



Organising for EU Enlargement

A challenge for member states and candidate countries

**LESSONS FROM MANAGING CONFLICT SITUATIONS IN THE
EU ACCESSION NEGOTIATIONS**

The Case of Abolishing Duty-Free Shops in Slovenia

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FIFTH FRAMEWORK PROGRAMME



Dublin European Institute
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ABSTRACT: *The paper draws some lessons from Slovenian experiences in managing conflict situations in the EU accession negotiations. It focuses on national veto points that could also be instrumentalised by organised interests as part of the national implementation of the supranationally agreed policy in the circumstances of full EU membership.*

For a full understanding of such conflicts and their outcomes it is important to combine otherwise often exclusively used theoretical approaches to EU integration processes. The outcome of negotiations on a specific conflictive policy issue in the framework of European Agreement negotiations between the EU and Slovenia is explained by a combination of intergovernmentalist, institutionalist, pluralist and actor-based approaches. The case study on closing Slovenia's duty-free shops down pitches the investigation at two-levels: EU and national. Despite Slovenia's unequal position as a candidate-country in bilateral negotiations with Italy and Austria, as well as in negotiations with the EU, the Slovenian national institutional arrangements and the employing of national institutional veto-points by Slovenian economic interest groups (in concert with some political actors) made possible: a) a re-defining of the national interest; and b) a three-year postponement of the abolition of duty-free shops.

Since all the described national institutional veto points continue to exist in the circumstances of full membership, the research findings remain relevant for understanding future problems in the implementation of common European policies that require national legislation in Slovenia.

KEY WORDS: Slovenia, accession negotiations, core executive, institutional vetoes, economic interests, policy networks

INTRODUCTION

Research problem

In social science scholars' efforts to fully investigate EC/EU integration, many previously known approaches have been revived and further developed while European integration theory is still in the making. Although various schools have been arguing among themselves (quite well-known is the neofunctionalist-intergovernmentalist dispute), ever more researchers point out that various analytical levels and thereby alternative approaches cannot only coexist but may also be compatible (Peterson 1995; Rosamond 2000; Laffan et al. 2000). This is also true of various approaches based on the combining of different theoretical tools with distinct policy stages as defined in policy analysis (Richardson 1996). No single approach can explain everything.

From the International Relations point of view (negotiations between **states** can be seen as such) politics is about the interaction of self-interested actors – states, which are seen as rational, unitary actors. They determine their interests on the basis of an evaluation of their position in the system of states. Accession negotiations can be fruitfully analysed with the realist approach. Still, negotiations on EU accession are not simply about negotiations between two states: the EU as a supranational state-in-the-making and accession countries. Namely, the question is how EU policy positions (policies) are formulated and put into practice? The answer is only partly provided by intergovernmentalists. Here, the formulation of EU policies is understood as a negotiation process in which national governments play a predominant role. The implementation stage, and especially the related difficulties, simply cannot be understood without the use of other theoretical approaches.

In practice, states are not unitary actors. Besides, national governments are not (always) the only actors. Of course, this is not expressed to the same extent for all policy issues. In any case, **national political institutions** as well as private actors represent member-states' national idiosyncrasies and they do matter. The role of domestic institutional structures in the formulation and implementation of EU policies has been investigated since the end of the 1970s (Wallace 1977; Bulmer 1983, 1986) – predominantly within the EC/EU frame. The recognition of two-level games (Putnam 1988) and importance of institutional veto-points have helped develop new insights into problems of the formulation of EU policies and the reasons for difficulty when implementing them in member-states. We believe: a) this can also be valuable when conducting research into decision-making on accession agreements and their

implementation; and b) that lessons from accession negotiations can help us understand problems in implementing EU policies in the circumstances of full EU membership.

Theoretical framework

In the framework of the institutional approach the determinants of national adaptation to EU legislation have only recently attracted more significant research interest. Researchers have been concerned with the determinants of successful national adaptation. Among such determinants, the compatibility of national and European procedures and practices ('goodness-of-fit') and domestic veto points have been investigated (Haverland 2000; Héritier et al. 2001; Bailey 2002). While **institutional vetoes** were found to be important, national resistance was often prompted by a poor policy fit during both legal and practical implementation (Bailey 2002). Although some research building on the institutional approach (such as Bailey 2002)¹ does mention additional variables – the activity of organised interests, their relationship with the government, and conflicts of interest – they still have to be systematically included in research.

It seems there is greater openness to a range of factors among those authors predominantly employing the **pluralist** approach. Dimitrakopoulus and Richardson (2001) suggest that (among others) national adaptation to the EU not only depends on the plurality of the parliamentary systems in each member-state, but also on the role of private actors in the EU policy formulation stage (the inclusion of interest groups in forming the national interest as represented by the national government in the EU arena), on ability of national pressure groups opposed to EU policy actors to 'capture' key parts of the national politico-administrative structure and to thereby undermine the related implementation. Mazey and Richardson (2002) present some possible links between the pluralistic and intergovernmental models of EU policy-making. Namely, national governments often act as agents, with their 'principals' being national firms and interests. When examining a two-level game and the situation of civil society actors remaining within national politics, the following specific findings should be mentioned. Mazey and Richardson (2002, 48-9) stress that: "where proposed Euro-regulations threaten national interests it is common for national governments to reflect this agency/principal relationship". In addition, the authors note that the traditions of

¹ Bailey (2002) mentions the institutionalised interests of *Länder*, represented in the *Bundesrat* which opposed the *Bundestag's* proposal on German adjustment to the Packaging Waste Directive. In contrast to Germany, the opposing interests of British industry were too fragmented and also lacked institutional veto points to play a more decisive role in British implementation of the same EU Directive.

government/group relations do matter for EU processes.² These relations are mostly captured in networks of linkages, communications and resource exchanges. According to Börzel (1997), **network** analysis has been widely deployed in the analysis of the EU's systems of public policy-making since networks play a central role in the development and implementation of EU programmes. This is where policy network analysis primarily focuses on the actors involved in the policy process, along with their motivations and interests (Rosamond 2000, 124). Richardson (1996, 6) suggested that this form of analysis has greatest utility when analysing particular decisions in the policy process, while Peterson (1995, 84-5) saw its value when research is focused on the meso or sectoral level. Despite the fact that accession countries are still not full members, there are some features in the development of accession agreements (as our case study has shown), which are similar to what has already been described in the Europeanisation literature.

The analytical framework and structure of the article

In our paper we understand the negotiation process between Slovenia and EU as a two-level process, even though to a great extent it was really about Slovenia adopting the *acquis communautaire*. It is a fact that the last EU-enlargement process was merely about '**harmonisation**'. Still, a very important negotiating feature had been the varying economic interests of the EU as a whole, of member-states and candidate-countries, as well as some specific particularistic interests within member-states and candidate-countries. If at least two of the abovementioned features in a particular case are contested, we can then speak about 'negotiations'. As a result, **the most that candidate-countries could get in the 'negotiations' was perhaps a few additions to the *acquis* or delays (i.e. transitional periods) in its implementation** (Potočnik 2000).

The case of abolishing duty-free shops in Slovenia is one of the rare issues involving intensive games on both mentioned levels. What is especially interesting is that it was **the national-level game that was most decisive for the final outcome**: namely, it produced a time-leg in the implementation of the Europe Agreement that had previously been unsuccessfully demanded by Slovenian governmental actors in negotiations with the EU.

² Mazey and Richardson (2002, 49-50) present two examples (British and German) of collaboration between the government and interest groups and their role in ensuring effective lobbying in Brussels in favour of national interests. The Europeanisation of interest groups could become a threat to national-level relations in the context of interest group involvement in multi-level EU decision-making.

In this paper we are **combining three approaches**: the intergovernmental (realist) approach, the institutionalist approach focusing on the systemic (institutional) level and the policy network approach involving the meso level in the stage of implementing policy decisions formed at the intergovernmental level. We argue that both policy actors and institutions do matter. In cases like those we have mentioned, actors deliberately employ the institutional characteristics of the national polity as instruments for fulfilling their interests. We understand institutions as formal rules, compliance procedures and standard operating practices that structure relations between individual units of the polity (Rosamond 2000, 115). The network approach helps us understand formal and informal relations between policy actors which had an impact on the outcome of negotiations. We are especially interested in the implementation stage of the accession agreement and the role of: a) national institutional veto-points; and b) the involved policy actors' utilisation of institutions in altering the outcome of negotiations between the EU and Slovenia by activating national institutional veto-points. The case study on abolishing duty-free shops in Slovenia is based on an analysis of formal documents, official Slovenian and EU websites, press coverage (archives of the Slovenian daily newspaper 'Dnevnik'), semi-structured interviews conducted in 2000 in Ljubljana (Polak, 2000), interviews conducted in Ljubljana and Brussels in March to October 2002,³ and monitoring of important characteristics of EU-Slovenia relations up until the end of 2002 when the negotiating process formally ended.

Section 1 of the paper identifies the main features of the duty-free shop issue in the Slovenian negotiating process. The intergovernmental negotiations are presented in Section 2. The Slovenian institutional design for managing EU business and national institutional veto-points in Slovenia are examined in Section 3. Analyses of a two-level game from the policy network perspective and the employment of national institutional veto-points are presented in Section 4. Finally, Section 5 synthesises the main findings.

THE PECULIARITY OF THE DUTY-FREE SHOP ISSUE IN THE SLOVENIAN ACCESSION NEGOTIATION PROCESS

As an organisation of states, the EU has superior bargaining power and sometimes makes demands that are in fact not met by member-states and even makes demands that are not part of the *acquis* but are in the economic interests of member-states (Bučar

³ Interviews were conducted with officials at various levels of seniority in the following Slovenian governmental institutions: Government Office for European Affairs, Negotiating Team of the Republic of Slovenia for Accession to the EU, Ministry of Foreign Affairs, Secretary-General of the Government of the Republic of Slovenia, Ministry of Finance, and National Assembly (19 altogether). One interview was conducted with the representative of non-parliamentary political party "Nova". Finally, five interviews were conducted in Brussels: three at the

and Brinar 2002). In the negotiating (accession) process, candidate-countries therefore have very little space for negotiations, while the EU is always one step ahead of them with its 'take it or leave it' approach. The story of candidate-countries' legislative alignment and fulfilling of the conditions for EU accession was above all an internal story about reforms that will contribute to candidate-countries' EU membership. It is thus no coincidence that the accession process is frequently also described as a tool to help candidate-countries achieve a functioning market economy, democracy and the rule of law (Bučar and Brinar 2002). **The key part of the negotiations therefore took place at home.**

The issue of abolishing duty-free shops was a case of conflictive negotiations involving economic interests. It is one of very few cases where civil-society actors intervened in the process. Besides them, it also involved a wide range of other stakeholders – the EU and Slovenian executives as well as the Slovenian Parliament. The problem was formally on the 'negotiating agenda' for almost five years (1997-2001). It also attracted the widespread attention of the mass media in Slovenia. However, we should emphasise there are at least two reasons why this is **not a 'typical'** accession negotiation case: firstly, it did not come with the negotiating process but was only included afterwards. Secondly, the negotiations were turned upside down because they took place first at the European level and only then at the national level (to a limited extent we can speak of the absence of a prepared negotiating position at the national level before negotiating with the EU).

The problem of abolishing duty-free shops in Slovenia can formally be discussed as part of the negotiating process with the EU (decision-making), as well as part of implementing the provisions of the '*Europe Agreement*'. Although the negotiating process on abolishing Slovenian duty-free shops at land borders with EU member-states was very complex, there was just one crucial issue that evolved into a political problem. It was the question of **when** Slovenia (according to the supposed legal obligation under the Europe Agreement) should abolish its duty-free shops. This issue appeared in two different forms at the European level and at the Slovenian national level.

THE REALIST POINT OF VIEW: WHAT WERE THE INTERGOVERNMENTAL NEGOTIATIONS ABOUT?

The existence of duty-free shops at Slovenian land borders was particularly contentious for two EU member-states – Austria and Italy - which first raised the problem in bilateral relations with Slovenia and demanded it should have immediately closed down its duty-free shops along their borders. They both claimed the existence of Slovenian duty-free shops along their borders had serious adverse effects on their economies, especially in their border regions. Because Slovenia rejected the idea of abolishing its duty-free shops along those borders before its full membership in the EU, Austria and Italy made it a '**European problem**'. Hence, at the EU level the question of Slovenia's duty-free shops along land borders with EU member-states was first included in a Joint Declaration on Article 94 of the Europe Agreement, which stated: '*In accordance with international commitments the Parties will take the necessary steps to implement, before 1 July 1998, the recommendation adopted by the Customs Co-operation Council on 16 June 1960*'.⁴ Interpretation of this provision emerged as the main problem in the EU-level negotiations. The EU side understood this equivocal provision as Slovenia's commitment to abolish all its duty-free shops along land borders with EU member-states **before 1 July 1998**. In contrast, the Slovenian side understood the provision as an obligation that, from 1 July 1998, Slovenia would not be allowed to open any **new** duty-free shops, while the existing ones could remain open until Slovenia was a full member of the EU. Duty-free shops represented a significant source of income for Slovenia and their existence was thus in Slovenia's national-economic interest. Pressure from Brussels for Slovenia to abolish its duty-free shops (through its commitment under the Europe Agreement) grew ever more intensive. Therefore, the Slovenian Government prepared a programme in June 1999 for the gradual remodelling of duty-free shops **by 1 January 2003**, but Brussels rejected this. Moreover, the Commission included the question of duty-free shops in the **1999 Accession Partnership** as a short-term priority and intermediate objective that Slovenia should fulfil and, in the Slovenian **negotiating process** with the EU, even in two negotiating chapters: Chapter 10 (Taxation) and Chapter 25 (Customs Union).

Generally speaking, the existence of duty-free shops at the start of negotiations had negative implications for European actors, while for (all) Slovenian actors it had positive ones. As already noted, Austria and Italy had claimed negative economic effects in their border regions while Slovenian actors had been advocating different, primarily economic

and social, interests. For the Slovenian economy, the existence of duty-free shops was relatively important for these main reasons: it boosted gross product (income); it supported employment; it had an indirect impact on trade and employment for suppliers (caterers); it made direct contributions to the national budget; it established a net inflow of foreign currency; and they were linked to daily tourism in Slovenia.

The issue of decision-making was politically sensitive at both levels. For the Slovenian Government it became even more delicate once it realised that **insisting on not abolishing duty-free shops might seriously threaten Slovenia's accession to the EU**, or at least significantly slow down its progress. It found itself between a rock and a hard place – it had to decide between the political decision to join the EU (as an absolute priority and the key strategic goal of Slovenian foreign policy) and particular economic interests presented as a national interest at home. Simultaneously it had to: 1) preserve its credibility in the EU negotiations (to fulfil its obligations in accordance with commitments made under the Europe Agreement – after the prevalence of the 'Commission's interpretation' that Slovenia should abolish its duty-free shops as soon as possible); and 2) achieve a consensus at the domestic level that abolishing Slovenian duty-free shops was not only necessary but also useful (as some studies commissioned by the Slovenian Government had shown). That was a very difficult task since public support in Slovenia for joining the EU had dropped drastically during the negotiations while a significant share of the public kept strongly arguing that Slovenia had no legal obligation to do away with its duty-free shops before its full EU membership.

THE 'EU INSTITUTIONAL DESIGN' AND NATIONAL INSTITUTIONAL VETO POINTS IN SLOVENIA

A two-level game: two stages and two institutional settings

The institutional approach is important for understanding the process and outcome of our case study for two reasons. First, it sheds light on the characteristics of Slovenia's core executive for managing EU matters playing important, although to a certain extent different, roles in both stages (negotiation and implementation of the Europe Agreement). Second, it explains the institutional mechanisms used by interested actors at the Slovenian national level for postponing implementation of the Europe Agreement. While in the context of the intergovernmental game in formulating the Europe Agreement the Slovenian Government was still in the early stages of institutional adaptation for

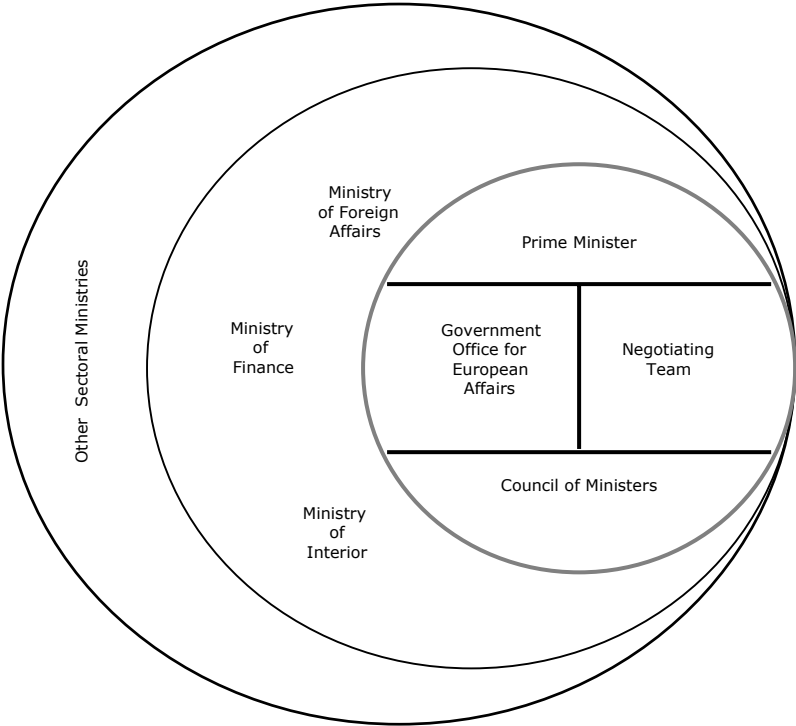
⁴ In 1960 the Customs Co-operation Council of the European Economic Community (EEC) – due to the high likelihood of smuggling – adopted a recommendation that member-states of the then EEC should open duty

managing EU matters, it had already a more adapted and more centralised European core executive in the Europe Agreement implementation stage. But, the national institutional veto-points enabled the legal postponing of implementation.

Negotiation stage

The characteristics of the Slovenian state involved in the negotiation process with the EU had been changing during this process. The negotiation process had involved a Slovenian core executive⁵ in-the-making - a relatively **dispersed and decentralised system** for co-ordinating EU affairs. This is one possible reason for the absence of preparation of a sufficiently qualitative negotiating position at the national level before negotiating with the EU. Implementation of the negotiation outcome was the task of an already centralised and institutionally adapted EU core executive (see Figure 1) involving a special independent office – the **Government Office for European Affairs** (established in December 1997).

Figure 1: The Slovenian Core Executive on EC/EU business



free shops only in international harbours and airports.
⁵ For more about the Europeanisation of the Slovenian core executive, see Fink Hafner and Lajh (2003).

Although we could still see it as a relatively polycentric model (various departments with different tasks and the line ministries remaining the 'lead ministries' relative to the articulation of national positions on particular/sectoral EU issues) it gained (in comparison to the previous one) more capacity for co-ordinated or even centralised decision-making. Namely, besides the established Government Office for European Affairs at the national level it included:⁶ 1) the Prime Minister⁷ as the key co-ordinator of politically sensitive questions; 2) the Council of Ministers as the ultimate national (executive) decision-making unit on EU issues; 3) the Negotiating Team⁸ (supported by a system of working groups⁹ to manage accession negotiations) as an expert group that ensured the prevalence of expertise over political and factional interests in the negotiating process; 4) the Ministry of Foreign Affairs as the formal negotiator and vertical co-ordinating institutional point; 5) the Ministry of Finance as a widely responsible actor in the fields of financial and budgetary provisions; and 6) the Ministry of the Interior responsible for the development and adjustment of Slovenia's public administration.

The case of abolishing duty-free shops involves several exceptions to the normative prescription and predominant functioning of the political system as defined in 1998 or later. This implies civil society and parliament's involvement in the preparation of negotiating positions.¹⁰ Following the start of the negotiating process (end of March 1998) the National Assembly's role became even more significant - the proposed negotiating positions were discussed and approved in the Slovenian parliament before being sent to Brussels.¹¹

⁶ As part of the core executive we placed all those institutions (actors) that were also in varying degrees involved in 'macro-negotiations', whereas all others were involved 'merely' in 'sectoral policy negotiations'.

⁷ Whenever the pre-accession or negotiation process required inter-ministerial co-ordination, the Prime Minister convened the 'European meeting' of the Government for all ministers in question. This European meeting was convened *ad hoc*, as required, and was composed of the Prime Minister, the Foreign Minister, the European Minister, the Finance Minister and the Head and respective member of the Negotiating Team. Any other members set to attend the meeting were invited in accordance with the particular emphasis on current or prospective issues on the EU agenda.

⁸ The Negotiating Team was formally abolished in April 2003.

⁹ To support the Negotiating Team's work, the government appointed 31 working groups comprising representatives of individual ministries and other relevant institutions. The working groups were responsible, together with the Negotiating Team and, if necessary, external experts, independent institutions as well as non-governmental organisations for the preparation of negotiating positions and other platforms for negotiations in a particular negotiating chapter.

¹⁰ Slovenia's political elite decided to publish all negotiating positions and invite non-governmental organisations, trade union representatives, external experts and all other civil-society actors to co-operate in preparing them. Besides that, representatives of employers and employees were participating in 31 working groups within the Negotiating Team of the Republic of Slovenia from its establishment in April 1998 to its abolition in April 2003. Therefore, at least at the normative level the practical role of civil society in preparing the negotiating positions was stressed, while additional space for civil society's activities was opened by public presentations of the negotiating positions.

¹¹ Since the proposed negotiating positions were a basis for forming the Accession Treaty of Slovenia, they were adopted as a proposal for the conclusion of an international treaty. Hence, in accordance with the Foreign Affairs Act (Official Gazette of the RS, No. 45/01) the Government had to submit them for discussion and approval to the National Assembly. They were discussed by the relevant bodies of the National Assembly and eventually approved by the Committee on Foreign Policy. Such discussion of negotiating positions and their verification in "open-to-public" National Assembly significantly contributed to a transparent integration process.

Implementation stage: employment of Slovenian national institutional veto-points

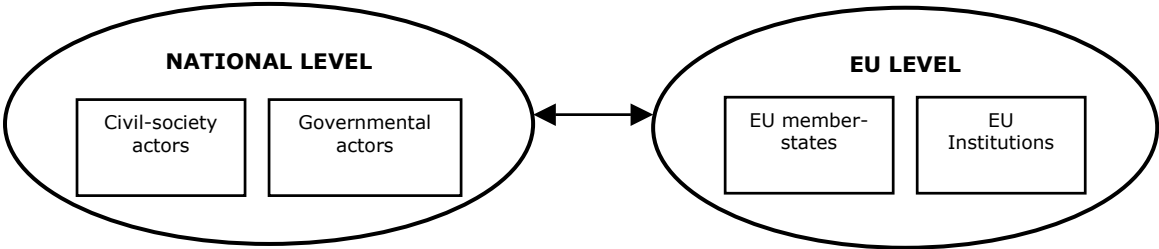
The national institutional veto-points had a significant impact on practical **implementation** of the Europe Agreement. In fact, all possible institutional veto-points available in the Slovenian national policy-making arena were triggered. These are:

- a) *Queuing of bills*: in accordance with the National Assembly's Rules of Procedure, the National Assembly is bound to vote on any proposal first put into the legislative procedure. This situation can be particularly problematic in Slovenia due to the slowness and rigidity of the legislative procedure.
- b) *The 'one and a half' chamber parliamentary system and veto of the upper chamber*: in Slovenia the National Council is the upper chamber of Parliament. It has 40 members representing different local interests (22 seats) and functional interests (18 seats). Although the National Council has otherwise limited competencies it poses the power of an idiosyncratic veto in relation to the National Assembly (lower chamber). Namely, within seven days of passing a law in the National Assembly and prior to its promulgation the National Council may require the National Assembly to decide again on such a law. In order to finally pass the law in this case, an absolute majority of all the National Assembly's deputies (46 out of 90 votes) must be achieved.
- c) *Legislative Referendum*: according to the Slovenian Constitution of 1991 (Article 90) the National Assembly must call a referendum to decide on its own legislative initiatives if required by at least one-third of the deputies, by the National Council or by forty thousand voters. The right to vote in a referendum is held by all citizens eligible to vote in elections. A proposal is passed in a referendum if a majority of those voting have cast votes in favour.

ACTORS, PROCESSES AND THE EMPLOYMENT OF NATIONAL INSTITUTIONAL VETO-POINTS

A wide set of actors were involved in the story of abolishing duty-free shops in Slovenia. They can be identified as falling within two sets of actors taking into account a two-level game: one at the European level and the other at the national level. With regard to their characteristics, three types of actors in fact participated in the policy networks involved: governmental actors, non-governmental or civil-society actors, and supranational actors.

Figure 2: The policy arena for abolishing duty-free shops in Slovenia – a narrow view



The first phase of negotiations: actors and their interests in the intergovernmental game at the EU level

In the first phase of the negotiating process at the European level, three sets of policy actors played a key role (Table 1).

Table 1: Policy actors at the EU level

EU	EU member-states	Slovenia
- European Commission	- Austrian executive - Italian executive	Slovenian executive, predominately involving the following units: - Government Office for European Affairs - Ministry of Finance - Ministry of Foreign Affairs

At the European level, the problem of duty-free shops was first identified in bilateral relations between Slovenia on one side, and Austria and Italy on the other. Later on, after Austria and Italy succeeded in 'Europeanising' the problem and achieving its inclusion in the Slovenian-EU pre-accession negotiation process the question of Slovenia's duty-free shops was initially discussed within the bodies established under the Association Agreement (Association Council, Association Committees). Finally, in the last phase of negotiations at the EU level the problem was also discussed as part of the Slovenian-EU negotiating process.

There were two elements to the *Commission's* demand that Slovenia abolish its duty-free shops at land borders with EU member-states. First, abolishing the duty-free shops in Slovenia would ensure the effects of the EU's single market principles. Namely, the

existence of duty-free shops infringes the EU's single market principles as, due to their untaxability, such 'duty-free' sales are actually subsidised and therefore in conflict with the EU's competition policy rules. Second, the Commission was protecting the economic interests of two member-states (Austria and Italy), which had claimed the existence of these shops along their borders had serious adverse effects on their economies. They had both argued that economic activities had been suffering significantly in their border regions, threatening existing jobs.

Austria and *Italy* had the greatest objections to Slovenia's rejection of calls to immediately do away with its duty-free shops along their land borders. Therefore, with the intention of increasing pressure on Slovenia they adopted certain measures. Austria limited imports of tobacco products from Slovenia to a minimum (200 cigarettes), while Italy reduced petrol prices for Italian residents in the border regions. At the time, Slovenia probably had the lowest petrol prices in Europe and many Italians combined their visits to Slovenia with shopping in the duty-free shops and stops to refuel their cars. As a consequence, both measures had a negative impact on the operations of Slovenia's duty-free shops.

The main Slovenian actors at the EU level were three governmental ministries that also form the Slovenian core executive on EU affairs: the Government Office for European Affairs, the Ministry of Finance and the Ministry of Foreign Affairs. The *Government Office for European Affairs* represented the central co-ordinating unit for negotiating with the EU and technically and expertly supported the negotiating team and all other governmental actors that co-operated in the discussion. The *Foreign Ministry's* greatest importance was its key role in managing vertical relations with Brussels, including the Foreign Minister as chief negotiator. Finally, the *Finance Ministry* was the main player in negotiations on Chapter 10 – Taxation, and one of the leading players in negotiations on Chapter 25 – Customs Union. The EU side had included the question of duty-free shops in these two negotiating chapters. All these governmental actors at the EU level argued that Slovenia had no legal obligation (under the Europe Agreement) to abolish its duty-free shops before full EU membership, and they all protected the Slovenian national economic interest (duty-free shops represented a significant source of income for the country).

In the first stage of negotiations with the EU on duty-free shops, civil society actors from Slovenia were not involved - unlike the EU accession procedure and policy style otherwise developed in Slovenia.

The second phase of negotiations: actors and the employment of institutional veto-points at the Slovenian national level

At the domestic level the key 'negotiations' (the 'struggle' for the existence of duty-free shops) took place primarily between Slovenian governmental and civil society actors. However, in this second phase of negotiations EU actors still constantly exerted pressure on Slovenian governmental actors (official policy), but not on civil-society actors.

In the process of the Europe Agreement's implementation, Slovenian governmental actors (as part of the executive body) changed their initial position on abolishing duty-free shops. Joining the EU as an absolute priority and key strategic goal of Slovenian foreign policy prevailed over national and particular economic interests. So we can argue that **Slovenian governmental actors at the national level *de facto* took over the role the Commission had played at the European level.**

Table 2: Policy actors at the national level

GOVERNMENTAL ACTORS		
Executive body actors	Legislative body actors	Parliamentary political party
<ul style="list-style-type: none"> - Prime Minister - Government Office for European Affairs - Ministry of Finance - Ministry of Foreign Affairs 	<ul style="list-style-type: none"> - National Assembly - National Council 	<ul style="list-style-type: none"> - Slovenian National Party
NON-GOVERNMENTAL ACTORS		
Bearers of particular interests	Experts	Non-parliamentary political party
<ul style="list-style-type: none"> - Duty-free shops section at the Chamber of Commerce and Industry - Border local communities - Trade unions 	<ul style="list-style-type: none"> - Institute for Economic Research at the Faculty of Economics - Bogomir Kovač (individual economics expert) - Miha Pogačnik (individual legal expert) 	<ul style="list-style-type: none"> - The New Party

The 'one and a half' chamber parliamentary system made an important difference. The National Council (upper chamber) put a veto on the 'Law on Remodelling Duty-free Shops at Land Borders with EU Member-states' previously passed by the National Assembly (lower chamber). Further, the National Assembly was not a single-voice actor. One parliamentary party, the Slovenian National Party (together with one non-parliamentary – the New Party) persistently argued that there was no legal obligation for Slovenia to abolish its duty-free shops before its full EU membership. They also became aware that opposing the Government's proposals might be a big opportunity for their own promotion since much of the Slovenian public also opposed the EU's demands.

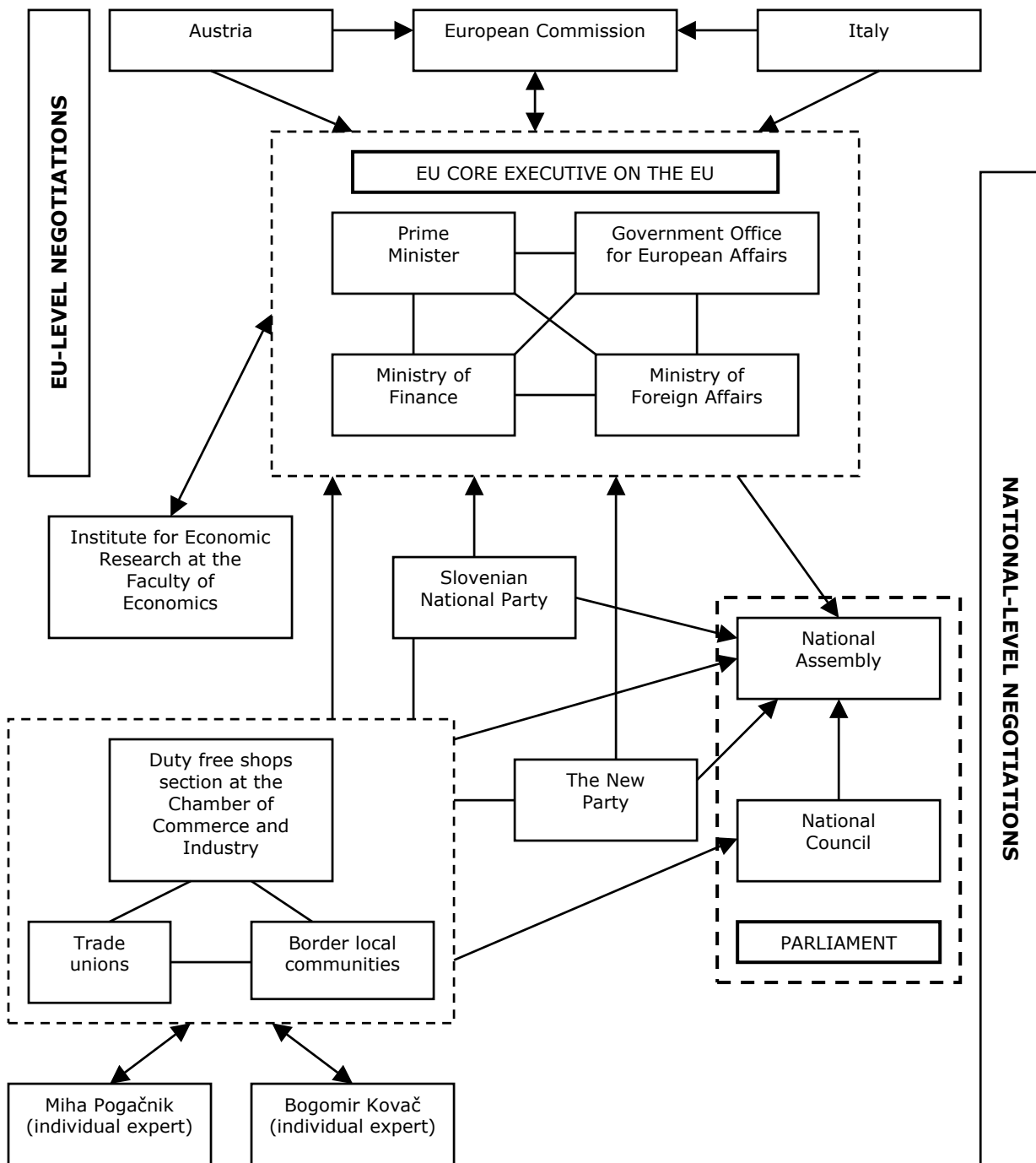
The key bearers of particular economic interests in this case study were the owners of duty-free shops, associated in the 'Duty-free shops section at the Chamber of Commerce and Industry', border local communities, and trade unions. The *owners of duty-free shops* were interested in keeping their income while *border local communities* argued that the existence of duty-free shops was in their vital interest. Namely, duty-free shops employed many people and had positive effects on 'daily tourism', which had a significant impact on the development of these border local communities. Finally, *trade unions* represented the interests of employees who would potentially lose their jobs as a result of doing away with duty-free shops.

Experts played a significant role in the negotiations by preparing (opposing) expertise used in the policy process by various policy actors: the Institute for Economic Research at the Faculty of Economics (studies commissioned by the Slovenian Government), Bogomir Kovač and Miha Pogačnik as individual economic and legal experts (studies commissioned by the owners of duty-free shops).

While some governmental actors were still sceptical and argued for caution in decision-making on the future destiny of duty-free shops, the ever increasing pressure from Brussels¹² together with more recent expertise on the positive outcome of a possible remodelling of duty-free shops encouraged the Slovenian Prime Minister's decision to convene a European meeting of the Government. Only a few days after the European meeting held by the Prime Minister on 27 January 2000 the Council of Ministers decided to remodel the country's duty-free shops.

¹² In the regular progress report on Slovenia of October 1998 the Commission stated (in Chapter 3.8) that Slovenia had not yet harmonised the functioning of its duty-free shops with the recommendation adopted by the Customs Co-operation Council on the gradual closing down of duty-free shops before 1 July 1998. At the meeting of the Association Committee in Ljubljana on 25 March 1999, representatives of the European Commission rejected the Slovenian government's proposal for the gradual remodelling of duty-free shops by the time of Slovenia's full accession to the EU. On 12 May 1999 the EU demanded the immediate implementation of the commitments and information on the final abolition of duty-free shops (common position of the EU CONF-SI 17/99). On 19 May, the Austrian representative opened the question of duty-free shops at the intergovernmental meeting on Slovenian accession to the EU (organised at the level of the Chief Negotiator's deputies in Brussels). The continuing existence of duty-free shops was criticised in the regular progress report on Slovenia published on 19 October 1999. In the Accession Partnership, the issue of duty-free shops was included in the list of short-term priorities. In 1999, the obligation to close down duty-free shops was included in two negotiation chapters – on Customs Union and Taxation. Also, the Director General sent a letter to the Slovenian Minister of European Affairs expressing the expectation that Slovenia would abolish its duty-free shops before 1 July 2000.

Figure 3: The policy network on abolishing duty-free shops in Slovenia



Yet, due to the domestic political conflict the Slovenian Government was unable to fulfil this commitment immediately. Namely, the opponents in Slovenia used all the available mechanisms to maintain the existence of duty-free shops as long as possible. The common position of all 'opponent' domestic players was that there was no legal obligation (in the Europe Agreement) for Slovenia to abolish its duty-free shops before

full membership in the EU arguing that abolishing duty-free shops would have excessive and negative multi-sided implications for Slovenia.

At least three events at the national level were important in the struggle for keeping duty-free shops alive:

- a) On 2 February 2000 the **Slovenian National Party** (the only Slovenian 'Euro-sceptic' parliamentary party) took the lead of the Government by putting before **Parliament a draft law** on remodelling duty-free shops at land borders with EU member-states, which anticipated the existence of duty-free shops until full EU membership, including an appropriate transitional period (four years). As a consequence, the National Assembly had to vote on the Slovenian National Party's proposal and the legislative procedure was thus blocked for any other (governmental) proposals.
- b) After rejecting the proposal, the National Assembly finally passed the Law on Remodelling Duty-free Shops at Land Borders with EU Member-states, which was proposed by the Slovenian Government after Jelinčič's¹³ initiative and which predicted that duty-free shops would remodel themselves by 1 June 2001. **But the National Council vetoed this law.** After the repeated vote of the National Assembly it succeeded in passing the law a second time - this time with an absolute majority as demanded by the rules.
- c) But even the second successful adoption of this law did not conclude the national part of the 'negotiations'. The non-parliamentary political party 'Nova' ('New Party') launched **an initiative to call a referendum** before the President of the National Assembly. The 'New Party' thus started collecting voters' signatures. However, in the constitutionally prescribed time (one month) they failed to collect the requisite number of signatures (they had about twenty-two thousand signatures - about half of the forty thousand required to successfully put the bill on the parliamentary agenda). Yet, through this they still succeeded in keeping duty-free shops alive for a few more months.

Institutional veto-points were triggered with the help of formal and informal links among the actors involved (marked in Figure 3). On the basis of our interviews and interviews conducted by Polak (published in Polak 2000), we can say that the following relations were in play: employment of links between the local communities involved and the National Council (22 out of 40 members represent local interests!), the involved firms lobbied MPs in the National Assembly on their own (also with the help of a hired lobbyist)

¹³ Jelinčič has been the leader of the Slovenian National Party since its establishment and its MP since the 1992 parliamentary elections.

and by using their associations (representatives of the Chamber of Commerce and Industry's sections for tourism and for trade lobbied MPs). The thus persuaded MPs acted as 'lobbyists' within the parliamentary committees (such as the committee for finances, for the economy and for European affairs). The interest group's lobbying strategy was focused on party ideology (acceptance of criticism of European issues) as well as on regions (MPs linked with the affected local communities). The key characteristics of communication unanimously described by various interviewees were 'consultation and exchange of information'. In parallel, the organised interests involved kept informing the government on their positions and arguments as well as putting pressure on the government through the mass media.

The outcome of the two-level game

Slovenian duty-free shops along land borders with EU member-states were finally remodelled on 21 September 2001. The result of the employed institutional vetoes on the national level was that the defenders of duty-free shops had achieved an over three-year-long 'artificial' transitional period (given that the initial EU demand was to abolish duty-free shops in Slovenia before 1 July 1998). Although Slovenian governmental actors defended duty-free shops in the first stage (intergovernmental negotiations), the Slovenian executive acted as a defender and promoter of the inter-governmentally achieved decision as well as of its implementation at home.

Despite the very strong opposing preferences and interests of the actors involved, negotiations on abolishing duty-free shops in Slovenia can best be described by the proverb '*to run with the hare and hunt with the hounds*'. Namely, ultimately:

- the European actors were finally satisfied Slovenia had abolished its duty-free shops;
- Slovenian governmental actors overcame an obstacle in the accession negotiations;
- the owners of duty-free shops achieved an almost three-year-long artificial transitional period, and have (with only a few exceptions) successfully remodelled their shops and (on a non-duty-free basis) continued operating;
- the experts 'buried their hatchets'; and
- both political parties involved in mobilising institutional vetoes on the national level gained from their enhanced publicity.

CONCLUSIONS

a) Key research findings from the case study

The case study on abolishing duty-free shops in the framework of Slovenia's EU negotiations on the accession agreement was examined as a two-level game. By using a combination of several approaches – intergovernmentalist (realist), institutionalist, pluralist and policy network – we may conclude that it was the employment of national institutional veto-points on behalf of the affected Slovenian economic interest groups (with the help of some political actors at the national level) which was crucial for the final outcome of the complex decision-making process.

Table 3: The two-level game and its outcome

stage	type of game	level of game	actors	decisive factors	outcome
negotiations (Europe agreement)	inter-governmental	EU	- EU - Italy - Austria - Slovenia	superior bargaining power of the EU	Europe Agreement provision on abolishing duty-free shops in Slovenia before 1 July 1998
implementation of Europe Agreement (in Slovenia)	pluralist; within the national political system	national (Slovenia)	- executive - parliament (two chambers) - political parties (parliamentary and non-parliamentary) - interest groups - experts - mass media	employment of national institutional veto-points	abolishing (remodeling) duty-free shops on 21 September 2001

The Slovenian government (especially the core executive on EU business in-the-making) played two games - one at the intergovernmental level (in relations with Austria, Italy and EU) and one at the Slovenian national level. Although it stood for Slovenian economic interests in the first stage (interpreting the Europe Agreement provisions as meaning to be fulfilled by the time of Slovenian accession) it changed its position in the Europe Agreement's implementation stage. On the basis of a (re)evaluation of Slovenia's (power) position and under EU pressure it became a proponent of the EU's interpretation and so entered into a struggle with strong opposition at the national level. Only after the

oppositional employment of all possible national institutional veto-points did it fully implement the Europe Agreement's provisions.

The case of abolition of duty-free shops supports Bučar's and Brinar's (2002) finding that, within a candidate-country, there is a strong likelihood that the political decision to join the EU will prevail over a (particular or even national) economic interest. During negotiations on the most politically and economically controversial issues, the economic interests of EU member-states are usually ranked highest. Still, Slovenian organised economic interests succeeded in fulfilling their interests. By **employing national institutional veto-points** they practically achieved a three-year 'artificial' transitional period. This would not have been possible without formal and informal links between the interested civil society actors and political actors, which are formally entitled to trigger institutional veto-points.

While the institutional setting and institutional veto-points can only be understood when harnessing the institutionalist approach, the practical working of the game at the EU and national levels as well as their interconnection could not be fully investigated without a sense of the heterogeneity of states as actors and the additional use of the actor-centred approach.

b) Lessons for the situation of Slovenia's full EU membership

All the abovementioned national institutional veto points available in the Slovenian national policy-making arena remain valid in the context of Slovenia's full membership since the national legislation process (which includes the institutional veto points described in the case study) has not been changed. Hence, the lessons from the case study remain useful for understanding problems in the implementation of EU policies that demand additional (Slovenian) national legislation in the event efficient interest groups are affected by EU policy and actively engaged in national policy-making determining its implementation in Slovenia. Of course, in this case we are 'only' talking about the process of the national implementation of already EU defined public policies.

Besides that, at least theoretically, Slovenia's parliamentary decision-making could influence the supranational (EU) decision-making. According to the Law on Co-operation between the National Assembly and the Government of 25 March 2004,¹⁴ the National

¹⁴ The Law is based on the amendment to the Slovenian Constitution adopted on 7 March 2003. It changes Articles 47 and 68 in the Slovenian Constitution of 1991. It allows the transfer of implementation of part of the sovereign rights of Slovenia to international organisations on the basis of an international agreement ratified by the Slovenian parliament, provided that these

Assembly co-operates with the executive on those EU matters which (according to the Slovenian Constitution, the Law on the Slovenian Government and the abovementioned law) fall within its jurisdiction. Since parliamentary bodies (which are mostly supposed to be involved in day-to-day decision-making on EU matters) also at least (formally) allow co-operation with interest groups it remains to be seen to which extent interest groups will use this channel (apart from directly influencing the government) to shape the negotiating positions supported by parliament and sent to the executive for further involvement in the EU policy-making process.

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ACKNOWLEDGEMENTS

This paper originated within the EU's Fifth Framework Programme project 'Organising for EU Enlargement: A Challenge for the Member States and Candidate Countries' (HPSE-CT-2001-00083).

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Zakon o sodelovanju med Državnim zborom in Vlado v zadevah Evropske unije (ZSDZVZEU), adopted on 25 March 2004; Raziskovalni sektor Državnega zbora RS, 3.6.2004.