

The EU Comitology System: What Role for the Commission?

By

Gijs Jan Brandsma
Utrecht School of Governance
Utrecht University
The Netherlands
Email: G.J.Brandsma@uu.nl

&

Jens Blom-Hansen
Department of Political Science
University of Aarhus
Denmark
Email: jbh@ps.au.dk

August 2007

Paper prepared for presentation at the fourth ECPR General Conference in Pisa, Italy, 6-8 September 2007.

The EU Comitology System: What Role for the Commission?

Introduction

The EU comitology system was originally established by the member states to control the Commission's delegated powers. This is still the reason why the member states keep inserting comitology provisions into new EU legislative acts. And this is still the reason why the Commission and the European Parliament dislike the system and argue for soft or no comitology procedure in the ongoing institutional battle over comitology. But the fact is that, in total, about 200 comitology committees today keep a watchful eye on the Commission's implementation of EU policies.

But is it necessary to control the Commission? This presupposes that the Commission, in the absence of comitology committees, would use its delegated powers contrary to the member states' interest – for instance, to pursue its own agenda. However, in reality we know very little about how the Commission acts within the areas covered by the comitology system. Does it try to promote its own agenda? Do the various comitology procedures keep the Commission in check? The limited evidence that is available suggests that the Commission may play an active role in the comitology committees of both a mediating and policy advocating kind. But it also suggests that Commission's behaviour may vary across committees.

The purpose of this paper is to make a more systematic investigation of the behaviour of the Commission within the comitology system. The Commission has no voting rights, but chairs all committees. How is this role fulfilled? We seek to map the Commission's behaviour in all comitology committees and then to provide an explanation of it. We have collected data by questionnaires to Danish and Dutch national representatives on nearly all comitology committees in 2006.

We find that the Commission acts as both a mediator and a policy advocate in the various comitology committees. There is, however, a lot of variation in the extent to which the Commission fulfills these roles. In some committees the Commission acts as policy advocate, while it acts a mediator in others. In some committees it fulfills both roles, in other committees it does not fulfill either of them. Having mapped the Commission's behaviour we move on to explain it. We find that the Commission's role as a *mediator* depends on the character of the cases which the committees handle. Some committees deal with highly technical issues. This makes it difficult for the Commission to act as an active mediator because it is more dependent on the member states' expertise. Other committees deal with issues that entail considerable distributive consequences for

the member states. This makes it more difficult to reach agreement and creates a need for a broker – a need which the Commission appears to respond to.

Regarding the Commission's role as a *policy advocate*, there is evidence to support that the comitology procedures may constrain the Commission from fulfilling this role actively. There is also evidence that the various Directorates-General provide the Commission officials with different institutional preconditions for handling the comitology committees. These results are indicative, rather than conclusive. But they encourage further research. Further, the results show that the Commission is constrained from acting as a policy advocate in committees where the member states take a strong interest in what is going on.

The paper is structured in the following way. We start by providing some background on the comitology system and the complicated procedures set up to control the Commission. We then move on to a theoretical discussion of the Commission's roles in the comitology system. We argue that four types of factors are likely to influence the Commission's behaviour: the constraints imposed by the comitology procedures, the institutional position of the responsible Directorate-General, the nature of the cases dealt with by the committees and, finally, the intensity of the member states' preferences in relation to the committees' cases. In the third section we present our survey data and explain how we measure our concepts. The ensuing section contains our empirical analysis which consists of a series of regression analyses. The paper ends with a conclusion discussing our results.

The comitology system and the role of the Commission

To understand what comitology is, and how it affects the behaviour of the Commission, a brief look at its history is necessary. When the first community acts were to be implemented by the Commission in the early 1960s, the Council felt that it should not have too much leeway in doing so. In sensitive areas the Council, which at that time was the sole EU legislator, therefore imposed the condition upon the Commission that it should consult committees composed of representatives from the six national administrations before adopting secondary rules. In case of the committee reaching a negative opinion, the proposed rule would be handed over to the Council. In this way, the Commission would be controlled in its implementation capacities without jeopardizing the contents of the Treaty. The Council simply delegated implementation to the Commission as it should, but it imposed a condition in doing so (Blom-Hansen forthcoming).

With the growth of community legislation, the practice of establishing committees grew as well. Depending on the nature of the acts, variants on the committee procedures were introduced. In some cases the procedure is not so strict, as the Commission would only need to take ‘utmost account’ of the opinion of the committee without there being a consequence if it does not follow its opinion. In other cases the procedure is more constraining as the Commission needs to have an explicit positive opinion for going ahead with implementation. Currently, the official number of committees is about 250. As they are meant to assist the Commission in its implementation capacities, they are obviously limited to first pillar policies (Bergström 2005).

In 1987, the first legislation appeared that covered the workings of the committees themselves (Council of Ministers 1987). It summarized all the various procedures to seven, which in 1999 was reduced to four and in 2006 increased to five procedures (Council of Ministers 1999; 2006). The procedures mainly specify what the meaning of a vote is, and what happens in case the Commission’s proposal cannot be accepted. Table 1 summarizes the procedures that are currently in use.

(Insert Table 1 about here)

In Table 1 the comitology procedures are ordered in the way they constrain the powers of the Commission. In the *advisory procedure*, the powers of the Commission are in principle not constrained at all. The Commission only has to take the ‘utmost account’ of the committee’s opinion, but is not required to follow its advice. Any constraint upon the Commission therefore is purely informal.

The *management procedure*, which has the eldest roots in community legislation, is a little more constraining. Here, the Commission can always go ahead with implementation unless a qualified majority votes against a draft measure. If that happens, the matter is forwarded to the Council. In practice this means that the Commission only needs just over a third of the votes to be in favour in order to get its way. But even if a proposal is blocked, the Commission may still have its draft measure implemented as long as the Council does not oppose the draft measure before a certain deadline.

The *regulatory procedure* works in the same way as the management procedure, but the rule in terms of qualified majorities differ somewhat. Here, the Commission needs a qualified majority to be in favour in order to adopt a draft measure. When this qualified majority is not reached, the matter is forwarded to the Council.

The *regulatory procedure with scrutiny* is by far the most complicated procedure in the committee system and deals with quasi-legislative activities. It was introduced in 2006 because the Council and, especially, the European Parliament felt they should be consulted when elements of basic legislation were changed as part of implementation. The voting procedures are the same as in the standard regulatory procedure, but even in case of a positive opinion the Parliament and the Council need to be consulted. If they object, the proposal will still be blocked. In case of a negative opinion, the measure will only be adopted when the Council agrees and the European Parliament does not oppose the measure.

The *safeguard procedure* is most stringent. However, it is not a separate procedure, but it serves as an add-on to other procedures in rare cases. When using the safeguard procedure, any national participant may refer the matter to the Council.

The Commission has no voting rights in the comitology committees. But it has other means of influence. It is the formal chairman of all committees; it sets the agenda and provides all the secretarial assistance. In addition, it is also a partner in the discussions, as the committee discusses the Commission's proposals, which can be changed during or after the meeting. In sum, the Commission can decide which matters are discussed, when they are submitted for voting, which information is sent to the committee members, and how the member states' points of view are to be taken account of. It is therefore surprising that we hardly know anything about the actual behaviour of the Commission in the comitology committees.

Theoretical expectations: A closer look at the Commission within comitology

In general the Commission has many and diverse functions in the EU system. It possesses the exclusive right to draft legislative proposals and is thus a legislator. It is responsible for the implementation of EU policies and is thus the main actor in the executive branch of the EU. It supervises that the EU treaties and legislation are respected by the member states and is thus a legal guardian. It negotiates on behalf of the EU in many international settings and is thus an external representative (Nugent 2001).

In an influential study of the early Commission, David Coombes (1970) subsumed these many functions under two general roles. First, Coombes (1970: 234-242) identified a 'political or promotive' role for the Commission. This role consists of recommending and initiating new political initiatives – bringing matters onto the EU agenda, setting policy targets, making formal legislative proposals, and so on. Further, this role also includes the setting of norms in the EU sys-

tem - determining the community interest, interpreting the treaties, criticising legal breaches by the member states, acting as the EU conscience, and so on. In short, this role is one of political leadership. The second role identified by Coombes was a 'bureaucratic or implementative' one. This role consists of implementing existing policies and programmes – producing data, keeping records, taking regulatory decisions, dealing with purported treaty infringements, and so on. Further, this role also entails meditative tasks – reconciling the proposals of different member states, changing its own proposals in response to national objections, working for consensus, devising formulae which compensates for national losses and gains, and so on. In short, this second role is one of an international secretariat for the member states.

Coombes saw a strain between the two roles. The 'political or promotive' role requires a small 'organic' system of management, much like a political party or pressure group. In contrast, the 'bureaucratic or implementative' role requires a large 'mechanistic' organisation. Due to the growing bureaucratisation of the Commission, Coombes (1970: 294-325) predicted a decline of its ability to provide political leadership in the EU.

The empirical validity of the Coombes thesis is contested. It is reflected in the ongoing debate on the driving forces of European integration. 'Supranationalists' emphasise the role of supranational actors such as the Commission, while 'intergovernmentalists' emphasise the importance of the member states (Nugent 1995; Pierson 1996; Pollack 2003). But even the most ardent intergovernmentalists acknowledge that the Commission at least sometimes acts as a policy entrepreneur and at least sometimes successfully so (Moravcsik 1998: 314-378). The political leadership role identified by Coombes forty years ago seems not to have been completely crushed by the forces of routinisation and bureaucratisation.

Paradoxically, the very forces that Coombes saw as detrimental to the leadership role may over time have paved the way for another type of entrepreneurial role for Commission. Page (1997: 141-158) argues that the routinisation of EU policy making gradually means that political leadership is no longer only a matter of providing closer integration, but increasingly also the question of using, elaborating, or reshaping regulation that is already in place. To Page, this development opens up a new activist role for the Commission. In addition to the leadership role discussed by Coombes, Page identifies another activist role termed 'bureaucratic entrepreneurship.' This role concerns technical policy innovation and initiation within the bureaucratic arena. To fulfil this role Commission officials need professional staff, organisational resources and expertise – the mechanistic organisation dreaded by Coombes.

Turning to comitology, it seems plausible to expect the Commission to fulfil the implementative role described by Coombes. The Commission provides the secretarial assistance to all committees and, since it also holds the chairmanship of all committees, is likeable to act as a broker between conflicting member states representatives. It also seems plausible that the Commission fulfils a leadership role in the comitology committees - although this may be closer to the bureaucratic entrepreneurial role described by Page than the promotive role discussed by Coombes. Comitology rules may constrain the Commission, but the rules are in place because the Commission has been delegated executive powers. It seems plausible that the Commission might use these powers to shape EU regulation according to its own tastes.

To what extent are these speculations supported by empirical data? Six types of evidence might be relevant to consult.

Voting results. The comitology committees vote in order to take decisions. The voting results, which are available from the Commission's annual comitology report (see e.g. Commission 2006), show that the committees rarely reject the Commission's proposals. Apparently, the Commission is very successful. However, a successful vote could be the result of the member states agreeing with the Commission's position, or the member states not being able to unite effectively against a 'pushy' Commission, or the member states negotiating a common position among themselves which is then adopted by the Commission. In short, the voting results do not reflect the proceedings of committee meetings and cannot be taken as evidence of the Commission's behaviour.

Minutes. The Commission is obliged to forward the minutes of the meetings to the European Parliament, and also to publish them on-line. However, these minutes, named 'summary records', are brief and contain little information. The bulk of the summary records only mention that 'a discussion on topic X took place' (Brandtsma et al. 2007), and sometimes also specify the position of the Commission. They do not contain any information on the negotiations in the committees or the behaviour of the Commission.

Rules of procedure. Each comitology committee must adopt its own rules of procedure. In principle, these rules might specify different roles for the Commission. However, in practice the committees' rules of procedure are almost identical. They use the same template provided by the Council in 2001 (Council of Ministers 2001). The template states that the Commission chairs the meetings, puts forward draft measures and is responsible for the secretarial support of the committees. Apart from this, it does not provide any cues as to the Commission's behaviour.

Institutional preferences. When negotiating the comitology rules or new comitology provisions in legislative acts the Commission and the European Parliament tend to argue for soft (or no) comitology procedures, while the member states in the Council of Ministers argue for tough procedures in order to constrain the Commission. In other words, in the policy formulation phase the main EU actors normally view the comitology system as a control mechanism (Dogan 2000; Pollack 2003: 130-144; Franchino 2000; Bergström 2005: 209-249; Vos 1997). This evidence suggests that the Commission acts as an independent policy promoter - why else worry about constraining it? This may be so, but institutional preferences are indirect evidence. The member states might be wrong and worry without reason. We need direct evidence to settle the question.

Case studies. The workings of selected individual comitology committees have been studied by a number of observers. Joerges and Neyer (1997) made an in-depth study of the Standing Committee for Foodstuffs. Their questionnaires show that most delegates find that the Commission pursues its own interests in the committee. However, some delegates find that the Commission acts as a neutral broker (ibid.: 280). In a study of the Advisory Committee on Safety, Hygiene and Health Protection, Daemen and van Schendelen (1998) found evidence of an active Commission which sometimes completely ignored the position of the committee when formulating draft rules. Philip (1998) investigated the Eco-label committee, which awards eco-labels to environmentally friendly products. In this committee the Commission is in a weak position. The eco-label is commercially sensitive, and the national representatives succeed in dominating how the labelling system is structured. In a study of the Environmental Management and Audit Scheme (EMAS) Committee, Töller (1998) found somewhat ambiguous evidence on the role of the Commission. Questionnaires to the committee's delegates show that most delegates found that, on the one hand, the committee influences the Commission but, on the other hand, that the committee does not really constrain the Commission's discretion (ibid.: 197-198). Bradley (1998) studied the Genetically Modified Organisms (GMO) Committee's treatment of a multinational company's application to market genetically modified maize in the EU-territory. In this case, the Commission was unusually successful in securing its own preferred outcome. Even though the committee blocked the Commission's proposal and thus brought the matter before the Council, the Commission could still adopt its own proposal because the Council was so divided that it could not reach a contrary decision within the time limit specified by the comitology rules. In sum, case studies present a mixed picture. They show examples of the Commission playing both very active policy promoting roles and more reactive brokering roles.

Survey evidence. Some studies have used questionnaires to study the role of the Commission across several EU committees. However, unfortunately for our purposes, comitology committees are treated *en bloc* in these studies, that is, as one distinct type of committee which is then compared to working groups under the Council of Ministers and expert advisory groups under the Commission. Egeberg et al. (2003) surveyed 218 EU committee participants from 14 EU member states. They found that participants across types of committees have a high level of trust in the independent supranational role of Commission. Sannerstedt (2005) surveyed Swedish EU committee members. According to his results the Commission acts as both a mediator and a policy promoter in the comitology committees – and to a much higher extent than in the expert groups and Council working groups. In sum, survey evidence supports that the Commission may take an active independent role in the comitology committees. But the evidence presents an average picture and is silent on how much variation there is across comitology committees.

In sum, much of the available evidence on the workings of the comitology committees is, upon closer inspection, of limited value for mapping the role of the Commission. The evidence that does shed light on the Commission's role is scanty, but suggests that it may play an active role in the comitology committees of both a mediating and policy advocating kind. It also suggests that Commission's role may vary across committees. In some committees the Commission is described as very active, while it is portrayed as more passive in other committees.

The purpose of the following analysis is twofold. First, we seek to map, in a systematic manner, the role played by Commission in the various comitology committees. Our ambition is to establish to what extent the Commission fulfils the two roles discussed above – that of a neutral secretary and arbiter for the member state representatives and that of a policy advocate. Second, we seek to identify the factors that may cause the Commission to fulfil these roles to a higher or lower extent. That is, we want to explain the variation in the Commission's role across committees. What induces the Commission to play these roles to varying degrees? We suggest that four factors are important:

Comitology rules

The first factor to consider is the nature of the comitology rules. As noted above, they constrain the Commission's discretion to varying degrees, cf. Figure 1. This is the reason why the Commission, the Council and the European Parliament fight over the introduction of comitology procedures. Game theoretical analyses confirm that the regulatory procedure is the most constraining, that the

advisory procedure is the least constraining, and that the management procedure is in an intermediary position (Steunenberg et al. 1997; Ballman et al. 2002; Franchino 2000). Consequently, we expect that the Commission's behaviour as a policy advocate in the individual committees varies depending on the comitology procedure being in use. However, there is no particular reason to expect this to have any impact on the Commission's role as a mediator.

Responsible Directorate-General

The Commission's Directorates-General (DG's) possess different institutional preconditions for handling the comitology committees. First, the DG's vary in terms of formal discretionary powers. Page (1997: 103-106) measures the amount of Council and Commission laws by DG in the period 1980-1994. Commission laws amount to more than 80 per cent of total legislative output in five DG's, including DG IV Competition and DG VI Agriculture. In other DG's – such as DG XVII Energy and DG VII Transport – Commission laws amount to less than 50 percent of total legislative output. Franchino (2004) measures the Commission's discretion in the administration of 158 major EC acts. Discretion is measured as the share of major provisions delegating powers to the Commission in the acts weighted by the procedural constraints imposed on executive action. This measure also shows that competition and agriculture are areas characterised by a high degree of Commission discretion. In contrast, areas such as taxation and environment are characterised by a low degree of Commission discretion. Second, the DG's vary in terms of prestige and reputation. Hooghe (2001: 104, 227-228) measures the individual DG's reputational power in interviews with 137 top officials from the Commission by asking them to indicate the most powerful ones. She then combines this power measure with Page's (1997: 105) measure of formal DG discretion and creates an index of "power-DG". This shows that DG IV Competition and DG VI Agriculture are the most powerful, while DG's such as DG XXII Education and DG XXIII Enterprise Policy are among the least powerful. Third, the DG's vary in terms of organizational culture. In a comparison of DG IV Competition and DG XI Environment, Cini (1997) finds striking differences. DG IV Competition is powerful and autonomous, its officials characterised by a "commitment to the spread of DG IV values" and "endowed with a mission to establish norms and to encourage working practices that promote competition". In contrast, DG IX Environment is weak, subjected to external constraints, and characterised by a "precautionary approach to policy formulation."

These differences in the DG's institutional preconditions are likely to be reflected in roles played by the Commission officials chairing the comitology committees. As argued by

Hooghe (2001: 104) rational Commission officials face very different incentives depending on whether they sit on strong or weak EU competencies. Officials in policy areas with strong EU competencies are induced to work for regulatory authority at the EU level while officials with weak EU competencies may achieve more professional success by serving as honest brokers for national governments. Hooghe does not demonstrate that the institutional position of the various DG's influences the behaviour of the officials working in them, but she (2001: 93-117) provides some support for the hypothesis by demonstrating that officials from Commission "powerhouses" such as competition policy and agriculture possess a more supranationalist orientation than officials from less powerful DG's.

We intend to investigate whether the Commission's behaviour in the comitology committees is influenced by which DG they work in. We cannot make any precise predictions on the basis of the literature discussed above. Too many reorganisations of DG's have taken place, and too many changes of EU legislation have been made since then to make this a sensible endeavour. In addition, the comitology committees are not randomly spread across the DG's. This means that we have enough observations to make valid investigations only for a handful of DG's, cf. Table 2. But one prediction seems well-founded: It is plausible to expect that officials from DG Agriculture – which consistently is ranked as a very powerful DG – act as policy advocates to a higher degree than other officials. The investigation of the impact of the remaining DG's is more exploratory.

(Insert Table 2 about here)

The nature of the cases dealt with by the committees

The comitology committees deal with many types of cases. First, the cases are often highly technical. Committees deal with issues such as the interoperability of the trans-European high-speed rail system (committee under DG Transport and Energy), the protection of waters against pollution caused by nitrates from agricultural sources (committee under DG Environment), or the removal of technical barriers to trade in agricultural and forestry tractors (committee under DG Enterprise). The comitology system is often criticised for being a technocratic netherworld lacking democratic accountability. Compared to the Council of Ministers and the European Parliament, the Commission is an institution in possession of much more technocratic insight. Indeed, this is often part of the reason why these tasks are delegated to the Commission. But, as noted by Franchino (2004: 279-280), compared to the member states' national administrations, the Commission is a small suprana-

tional bureaucracy made up predominantly of general administrators, lawyers, economists and other social scientists. For this reason, again as noted by Franchino, the most technocratic issues are not delegated to the Commission at all, but left in the hands of national administrations. The comitology system represents a middle ground between these options. Issues can be delegated to the Commission which can draw upon the technical expertise from the member states' national administrations. The national representatives may function as guardians of the national interest, but they also function as 'in-sourced experts' (Van Schendelen 2006). The more technically complex the cases are, the more dependent the Commission is on the member states' experts. We consequently expect that technical complexity makes it difficult for the Commission to play an activist role in the comitology committees.

Second, the comitology committees' cases may have considerable distributive consequences for the member states. Some committees deal with issues that are of much greater importance to some member states than others. For instance, the committee on enhancing ship and port facility security (committee under DG Transport and Energy) is of most concern to coastal member states. Other committees deal with trade regulation which may impose considerable costs or benefits upon the individual member states depending on their industrial structure. For example, this is the case for the considerable number of management committees for agricultural products. Distributive effects influence the way the comitology committees work. It drives the meetings to be characterised by intergovernmental bargaining rather than deliberative supranationalism (Blom-Hansen & Brandsma 2007). It seems plausible that it also influences the Commission's behaviour in the committees. In committees dealing with cases having distributive effects it is a challenge to find solutions that a majority finds acceptable. We consequently expect that the Commission takes on the role of a broker to a larger extent in these committees.

The intensity of member state preferences

Some committees are more salient to the member states than others. For instance, the use of genetically modified organisms (GMOs) and their release into the environment is extremely controversial. The issue of authorising new genetically modified products is dealt with by the committee on genetically modified food and feed and environmental risk (committee under the standing committee on the food chain and animal health under DG Health and consumer protection). Other committees deal with politically less sensitive issues. For instance, many of the committees dealing with customs issues or agricultural questions have been in place for 30-40 years and handle a large number

of routine issues that are well-known in the member states. We expect that the more politically sensitive the committees' issues are, the more difficult it is for the Commission to play an active role.

Summing up, four types of factors are likely to influence the extent to which the Commission acts as a policy advocate and/or a mediator in the various comitology committees: the constraints imposed by the comitology procedures, the institutional position of the responsible Directorate-General within the Commission, the nature of the cases dealt with by the committees and, finally, the intensity of the member states preferences in relation to the committees' cases. In the following section we describe how to measure these factors. We then move on to investigate their impact on the Commission's behaviour.

Methods and data

Data to investigate our hypotheses were obtained by a survey to Dutch and Danish representatives on almost all comitology committees that were active in 2006.

The survey was conducted in the following way. First, we had to identify the several hundred comitology committees. At the time the survey was sent out, no up to date list of committees was available. However, once a year the Commission lists all committees in the Annex to its annual comitology report. An initial overview of committees was compiled on the basis of the 2005 report (Commission 2006). Committees that did not meet during that year were excluded as 'inactive committees'. Wherever new committees were found in the process, these were included in the analysis.

Second, we had to identify the national representative. This was a challenge because the member states are free to choose their representative. This means that a variable number of civil servants sometimes from more than one ministry are attached to the various committees. They then each attend committee meetings depending on what is on the agenda. We handled this problem by contacting the relevant units within the Dutch and Danish ministries. They helped us find the most frequent, important, or experienced representative on the individual committees. This representative was then contacted by phone or email and asked to fill out a questionnaire. In the end, 191 respondents in Denmark received a questionnaire, of which 161 responded. For the Netherlands, these figures respectively were 167 and 133. The overall response rate therefore is 82 percent (for further details on the survey, see Blom-Hansen (2007) and Brandsma (2007a)).

Measuring the Commission's behaviour. As noted above we expect that the Commission fulfils two roles in the comitology committees. In Coombes' (1970) terms we can speak of a 'political or promotive' and a 'bureaucratic or implementative' role. In more modern language we may call these roles, respectively, a policy advocate and a mediator. In the survey we measure these roles by a battery of questions to our respondents and combine their answers to form indices by the use of factor analysis, cf. Table 3.

(insert Table 3 about here)

Table 3 shows that the Commission plays two separate roles in the comitology committees. The six indicators of the Commission's behaviour load on two different factors, which can be interpreted, respectively, as a mediating and a policy advocating role. Furthermore, Table 3 reports the results of a reliability test (Chronbach's alpha) of combing the six factors into indices of these roles. As is evident, the two indices are quite strong.

The frequency distributions of the two indices are shown in Figure 1. Both indices are coded to vary from 1 to 5. High values correspond to a more active role as a mediator and a policy advocate, respectively. Panel A in Figure 1 shows the respondents ordered according to their value in the index of the mediating role. The Commission's mediating role is perceived to be the most active by the respondent to the far right. Panel B arranges the respondents in the same order, but shows their value in the index of the policy advocating role.

It is apparent from Figure 1 that the Commission acts as both a mediator and a policy advocate in the comitology committees. But the two panels in Figure 1 make evident that there is lot of variation in the extent to which the Commission plays the two roles. Furthermore, since the respondents are arranged in the same order in the two panels, it is clear that the two roles are separate phenomena. In panel A the values are neatly rising, in panel B the pattern is erratic. As expected, the two indices are only weakly correlated ($r = .14$; $\text{sign.} : .017$). This means that in some committees the Commission acts as policy advocate, while it acts a mediator in others. In some committees it plays both roles, in other committees it does not play either of the two roles. The following section seeks to explain why there are differences in the Commission's behaviour across comitology committees. But, first the measurement of the explanatory factors must be described.

Measuring comitology procedures. The Council's comitology decision specifies three main types of procedures: The advisory, the management and the regulatory procedure (Council of

Ministers 1999), cf. also Table 1.¹ Most committees work according to just one of these procedures. But about a fourth of the committees operate according to more than one procedure, cf. Table 4.

(Insert Table 4 about here)

Measuring Directorates-General. Each comitology committee's responsible Directorate-General is listed in the Commission's (2005) annual comitology report. Frequency distributions appear in Table 2 above.

Measuring the nature of the cases dealt with by the committees: Technical complexity and distributive effects consequences. These factors were measured by asking the respondents to characterise the cases dealt with in their committees. The results are reported in Table 5 which, as Table 3, reports the result of a factor analysis and a reliability test. The indicators of technical complexity measure both the respondent's own impression of the committee's cases and her impression of the ability of outsiders to understand her cases. The indicators of distributive effects measure both institutional (rules) and economic effects. But as can be seen the respective indicators clearly measure one underlying concept. The indicators form strong indices of technical complexity and distributive effects.

(Insert Table 5 about here)

Measuring the member states' preference intensity. This factor is measured by the respondents' impression of the interest taken in their work by actors in their surroundings. Like the previous tables, Table 6 reports the result of a factor analysis and a reliability test of the indicators of preference intensity. As can be seen, they load on two factors which can be interpreted as political interest and business interest, respectively. The interest of the press, which is something substantially different, loads to some extent on both factors, but is not included in any of the indices. The reliability test shows that the indicators are good indices of these concepts.

(Insert Table 6 about here)

¹ As described in Table 1, the Council's 1999-decision also specifies a safeguard procedure, but this is only used by one committee in our dataset. Furthermore, the Council amended the 1999 decision in 2006 and introduced a new version of the regulatory procedure labelled regulatory procedure with scrutiny (Council of Ministers 2006). This procedure is so new that it is not covered by our data.

Empirical analysis

Why does the Commission sometimes act as a policy advocate and sometimes as a mediator in the comitology committees? In the following we investigate this question through a series of regression analyses where we assess the impact of the factors discussed in the preceding section: Comitology procedures, Directorates-General (DG's), the nature of the committees' cases, and the intensity of member state preferences.

The objective is to determine the partial effect of these factors. That is, we seek to conduct a multivariate analysis in which all factors are analysed at the same time. However, disentangling the relative importance of the first two factors – comitology rules and DG's – is difficult. The reason is that comitology procedures are not randomly spread across DG's. On the contrary, the DG's and comitology procedures are closely related. For instance, committees under DG Agriculture overwhelmingly use the management procedure, while committees under DG Environment mostly use the regulatory procedure. The problem is described in more detail in Table 7. As can be seen, there is far from a perfect match between comitology procedures and DG's. For instance, DG Enterprise uses all procedures. But the overlap is sufficient to create a collinearity problem that makes it difficult to disentangle the independent effect of the two factors. We handle this problem by running a series of models in which the factors are included and excluded in turn. This alleviates the problem, but it does, of course, not solve it. In the end, we cannot establish for certain the independent effect of comitology procedures and DG's.

(Insert Table 7 about here)

The Commission's behaviour as a policy advocate in the various comitology committees is analysed in Table 8. The Table contains five models in order to present as detailed an explanation of the Commission's behaviour as possible. The first model investigates the impact of comitology procedures. The results support that constraining procedures may have a dampening effect on the Commission's behaviour as a policy advocate. Compared to the management procedure, which is used as the reference category, the more constraining regulatory procedure makes the Commission behave less as a policy advocate. The advisory procedure is apparently not less constraining than the management procedure, but this result should be interpreted with caution because of a low N problem -

not many committees use this as their only procedure (cf. Table 4). The results concerning committees using several procedures are also difficult to interpret because we do not know the relative importance of the procedures in these committees and, hence, how constrained the Commission is. In sum, the comparison of the management and the regulatory procedure is the most valid – and this presents evidence in favour of the procedures-matter-thesis.

Model 2 investigates the importance of DG's. The results show that it matters quite a lot which DG is responsible for the various committees. In committees under DG Agriculture and DG Research, the Commission acts much more as a policy advocate than in committees under DG Taxation and Customs, DG Environment and DG Health and Consumer Protection. It is evidence in favour of our hypothesis that officials from DG Agriculture act as policy advocates to a higher degree than other officials. However, we cannot say for certain whether the pattern that we uncover really reflects the institutional preconditions of the various DG's. But our results should encourage further research on this question.

Model 3 makes a simultaneous analysis of the impact of comitology procedures and DG's. The results for the DG's are almost identical to model 2, whereas the impact of comitology procedures disappears. This is due to the multicollinearity problem discussed above and, hence, should not necessarily be taken as evidence of procedures having no impact. The results illustrate the difficulty of conducting a simultaneous test of these two explanations.

In model 4 all our explanatory factors are included. That is, we add measures of the nature of the committees' cases (technical complexity and distributive effects) and the intensity of member states preferences (political and business interest). In addition, since we have data from two countries, we include a country dummy to control for potential country-specific effects. The results show that the intensity of member state preferences – measured as the political interest in the committees' cases – is the only factor that adds to our understanding of the Commission's behaviour. The final model is a reduced version of model 4. It only contains the statistically significant factors from this model.

In sum, although many questions are still left to be answered, Table 8 adds to our understanding of the Commission's behaviour as a policy advocate in the comitology committees. There is evidence to support that the comitology procedures may constrain the Commission, and that the various DG's provides the Commission officials with different institutional preconditions. Due to multicollinearity these results are indicative, rather than conclusive. But they encourage fur-

ther research. Further, the results show that the Commission is constrained from acting as a policy advocate in committees where the member states take a strong interest in what is going on.

(Insert Table 8 about here)

The corresponding analysis of the Commission's mediating role is reported in Table 9. We proceed in the same steps. That is, we build five models in order to present as detailed an explanation as possible. The first model investigates the impact of comitology procedures. There is no evidence that comitology procedures matter for the Commission's mediating role. As is evident from the low R^2 and the statistically insignificant F-value, the analysis does not constitute a reliable model of the Commission's mediating behaviour. The same results are obtained in model 2, where the importance of DG's is investigated. There is no evidence that it matters which DG is responsible for the various committees. Again we see a low R^2 and a statistically insignificant F-value. Not surprisingly, we reach exactly the same result in model 3, which makes a simultaneous analysis of the impact of comitology procedures and DG's.

In model 4 we include all our explanatory factors. Now, we have explanatory factors that bite. The nature of the committees' cases matter quite a lot for the Commission's mediating role. Both technical complexity and distributive effects have statistically significant coefficient with the expected signs. In committees dealing with technically complex cases the Commission is constrained from mediating, while the opposite occurs in committees dealing with distributive cases. Furthermore, there is a statistically significant country effect. Dutch respondents consider the Commission as less mediating than their Danish counterparts. The final model is a reduced version of model 4. It only contains the statistically significant factors from this model.

In total, Table 9 makes it possible for us to begin to understand when the Commission acts as a mediator in the comitology committees. This seems to depend quite a lot on the character of the cases which the committees handle. Some committees deal with highly technical issues. This makes it difficult for the Commission to act as an active mediator because it is more dependent on the member states' expertise. Other committees deal with issues that entail considerable distributive consequences for the member states. This makes it more difficult to reach agreement and creates a need for a broker – a need which the Commission appears to respond to.

(Insert Table 9 about here)

Conclusion

(yet to be written)

Literature:

- Ballman, Alexander, David Epstein & Sharyn O'Halloran. 2002. "Delegation, Comitology, and the Separation of Powers in the European Union", *International Organization* 56: 551-574.
- Bergström, Carl Fredrik. 2005. *Comitology. Delegation of Powers in the European Union and the Committee System*. Oxford: Oxford University Press.
- Blom-Hansen, Jens. Forthcoming. "The Origins of the EU Comitology System", forthcoming in the *Journal of European Public Policy*.
- Blom-Hansen, Jens. 2007. *The Danish Comitology Survey. Technical Report*. Aarhus: Department of Political Science, Aarhus University (available from the author upon request).
- Blom-Hansen, Jens & Gijs Jan Brandsma. 2007. "The EU Comitology System: Intergovernmental Bargaining and Deliberative Supranationalism?" Unpublished paper. Available from the authors upon request.
- Bradley, Kieran St. Clair. 1998. "The GMO-Committee on Transgenic Maize: Alien Corn, or the Transgenic Procedural Maze", pp. 27-221 in M. P. C. M. Van Schendelen (ed.). *EU Committees as Influential Policymakers*. Aldershot: Ashgate.
- Brandsma, Gijs Jan. 2007a. *Comitologie in de praktijk. Onderzoeksverslag*. Utrecht: Utrecht School of Governance, Utrecht University (available from the author upon request).
- Brandsma, Gijs Jan. 2007b. "Accountability deficits in European 'Comitology' decision-making", *European Integration Online Papers*, vol. 11.
- Brandsma, Gijs Jan, Deirdre Curtin and Albert Meijer. 2007. "How transparent are EU Comitology committees?", paper presented at the Connex Accountability Conference, Florence, June 29-30.
- Cini, Michelle. 1997. "Administrative Culture in the European Commission: The Cases of Competition and Environment", pp. 71-89 in Neill Nugent (ed.). *At the Heart of the Union*. London: MacMillan.
- Commission. 2006. *Commission Staff Working Document. Annex to the report from the Commission on the working of committees during 2005*. SEC(2006) 1065. Bruxelles.
- Coombes, David. 1970. *Politics and Bureaucracy in the European Community*. London: George Allen & Unwin.

- Council of Ministers. 1987. Council Decision of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission. *OJ L 197*, 18 July 1987, pp. 33-35.
- Council of Ministers. 1999. Council decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. *OJ L 184*, 17 July 1999, pp. 23-26.
- Council of Ministers. 2001. Standard Rules of Procedure – Council Decision 1999/468/EC, *OJ C 38*, 6 February 2001, pp. 3-5.
- Council of Ministers. 2006. Council decision of 17 June 2006 amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission, *OJ L 200*, 22 July 2006, pp. 11-13.
- Daemen, H. H. F. M. & M. P. C. M. Van Schendelen. 1998. "The Advisory Committee on Safety, Hygiene and Health Protection at Work", pp. 129-147 in M. P. C. M. Van Schendelen (ed.). *EU Committees as Influential Policymakers*. Aldershot: Ashgate.
- Dogan, Rhys. 2000. "A Cross-Sectoral View of Comitology: Incidence, Issues and Implications", pp. 45-61 in Thomas Christiansen & Emil Kirchner (eds.). *Committee Governance in the European Union*. Manchester: Manchester University Press.
- Egeberg, Morten, Günther F. Schaefer & Jarle Trondal. 2003. "The Many Faces of EU Committee Governance", *West European Politics* 26: 19-40.
- Franchino, Fabio. 2000. "The Commission's Executive Discretion, Information and Comitology", *Journal of Theoretical Politics* 12: 155-181.
- Franchino, Fabio. 2004. "Delegating Powers in the European Community", *British Journal of Political Science* 34: 269-293.
- Hooghe, Liesbet. 2001. *The European Commission and the Integration of Europe*. Cambridge: Cambridge University Press.
- Joerges, Christian & Jürgen Neyer. 1997. "From Intergovernmental Bargaining to Deliberative Political Processes: The Constitutionalisation of Comitology", *European Law Journal* 3: 273-299.
- Moravcsik, Andrew. 1998. *The Choice for Europe*. London: Routledge.
- Nugent, Neill. 1995. "The Leadership Capacity of the European Commission", *Journal of European Public Policy* 2: 603-623.
- Nugent, Neill. 2001. *The European Commission*. London: Palgrave.

- Page, Edward. 1997. *People Who Run Europe*. Oxford: Clarendon Press.
- Philip, Alan Butt. 1998. "The Eco-Label Regulatory Committee", pp. 164-178 in M. P. C. M. Van Schendelen (ed.). *EU Committees as Influential Policymakers*. Aldershot: Ashgate.
- Pierson, Paul. 1996. "The Path to European Integration", *Comparative Political Studies* 29: 123-163.
- Pollack, Mark A. 2003. *The Engines of European Integration*. Oxford: Oxford University Press.
- Sannerstedt, Anders. 2005. "Negotiations in European Union Committees", pp. 97-114 in Ole Elgström & Christen Jönsson (eds.). *European Union Negotiations. Processes, Networks and Institutions*. London: Routledge.
- Steunenberg, Bernhard, Christian Koboldt & Dieter Schmidtchen. 1997. "Beyond Comitology: A Comparative Analysis of Implementation procedures with parliamentary Involvement", *Aussenwirtschaft* 52: 87-112.
- Töller, Annette Elisabeth. 1998. "The 'Article 19 Committee': The Regulation of the Environmental Management and Audit Scheme", pp. 179-206 in M. P. C. M. Van Schendelen (ed.). *EU Committees as Influential Policymakers*. Aldershot: Ashgate.
- Van Schendelen, Rinus. 2006. "The In-Sourced Experts", *Journal of Legislative Studies* 8: 27-39.
- Vos, Ellen. 1997. "The Rise of Committees", *European Law Journal* 3: 210-229.

Table 1: The procedures of comitology committees

<i>Procedure</i>	<i>Vote result</i>		
	Qualified majority in favour	Between QM in favour and QM against	Qualified majority against
Advisory procedure	Commission only has to take notice of the committee's opinion, and a simple majority of member states suffices for that		
Management procedure	Commission may adopt its proposal		Commission may either abandon its proposal or refer it to the Council (if Council does not oppose the act in time, the proposal may be implemented)
Regulatory procedure	Commission may adopt its proposal	Commission may either abandon its proposal or refer it (or an amended version) to the Council. If Council does not act, the Commission may adopt its latest proposal	
Regulatory procedure with scrutiny	Commission will forward the proposal to Council and Parliament. If EP or Council objects within three months, the proposal is blocked. Otherwise the Commission may adopt its proposal	Commission refers the proposal (or an amended version) to the Council. If Council agrees or does not act, it will be forwarded to the EP; otherwise the Commission will submit an amended version to the Council. If EP does not oppose the measure, the Council or the Commission will adopt the proposal. Otherwise the Commission may submit an amended version of the proposal to the committee	
Safeguard procedure	Add-on procedure: Any participant may refer the matter to the Council and thereby terminate the committee procedure		

(adapted from: Brandsma 2007b)

Table 2. Comitology committees by DG's

	No. of observations
DG Taxation and Customs	29
DG Agriculture	46
DG Enterprise	25
DG Environment	37
DG Research	23
DG Health and Consumer Protection	23
DG Transport and Energy	38
Other DG's*	73
Total	294

* "Other DG's" contains the following DG's, which all have less than 20 observations: Europe Aid; Budget; Education & Culture; Humanitarian Aid; Enlargement; Employment; Eurostat; Fisheries; Information Society & Media; Justice; Internal Market; Anti-Fraud; Regional Policy; Trade.

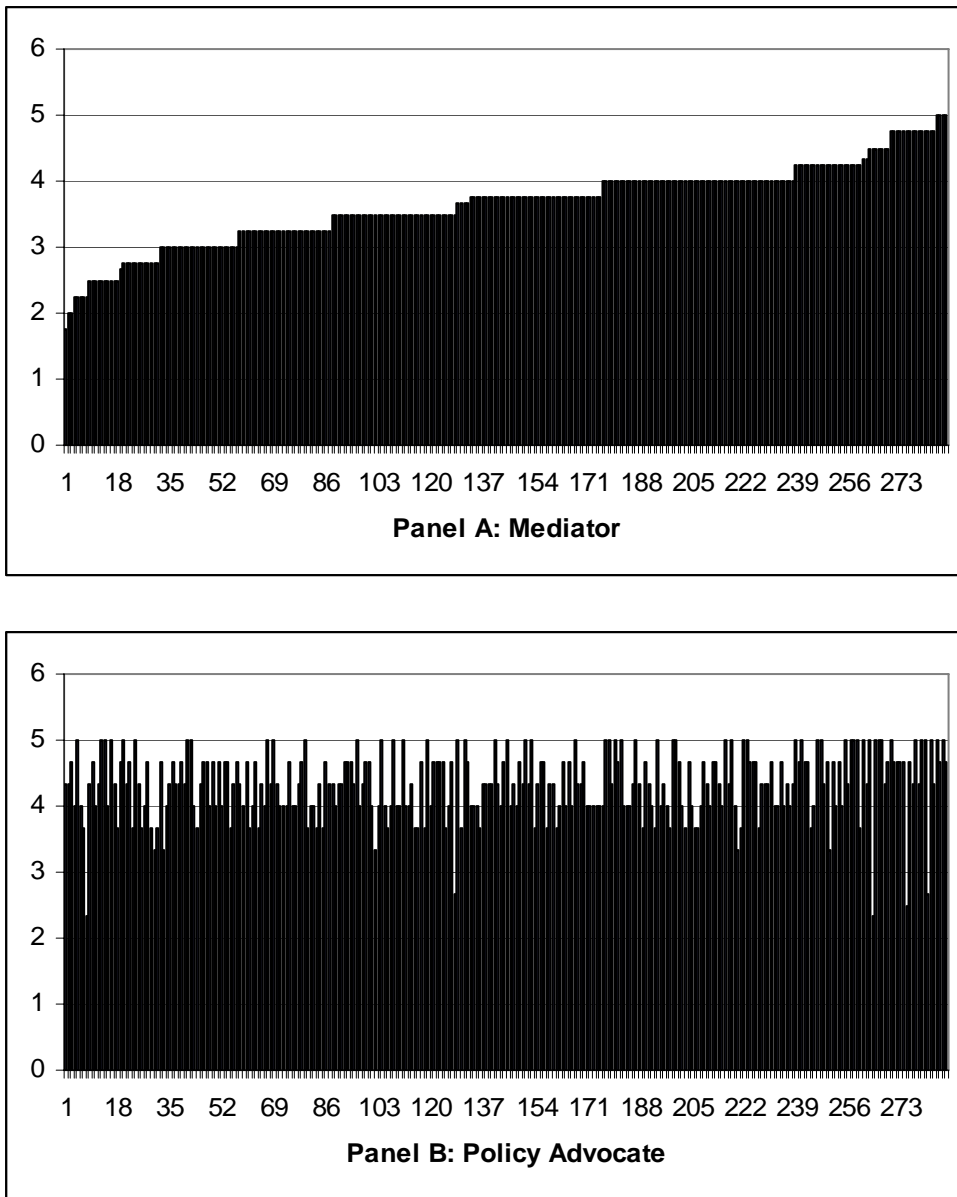
Table 3. Factor analysis of the respondents' evaluation of the role taken by the Commission in the comitology committees

	Loading on factor 1 (mediator)	Loading on factor 2 (policy advocate)
How often does the EU Commission play the following roles in your comitology committee?		
...The one who makes sure that everybody feels comfortable	.820	.013
...The one who makes sure that the result is satisfactory to everybody	.805	-.021
...The one who mediates	.748	.135
...The one who prepares things	.113	.804
...The one who investigates and explains things	.220	.779
...The one who promotes his own proposals	-.185	.702
Eigen value	2.21	1.62
Chronbach's alpha*	.71	.62

* For additive index of items in bold.

Note: All items are Likert scale statements to which the respondents could answer "Always", "Often", "Now and then", "Seldom", and "Never". Extraction method: Principal component analysis. Rotation method: Varimax with Kaiser normalization.

Figure 1. The Commission's two roles in comitology committees



Note: The respondents are displayed in the same order in the two panels.

Table 4. The prevalence of the comitology procedures in 2006.

Committees using:	Per cent
- Only the advisory procedure	4
- Only the management procedure	31
- Only the regulatory procedure	38
- Several procedures	27
Total (N=293)	100

Table 5. Factor analysis of the character of the cases in the various comitology committees

	Loading on factor 1 (distributive effects)	Loading on factor 2 (technical complexity)
Indicators of technical complexity:		
You need considerable technical insight to work with the cases in my committee	.105	.860
The cases in my committee are often technically complex	.111	.866
It is difficult for outsiders to understand the cases we work with in my committee	.147	.726
Indicators of distributive effects:		
The cases in my committee have great importance to certain member states' national rules	.800	.198
The cases in my committee have great importance for certain member states	.868	.039
The cases in my committee have great economic importance for certain member states	.853	.152
Eigen value	2.74	1.50
Chronbach's alpha*	.81	.77

* For additive index of items in bold.

Note: all items are Likert scale statements to which the respondents could answer "agree", "partly agree", "neither agree nor disagree", "partly disagree", and "disagree". Extraction method: principal component analysis. Rotation method: Varimax with Kaiser normalisation.

Table 6. Factor analysis of the interest taken by actors in the surroundings in the various comitology committees

	Loading on factor 1 (political interest)	Loading on factor 2 (business interest)
How much are the following actors interested in the work in your comitology committee?		
- Your minister	.778	.227
- The government	.926	.129
- Parliament	.893	.157
- The press	.628	.500
- Interest organisations	.208	.881
- Major companies in the sector	.150	.892
Eigen value	3.46	1.18
Chronbach's alpha*	.87	.80

* For additive index of items in bold.

Note: all items are Likert scale statements to which the respondents could answer “very much”, “much”, “somewhat”, “a little”, and “not at all”. Extraction method: principal component analysis. Rotation method: Varimax with Kaiser normalisation.

Table 7. The use of comitology procedures within the Directorates-General (per cent)

	Advisory procedure	Management procedure	Regulatory procedure	Several procedures	Total	N
DG Taxation and Customs	4	50	35	12	101	26
DG Agriculture	0	83	9	9	101	46
DG Enterprise	20	32	36	12	100	25
DG Environment	0	14	87	0	101	37
DG Research	0	22	0	78	100	23
DG Health and Consumer Protection	4	0	61	35	100	23
DG Transport and Energy	3	8	63	26	100	38
Other DG's*	6	25	26	44	101	73
Total	4	31	38	27	100	291

* "Other DG's" contains the following DG's, which all have less than 20 observations: Europe Aid; Budget; Education & Culture; Humanitarian Aid; Enlargement; Employment; Eurostat; Fisheries; Information Society & Media; Justice; Internal Market; Anti-Fraud; Regional Policy; Trade.

Table 8. Regression analysis of the Commission's role as policy advocate

	Model 1 (impact of comitology procedures)	Model 2 (impact of DG)	Model 3 (DG and comi- tology proce- dures)	Model 4 (full model)	Model 5 (parsimonious model)
Comitology procedure:					
• Management procedure (ref.cat.)	-	-	-	-	-
• Advisory procedure	-.13	-	-.00	-.05	-.08
• Regulatory procedure	-.23***	-	-.07	-.04	-.06
• Several procedures	-.02	-	-.01	.03	.03
DG's:					
• DG Taxation & Customs (ref.cat.)	-	-	-	-	-
• DG Agriculture	-	.56***	.53***	.56***	.54***
• DG Enterprise	-	.25*	.24*	.26*	.23
• DG Environment	-	.19	.21	.25*	.22*
• DG Research	-	.59***	.54***	.56***	.52***
• DG Health & Consumer protection	-	.04	.04	.09	.08
• DG Transport & Energy	-	.19	.19	.26*	.21
• Other DG's	-	.40***	.38***	.43***	.39***
Technical complexity	-	-	-	.01	-
Distributive effects	-	-	-	.01	-
Political interest	-	-	-	-.10***	-.08**
Business interest	-	-	-	.02	-
Country effect (NL=1)	-	-	-	-.10	-
Constant	4.43***	4.03***	4.07***	4.15***	4.23***
R ² (adj.)	.03	.12	.11	.12	.12
F	4.1***	6.6***	4.4***	3.5***	4.5***
N	286	289	286	275	277

*p<0.1; ** p<0.05; *** p<0.01.

Dependent variable: index of role as policy advocate (cf. Table 3)

Entries are unstandardised OLS-regression coefficients

Table 9. Regression analysis of the Commission's role as mediator

	Model 1 (impact of comitology procedures)	Model 2 (impact of DG)	Model 3 (DG and comi- tology proce- dures)	Model 4 (full model)	Model 5 (parsimonious model)
Comitology procedure:					
• Management procedure (ref.cat.)	-	-	-	-	-
• Advisory procedure	-.30	-	-.25	-.12	-
• Regulatory procedure	-.11	-	-.15	-.14	-
• Several procedures	-.02	-	-.05	-.06	-
DG's:					
• DG Taxation & Customs (ref.cat.)	-	-	-	-	-
• DG Agriculture	-	-0.11	-.22	-.12	-
• DG Enterprise	-	-.36**	-.37**	-.18	-
• DG Environment	-	-.19	-.19	-.11	-
• DG Research	-	-.03	-.12	-.04	-
• DG Health & Consumer protection	-	.10	.09	.21	-
• DG Transport & Energy	-	-.14	-.15	-.01	-
• Other DG's	-	-.16	-.21	-.13	-
Technical complexity	-	-	-	-.08*	-.08*
Distributive effects	-	-	-	.10**	.10***
Political interest	-	-	-	-.01	-
Business interest	-	-	-	-.03	-
Country effect (NL=1)	-	-	-	-.42***	-.45***
Constant	3.71***	3.77***	3.89***	4.06***	3.83***
R ² (adj.)	.00	.01	.01	.11	.13
F	1.26	1.33	1.33	3.25***	14.69***
N	285	288	285	274	287

*p<0.1; ** p<0.05; *** p<0.01.

Dependent variable: index of role as mediator (cf. Table 3)

Entries are unstandardised OLS-regression coefficients