (2008) 'Bargaining Power in the European Council.' *Journal of Common Market Studies*, Vol. 46, No. 3, p. 685–708

legislation is compared and contrasted to the policy preferences and to the strategy and goals. Then an analysis follows on which factors played a role or not in this outcome.

This approach is probably too detailed to be applied to a large number of cases, or to 27 member states to see which one got most of its policy preferences included in the negotiations. However, the goal of this thesis was much more modest. Based on three case studies, it was possible to produce an exhaustive and in depth account of policy effectiveness of a particular member state. This qualitative and descriptive approach can complement the more quantitative studies conducted recently on member states' power in the European Union, either as a cross-check or in order to give more depth.⁵⁴⁰ The framework might be said to have a somewhat mixed intellectual heritage; after all we find traces of the intergovernmental approach, the expertocratic approach and the constructivist approach; but it is arguably more realistic as a tool to explain policy effectiveness than the purer alternatives on offer.⁵⁴¹ Finally, it is a framework which can be applied to any member state, whether they are big or small, new or old, rich or poor member states. It can be applied equally to any case study, whether they are high or low politics: treaty negotiations, regulations or directives. Furthermore it takes account of the role of the EP, an omission in many studies on member state power. This model works equally well under the new provisions of the Lisbon Treaty, which gives more decision-making power to that institution under the extension of co-decision, and has slightly different decision-making procedures.

Looking critically at the framework, were the factors well chosen? Several factors were considered to have an impact on member state policy effectiveness, and these were then subdivided into more specific factors. Some of these could have been grouped in a different way- for example, the 'distribution and intensity of preferences' could have been incorporated easily into the 'negotiation context' as they are intimately related. I chose not to do that in order to disentangle the decision-making procedure per se from the

⁵⁴⁰ Bailer S., (2004) 'Bargaining Success in the European Union.' *European Union Politics*, Vol.5 Issue 1, pp. 99-123

⁵⁴¹ Bulmer S., (1983) 'Domestic Politics and European Community Policy-Making.' *Journal of Common Market Studies*, Vol. 21, No 4, pp 349- 364

‘distribution of preferences’ analytically. After all, the negotiation context (decision-making procedure in the Council and EP and time pressure) deals with the relative weight of the member states in the Council and the EP. The distribution and intensity of preferences deals with what they want and how much they want it. The decision-making procedure furthermore was not expected to play a role directly in every case study, as many studies have revealed that consensus decision-making is often the norm.⁵⁴² While voting weights are always in the back of the negotiators’ minds, the distribution and intensity of policy preferences is expected to always impact on a particular member state’s policy effectiveness. Therefore, bundling the two together would have distorted the findings: if the decision-making procedure is unanimity, there is a low distribution and intensity of preferences in the Council and the member state in question has extreme preferences, a small member state can potentially have more impact on the final decision than under QMV where it would have or at least could have been overridden. In such a framework, the intensity of preferences would not be accurately reflected; however it has been demonstrated here and elsewhere that the intensity of preferences or the salience of the issue matter.⁵⁴³ The distribution and intensity of the preferences are intimately related to the decision-making procedure in terms of potential policy effectiveness, but they need to be treated differently in order to produce a precise picture. Some factors were also difficult to measure, especially those related to ‘individual-level factors’. Here we have scope for refining and making this measure more precise than just relying on the assessment of a person’s expertise by other negotiators. ‘Past relations’ are also notoriously difficult to quantify and to assess other than by subjective accounts.

Turning to the case studies themselves, we can ask legitimately if they were well selected. I would argue that there is a balance which was struck. Two high profile case studies on monetary and budgetary policy were complemented with a low profile yet important legislation on the coordination of social security systems. The cases on monetary policy can

⁵⁴² Heisenberg D., (2005) ‘The Institutions of “Consensus” in the European Union: Formal Versus Informal Decision-Making in the Council.’ *European Journal of Political Research*, Vol.44, pp 65–90

⁵⁴³ Arregui J., Thomson R., (2009) ‘States’ Bargaining Success in the European Union.’ *Journal of European Public Policy*, Vol. 16, No. 5, p. 671

be accused of being too technically complex and presenting diffuse preferences in the case of Luxembourg.

But one has to bear in mind that Luxembourg was the focus- three implications follow from this statement. Firstly, it is difficult to identify recent case studies where Luxembourg is presented as punching above its weight because EU politics is little politicised and publicised in Luxembourg. Secondly and perhaps equally importantly, Luxembourg is one of the member states which has the lowest frequency of position-taking in the Council.⁵⁴⁴ Thirdly, the SGP and its reform are cases of high politics- an area where small states are less likely to be policy effective and hence these cases are particularly revealing.⁵⁴⁵ The challenge of using two case studies on the surveillance of budgetary policies was therefore worth it, and gave the additional advantage of being able to draw comparisons between them. It could have been more promising to use policies where there were clear-cut preferences in order to facilitate the analysis, such as the last case study, where Luxembourg had unambiguous preferences, but none of the other member states did.

This shows an inherent problem in EU Council decision-making research: finding out the real preferences of the member states' governments, and finding out the potential coalitions. The decision making process, especially within the Council formations, is still a black box to most scholars, a challenge which, in this research, could only be met by elite interviews of the negotiators involved, by process tracing and document analysis.⁵⁴⁶ This is a cumbersome procedure and one often has to deal with incomplete information.

⁵⁴⁴ Arregui J., Thomson R., (2009) 'States' Bargaining Success in the European Union.' *Journal of European Public Policy*, Vol. 16, No. 5, p. 670

⁵⁴⁵ Moravcsik A., (1998) *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* Routledge/UCL Press. Panke D., (2010) 'Small States in the European Union: Structural Disadvantages in EU Policy-Making and Counter-Strategies.' *Journal of European Public Policy*, Vol. 17, No. 6, pp. 799-817

4.2. *Options for further research*

Having reflected on the research design and on the lessons learned, what can be done (differently) in further research on EU and Council decision-making? All of my case studies show evidence of two developments in terms of decision-making processes: the shift of decision-making from public to informal arenas, and the involvement of the European Council in areas which are not of its competence. Indeed, the compromises found were always proposed in the Council of Ministers after several key member states had seen and agreed to them beforehand. Incidentally, the evidence also indicates that the European Parliament did not influence the legislative outcome at all in these cases. Several interesting areas of research have recently opened up through the public Council votes since 2006; this means more data is available to the Political Scientist and it is theoretically easier to determine preferences and policy effectiveness. This means less exclusive reliance on interviews than in the present research. This data can be used to produce more accurate qualitative and quantitative research on which member state could include most of its policy preferences in the final legislation. It also opens up more comprehensive research on alliances within the Council, and allows comparisons on member states' alliances between different Council formations across time.

Since the economic and financial crisis, institutional change and new modes of governance in the area of economic governance in general, are emerging not only at the national level, but also at the European level. These developments will potentially have a substantial impact in the area of budgetary coordination and surveillance. Because the reform of the SGP was negotiated under the new provisions of the Lisbon Treaty, a detailed study of how this decision came about fits neatly into existing and future research.⁵⁴⁷ This certainly is worth further exploration, as it may skew the results presented here. Again, if small N case studies are used, the potential shifts from public to secluded areas can be identified through interviews and other qualitative research methods. The details of these reform processes (how and by whom these decisions were effectively taken, and which member states have

⁵⁴⁷ Heipertz M., Verdun A., (2010) *Ruling Europe. The Politics of the Stability and Growth Pact*. Cambridge University Press. Brunila A., Buti M., Franco D. (eds), (2001) *The Stability and Growth Pact. The Architecture of Fiscal Policy in EMU*. Palgrave.

been most successful in including their preferences into the final legislative outcome) are a subject worth studying. While the Stability and Growth Pact has been comprehensively covered, the angle of further research can be more geared towards drawing further lessons on EU Council negotiations in the area of EMU.⁵⁴⁸

On the other hand, detailed investigations into the institutional relations between the Eurogroup, the European Council and the ECOFIN Council have to continue. These relations are being redefined since Lisbon and the economic crisis and disentangling these could be useful research. The relations between the ins and outs of the Eurozone need elucidation in terms of taking decisions and responsibility. There is definitely scope for elaboration on the interactions between the President of the European Council, the President of the Eurogroup, and the President of the ECOFIN and between these institutions in these negotiations. It is interesting to note that Von Rompuy, the newly elected President of the European Council, was chosen to lead the negotiations on the review of the SGP in 2010- not Juncker, President of the Eurogroup of Finance Ministers. Here again, there is effectively a shift of responsibility from Finance Ministers to the Heads of State and Government. The provisions of the Lisbon Treaty have made this possible, but they did not prescribe it. Is this an indication that Juncker lost his touch, and that Finance Ministers across Europe have lost the trust of their Heads of Governments? Or is this increased involvement of the Heads of State and Governments into different ministerial responsibilities part of a wider phenomenon in EU politics? In monetary and budgetary policy especially, are we seeing the emergence of France and Germany as the (resurrected) hegemon? How these states handle current monetary troubles in conjunction with their other Eurozone members is an important issue which will impact on the future of monetary union itself. How small member states will still be able to punch above their weight in these changing conditions is certainly not only of academic interest, but it also touches on the balance between big and small member states, on the way decisions are taken in the European Union, and ultimately on the democratic accountability of governments.

⁵⁴⁸ Hérítier A., Mair P., *SIEPOL Project*.

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Interviews

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