Bridging the divide. Tobacco policy-making in Australia and Switzerland

Abstract
This paper critically appraises the problem solving capacity of conflicting advocacy coalitions in a classic field of public health by comparing and analysing tobacco control decision-making processes across two federal states, Australia and Switzerland. Tobacco-related diseases are the single most important cause of preventable deaths in the world. While the public health advocacy groups request strong tobacco control regimes as a means to promote population health and health equity, the tobacco industry opposes tobacco control measures for free trade reasons. According to the public health literature, this conflict cannot be bridged given the policy monopoly position of the tobacco industry and the contrasting belief systems of the two advocacy coalitions. Despite these diverging interests, most Western democracies have adopted some tobacco control policies in order to avoid those diseases and to improve the health of the population. By applying a political-science perspective, the question of how and to what extent the conflicting interests in the field of tobacco politics did become integrated into tobacco control policies in the course of a political decision-making process is at the centre of this paper. Comparing Australia and Switzerland, research findings reveal that besides conflicting belief systems, institutional and procedural elements are equally important in shaping the output of tobacco control policy-making.

Introduction
The coordination of conflictious, albeit legitimate interests is one of the perennial issues in public policy. Coordination is required whenever a desirable public good cannot be achieved by unilateral action alone because political actors lack resources (i.e. information or access to political decision-makers) that are necessary for resolving the problem, or actors diverge or converge in their preferences over the range of feasible policy outputs such as the design of a law or a regulation (Scharpf 1994, 1997).

At the departure point of the reflections on political coordination-capability are state-society-relations, or, in other words, the question of how societal interests are coordinated with regard to a debated public good. To explore this question, this paper follows the tradition of policy analysis with a focus on public health policy-making. In addition, this study relies on a given policy field in public health: tobacco control. As a conflictious as well as multilevel and multisectoral issue criss-crossing a broad range of policy domains, this "blended" character (Studlar 2007) makes tobacco control well suited for a research on policy coordination in legislative decision-making processes.

One of the characteristic features in the debate on the regulation of tobacco products is the strong normative conflict between public health advocates and the tobacco industry. This has not always been the case. For a long time, tobacco was considered to be a normal and legal commodity to be grown, manufactured and traded like any other commodity. This changed in the early 1960s when scientific evidence revealed that tobacco consumption causes cancer and other diseases. Since then, the control of tobacco consumption has become a highly conflictious public issue.

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This paper is part of a broader research project entitled "Multilevel Governance in Health Politics". The project has been headed by Professor Dietmar Braun (University of Lausanne, Switzerland). It began in May 2010 and ended in January 2014.
Public health advocates argue that tobacco consumption causes considerable health hazards and inequalities in health (Bambræ et al. 2007; Bennett et al. 2009; Nathanson 2007; Navarro and Shi 2001). The tobacco industry argues that tobacco is a legal good. Individuals and companies should be at liberty to produce, market and consume a legal good.

According to the public health community, the two conflicting goals in tobacco politics cannot be reconciled for two reasons. Firstly, an economically and politically powerful industry, with a well-documented history of dishonesty and deceit, is bent on avoiding regulation and determined to maintain its profits” (Chan 2013). Secondly, market forces cannot resolve the conflict given the insufficient individual demand for most public health goals such as social justice and health equity (Faisst et al. 2001; Givel 2006; Rosenbrock and Gerlinger 2006). Deploiring the inability of real-world policy process to translate these ideas into action, the literature on public health ethics concludes that a hierarchical governance regime is best suited to enforce tobacco control even though state interventions may infringe on personal liberty.

There has been some critique on this 'right' way to think about public health politics (Alber and Bernardi Schenklun 1992; Berridge 2004; Müller 2002; Rosenbrock and Gerlinger 2006). This paper argues that the distribution of public health goods both affects and is affected by the distribution of other goods (Wilson 2009). In real politics, health equality on the one hand and individual or economic liberty on the other hand are only partially incommensurable goods. From a coordination-perspective, the strong value interdependence requires the balancing of the two belief systems by means of trade-offs such as compromises on liberty and equality (Calman 2009; Fry et al. 2004; Givel 2006). In this context, tobacco control politics equals a battle of the sexes while the public health perspective strives for a zero-sum game. Researchers who share this attitude doubt that the progressive, linear perspective contributes to a critical appraisal of tobacco control politics from past to present. They argue that most responses to tobacco production and consumption are contingent, time-specific and path-dependent A linear approach runs the risk of disregarding the structural and procedural settings in which tobacco politics is embedded as well as the power relations that impact on the coordination capability of a policy system.

Goal of this paper

The primary goal of the paper is bringing the ideological conflict over tobacco into real politics. Despite the strong conflict, there are a number of countries that have adopted tobacco control policies in the last twenty years. This shows that the conflict between the tobacco industry and public health advocates has somehow been bridged although to various degrees. The question is how the conflict was bridged.

Studying the Swiss health system, the WHO in collaboration with the OECD concludes that the Swiss authorities seem to have difficulties in developing a common and coherent policy towards tobacco consumption (OECD and WHO 2006:73). In search of explaining the weak Swiss performance, the OECD and the WHO refer to the decentralized decision-making structures and the subsequent fragmentation of responsibilities across jurisdictions in Switzerland, all of which favours specific interests as well as dispersed and largely uncoordinated activities rather than the broader social and national interest (OECD and WHO 2006:12). The OECD and the WHO recommend that “... in such circumstances, measures and institutions to enhance governance through alignment and consensus building appear particularly important for Switzerland” (OECD and WHO 2011:144). On the other side, Australia, equally a federal state, and featuring shared tobacco control competences across jurisdictions, has succeeded in designing and implementing a national approach to tobacco control (Commonwealth of Australia 2001). Applying the FCTC tobacco control provisions, Australia has succeeded in adopting and implementing a comprehensive tobacco control policy.

These observations are surprising. If we follow Lijphart's typology of democracy (Lijphart 1999), we would expect Australia falling into the category of a majoritarian model of democracy, should be exclusive, competitive, and adversarial and less prone to compromise while Switzerland as the prototype of a consensus democracy would be particularly qualified for bridging conflicting interests by means of negotiation and compromise. Basing his analysis on empirical observations, Lijphart assumes that as countries become more institutionally consensual, this will be reflected in increasingly consensual behaviour, and he concludes that the consensus type features a higher performance.
compared to the majoritarian type of democracy (Lijphart 1999:5). However, the Australian system has time and again reached cross-partisan compromises on tobacco in the parliament or in the federal arena. Especially the federal arena features intergovernmental relations in tobacco control based on partnership. The above reflections lead to the question how policy coordination works in the policy field of tobacco control and why the coordinative capability of the Swiss system diverges from the Australian one.

Even though Lijphart's typology has provided valuable insights in the functioning of liberal democracies, his classification of democracies seems to be less suitable in explaining the coordinative capability of political systems. Going beyond Lijphart, this paper questions a direct causal link between a type of democracy and its coordinative capability. Instead, it assumes that conflict over public policies arises at various levels of a system and in various so-called arenas of conflicts. Following this argument, we may expect a multitude of governance regimes depending on where the conflicts on tobacco control are dealt with. This multifactorial approach to governance and coordinative capability is a scientific response to the observed territorial and functional differentiation of society and the growing interdependence between governments and between public and private actors operating at various territorial levels and functional sectors (Jessop, 2002 #1532; Bache, 2004 #1512; Benz, 2004 #11; (Jochim, 2010 #1528). Multifactorial governance supplements classic governance regimes such as hierarchy and the market by combining additional forms of governance, i.e. networks with various modes of coordination, thus blurring classic boundaries between majoritarian and consensus democracies. “Governance without government” (Peters and Pierre 1998) or "negotiation in the shadow of hierarchy" (Scharpf 1997) have become popular terms to reflect this approach to governance.

Defining coordinative capability

From what has been said so far, coordinative capability\(^2\) is understood to be the capability of a multilevel system to manage structural and procedural interdependencies such as to bridge conflictious albeit legitimate interests and to integrate them into collectively binding decisions.

In this sense, coordinative capability has a dimension referring to the polity as well as to politics. As well, it is conceived of as a function of political governance (Uhlmann 2012). Surprisingly, although the scientific literature on tobacco politics is extensive, tobacco politics has not yet been analysed from a policy-coordination-perspective and empirical studies that explore how the large-scale altruism of public health has been balanced with other factors that compete with public health goals, are missing.

The paper proceeds as follows: In the first section, coordinative capability will be presented, the governance structure of Australia and Switzerland be described and hypotheses on the coordinative capability of Australia and Switzerland be deduced. In the empirical part, two tobacco control decision-making processes will be analysed, one for each country. Since the outputs of these processes have been the same, the focus will be on those institutional and procedural factors that are sufficiently similar in the course of the decision-making process to explain similarity in output despite contrasting political systems. In the concluding part, the paper responds to the initial question of how conflicting interests in tobacco control have been bridged.

I The two dimensions of coordinative capability

The coordinative capability of a political system is embedded in the governance debate. Governance applies to political institutions, laws and rules that pertain to the provision of public goods. Equally, governance is about collective decision making that includes both public and private actors (Anselm 2008).

Diverse analytical frames assist researchers in exploring governance and coordination aspects. However, to date, a governance theory is missing. For the purpose of this paper, I have selected the

\(^2\) The term "coordination capability" has first been mentioned in 2009 by Dietmar Braun in the pre-phase of the Swiss National Science Foundation research project "Multilevel governance and coordination capability in health politics".
Actor-Centred Institutionalism (ACI) developed by Mayntz and Scharpf (Mayntz, 1995 #82; Scharpf, 1997 #1287). What makes the ACI appealing for the study of coordinative capability is its causal logic: “The approach proceeds from the assumption that social phenomena are to be explained as the outcome of interactions among intentional actors … but that the strategies and interactions are structured, and the outcomes shaped, by the characteristics of the institutional settings within which they occur” (Scharpf 1997). Coordinative capability has, thus, a structural, a procedural, and an output-oriented dimension.

The below analytical frame summarizes the essential dimensions of coordinative capability: The type of liberal democracy is the independent variable. As outlined above, no immediate causal relations can be established between the type of democracy and its coordinative capability. Therefore, two intervening variables are considered that occurs between the independent and dependent variables: First, the governance regimes of the policy arenas, and the actors’ interactions during the legislative decision-making process. Both are caused by the independent variable and themselves a cause of the dependent variable. The coordinative capability of a political system is the dependent variable.

The constellation of political arenas and the way the conflicting interests in tobacco politics become accommodated while passing through the various political arenas (Marmor and Lieberman 2004:287) may shape the coordinative capability of a given policy system. However, the overall effect of institutions and interactions on the coordinative capability of a democratic model must be explored empirically.

**Figure 1 - The analytical frame of coordination capability**

The structural or polity dimension

This paper argues that the institutional setting of a political system is shaped by a set of arenas (Braun 1997), each of which features a prevailing institutionalized rule structure and a specific mode of coordination. A political arena may be defined as a clearly recognizable political environment where corporate public and/or private actors interact to the end of translating their ideas into policy measures. Interest mediation becomes, thus, the organizing principles of each arena.

For the purpose of this study, the following arenas have been selected: the federal arena, the legislative and the executive arena, as well as the vested interest arena. It is assumed that these four arenas play a decisive role in any legislative decision-making process. Arenas are intervening variables. Whether all or only some shape the legislative process depends on the constitutional and legal frame, as well as the goals and strategies of the actors involved in such a process. Thus, the public policy problem will be treated differently in each arena and the output will vary, depending on how the prevailing governance regime restricts the choices of the actors involved and whether the actors use their veto rights (Immergut 1992). Finally, arenas do not behave autonomously, but may be constitutionally interlinked and interdependent (Benz 1992). Corporate actors may be members of several arenas, thereby
pursuing various objectives, actors may crisscross arenas to the end of promoting or vetoing a policy proposal.

For identifying and analysing the governance regimes of these arenas, the ACI suggests a set of ideal-type rule structures, among them hierarchy, network, majority vote and the market. Each of the four rule structures features a corresponding mode of coordination – command, arguing, bargaining, and mutual adjustment (Scharpf).

The modes of coordination can be arranged in a hierarchical logic. The order presented in figure 2 refers to the extent by which corporate actors will be involved in a legislative policy formation and decision-making process. Intended inclusion or exclusion of actors or unilateral versus multilateral action is central to the mode of coordination. In this context, ‘command’ and ‘competition’ feature the least coordinative capability. By contrast, ‘arguing’ over policy goals or the elaboration of joint strategies allows for mutual learning and a high coordinative capability, while bargaining focuses on a fair distribution of costs and benefits among participating actors who agree on goals but want to be compensated for any losses.

Figure 2 - Governance regimes and coordinative capability

<table>
<thead>
<tr>
<th>Prevailing Rule Structure</th>
<th>Political arena</th>
<th>Key-Actors</th>
<th>Mode of coordination</th>
<th>Policy Coordination</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hierarchy</td>
<td>Government Parliament Federal arena Vested interests</td>
<td>Government of the day Ministries Public administration National government and member states</td>
<td>Command (unilateral information) Consultation Distributive bargaining Arguing (striving for common goals)</td>
<td>low</td>
</tr>
<tr>
<td></td>
<td></td>
<td>consultation</td>
<td>high</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Striving for joint strategies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority voting</td>
<td>Parliament Government Federal arena</td>
<td>Political parties Partisan coalitions Member states</td>
<td>Competition Consultation Distributive bargaining Arguing (striving for common goals)</td>
<td>low</td>
</tr>
<tr>
<td></td>
<td></td>
<td>consultation</td>
<td>high</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Striving for joint strategies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Network</td>
<td>Federal arena Vested interests</td>
<td>Advocacy coalitions Iron triangles National government and member states</td>
<td>Consultation Distributive bargaining Arguing (striving for common goals)</td>
<td>low</td>
</tr>
<tr>
<td></td>
<td></td>
<td>consultation</td>
<td>high</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Striving for joint strategies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Market</td>
<td>Federal arena Vested interests</td>
<td>Political parties Member states National state and member states Interest groups</td>
<td>Competition or mutual adjustment</td>
<td>none</td>
</tr>
</tbody>
</table>

As figure 2 illustrates, a hierarchical governance regime reveals a remarkable coordination potential by supporting all possible modes of coordination. In other words, even in a Westminster system, where hierarchy is a dominant feature, the government of the day is free to network with experts and interest groups in a specific policy sector to the end of reaching a commonly perceived goal and / or to secure re-election. By contrast, a self-organizing network could support neither the exercise of hierarchical authority nor decision taken by majority vote or competitive behaviour (Scharpf 1997:47-49).

The procedural dimension (politics): Actors’ constellation and interaction

Recalling the Actor Centred Institutionalism, actors constellations and interactions are vital to the coordinative capability of a system. Although they help to better understand the relation between a political system and its coordinative capability, the interactions cannot be predicted but have to be shown empirically. The actors’ constellation is shaped by the goals and interests (preferences) of the actors involved with the resulting conflict and strategies. Goals and interests allow grouping actors and
identifying alliances, networks, or coalitions within and across arenas. Strategies reflect the way, how actors intend to translate their goals into politics and policy measures. The choice of strategy depends on the political power of the respective actor (resources), and on his membership in political groups and arenas.

A prerequisite for a high coordinative capability of a political system is including those actors possibly affected by a decision in policy formation and / or decision-making. For democratic/pluralist reasons, inclusiveness or participation is essential.

The willingness of actors to cooperate depends among others on the nature of the conflict. The larger the ideational distance between actors, the more difficult it will be to reach a compromise. If the policy at stake has redistributive character, with costs and benefits unequally distributed, the discourse of the participants will feature a strong ideological divide. Following Lowi’s assumption that policies determine politics (Lowi 1972:299), the opposing groups are unlikely to negotiate despite favourable structural conditions because each is convinced that it alone is right. Competitive deep core-interdependence between advocacy coalitions may drive actors apart, render policy coordination difficult and may end in a zero-sum game. If the issue at stake has distributive character, with the focus being on the provision of a public good and the distribution of costs and benefits remaining diffuse, the discourse in the political arenas may be guided by a climate of consensus-seeking (Lowi 1964). If secondary beliefs are at stake, compromises between competing advocacy coalitions might be possible (Sabatier 1993).

The robustness of coordinative capability

The output of a policy process may be called robust and sustainable if the interests of those actors affected by a decision have become integrated in the adopted policy measure. Otherwise, difficulties must be encountered in the course of the implementation process. Thus, although the Australian and Swiss member states do not dispose of veto rights, their participation in policy formation is crucial. I assume that the more diverging interests have become integrated in the final policy option, the higher the robustness of the coordination achieved.

Four categories of robustness may be distinguished: (1) A suboptimal solution that falls short of or preserves the status quo. Some actors may be satisfied with the solution; (2) a Pareto-optimal output, whereby one party benefits from a decision, but others are not made worse. In other words, the satisfaction of the winners’ interests means no loss for the losers’ interests (which are not satisfied). (3) a Kaldor-optimal solution, whereby a positive collective result is achieved, although some may lose out; (4) a ‘win-win’-solution that offers positive collective and individual results.

The dependent variable: categories of coordinative capability

We departed from the premise that a Westminster system and a consensus type of democracy vary in their coordinative capability. Taking the analytical model, it is assumed that the overall coordinative capability of a system results from the interaction of actors within an arena as well as the interdependence between arenas. Depending on the sequence of arenas as well as the modes and the scope of interaction, the overall coordinative capability may be low or high. However, I suggest that policy coordination does not proceed in a linear way. There may be stages in the course of the
legislative process of low and high policy coordination. Equally, although the outcome is Kaldor-optimal, this does not mean that the overall coordinative capability is automatically high. Taking these reflections into account, I shall suggest four categories of coordinative capability.

**Figure 3 - Operationalization of the independent, intervening and dependent variables of coordinative capability**

<table>
<thead>
<tr>
<th>Independent variable</th>
<th>Intervening variables</th>
<th>Dependent variable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of democracy</td>
<td>Governance regimes</td>
<td>(5) Categories of coordinative capability</td>
</tr>
<tr>
<td>Westminster model</td>
<td>hierarchy; majority vote; network; market</td>
<td>competitive coordination</td>
</tr>
<tr>
<td>Consensus model</td>
<td>(3) Actors' modes of coordination</td>
<td>negative coordination</td>
</tr>
<tr>
<td></td>
<td>a) command (unilateral); competition; consultation; distributive bargaining; arguing; striving for joint strategies</td>
<td>positive coordination</td>
</tr>
<tr>
<td></td>
<td>b) Scope of interaction: inclusion of actors; exclusion of actors</td>
<td>strategic coordination</td>
</tr>
<tr>
<td></td>
<td>(4) Robustness of coordination (output)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sub-optimal; Pareto-optimal; Kaldor-optimal; Win-win-policy</td>
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</tbody>
</table>

**Competitive policy coordination** is based on the premise that different private actors in a multilevel policy field pursue their goals unilaterally for maximizing individual profit, thereby not taking into account positive or negative externalities. Departing from this premise, actors will not coordinate their activities with others by intention but will behave and decide unilaterally and autonomously within their jurisdictions or policy sector. Ad hoc coordination occurs by the interaction of demand and supply in a largely unregulated policy field resulting in mutual adaption. In this sense, negative externalities (harm to others) may be internalized.

**Negative policy coordination** is based on the premise that the status quo interests of all actors possibly affected by a policy change are protected. Departing from this premise, actors will unilaterally coordinate their activities in order to make sure that any new policy initiative of a sector will not interfere with policies, competences or interests of others (Scharpf and Mohr 1994). To this end, the stakeholder with policy intention verifies by means of information exchange with stakeholders in a non-cooperative way that the policy either not affect other actors (avoidance of negative externalities) or has positive effects. Although stakeholder perspectives are taken into account in decision-making and may even go so far as to consult directly with stakeholders, stakeholders are not directly included in the decision-making process. There are no negotiations on trade-offs. If there are more costs than benefits, a solution is not attainable because the actor of a protected interest position is able to block contrary action through the exercise of a veto. This category of coordination does not explicitly seek to transform conflict into cooperation.

**Positive policy coordination** is based on the premise that stakeholders have mutual interests and define policy priorities. To this end, stakeholders engage in an active search for common solutions to policy problems by means of multilateral and consensus-driven negotiations in a cooperative way. They may even accept short-term disadvantages (trade-offs) in view of possible longer-term positive outcomes or externalities. The challenge of positive coordination is the so-called negotiation dilemma inherent in this form of coordination: maximizing own shares and simultaneously searching for common advantage (Lax and Sebenius 1986). Applying this situation to the mode of coordination, actors have to deal with problems of production and problems of distribution at the same time, thus being simultaneously engaged in distributive bargaining and problem solving (Scharpf 1997:132). Moral obligation to long-term strategies may be a resource to bridge this tension between cooperation and competition (Braun 2008b).
Strategic policy coordination is based on the premise that stakeholders have mutual interests and encompassing visions and strategies for the future (Braun 2008a). Departing from this premise, actors will coordinate their activities by jointly drafting political strategies. To this end, they form substantial multilateral cross-organizational and cooperative interaction between two or more entities. The vast majority of stakeholders involved in such a policy making process belongs to the winners. Allocative Efficiency (cost minimizing, benefit maximizing combinations of inputs and outputs).

The above matrix (figure 3) summarizes the dimensions of coordinative capability and suggests five indicators for the operationalization of the independent, intervening and dependent variables.

Australia and Switzerland: Hypotheses related to coordinative capability in tobacco control

The key hypothesis of this paper is that coordinative capability results from the governance regimes that shape the political arenas of a country. In addition, actors constellation and actors' interaction provide a causal link between the institutional setting of a country and the capability of a political system to coordinate policy formation and decision-making across various interests and arenas. I, therefore, develop my hypotheses on the coordinative capability of contrasting political systems, firstly, in reference to the type of democracy, and, secondly, in reference to the governance regimes of the political arenas and the integration of the stakeholders’ interests into the legislative decision-making process.

The federal arena

The key actors in this arena are the member states on the one hand and the national government on the other hand. The primary goal of the federal arena is to avoid large concentrations of power in the hands of centralized authorities (Stein and Turckewitsh). With regard to a coherent and coordinated implementation of policies, the national state may, nevertheless, wish to cooperate with member states in order to facilitate the implementation of policy measures by the member states.

Both countries feature strong member states with considerable legal competences in tobacco control. A major difference between Australia and Switzerland is the role of the national state. While the Australian national state has the power of the purse, a fact that makes member states dependent on the national government, the Swiss national state disposes of limited financial resources, thus reinforcing the independence between the national state and the member states.

The federal arena may be linked to the vested interest arena for economic or financial reasons. The veto power of the member states at the national level is said to be low in both countries.

Australia: The literature on tobacco control as well as the interviews with public officers reveal that the prevailing rule structure of the Australian federal arena in tobacco control is network and the prevailing mode of coordination is arguing and consensus seeking among equal partners, with the federal government taking the lead in organizing the network although the Commonwealth’s fiscal dominance creates a shadow of hierarchy. Strategically and institutionally, tobacco politics is an inherent part of the national drug politics established in 1985. However, the tobacco industry is excluded from participating in this system of the federal arena.

H1- FedArena-AUS: With interest inclusion being comprehensive, given a governance regime based on networking and consensus, the coordinative capability of the federal will be high with regard to a perceived national public policy goal.

Switzerland: Vertical intergovernmental structures have remained weak since 1848. The prevailing governance regime in the federal arena is the market, and the prevailing mode of coordination is competition and/or mutual adjustment. In addition, tobacco control is not embedded in a broader national drug or public health context.

H2- FedArena-CH: With interest inclusion being small, given a governance regime based on market relations and competition, the coordinative capability of the Swiss federal arena will be low with regard to a perceived national public policy goal.
The vested interest arena

In the vested interest arena, corporate stakeholders unite to interest groups or political parties, either to promote policy change or to maintain the status quo. The vested interest arena in tobacco control is dominated by two competing groups, the tobacco industry and its allied enterprises on the one hand, and public health advocates on the other hand. Both strive for translating their goals into policies. The literature reveals that, in general, there are no direct interactions between the two interest groups given the low inter-coalition belief compatibility. Instead, they compete for access to political authorities and seek to influence decisions in any amiable venue (Weible et al. 2011). The dominant mode of coordination of the vested interest arena is, thus, competition or mutual adjustment by means of voluntary self-regulation.

**Australia:** Given the dominance of the executive arena over the legislative one, the two competing interest groups will primarily approach the national government in order to translate their ideas into policy measures. In a Westminster system, the competitive and adversarial nature of the vested interest arena is reinforced by the government versus opposition pattern. This leads to an overall confrontational methods of setting differences. Following the logic of the Westminster system, the government of the day will bridge the conflict hierarchically by command, granting its support either to the tobacco industry or to the tobacco control advocates. The exclusion of interests will be high. Neither the opposition party nor the opposition interest group will be integrated in the legislative process and final public policy.

Since Australia has a bicameral system, the Senate may mitigate the hierarchical dimension provided the government of the day does not hold a majority in the Senate. In such a case, the government may be forced to negotiate with interest groups in search of a compromise.

**H3-VestInt-AUS:** Command in the shadow of hierarchy will most likely be the prevailing mode of coordination between members of the vested interest arena and the executive arena. Policy coordination in legislative processes will be low given the exclusion of the opposition party and of opposition interest groups.
Switzerland: In contrast to Australia, all interest groups in Switzerland have veto rights. They may launch a people's initiative to resolve a conflict by majority vote or may confront politicians with a referendum in order to increase pressure.

Besides the people's initiative, and given the power division between the legislative and the executive branches of the state, in Switzerland, interest groups have to address the legislative and the executive arena in order to enhance their political influence. Access to the legislative arena is granted to them by the political parties and their representatives in the legislative arena, while interest groups will access the executive arena participating in the institutionalized consultation processes in the pre-parliamentary stage of a legislative process. The multi-party-system in the executive as well as the legislative arena guarantees a high inclusion of various societal interests. On the other side, a multi-party-constellation turns interests' accommodation into a challenging undertaking. The search for consensus seeking is strong in both arenas in order to avoid that interest groups will use their veto right.

H4-VestInt-CH: Negotiation and consensus seeking in the shadow of majority vote will most likely be the prevailing mode of coordination between members of the vested interest arena and the executive as well as the legislative arena. The more interests have become included in the policy draft in the governmental arena and the larger the cross-party alliance in support of the draft in the parliamentary arena, the higher the coordinative capability of the policy process.

The legislative and the executive arena

In all democracies, parliament is an institutional veto player. It is in the parliamentary arena, where preferences and perceptions about collective outcomes are presented, criticized, discussed, defended, changed and collectively decided upon (March and Olsen 1989).

Australia: Given the executive dominance over the legislature, the one-party majority government of the day is the "elective dictatorship" who may coordinate diverging interests in the parliamentary arena by command, provided that it has a majority of votes in both chambers of Parliament. In such situations, the government may pass bills without having to include the opposition in the legislative process. Although outputs are successful, the overall coordinative capability will be low, because the interests of the minority have been excluded from the policy formation process. If the government holds a majority in only one house, it relies on the support of the Senate. In such a situation, the latter becomes an important veto-player and the mode of coordination will shift from command to bargaining. This situation applies as well in cases where the government of the day constitutes a coalition government.

H5-ParlGov-AUS: Given the competitive relation between the governmental and the parliamentary arena, the prevailing mode of coordination will occur by command. The exclusion of interests is part of the game. The coordinative capability of these two arenas is low with regard to arriving at a perceived public policy goal.

Switzerland: In contrast to Australia, power-sharing is the dominant feature not only in the parliamentary and governmental arena but as well between the two arenas, although governmental approval is not required for passing bills. Solutions need to be found by multilateral arguing or bargaining and consensus seeking in broad multi-party coalitions with weak party disciplines. The institutionalized rule structure of both arenas is majority vote and consensus seeking respectively, the corresponding mode of coordination is arguing, bargaining, or a combination of both. In both arenas, the inclusion of diverging interests in the legislative process is a prerequisite, for the potential casting of a referendum by a minority is a strong stimulus for the majority to be mindful of minority views.

H6-ParlGov-CH: In both arenas, a consensus on a strongly debated and ideologized issue can only be reached by arguing. In such a case, the overall coordinative capability will be high. Reversely, given the dominance of consensus seeking, if ideologized conflicts cannot become accommodated by deliberation, they remain unresolved. In such a case, the overall coordinative capability will be low.
II  Australia and Switzerland: Decision-making processes in tobacco control

The reasons for choosing Australia and Switzerland are both pragmatic and strategic. Australia and Switzerland are liberal democracies faced with the challenge of coordinating tobacco politics in a multilevel environment. Furthermore, both countries have adopted tobacco control measures. The unit of my analysis is the legislative decision-making processes in Australia and Switzerland with a focus on the national level, although it is acknowledged that other levels such as the regional or the international one may show up in the course of decision-making as well.

The empirical part is based on the most different systems design. As already outlined, Australia represents the Westminster model while Switzerland qualifies for a consensus democracy. Departing from these contrasting systems, I have chosen such policy drafts that were successfully adopted by legitimate bodies. The question, then, becomes, 'What was sufficiently common among the decision-making processes in Australia and Switzerland to produce political outputs that are essentially similar?'

Departing from the policy cycle concept, for the purpose of comparative analysis I will divide the policy formation processes into three stages: agenda setting, policy drafting and decision-making (Lasswell, 1956 #1451; for an overview: Jann, 2009 #1450). Although there are some shortcomings with the policy cycle approach, the existence of policy stages is not denied. By applying this concept, one must be careful not to see the stages as rigid, mechanically ordered and enclosed temporal units that lead us in a linear way to political decisions. In addition, we must be cautious not to attribute a pre-given dominance to any specific phase in a policy cycle (Porter and Ronit 2006).

Source material

Data have been collected by using multiple sources such as governmental reports, position papers of political parties, minutes of parliamentary debates, media reporting and semi-structured interviews with experts and key decision makers. Informal meetings or hidden agendas have not been analysed.

The policy selected: Health warnings on cigarette packages

Since the 1990s, effective policy instruments to combat the consumption of tobacco are known: permanent price increases through higher taxes on cigarettes and other tobacco products; comprehensive bans on advertising and promotion of tobacco products, logos and brand names; bans or strong restrictions on smoking in work places and public spaces; good consumer information, education and counter-advertising campaigns; large, direct warning labels on cigarette boxes and other tobacco products; treatment and help for smokers who wish to quit (World Bank, 2003 #8; (World Health Organization. Regional Office for Europe, 2002 #628). The WHO FCTC requires each Party, “in accordance with its constitutions and constitutional principles, to undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship” (Conference of the Parties to the WHO FCTC 2003).

Banning tobacco advertising, setting prices policy, and establishing smoke-free areas are the three strategies most vociferously opposed by the tobacco industry and most vigorously demanded by tobacco control advocates. These three strategies are therefore acknowledged as the top three effective...
tobacco control approaches. Some aspects of tobacco control may, by their nature, require a single national policy. For example, warning-label requirements for cigarette packaging or bans on broadcast advertising may be impractical at the municipal level.

**Health warnings**

Cigarette pack design serves a double function. On the one hand, the design is an important communication device for cigarette brands. In this sense, the cigarette pack becomes part of the advertising policy of tobacco companies. The tobacco package provides a potent vehicle for tobacco promotion, and has increased in importance within the “marketing mix” as other forms of promotion are restricted.

On the other hand, cigarette packs may be used to fully inform consumers in a way that discourages tobacco use. The benefit of health warnings on cigarette packs is "...that it uses the products and resources of tobacco companies themselves as a platform for a large-scale process of public education. This can provide what is, in effect, a national information campaign, at minimal expense to the government, helping to alter the general climate in the country and build support for additional legislation" (Blanke and da Costa e Silva 2004). Following this logic, health warnings are part of the tobacco advertising prohibition politics of the government and public health organisations.

A second important role of packaging and labelling legislation is to prevent manufacturers from using packages to mislead consumers. The WHO FCTC requires that each Party State shall adopt effective measures to ensure that: “(a) tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products. These may include terms such as “low tar”, “light”, “ultra-light”, or “mild” (Conference of the Parties to the WHO FCTC 2003).

Both countries, Australia and Switzerland, have adopted policies that provide for health warnings on cigarette packages. On the following pages, a short description of the selected cases is presented.

**Case Studies: Health warnings on cigarette packs: Switzerland and Australia compared, 2000-2007**

<table>
<thead>
<tr>
<th>Switzerland</th>
<th>Australia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Since 1993, health warnings on cigarette packs have been regulated under the Federal Act on Food-stuffs and Other Utility Articles and the technical details of the health warning standard under the Ordinance on Tobacco and Tobacco Products. Policy responsibility for the revision, the administration and the enforcement of the Ordinance is with the Federal Health Ministry. Ordinances may be revised without passing through the Federal Parliament.</td>
<td>Health warnings have appeared on tobacco products in Australia since 1973, regulated under various member states and territories' laws. Since 1994, health warning on cigarette packs is a Commonwealth competence. Policy responsibility is with the Health Ministry (overall health responsibility), the Consumer Affairs Division of the Treasury (health warning standard and bans), and the Australian Competition and Consumer Commission ACCC, an independent governmental agency (enforcement of health warnings among others by court-enforceable undertakings or prosecutions).</td>
</tr>
<tr>
<td>Agenda setting: In 1998, a parliamentary motion by Christian Grobet, member of the Social Democratic party in the National Council (House of Representatitces) requests that the federal government implements health warnings on cigarette packs with disease references. Three years later, the Federal Government takes note</td>
<td>Agenda setting: In 1999, Federal-State ministerial discussions are taking place to strengthen warning labels on tobacco products. As a result of these</td>
</tr>
</tbody>
</table>
In 2002, the revision of the Tobacco Ordinance is put on the agenda by the Federal Government to demonstrate the political will of the Health Minister (Liberal Party) to take a more active role in tobacco control and that the Swiss regulation complies with the new EU “Tobacco Products Directive” (2001/37) of the European Parliament and of the Council. Indeed, health warnings on cigarettes have been the only policy measure the federal government can regulate autonomously without parliamentary interference. From a public health perspective, the envisaged revision is not thought of to be a major step forward, as the Government itself acknowledges in internal papers.

Policy formation: Between 2002 and 2003, a draft ordinance was elaborated by a government-national working group. The draft required among others that the warnings must cover at least 35 per cent of the front and the explanatory message must cover at least 50 per cent of the back of the pack, that misleading descriptors be prohibited, colored photos be in the competence of the Ministry of Home Affairs, ingredients of cigarettes be disclosed, and upper yield limits for nicotine, tar, carbon monoxide be defined and published. The draft ordinance is submitted to public consultation in July 2003. More than 100 submissions are received.

It turns out that the most debated issue of the draft concerns the upper yield limits on nicotine, tar and carbon monoxide. The tobacco industry requests that these limits do not apply to export cigarettes. British American Tobacco (BAT) and Philip Morris, as well as a cross-partisan delegation of the executives and legislatives from the three cantons of Neuchâtel, Waadt and Jura argue that such a provision would seriously endanger the production sites of cigarettes, jobs and tax revenues in the respective cantons. In separate meetings with the liberal Federal Health Minister they urge the latter to exempt export cigarettes from the application of upper yield limits on nicotine, tar and carbon monoxide.

Decision-making: The federal health minister compromises on the issue of export cigarettes and on the transition period. In the final decision taken by the Federal Government, the latter granted to the Federal Department of Public Health the competence to develop and implement discussion, the intergovernmental Ministerial Council on Drug Strategy (MCDS) endorses the National Tobacco Strategy 1999-2002/03. Evaluation of and possible changes to the current health warnings on tobacco products belongs to one of the key area of the strategy.

The review of health warnings on tobacco products was announced in February 2000 by the then Commonwealth Health Minister Michael Wooldridge of the Liberal Party within the existing framework of the Trade Practices Act (TPA). Himself a medical doctor, he was very much sensitized to the health hazards of smoking and in favour of stronger health warnings. In his public statements he opted for the progressive Canadian standards that required graphic warnings in colour and text warnings covering 50% of the front and 50% of the back of tobacco packs.

Policy formation: Between 2001 and 2003 a discussion paper was jointly prepared by a Technical Advisory Group consisting of representatives from the Ministry of Health, the Treasury, the ACCC and non-governmental tobacco control organisations. The Technical Advisory group recommended that among others, new warnings cover 50% of both front and rear pack faces as well as that the yield information, which, it was accepted, was misleading should be removed. This proposal went to public comment. 45 submissions were received. Public health-NGOs, the State and territory governments and the national Ministry of Health recommended the adaption of Australian warning labels to the Canadian standards. The tobacco industry opposed any change to existing health warnings. In a series of meetings between representatives of the Health Ministry and tobacco manufacturers, cigar importers and retailers on the one hand and between representatives of the Treasury and parties involved in the growing, manufacturing, and retailing of tobacco products, as well as the printing of tobacco packaging on the other hand, the future health warnings have been presented. negotiated separately with related tobacco business. By the end of 2003, public health-NGOs, the State and territory governments and the Ministry of Health recommended the adaption of Australian warning labels to the Canadian standard. After a second round of public consultation that focused on the economic impact of the draft regulation, 87 submissions received and an "assertive" lobbying campaign by British American Tobacco Australia (BATA), an alternate option of 30% of the front and 90% of
picture health warnings. The revised ordinance became effective in 2004.

the back was also developed by the Treasury.

Decision-making: in May 2004, new regulations were drafted and approved by Cabinet in June 2004. The Cabinet decision constituted a compromise of the position of the tobacco control advocates and the tobacco industry: Cigarettes were required to have graphic warnings in colour and text warnings that will occupy 30 per cent of the front and 90 per cent of the back of cigarette packets. Tobacco companies were required to introduce the new packaging within 18 months of the regulations being gazetted. The new regulations became effective on 1 March 2006.

### The issue of graphic health warnings 2007-2008

**Agenda setting:** In 2007, the federal parliament (National Council or House of Representatives) rejects the parliamentary intervention of the right party (SVP Brunner) requesting the deletion of the revised ordinance on health warnings. One month later, the Health Minister commissions the Federal Department of Public Health to elaborate a departmental ordinance that provides for health warnings in form of coloured photos.

**Policy formation:** The ministerial ordinance on picture health warnings was drafted in 2007. In September, the draft is submitted to public consultation. Since the consultation is considered to be technical in nature, no political parties have been invited. 33 organisations are actively addressed, 39 submissions are received. An evaluation of the submissions reveal that the public health organisations and the tobacco industry differ on the number of coloured photos, the rotation system and the transition period.

**Decision-making:** the FOPH compromised on the rotation issue (once every two years instead of once every year) and on the transition period (two years instead of one year). The ordinance on picture health warnings became effective on January 2008.


Prior to 2001, the Australian Competition and Consumer Commission (ACCC), an independent governmental agency, received allegations by public health organisations that tobacco companies had misled consumers by promoting their cigarette brands as ‘light’, ‘ultra-light’, ‘mild’, ‘ultra-mild’ and by implying that low tar cigarettes carry health advantages over other cigarettes.

**Policy formation:** The subsequent inquiry by the ACCC took more than 4 years, followed by negotiations between the ACCC and the three major tobacco companies in Australia. The investigations and negotiations took place behind closed doors and the ACCC had been arguing for the whole period that it was unable to provide any further information to the public or the Senate because this may prejudice the Commission’s investigation. In the course of the investigations, Senator Allison from the Australian Democrats kept the issue public by a series of Senate motions, questions, a draft bill and a Senate inquiry, all of which she initiated between 2001 and 2005. Equally, the Liberal government made clear that the ACCC would receive no extra funding for the commencement of litigation to deal with past misleading conduct of the tobacco industry with regard to the use of "mild" and "light" denominators.

**Decision-making:** In February 2005, the ACCC received final legal advice regarding the feasibility of instituting proceedings against tobacco companies with regard to misleading and deceptive practices in the use of the terms ‘mild’ and ‘light’ and other similar descriptors. Subsequent negotiations between the ACCC and the three major tobacco companies resulted in court-enforceable undertakings. The companies agreed to stop using terms such as 'light' and 'mild'
and to provide a total of $8 million to corrective advertising to be run by the ACCC. The court enforceable undertakings of the three tobacco companies were given in exchange for an assurance that the ACCC would not take legal action against the companies over the past use of the deceptive descriptors. The tobacco companies explicitly ruled out any admission of guilt and claimed their innocence. Therefore, the undertakings did not include any admission of liability or any compensation for the harm already done by the tobacco industry. At the same time, the trade-off did not exclude future lawsuits by smokers with tobacco-related diseases who had not yet brought smoking-related claims for reimbursement of costs.

The ACCC's corrective advertising campaign paid by the tobacco industry ran in December 2005 and January 2006 and again in June 2006. It included advertisements on television, radio, internet and online, in newspapers and magazines, and outdoor.

III Preliminary results and conclusion

The initial question has been how the conflict between the tobacco industry and public health organisations over tobacco control can be bridged in legislative processes taking into account contrasting political systems. It has been assumed that the more consensual the governance regimes of an institutional setting are, the higher the overall coordinative capability of a system. Departing from contrasting political systems, hypotheses have been formulated along the three dimensions that shape the overall coordinative capability of a legislative process: the prevailing governance regime (hierarchy, majority vote, network, market); the actors' mode of coordination in the course of policy-making (command or unilateral action, competition, consultation, distributive bargaining, arguing, striving for joint strategies), the scope of interaction (inclusion or exclusion of actors); the robustness of coordination (sub-optimal, Pareto-optimal, Kaldor-optimal, win-win-policy).

Australia

The Australian legislative process developed in two stages, each with a different institutional setting. While the first stage started in the federal arena, the second one was initiated in the vested interest arena by public health organisations. The political climate was not particularly favourable to tobacco control with the Liberal Party in power.

Arenas: While the first stage was clearly dominated by the governmental arena, for the second stage, the centre of activity moved to the Senate and to the ACCC. The Senate clearly played the role of a supervisor of the government in power. The Senate could play this role because the government did not hold a majority in the second chamber. The driver in the Senate was a party of the political centre, the Australian Democrats.

Governance regimes: The predominant governance regime during the first stage was hierarchy, while in the second stage, majority vote prevailed. Majority vote was complemented by a hierarchical regime that characterizes the independent Commonwealth statutory agency ACCC.

Mode of coordination: Beside command, three deviant modes of coordination may be observed: In the first stage, we encounter arguing between public officers and public health organisations, and bargaining between public officers and the tobacco industry. In the second stage, the ACCC argues with the government of the day over funding. This event reveals that the ACCC's dependence on
governmental funding limits its strategic options. Instead of taking the tobacco industry to court, a strategy that would correspond to the hierarchical governance regime, it negotiated with the tobacco industry.

**Scope of interaction**: Overall, the inclusion was comprehensive and balanced. The federal arena had been active in framing the public goal. The public health organisations were included in the drafting of the new regulations, while the tobacco industry bargained with public officials and, in the second stage, with ACCC-representatives. Given the inclusion of the public health organisations in the intergovernmental structure of the federal arena, may have led to an alliance between public health organisations, public officials working for the Ministry of Health. On the other side, the tobacco industry has allies in the Treasury facilitating the mutual exchange of interests. In the first stage, the decision was taken in a hierarchical way by Cabinet with the Prime Minister having the casting vote. In the second stage, although hierarchy prevailed, the tobacco industry agreed to the compromise offered by the statutory agency.

**Robustness of coordination (output)**: Like in Switzerland, a Kaldor-optimal solution had been attained. Both sides won. The decisions that were made constituted a compromise between public health and economy. On the one side, health warnings on cigarette packages were strengthened, on the other side, the tobacco industry could prevent that the undertakings included any admission of liability or any compensation for the harm already done by them.

**Overall coordinative capability**: Positive coordination

**Hypotheses confirmed?**

**H1- FedArena-AUS**: With interest inclusion being comprehensive, given a governance regime based on networking and consensus, the coordinative capability of the federal arena will be high with regard to a perceived national public policy goal.

This hypothesis is verified for Australia. However, the federal arena did not contribute decisively to the overall coordinative capability of the legislative process.

**H3-VestInt-AUS**: Command in the shadow of hierarchy will most likely be the prevailing mode of coordination between members of the vested interest arena and the executive arena. Policy coordination will be low given the exclusion of the opposition party and of opposition interest groups.

This hypothesis must be rejected as false for the empirical case studied. The Australian government used arguing or negotiation to arrive at a compromise.

**H5-ParlGov-AUS**: Given the competitive relation between the governmental and the parliamentary arena, the prevailing mode of coordination will occur by command. The exclusion of interests is part of the game. The coordinative capability of these two arenas is low with regard to arriving at a perceived public policy goal.

This hypothesis is partly verified. The empirical research reveals a much more complex picture. The role of the statutory agency as well as the Senate proved to be counterforces to the hierarchical governance regime of the governmental arena.

**Switzerland**

Like in Australia, the Swiss legislative process developed in two stages, each with a different institutional setting. While the first stage started in the parliamentary arena, the second one was initiated in the governmental arena.

**Arenas**: The government chose the governmental arena by intend. Being aware of the fact that, in the past, the Swiss parliament had been reluctant in passing tobacco control regulations, the federal government opted for the revision of the tobacco ordinance in order to position itself as a new strategic force in tobacco control. The ordinance was the only way by the government could act hierarchically, thus excluding the national parliament from the decision-making process. The governmental arena had
### Figure 6 - Health warnings on tobacco packages in Australia. Event analysis of stage 1

<table>
<thead>
<tr>
<th>Policy Framework</th>
<th>Agenda Setting</th>
<th>Majority Vote</th>
<th>Network</th>
<th>Market</th>
<th>Deviant</th>
</tr>
</thead>
<tbody>
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<td></td>
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<td></td>
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</tbody>
</table>

### Figure 7 - Health warnings on tobacco packages in Australia. Event analysis of stage 2

<table>
<thead>
<tr>
<th>Policy Framework</th>
<th>Agenda Setting</th>
<th>Majority Vote</th>
<th>Network</th>
<th>Market</th>
<th>Deviant</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**
- Majority vote: Yes/No
- Network: Gov, Par, Academia, Industry, Public
- Market: Tobacco, Tobacco-related products
- Deviant: Other stakeholders (e.g., charities, health organizations)
the lead during the legislative process. However, during stage 1, the vested interest arena intervened in order to integrate its vital interests into the policy measure. Phase 2 was dominated by the governmental arena, which was granted the authority to act unilaterally by the revised regulation.

Governance regime: The prevailing governance regime was hierarchy with the Ministry of Health being the driver behind the legislative process. This situation is uncommon for Switzerland, where consensus seeking normally reigns. However, within the governmental arena, consensus seeking was required among the members of the government, particularly between the Minister of Health and the Minister of Finance. Both were members of the Liberal Party and respected each other's interests.

Mode of coordination: Although one would expect unilateral action or command, the overall picture is much more diverse. The government took the lead, but was forced later on to bargain in the light of the conflict over export cigarettes. In both stages decisions were taken in the governmental arenas in the modus of consensus seeking.

Scope of interaction: Overall, inclusion was limited and punctuated. The government drafted the new ordinance without including representatives of the federal arena or public health organisations. A cross-party coalition consisting of representatives of the site-cantons and the tobacco industry forced the government to bargain and to compromise. Public consultation process was conducted to politicize tobacco control issue and not to include as many interests as possible in the new regulation.

Robustness of coordination (output): Since a positive collective result was achieved, the solution may be classified a Kaldor-optimal solution. The public health organisations were more or less satisfied with stronger health warnings that would be complemented by pictorial warnings at a later stage. The tobacco industry was satisfied with conserving the status quo. In addition, stronger health warnings had been a welcome opportunity to successfully prevent judicial proceedings against them on ground of consumers being informed on the health hazards of smoking.

Overall coordinative capability: In between negative and positive coordination.

Hypotheses confirmed?

H2- FedArena-CH: With interest inclusion being small, given a governance regime based on market relations and competition, the coordinative capability of the Swiss federal arena will be low with regard to a perceived national public policy goal.

In contrast to Australia, policy goals had been defined unilaterally by the national government. The member states backed the policy goal. However, the federal arena did not play a decisive role in the legislative process. This suggests that the coordinative capability of the federal arena in national legislative processes might be low.

H4-VestInt-CH: Negotiation and consensus seeking in the shadow of majority vote will most likely be the prevailing mode of coordination between members of the vested interest arena and the executive as well as the legislative arena. The more interests have become included in the policy draft in the governmental arena and the larger the cross-party alliance in support of the draft in the parliamentary arena, the higher the coordinative capability of the policy process.

This hypothesis can partly be confirmed for the legislative process analysed. The government chose a hierarchical pattern by intend to exclude the participation of the parliament. On the other side, the governmental arena included the key stakeholders in the consultation process, thus reaching a compromise on public health and economics.

H6-ParlGov-CH: In both arenas, a consensus on a strongly debated and ideologized issue can only be reached by arguing. In such a case, the overall coordinative capability will be high. Reversely, given the dominance of consensus seeking, if ideologized conflicts cannot become accommodated by deliberation, they remain unresolved. In such a case, the overall coordinative capability will be low.

This hypothesis is confirmed for the governmental arena. The Health Minister and the Minister of Finance reached a consensus on health warnings by arguing.
**Figure 8 - Health warnings on tobacco packages in Switzerland. Event analysis of stages 1 and 2**

<table>
<thead>
<tr>
<th>Event</th>
<th>Majority view</th>
<th>Market</th>
<th>Interest</th>
<th>Action</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stage 1</td>
<td>gc</td>
<td>gtc</td>
<td>gc</td>
<td>gc</td>
<td>2000-2002</td>
</tr>
<tr>
<td>Stage 2</td>
<td>gc</td>
<td>gc</td>
<td>gc</td>
<td>gc</td>
<td>2003-2006</td>
</tr>
<tr>
<td>Stage 3</td>
<td>gc</td>
<td>gc</td>
<td>gc</td>
<td>gc</td>
<td>2007-2010</td>
</tr>
<tr>
<td>Stage 4</td>
<td>gc</td>
<td>gc</td>
<td>gc</td>
<td>gc</td>
<td>2011-2014</td>
</tr>
</tbody>
</table>

Legend:
- gc: Government;
- gtc: Government and Tobacco industry;
- m: Majority;
- n: Minority;
- c: Coalition;
- s: Single;
- d: Dissent;
- n: Neutral.

*Note: The table provides an overview of the stages of health warnings on tobacco packages in Switzerland, highlighting the key events, actors, and outcomes from 2000 to 2014.*
Preliminary conclusion and open questions

The below figures attempts to summarize the analysis of coordinative capability in the two countries for one legislative process in each country. Departing from contrasting states and taking a comparative perspective, the question is: ‘What was sufficiently common among the decision-making processes in Australia and Switzerland to produce political outputs that are essentially similar?

Similar in both countries has been (1) the decisive role of the governmental arena with its hierarchal governance regime and (2) arguing or bargaining as dominant modes of coordination. This suggests that negotiation in the shadow of hierarchy might be a promising approach to reach a coordinative capability that goes beyond negative coordination.

The arena approach reveals that although the type of democracy remains crucial, the legislative process in a Westminster and consensus type of democracy does not necessarily follow the overall governance regime of either hierarchy or consensus seeking. Bargaining and arguing in various arenas may counterbalance the negative effects of hierarchy (i.e. exclusion) and consensus seeking (i.e. political stalemate).

**Figure 9 - Coordinative capability in contrasting countries - Switzerland and Australia compared**

<table>
<thead>
<tr>
<th>Dominant arena(s)</th>
<th>Australia</th>
<th>Switzerland</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government-Senate-ACCC</td>
<td>Government -Vested interests</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Institutionalized governance regime</th>
<th>Stage 1: Hierarchy - majority vote</th>
<th>Stage 1: hierarchy - consensus seeking</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Stage 2: Majority vote - hierarchy</td>
<td>Stage 2: hierarchy</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Observed modes of coordination</th>
<th>Stage 1: arguing - consultation - bargaining</th>
<th>Stage 1: arguing - bargaining</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Stage 2: arguing - command - bargaining</td>
<td>Stage 2: unilateral - consultation - consensus seeking</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Scope of interaction</th>
<th>comprehensive and punctuated</th>
<th>limited and punctuated</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Robustness of interaction</th>
<th>Kaldor-optimum</th>
<th>Kaldor-optimum</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Overall coordinative capability</th>
<th>Positive coordination</th>
<th>Negative-positive coordination</th>
</tr>
</thead>
</table>

Next step: To analyse policies with similar policy goals that failed in Australia as well as in Switzerland. This analysis should allow for comparing legislative processes in political systems that not only are contrasting but remain basically unchanged.

Open questions: To improve the scaling of coordinative capability; to assess the role of political parties
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