Universiteit Leiden

POLICY CONVERGENCE

SMOKE-FREE POLICY THE CASE OF THE NETHERLANDS

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ABSTRACT

In 1990 the Dutch government introduced the workplace-smoking ban for the public sector and finalized a total smoking ban on 1 January 2015. Despite the accumulated evidence on the dangers of tobacco use since 1967, it was not until the 1980's that a few states took action against the dangers of smoking and second-hand smoking. Since then, throughout

Europe the amount of the tobacco-control policies that restrict smoking in public places has grown. These policies are also becoming more restrictive, but there is considerable variation. Notable is also, that not long before this, on European level and on international level an involvement developed. The WHO became involved since 1970 and a European involvement developed in the mid-1980's. The expectation is that European and international institutions and other countries, have been the driving force in the growing development of similar smoke-free policies throughout Europe. The growing similarity of policies over time, is described as policy convergence. As result of these developments, the following question is formulated: *Is there convergence or divergence in the smoke-free policy between the Netherlands and its neighbouring countries, Belgium and Germany? Which role have international institutions and supranational institutions, such as the World Health Organisation (WHO) and European Union (EU), played in advancing the Dutch smoke-free policy? What explains this policy convergence?* The fact that other countries, international and European institutions created smoke- free policies did not automatically lead to domestic policy innovation in the Netherlands. In the policy convergence literature the discussion has been played out around the central question 'what describes the adoption of similar innovations i.e. laws, policies instruments across different nations?' The policy convergence literature has provided a framework which is used to assess if policy convergence occurred in the smoke-free policy area between the Netherlands, Belgium and Germany and the role that the European Union, The World Health Organisation has played in this development. The literature is also used to make a systematic empirical illustration of the mechanisms that facilitated this policy transfer.

The case study has shown that several mechanisms have contributed to the development of policy convergence in the smoke-free policy area. International harmonisation, regulatory competition, lesson drawing and international policy promotion are seen as the driving forces of policy convergence, with international harmonization as the most important causal mechanism that has driven the development of the convergence.

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1. INTRODUCTION

In 1990 the Dutch government introduced the workplace-smoking ban for the public sector. Twenty five years later, on 1 January 2015 the Netherlands introduced a total smoking ban. This legislation made it possible to provide protection from exposure to tobacco smoke in public places and workplaces (second hand smoking). The enactment of the smoking-ban came with a package of policy measures, under the name *the smoke-free policy*.

Tobacco control regulations in the form of smoke free laws have increased not only in the Netherlands. The evidence on the dangers of tobacco use has accumulated since the 1950's[1]. In the 1980's a few states took action against the dangers of smoking and the exposure of tobacco smoke. Since then, the amount of smoke free policies throughout Europe has grown and the policies are becoming more restrictive and over the past decades. Substantial progress has been made to control exposure of tobacco smoke. In Europe almost every member state has implemented smoke free policies to provide protection against the exposure of tobacco smoke. By 2012 twenty nine European countries had implemented their smoke-free policy.

The evolution of smoke-free regulations in the Netherlands (and elsewhere in Europe) seems to be the result of a form of policy transfer that may lead to policy convergence. The implementation of similar public policies across European member states seems to be the result of institutions operating on an international level or a supranational level and transnational communication.

The World Health Organisation (WHO) and European Union (EU) became involved in the policy area in different ways, with several non-governmental organizations active in this policy area as a driving force.The WHO has been publicly engaged in Tobacco control since 1970 and became more active with its Tobacco or Health Program and "World no-Tobacco Day". Following a World Conference on Tobacco or Health recommendation in 1994, the World Health Assembly adopted resolution WHA48.11, International Strategy for Tobacco Control, to begin what became the Framework Convention on Tobacco Control (FCTC), the first public health treaty, introduced in 2003. According to Mamuda and Studlar (2009) in terms of global public health governance, tobacco control has become a unique policy area because the FCTC represents the first time WHO has used its constitutional powers to lead the development of a formal treaty. The development of

[1] **Restrictive tobacco control policies have only been developed over the past half century. Since the 1950's, the publication of two landmarks reports on the dangers of smoking from the British Royal College of Physicians in 1962 and the U.S. Surgeon General in 1964, concerning very important scientific discoveries on the health dangers of tobacco use, created the problem pressure for the creation of tobacco control policy (Mamudu and Studlar 2009:78).**

the FCTC established a new level of international governance in public health and thus provided an additional venue for shared sovereignty between supranational/international organizations and its member state. A tier in governance of tobacco control at the EU Level started to evolve by the mid-1980 when the EU began to play a larger role in tobacco control . The EU Commission has utilized "hard laws," EU Treaty and binding regulations (directives), and "soft laws," non binding regulations (recommendations and resolutions) as well as accession rules for new members and EU-wide tobacco control programs (Mamumba and Studlar 2009:83).

Although for some it is obvious that states should get involved in Tobacco control, since the health dangers of tobacco use is known, interestingly enough, tobacco control has not always been a priority for policy makers for several interesting reasons.Restrictive tobacco control policy has only been developed over the past half century.Since the 1950, the publication of two landmarks reports on the dangers of smoking from the British Royal College of Physicians in 1962 and the U.S. Surgeon General in 1964, concerning very important scientific discoveries on the health dangers of tobacco use, created the problem pressure for the creation of tobacco control policy (Mamudu and Studlar 2009:78). Because of states international sovereignty, states were responsible for the formulation of their own tobacco control policies in response to the accumulating evidence on the dangers of smoking, but it was not until 1980 that a few states took actions. For the most part, states with an economic interest in tobacco production, thus states with tobacco growers and/or tobacco manufacturers even continued to support these economic sectors through subsidies and included them in trade initiatives and negotiations with other countries (Studlar 2006). But partly as a result of the growing awareness of the dangers of cigarette smoke, eventually these states made a major turn in their policy directions which led, among other things, to the sale of several state-owned tobacco manufacturers.

But what led to this policy change in Europe? In the policy convergence literature the discussion has been played out around the central question 'what explains the adoption of similar innovations i.e. laws, policies instruments across different nations? The most obvious assumption one could make is that international actors, processes and institutions affect domestic policy.

International actors and institutions affect domestic policy and drive the adoption of similar policies throughout Europe. The growing development of similar policy over time is described as policy convergence. However, the creation of international policy or European policy does not automatically lead to domestic policy innovation (Holzinger and Knill 2005:779). This depends on the kind of mechanism that is used to facilitate the policy transfer. Depending on the mechanism it also clear that this process of

policy transfer is not an all-or-nothing process and stress that there are basically four different degrees of transfer (1) copying, which involves direct and complete transfer (2) emulation, which involves transfer of the ideas behind the policy or program (3) combinations, which involve mixtures of several different policies (4) and inspiration, where policy in another jurisdiction may inspire a policy change, but where the final outcome does not actually draw upon the original (Dolowitz and Marsh 2000:13).

States may vary in the extent to which they draw upon international organizations and the policy experiences of other states. Moreover, domestic policy innovation could also be the result of information exchange or communication with other countries. A country chooses to copy or learn from a policy from another country in the search for an effective solution to a given problem, or can be just driven by the mere desire for conformity. The main question that is being asked in this research is: *Is there convergence or divergence in the smoke-free policy between the Netherlands and its neighbouring countries, Belgium and Germany? Which role do international institutions and supranational institutions, such as the World Health Organisation (WHO) and European Union (EU), have played in advancing the Dutch smoke-free policy? What explains this policy convergence?*

The policy convergence literature discusses several mechanisms that are the driving force of policy convergence. Holzinger and Knill (2005) distinguished several causal mechanisms for policy convergence namely: imposition, international harmonization, regulatory competition, transnational communication in the form of lesson drawing, transnational problem-solving, emulation, international policy promotion and independent problem-solving (Holzinger and Knill 2005: 779). It is expected that the smoke-free policy implementation cannot be accounted to only one policy convergence mechanism. When convergence is conceptualized as an evolution over time, it is likely that several distinct mechanisms have played a role at different points in time. Hence, there is a possibility that several policy convergence mechanisms can operate in a simultaneous or sequential way. This thesis will make a systematic empirical analysis of the mechanisms that might facilitate the development of policy convergence between the Netherlands and her neighbour countries Belgium and Germany in the smoke-free policy area.

The relevance of this thesis is multiple. First of all, there is an increasing interest in the domestic impact of European integration and globalization (Bennet 1991: 2015). Therefore convergence is important since it can be defined as the tendency of societies to grow more alike and to develop similarities in structures, processes and performances. Policy transfer based on adapting or imitating effective policies elsewhere can lead to good policy changes. But the negative impact arising from competition, can produce bad policy. Imitating other governments by simply copying their policies may result in inappropriate policy

choices. Moreover, policy choices based on imposition by international organisations are unlikely to be optimal. Thus, exploring the conditions under which each of these mechanisms drives policy convergence provides important insights in the process behind policy making.

Second, the WHO estimated that in the 20th century there were 100 million tobacco related deaths. As such the WHO classified this development as a tobacco epidemic and urged states to take action to reverse this global epidemic. This thesis could give us insight into how European and international institutions and European member states have combatted this global epidemic resulting from tobacco consumption by implementing far going smoke-free policies. Moreover, it could also give insights into which mechanisms are the most effective to drive policy innovations on a domestic level.

In the following chapter, the theoretical framework will be discussed. The relevant academic literature on policy convergence mechanisms will be discussed and theoretical expectations will be derived from the literature. In the third chapter, the research design of this thesis will be described. Chapter four assesses whether policy convergence or divergence occurred in the smoke-free policy area between the Netherlands, international and European institutions and Belgium and Germany. As such, the Dutch, the international, the European, the Belgian and German policies and their corresponding regulations will be discussed in order to point out their mutual similarities and their differences. With the help of the different empirical indicators this chapter will describe which mechanisms facilitated the convergence. In the final fifth chapter, the research questions will be answered and general recommendations for further research will be given.

2. THEORETICAL FRAMEWORK

In this chapter an overview of the theoretical framework and literature will be presented. Theories of European integration and policymaking are presumed to be useful in providing us with the analytical tools with which to chart and describe variation in EU policy-making both across issue areas and over time. This decision starts from the assumption that international, supranational institutions, other countries, international actors, processes and institutions increasingly affect domestic policy of member states. Since this domestic policy innovation can have an effect on all countries which are members of these institutions, policy convergence can occur. Policy convergence as such is described as the growing similarities of policies over time. But the creation of international policy or European policy does not automatically lead to domestic policy innovation. This depends on the kind of mechanism that is used to

facilitate the policy transfer. For this reason, the policy learning or policy convergence literature will be discussed in this section in a broader way. In the first place, the policy convergence theories give us the insights on how policy convergence can occur. Second, it also provides us the tools that allows a systematic empirical illustration of how the different mechanisms of convergence that this literature provides, can lead to policy innovation in domestic policy. As such several relevant mechanisms of policy convergence will be discussed in this chapter. With the help of the literature theoretical expectations will be formulated, that will later on help us differentiate between the different causal mechanisms. First, the concept of convergence will be discussed.

2.1 How to conceptualize policy convergence

In the policy convergence literature the discussion focussed on the question 'what describes the adoption of similar innovations of i.e. laws and policy instruments across different nations?' In the case of tobacco control policies in Europe, several authors have argued that in almost all European countries similar tobacco control policies have been implemented. Moreover, these policies seemed to become more restrictive, although there is still considerable variation throughout Europe. But what describes the adoption of similar policies in Europe? It would be obviously very naive to conclude that it is just a coincidence. Several authors see the adoption of similar policy innovations throughout Europe as an indication of cross-national policy convergence. In this sense, convergence is described as moving from different positions toward some common point of growing similarities of policies over time (Bennet 1991:219; Holzinger and Knill 2005:776).

Cross-national policy convergence is often described as the result of structural changes related to economic globalization, political internationalization and European integration. In other cases convergence is described by modernizing forces in the range of social and economic forces produced by industrial development. In complement with the above mentioned, another explanation of convergence is given by Bennet (1991:2015). He describes that convergence can be defined as 'the tendency of societies to grow more alike, to develop similarities in structures, processes and performances'.

In addition, (Bennet 1991:218) describes the meaning of policy convergence as different things. He differentiates five meanings and stresses that policy convergence can refer to: (1a) a convergence in policy content, defined as the more formal manifestations of government policy-statutes, administrative rules, regulation, court decisions and so on. Or as (Hoogerwerf and Herweijer 2003:242-243) describes it wanting to achieve a certain policy goal by using certain policy instruments within a certain time frame.

(1b) signifies a convergence of policy goals, a coming together of intent to deal with common policy

problems.

(1c) There may be a convergence of policy instruments such as institutional tools available to administer(achieve) policy whether regulatory, administrative or juridical. There are different kinds of policy instruments: communicative policy instruments, juridical policy instruments and economic policy instruments. Communicative policy instruments are described as instruments that are used to change the behaviour of citizens through communication. Economic policy instruments are described as instruments that influence the choices of citizens , by connecting a financial consequence to every alternative, for example in the form of taxes. In the final place, the juridical policy instrument set the standards for the norms and value in the form of rules, which prescribes how citizens ought to behave or not.

(2) convergence may occur on policy outcomes, impacts or consequences, the results (positive or negative, effective or ineffective) of implementation. In relevance to the topic of this thesis, convergence on policy outcome, can be described as convergence of different national policy goals and used policy instruments.

(3) there may be a convergence of policy style, signifying the process by which policy responses are formulated (consensual or conflictual, incremental or rational, anticipatory or reactive, corporatist or pluralist). To assess policy similarity one can distinguish different concepts of policy convergence. In the conceptualization of Holzinger and Knill (2005:776) policy outcomes are ignored, since they are only for a part indirectly related to the causal mechanisms of convergence. When policy instruments are compared it does not make much sense to speak of the directions of convergence. Only in rare cases can certain instruments be assumed to provide a stricter or less strict regulation than another one. In many cases, it is therefore impossible to formulate hypotheses on the direction of convergence (Holzinger and Knill 2005:777).The convergence of policy content and policy outcome can be specified in more detail by using the distinction of Bennet (1991:128) discussed above describing policy content as: policy goals and policy instrument. Holzinger and Knill (2005:776) argue that the definition of policy convergence as the growing similarity of policies over time, leaves a very broad range of options as to how to empirically assess and evaluate similarity changes. They suggest to assess the indicators: degree, scope and the direction of the convergence. According to their approach, the degree of convergence increases with the extent to which the policies of different countries have become more similar to each other over time.

The direction of the convergence is, according to Drezner (2001:59-64) in Holzinger and Knill (2005:777), related to the extent of state intervention or to the strictness of the regulation. With respect to the strictness of the regulation a ‘top’ or ‘bottom’ direction can be identified. For example, laissez

faire policies can be identified with the 'bottom'. In contrast, interventionist policies can be identified with the 'top' (Holzinger and Knill 2005:777).

However, Dimiter Toshkov (2013:456) did try to conceptualise strictness in the following way. In the first place, he analysed the smoking restriction in restaurants and bars. He studied two aspects of the smoking restrictions in bars and restaurants, timing of the enactment of the policy in 29 different European states and the strictness of the ban. He classified the countries as table 1 shows, into three categories of increasing order of strictness of the ban. The categories take into account both the comprehensiveness of the ban itself, how many exceptions there are in the legislation and how important they are and its enforcement.

The main source for the data is the overview provided by the European Commission (2011), complemented by the existing case studies, newspaper articles and other where sources available (Toshkov 2013:456).

Table 1 Timing of enactment and the strictness of bans on smoking in bars and restaurants in the Netherlands, Germany and Belgium (Dimiter Tohkov 2013: 456).

Country	**Time of enactment**	**Strictness**
Austria	January 2009	2 (partial)
Lithuania	January 2007	2 (partial)
Belgium	**January 2007**	**2 (partial)**
Luxembourg	September 20062	(partial)
Bulgaria	January 2011	1(lax)
Malta	April 2005	3(full)
Cyprus	January 2010	3 (full)
Netherlands	**July 2008**	**2(partial)**
Czech Rep.	NA	1(non-existent)
Norway	June 2004	3(full)
Denmark	August 2007	2(partial)
Poland	November 2010	2(partial)
Estonia	June 2007	2(partial)
Portugal	January 2008	1(lax)
Finland	June 2007	3(full)
Romania	January 2009	1(lax)
France	January 2008	2(partial)
Slovakia	September 20091	(lax)
Germany	**January 2008**	**2(partial)**
Slovenia	August 2007	2(partial)
Greece	September 20101	(lax)
Spain	January 2011	2(partial)
Hungary	January 2012	1(lax)
Sweden	June 2005	3(full)
Ireland	March 2004	3(full)
Switzerland	May 2010	2(partial)
Italy	January 2005	3(full)
UK	March 2006	3(full)
Latvia	June 2006	3(full

Sources: Dimiter Tohkov (2013: 456)

The scope of convergence increases with the number of countries and policies that are actually affected by a certain convergence mechanism (Holzinger and Knill 2005:778). To be able to assess the scope of convergence, the reference point that is chosen is the total amount of countries and policies under study. There is no direct relationship between the degree and scope of convergence, although it might be the case that an increase in the number of converging countries leads to a reduction to the variation among all countries. In other words convergence occurs between the countries. On the other hand the opposite might be also the case. A subgroup or a single country might converge towards a top far away from the number of countries that is analysed (Knill and Holzinger 2005:777).

In the conceptualization of Holzinger and Knill policy (2005:776) convergence is defined in terms of quantitative, statistical measures. The indicators 'degree' and 'direction' of convergence are defined statistically in terms of the standard deviation and mean of the level of regulation, respectively. These statistical definitions presuppose that for each policy the level of regulation can be determined on a measurement scale, ranging between a 'bottom' and a 'top' level as described above. Whereas their conceptualization will be used as a starting point to characterize policy convergence, policy convergence will be assessed qualitatively, rather than quantitatively. In this section policy-convergence indicators are introduced conceptually. In the research design chapter (H3) these concepts will be translated into specific, empirical indicators for policy convergence.

The degree of convergence can be defined conceptually as the degree the similarity between policies increases. In addition, the concept of direction can be used, for instance, to assess whether convergence takes place towards the 'top' or towards the 'bottom'. Table 2 presents an overview of the interpretation of the various configurations of the policy convergence indicators: 'degree of similarity change' and 'direction'.

Table 2 Various configuration of policy convergence concepts

Degree of convergence	How much similarity increase of time?	Subgroup of countries and policies affected by a certain mechanism	Similar strictness policies over time
Convergence direction	Is there an upwards of downs convergence or divergence	Subgroup of countries and policies affected by a certain mechanism	Similar strictness at the top Similar strictness at the bottom
Convergence scope	How many and which countries policies are converging	Subgroup of countries and policies affected by a certain mechanism	Number of countries and policies

In conclusion, if during a specified time interval policy convergence is present between several countries it is expected that:

• An increase of similarity is present between the policies adopted by the governments of these countries. More specifically, policies have become more similar in terms of policy content: the policy goals and policy instruments.

• The direction of policy convergence can be either upwards (more strict regulations / more state intervention), or downwards (less strict regulations / less state intervention), or neutral (persistence of the mean level of regulation).

• The convergence is associated with a specific scope, i.e. a specified set of countries and policies.

2.2 Theoretical framework of analysis policy convergence

Dolowitz and Marsh (2000:7) have built their own framework to be able to analyse policy convergence occurring in different levels of governance, that is according to them based on a critical appreciation of the attempts of others, especially Rose (1991) and Bennet (1991). They describe that

their framework is organized around six questions:

(1) why do actors engage in policy transfer?

(2) who are the key actors involved in the policy transfer process?

(3) what is transferred?

(4) from where are the lessons drawn?

(5) what are the different degrees of transfer?

(6) what restricts or facilitates the policy transfer process?

For the examination of the first question ‘Who is involved in the policy transfer process?’ Dolowitz and Marsh (2005:8-10) conceptualized nine main categories of political actors engaged in the policy transfer process: elected officials, political parties, bureaucrats/civil servants, pressure groups, policy entrepreneurs and experts, transnational corporations, think tanks, supranational governmental and non-governmental institutions and consultants. For the second question 'what is transferred?’ Dolowitz and Marsh (2005:12) identified eight different categories: policy goals, policy content, policy instruments, policy programs, institutions, ideologies, ideas and attitudes and negative lessons. For the third question ‘from where are lesson drawn?’ Dolowitz and Marsh (2005:12) developed a classification of levels of governance. They argue that policymakers can look at three levels of governance: the international, the national and the local level.

2.3 Theoretical conceptualisation of classes of mechanisms

Busch and Jörgens (2005:862) argue that empirical studies have revealed that these structural changes do not necessarily or automatically result in policy convergence. They add that there is an abundant and still growing body of literature on comparative politics and international relations that tries to describe cross-national policy convergence.

They describe that earlier literature was limited to the analysis of single mechanisms or classes of mechanisms through which policy convergence may occur and that a systematic empirical illustration of how the different mechanisms of convergence actually work was still largely missing (Busch and Jörgens (2005:862). Other authors also address this knowledge gab, and as a result, formulated a systematic conceptualisation of distinct classes of mechanisms that contribute to policy convergence and

applied this conceptualisation empirically. The number of mechanisms that eventually may lead to policy change and convergence is enormous (Busch and Jorgen 2005:862).

As such one of the most prominent conceptualisations of distinct classes of mechanisms will be discussed in the next section. Busch and Jörgens (2005:862) have formulated a definition of the concept of mechanism. They define a mechanism as a recurrent process that links a specified initial condition and a specific outcome (Busch and Jörgens 2005:862). In concrete the mechanisms can influence the direction of the convergence, from the initial condition to the end

The first conceptualisation of classes of mechanisms that is going to be discussed is from Bennet's (1991:2018) article on the causes of policy convergence. This article was in the first place presented as an exercise in the case analysis method, where different studies are brought together to identify common patterns and relationships and also to guide future study. His focus lies on studies that claim a convergence on policy content or policy instruments. Bennet's (1991) framework identifies four mechanisms that can lead to policy convergence: emulation, elite networking, harmonization and penetration.

- Emulation is described as the utilization of evidence about a programme or programmes from overseas and a drawing of lessons from that experience. In terms of Bennet's (1991) previously mentioned differentiated five meanings, emulation can describe convergence of policy goals, policy content or policy instrument.
- Elite networking is seen as the result of sharing ideas among a network of elites that engage in regular interaction at a transnational level. Bennet (1991:220) describes that in this case convergence is not the result of a constraint imposed by a problem or collective insecurities, but of an elite network bounded by knowledge and expertise of a common policy problem and with a shared concern for its resolution.
- Under the process of harmonization, convergence is driven by a recognition of interdependence, signifying a reliance on others for the performance of specific tasks to ensure complete and successful implementation or to avoid inconsistencies. Bennet (1991:225) describes that the increasing trans-nationalisation of many policy problems has convinced governments of the need to avoid unnecessary discrepancies.
- In case of penetration, convergence takes place because states are forced to conform to actions taken elsewhere by external actors (Bennet 1991:227).

Dolowitz and Marsh (2005:13) conceptualized four different gradations or degree of transfer that might result in convergence, although policy convergence can take place without the process of policy transfer (Holzinger and Knill 2005:777):

(1) copying, which involves a direct and complete transfer of an idea,

(2) emulation, which involves the transfer of the ideas behind a policy or program,

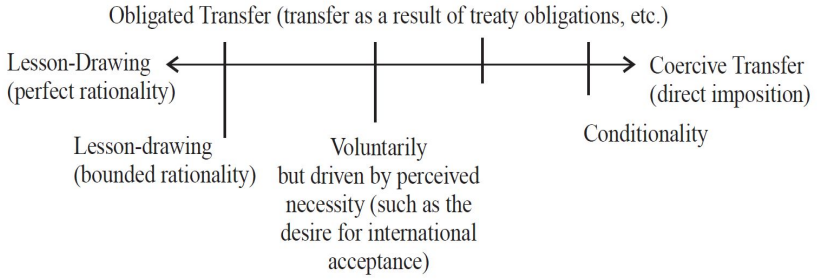
(3) combination, which involves the mixture of several different policies,

(4) inspiration, where policy in another jurisdiction may inspire a policy change, but where the final outcome does not actually draw upon the original.

Moreover, for the simplification of the process, Dolowitz and Marsh (2005:13) also establish a distinction between voluntary and coercive transfer. They describe that it is better to conceptualize transfer as lying along a continuum that runs from lesson-drawing to the direct imposition of a program, policy or institutional arrangement on one political system by another. Figure 1 shows Dolowitz and Marsh's (2000) classification that displays a continuum between coercive and voluntary policy transfer, ranging from perfectly rational lesson-drawing of government A learning from government B to the direct imposition of a policy on country A by country B.

Figure 1 Dolowitz and Marsh

From Lesson-Drawing to Coercive Transfer



Source: Dolowitz and March (2000:13)

However, it is difficult to draw a sharp distinction between coercive and voluntary transfer. For example, transfer as a result of regulatory competition is classified as direct coercion, whereas the desire for

international acceptance is classified as voluntary but driven by perceived necessity. In both cases, a national government may respond to external pressures. However, they are not forced to do so. On the other hand, Holzinger and Knill (2005:779) ask if there can ever be perfect voluntariness, as if there is no pressure or no incentive to react to challenge. They describe that even lesson-drawing implies that a government feels the need to learn. Thus it is not very clear where voluntariness ends and where coercion begins.

There are numerous authors that have developed classes of policy convergence mechanisms similar to those from Bennet (1991) and Dolowitz and Marsh (2005). For instance, Holberg (2001) provided a similar list of potential factors driving policy convergence, such as domestic problem pressures, emulation, international legal constraints, and international integration.

Holzinger and Knill (2005:779) have taken a critical position and argue that there is a considerable overlap in the defined cross-national policy convergence mechanisms and that the causal factors enumerated vary. To create more clearness on this matter Holzinger and Knill (2005) decided to present a very clear list of potential causes of policy convergence. They argue that their list could be very useful for analysing domestic policy innovations and the rationale behind those innovations. The list is therefore going to be discussed in the next section and going to be used as a main framework to analyse research questions concerning the Dutch second-hand smoking policy.

This list, shown in table 3, is based on the analytical distinction of eight causal mechanisms of policy convergence: *imposition, international harmonization, regulatory competition, transnational communication in the form of lesson drawing, transnational problem-solving, emulation, international policy promotion and independent problem-solving*. Table 3 also provides an overview that illustrates how each mechanism combines a stimulus and a corresponding response, thus the actual behaviour leading to convergence. The causal mechanism leads to convergence if the response actually occurs (Holzinger & Knill 2005:779). As you can see Holzinger and Knill (2005) provide a list of mechanisms while other authors provide a classification of mechanisms, such as Bush and Jörgens (2005:862-867) have

Table 4 Mechanisms of policy convergence

Mechanism	Stimulus	Response

Imposition	Political demand or pressure	Submission
International harmonization	Legal obligation through international law	Compliance
Regulatory competition	Competitive pressure	Mutual adjustment
Transnational communication		
Lesson-drawing	Problem pressure	Transfer of model found elsewhere
Transnational problem-solving model	Parallel problem pressure	Adoption of commonly developed
Emulation	Desire for conformity	Copying of widely used model
International policy promotion	Legitimacy pressure	Adoption of recommended model
Independent problem-solving	Parallel problem pressure	Independent similar response

Source: Holzinger and Knill (2005:780)

2.3 Imposition

Holzinger and Knill (2005:863) describe that the mechanism of imposition has various descriptions in the literature. Busch and Jörgens (2005) describe imposition as a set of mechanisms ranging from forceful coercion to economic and political conditionality.

Busch and Jörgens (2005:864) describe that policy makers in the nations on which policies are imposed could cede to the demands of the countries imposing the demands, because of the expected political or economic benefits which the imposing actors offer in exchange for conformity with their demands. Busch and Jörgens (2005:864) add that these incentives range from access to monetary resources e.g. development loans, to access to important organizations or institutions e.g. membership of the European Union.

Dolowitz and Marsh (1996) in Holzinger and Knill (2005:780-781) label convergence through imposition as direct coercive transfer and differentiate between two mechanisms, which they call direct imposition and conditionality. They speak of direct imposition when one government forces another to adopt a policy, which is rare. Normally it is a supranational institution which plays an important role in coercive policy transfer.

Tews (2002), in Holzinger and Knill (2005), clarifies two conditions for forced policy transfer. Under the first one the relations of the political units involved are characterized by a structural asymmetry of power. Under the second, the new policy has been pushed through, against the will of the legitimized politicians in the political unit forced to adopt the policy. Holzinger and Knill (2005:781) describe that this seems overly restrictive, because a policy imposed on a country by an international institution may not be at the top of the preference list of the national government, but it may not be against its will. They describe that sometimes the imposition may even help a democratic government to introduce a policy not favoured by its citizens.

In conclusion Holzinger and Knill's (2005) definition of convergence through imposition is similar to that of Dolowitz and Marsh (1999). In their opinion convergence through imposition occurs whenever an external political actor forces a government to adopt a certain policy. This presupposes an asymmetry of power, where there is an exchange of economic resources for the adoption of the policy. They add that there are two typical cases namely the unilateral imposition of a policy on a country by another country that could occur for example after a war. The second case is more prevalent and usually involves a greater number of countries. The policies which form the content of the conditionality typically involve economic policies or human rights and are usually already applied in wider parts of the international community (Holzinger and Knill 2005:781). From the previous it follows that*: in Western Europe one can expect that domestic policy innovation is the result of international or supranational imposition, for the creation of leverage for the introduction of a policy that is not favourable on domestic level.*

In case domestic policy is the result of imposition through international or supranational institutions there should be some kind of formulation of international or supranational regulation that facilitates the policy transfer. Second, because imposition implies that the country is forced to adopt a certain model and has not much choice in modifying the policy, there should be a complete similarity between the policies of the imposing institution and the submitting countries. Normally, this effect is expected when European directives, regulation or decision rules are formulated. A directive is a legislative act that sets out a goal all EU countries must achieve. A regulation is a binding legislative act, which must be applied in its entirety across the EU. A decision is binding for those to whom it is addressed, such as an EU country or an individual company, and it is directly applicable (EU-law). Furthermore if imposition takes place through international or European institutions, one should expect a high scope of convergence, in the sense that exactly the same policy should be implemented internationally or throughout Europe.

2.4 International harmonization

The mechanisms of international harmonization lead to cross-national convergence if the involved countries comply with a uniform legal obligation defined in international or supranational law. Harmonization refers to a specific outcome of international cooperation where national governments as members of international institutions are legally required to adopt similar policies and programmes. International harmonization and in a more general sense international cooperation, which stimulate governments to resolve common problems through cooperation within international institutions. States then sacrifice some independence for the good of the community. The term harmonization integrates mechanisms such as negotiation, legalization, compliance and enforcement. In the international relations,

harmonization is conceptualized as a multilateral and state-centred process where international negotiations among sovereign states take place. The subsequent policy formulation leads to domestic implementation and compliance. Once established, the institutional arrangements will constrain and shape the domestic policy choices, as they are constantly challenged and reformed by their member states (Holzinger and Knill 2005:782). However, Holzinger and Knill (2015:782) add that the impact of international harmonization on national policies cannot be seen as a hierarchical process, but that it rather can be interpreted as negotiated transfer, as the member states voluntarily engage in an international cooperation process. From the previous follows that*: in Western Europe one can expect that domestic policy innovation is the result of international harmonisation that resulted from international negotiations among sovereign states. In exchange for sacrificing some independence, one chooses to solve common problems with dependent externalities through cooperation within international institutions.*

If the domestic policy innovation is the result of international harmonisation, it is expected that the country has a membership to a supranational or international institution, such a European Union or the WHO. When it is known that a country is a member of the European Union or the WHO the expectation is that a country will voluntarily engage in an international cooperation process that will be finalized with the adoption or ratification of the resulting agreement on domestic level.

2.5 Regulatory competition

Holzinger and Knill (2005:782) describe that the increasing integration of Europe and global markets, the abolition of national trade barriers, the international mobility of goods, workers and capital put competitive pressure on the nation states to redesign domestic market regulations. In order to avoid regulatory burdens restricting the competitiveness of domestic industries. They add that the pressure arising from the fear that economic actors will shift their activities elsewhere induces governments to lower their regulatory standards. In this way regulatory competition among governments may lead to a race to the bottom in policies, implying policy convergence. Whereas the mechanism of international harmonization is based on domestic compliance with legal obligations, regulatory competition is expected to lead to cross-national convergence as countries facing competitive pressure to mutually adjust their policies. As such we can expect that*: domestic policy innovation could be the result of policies to prevent regulatory competition when countries face competitive pressure and as a result mutually adjust their policies*. If the domestic policy is the result of domestic compliance with a legal

obligation to prevent regulatory competition, it is expected that domestically enacted binding rules are based on a treaty that regulates the European or international integration on several dimensions, such as the Single Act.

2.6 Transnational communication

Holzinger and Knill (2005:783) present the following indicators that can be used to assess transnational communication namely *lesson drawing, transnational problem solving, emulation and the promotion of policy models*. In contrast to the other mechanisms discussed so far, Holzinger and Knill (2005:783) describe that these mechanisms are similar in their operation in the sense that they are purely based on communication among countries. In contrast to the other mechanisms, that presuppose either political pressure (imposition), legal obligation (harmonization), competitive pressure (regulatory competition) or parallel problem pressure (independent problem-solving), these particular mechanisms presuppose nothing but information exchange and communication with other countries. Holzinger and Knill (2005:783) add that either way the theoretical expectations with regard to their convergence effects are rather similar. The general expectation is that, if the Dutch SHS policy is the result of transnational communication in the form of lesson drawing, emulation, transnational problem-solving, international policy promotion the following conditions should be expected. In the literature the following relevant expectations are indicated. First, in the literature on lesson drawing it is argued that the policy transfer is likely to take place between countries with strong cultural linkages in the form of linguistics, religion, some historical linkage or some policy legacy or institutional structure.

2.6.1 Transnational problem solving

Holzinger and Knill (2005) describe that transnational problems-solving can be seen as similar to lesson-drawing because both assume a process of rational learning. However, they do add that in contrast with lesson-drawing, transnational problem solving is not the result of bilateral transfer.

Transnational problem solving is rather driven by the joint development of a common problem perception and solutions to similar domestic problems and the following adoption at the domestic level. According to Holzinger and Knill (2005) transnational problem-solving typically occurs within transnational elite networks or epistemic communities. Haas (1993) in Holzinger and Knill (2005) adds that those transnational elite networks are also known as networks of policy experts who share common principled beliefs over ends, causal beliefs over means and common standards of accruing and testing new knowledge.

For problems characterized by strong interdependencies it is, according to Holzinger and Knill (2005), arguable that transnational problem-solving in elite networks can prepare ground for potentially needed activities of international harmonization. Regular negotiations and discussion on problems subject to harmonization provide the ground for joint problem-solving in related areas that do not necessarily require a joint solution through international law. For this reason it is emphasized that international institutions play an important role in forging and promulgating transnational epistemic communities. Holzinger and Knill (2005) add that findings of Kern (2000:144) shows that international institutions play an important role in accelerating and facilitating cross-national policy transfer. Moreover, they constitute important channels of multilateral communication and policy diffusion. Kern shows that compared to policy exchange resting on bilateral and horizontal communication between countries, policy models spread much broader and faster if these countries are members of the same international institution (Holzinger and Knill 2005:786). From the previous it follows that*: it can be expected that policy innovation on domestic level is the outcome of transnational problem-solving if within a network of policy experts, a joint solution to a similar domestic problem is developed and subsequently adopted on domestic level*.

If the domestic policy is the result of transnational problem-solving, the condition should be met that these countries are interlinked in various transnational networks that are facilitated by international institutions, such as the European Union of the WHO. Important is to note, that to be able to exclude other causal mechanisms, the condition should be met that during the implementation of the Dutch SHS, no formulation of European or international binding or non-binding rules should exist.

2.6.2 Lesson-drawing and emulation of policies

The mechanism of lesson-drawing leads to policy transfer when governments rationally make use of the available experience elsewhere in order to solve domestic problems. According to Rose in Holzinger and Knill (2005:783), who introduced the concept, lesson drawing is based on a voluntary process whereby government A learns from government B's solutions to a common problem in the form 'what to do' or 'not to do'. The creation of new problem solutions, Holzinger and Knill (2005:783) add, does not need to be based on the mere coping of other policies, but can take many different forms. As described in the previous section, Dolowitz and Marsh (2000:13) argue that there are different degrees of transfer such as (1) *copying*, which involves direct and complete transfer (2) *emulation*, which involves the transfer of the ideas behind the policy or program (3) *combinations*, which involve mixtures of several different policies (4) *inspiration*, where policy in another jurisdiction may inspire a policy change, but where the final

outcome does not actually draw upon the original.

Rose (1991) in Holzinger and Knill (2005:783) does add that drawing a lesson does not require policy change, a programme elsewhere may be evaluated negatively or there may be no way to transfer it. Therefore she adds that lesson-drawing is not the same as policy convergence. From the previous it follows that*: domestic policy innovation can be the result of lesson drawing, whereby government A voluntarily learns from government B's solution to a common problem and copies, emulates, or combines different policies or develops a policy inspired by another's government policy.* According to Holzinger and Knill (2005:784) policy convergence through *emulation* is driven by the mere desire for conformity with other countries rather than the search for an effective solution to a given problem. Emulation thus usually leads to the simple copying of policies adopted elsewhere. Note here that Holzinger and Knill (2005) in contrast to Dolowitz and March's (2000) definition of emulation, expect that emulation will lead to mere copying of a policy and not the mere transfer of the ideas behind the policy or program as Dolowitz and Marsh(2000) described. For this thesis, I will use Holzinger and Knill's (2005) definitions, where emulation could be seen as voluntary imposition, where a country chooses to copy a policy from another country, driven by the mere desire for conformity. There are several theories that emphasize a different rationale behind this search for conformity. In the literature there are various aspects mentioned. In the first place, Levi-Laur (2002) in Holzinger and Knill (2005:784) argues that emulation is a function of the number of countries that have already adopted a certain policy. The rationale behind this is that it can be seen as optimal for a country to follow the behaviour of other countries even without using further information as the number of followers. The fact that many other countries apply a certain policy is seen as enough reason that this might be the best thing to do.

In the second place, in the theories of population ecology a different rationale is emphasized, namely that emulation can be driven by the striving of organizations to increase their social legitimacy by embracing forms and practices that are valued within the broader social and institutional environment. States might sometimes mimetically copy the policies of other states simply to legitimate conclusions already reached. Moreover, mimetic isomorphism occurs especially when an innovation is poorly understood and when its consequences are still unclear ((Dimaggio and Powel (1991:70); Holzinger and Knill (2005:784)).

The third aspect is a psychologically based rationale for emulation, where the desire exists 'not to be left behind'. A mechanism that has been transferred to the behaviour of states actors within the international system. The fear of being left behind might be a result of uncertainty, but also might be a motive in itself.

On the other hand, Bennet (1991) in Holzinger and Knill (2005:784-785) adds that emulation might be a consequence of time pressure, thus the more urgency is perceived the more likely it will be that a country will imitate a solution without a broad analysis and investigation. Finally, compared with the more demanding forms of learning, emulation could be chosen for economic reasons, because the cost of information is probably much lower.

In conclusion it can be expected that policy innovation on domestic level is the outcome of emulation if as a result of the process of mere copying a policy by government A from government B, one should witness the implementation of policies identical to other countries.

If the domestic policy is the result of lesson drawing or emulation from neighbouring country's policies, the following conditions should be met. The domestic policy should be enacted after the neighbouring country's policy. In case of lesson learning the domestic policy should have some similarity with the neighbour's policy.

2.6.3 International policy promotion

Countries not only adopt a certain policy because of rational learning or their desire for conformity, but also because of legitimacy pressures emerging from the promotion of policy models by international institutions. Policy convergence is then not the result of joint problem solving efforts of countries that are part of a transnational network, but is driven by the active role of international institutions that are promoting the spread of distinctive policy approaches they consider the best practices. The cross-national policy transfer is according to Holzinger and Knill (2005:785-786) stimulated by non-binding international agreements or propositions on broad goals and standards that national policies should aim to achieve, institutionalized peer review and identification of best practice, as well as the construction of league tables ranking national policies in terms of performance to previously agreed criteria. International institutions such as the European Union (EU), the OECD, the World Bank or the WHO, but also non-governmental organizations (NGOs) and transnational interest organizations are known to be the biggest stimulators .To induce compliance these organizations exert pressure to legitimate their policy through international scrutiny.

Holzinger and Knill (2005:785) also describe that in many instances, that the promotion activities by international institutions are initiated by activities of individual states seeking to convince other countries to copy their policy models. They add that these countries have a strong interest in establishing their approach as an international solution in order to minimize the cost of institutional and economic adjustments of potentially internationally promoted policy models. From the previous it

follows that*: domestic policy innovation can be expected to be the result of the exercised pressure from international institutions in their quest to spread distinctive policy approaches they consider the best practices if the outcome of international policy promotion consist of nonbinding international agreements formulated by international institutions that induce compliance through international scrutiny.*

The domestic policy innovation is the result of international policy promotion under the condition that non-binding international agreements or propositions are formulated on broads goals and standards that national policies should aim to achieve. These recommendations are most likely formulated by the European Union or the WHO. Moreover, some system to induce compliance should be in place through which the supranational or international institution exerts international scrutiny.

2.7 Independent problem-solving

Other authors note that convergence of policies between several countries can also be a result of a similar but independent response of political actors to parallel arising problem pressures. Holzinger and Knill (2005:786) compare this with individuals opening their umbrellas simultaneously during a rainstorm. Governments may decide to change their policy because of tax evasion, environmental pressures, such as air pollution or health dangers. According to Holzinger and Knill (2005:786) this causal mechanism has been discussed under the names of functional technocratic or technological determinism, clustering, spurious diffusion or parallel domestic pressures. Holzinger and Knill (2005:786) describe that similar responses to parallel problem pressures are not the same as policy transfer or diffusion, since under this mechanism actors do not behave in response to each other's actions. Independent problem-solving presupposes that there is no communication between countries meaning that they are not informed about the other countries policy choices or not behave as reaction to international institutions actions. *As such, it can be expected that policy innovation on a domestic level is the result of independent problem solving, where political actors independently from each other address parallel arising problem pressures. The possibility of unilateral, multilateral policy transfer, impositions of a policy from a supranational or the promotion of policy models from international institutions should be excluded.*

The domestic policy innovation is the result of independent problem solving under the following conditions. First, the content analysis should indicate that in the time of the implementation of the domestic policy no formulation of European or international binding or non-binding rules should exist. In conclusion, Holzinger and Knill (2005) argue that these mechanisms could be very useful for analysing domestic policy innovation and the rationale behind those innovations. These

mechanisms are therefore going to be discussed in the chapters and going to be used as a main framework to analyse the research questions concerning the Dutch smoke-free policy.

3. RESEARCH DESIGN

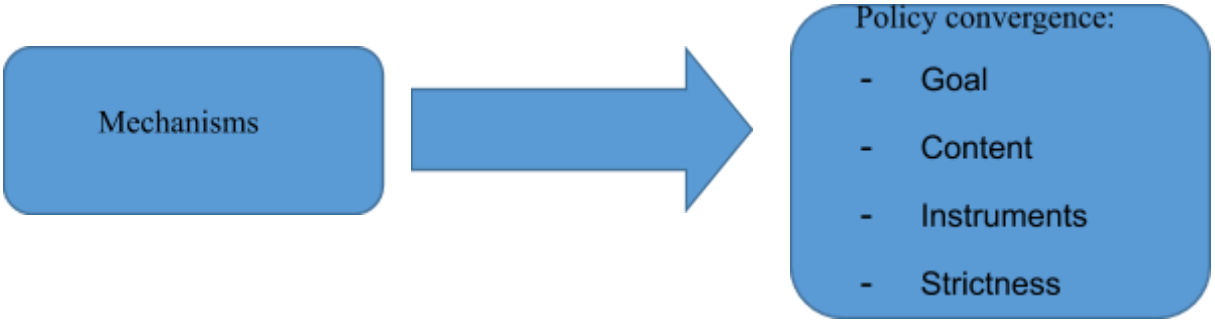
In this chapter, the research design of the thesis before you will be discussed. In the introduction the general research question was formulated: *Is there convergence or divergence in the smoke-free policy between the Netherlands and its neighbouring countries, Belgium and Germany? Which role do international institutions and supranational institutions, such as the World Health Organisation (WHO) and European Union (EU), have played in advancing the Dutch smoke-free policy? What explains this policy convergence?*

3.1 Research questions

To be able to empirically assess if there was convergence or divergence in the smoke-free policy between the Netherlands and its neighbouring countries, Belgium and Germany the the following sub-questions will be answered:

1. Which policy innovations has the Netherlands implemented in the area of smoke-free policies since 1950?
2. Has policy convergence occurred in the area of smoke-free policies between the Netherlands, Germany, and Belgium?
   a. What are the differences and similarities between German and Dutch smoke-free policies?
   b. What are the differences and similarities between Belgian and Dutch smoke-free policy
3. What are the differences and similarities between the European and the Dutch smoke-free policies?
4. What are the differences and similarities between the World Health Organisation smoke-free policies and the Dutch smoke-free policies?
5. Which of the convergence mechanisms discussed in the previous chapter are the driving forces of policy convergence in the smoke-free policy area?

Figure 2 Mechanism as the driving forces of policy convergence



3.2 Case study

The research focuses on the occurrence of policy convergence and the mechanisms through which convergence occurs. The approach chosen for this research is a case study. Since this study is focussed on the Dutch smoke-free policy, it should be seen as a single case study.

In addition the German and Belgian cases will be considered for the following reasons. In the literature on lesson drawing it is argued that the degree of convergence varies with the extent to which countries have a strong cultural linkage. Under several conditions the expectation is that decision-makers in their search for relevant policy models are more prone to look at the experience of those countries with which they share an especially close set of cultural ties (Stang and Meyer 1993). Second, when there is a large uncertainty about the consequence of policy choices, it is also the expectation that decision makers are likely to imitate the practice of nations with which they share linguistic, religious, historical or other cultural linkages (Friedkin 1993; Simmons and Elkins 2004). Moreover, the convergence is also expected to be higher among states that share similar policy legacies, such as welfare state traditions. As such, when borrowing policy models from each other, they face lower costs of adjustment. Since the Netherlands shares some similarities with its neighbouring countries, it is expected that policy convergence could have taken place between the Netherlands and Germany or Belgium. Therefore, the Belgian and German smoke-free policies will be also analysed.

Moreover, this case study has a retrospective design, meaning that the different measures taken by the Netherlands, Belgium, Germany, the European Commission and the WHO for the protection against environmental tobacco smoke are studied all at once and that a time dimension

is incorporated. Hence, for this research information is collected on different occasions that

focussed on development that happened over an extended time period. In this case, the collected data provides us information about the period between 1950 and January 2015.

3.3 Data

The data that is going to be analysed for this academic research, are academic literature and primary and secondary data. There are two types of data sources that are obtained partly through the online catalogues of the library of University of Leiden and partly through the online pages of the European Commission and WHO. The advantage of this is that the information is publicly available and partly for free. Moreover, the online policy documents, laws and academic literature provide much factual information for the assessment of policy convergence. The primary data consist of: the first type of data source that is going to be used consists of different documents:

- Smoke-free policy documents
- FCTC
- Resolution smoking in public places formulated by the European Resolution
- Overview of smoke-free legislation and its implementation
- Acronym MPOWER
- Laws
- Staatsblad 2008
- Staatsblad 2011
- Staatsblad 2014
- Dutch tobacco Act
- Federal Non-smokers Protection Act
- Single European Act (SEA)
- Treaty on European Union (TEU)

The secondary data consist of academic literature that will be used to compose a picture of how policy convergence occurred in the smoke-free policy area and which mechanisms were the driving forces of this policy transfer. In addition, academic literature will be used that focuses on the European Resolution,

the FCTC, the Dutch, German and Belgium Tobacco Act. With the help of the academic literature a deeper understanding of these regulations will be obtained. The academic literature on these policies and regulation is also used, because of a language barrier with respect to the German language.

3.4 Operationalisation

In the present section, the operationalisation of this analysis will be presented by discussing the different concepts and indicators. The dependent variable is the dutch smoke free policy and the independent variable are the Belgium smoke free policy, the German smoke free policy, EU policy on second hand smoking and the WHO policy on tobacco control. The research will focus on if and how the EU, WHO, the Belgium smoke free policy and the German smoke free policy had an impact on the implementation of the smoke free policy in the Netherlands and if policy convergence has occured because of that.

To be able to answer the research questions, a point of reference is required: a situation where no mechanism is at work and where the policy under consideration does not exist yet. For this reason, in the following chapter the analysis will start with a short review of the Dutch case during the 50's where no kind of awareness existed on the dangers of smoking and where no measures were taken to diminish the dangers of environmental tobacco smoke.

This will be followed by a discussion of sub-question 1 and hence the presentation of the smoke-free policy innovations the Dutch government has implemented since the 1950's. To be able to assess if policy convergence has occurred in the smoke-free policy area between the Netherlands and its neighbouring countries Germany and Belgium, the analysis will focus on sub-questions 2a and 2b to find out if there are similarities and differences between the Dutch, German and Belgian policy content: policy goals, juridical policy instruments, communication policy instruments. Then the European and WHO smoke-free regulations and policies will be discussed in order to answer sub-questions 3a and 3b to assess the role of these organisations in advancing the smoke-free policy of the Netherlands.

If from this analysis it follows that policy convergence has taken place, the analysis will focus on answering the fourth question in order to find out which of the policy convergence mechanisms described in chapter 2 were the driving forces of policy convergence in the smoke-free policy area.

To be able to assess this, the theoretical expectations on policy convergence mechanisms discussed in the previous chapter will be developed into empirical expectations. Empirical indicators will be derived from these empirical expectations in the following sections.

3.4.1 Policy convergence

In chapter 2 the policy-convergence indicators: 'degree of similarity', 'direction of policy change' and 'scope of convergence' were introduced and discussed conceptually. In this section these concepts will be translated into concrete, empirical indicators that can be applied to investigate the research questions 2a and 2b.

From research questions 2a and 2b it follows directly that the scope of convergence under study is:

• Smoke-free policies in the Netherlands and Germany (research question 2a). • Smoke-free policies in the Netherlands and Belgium (research question 2b). As discussed in section 2.1 the conceptualization of the indicators 'degree' and 'direction' of convergence, from Holzinger and Knill (2005:776-778), presupposes that a measurement scale for the 'level of regulation' can be defined. The level of regulation should reflect the extent of state intervention or the strictness of a regulation. In this research such a measurement scale for the level of regulation will not be defined quantitatively. Instead qualitative indicators will be specified to determine the level of regulation empirically.

In order to determine the 'degree of similarity', we consider the following aspects of policy convergence: policy goals, policy instruments, policy content (Bennet 1991: 218). Policy outcomes are not considered, following the conceptualization of Holzinger and Knill (2005). With respect to policy goals it will be empirically assessed whether policies are present that have the goal to protect citizens against the dangers of second-hand tobacco smoke. In case such policies are present, the focus will be laid on which of the following area the regulation applies to. The following areas were distinguished:

- Working spaces
- Hospitality branch
- Indoor public spaces
- Public transport

The level of regulation is related to the number of areas where smoking restrictions are enforced. For each of these areas the *strictness of the regulation* will be assessed in terms of how many exceptions are made in the legislation. The more the legislation leave room for exceptions, the less strict the policy is considered to be. In other words, the more areas are covered by the regulation the higher the level of regulation the country is considered to have.

In addition, we aim to assess the policy instruments that have been used, distinguishing the following kinds of instruments:

- Juridical
- Economic
- Communication

However, it should be noted that the assessment of policy content will be leading. In summary the degree and direction of policy convergence will be investigated by empirically assessing the following indicators:

In order to assess the occurrence of policy convergence and analyse the role of European Union and International institutions (WHO) in this development, the following empirical indicators are going to be analysed:

In the first place:

- Adoption of the EU resolution.
- The ratification of the Framework Convention on Tobacco control.
- The presence of smoke-free policies.

Moreover the degree of policy convergence will be determined by assessing the increase in similarity with respect to these indicators. Moreover, by assessing these indicators also the direction of policy change can be assessed.

- The Netherlands adopted the EU resolution on second-hand smoking.
- Most of the recommendations of the EU resolution on the prevention of second-hand smoking are adopted by the Netherlands.
- The Netherlands ratified the FCTC.
- Most of the recommendations of the FCTC on creating smoke-free environments are adopted by the Netherlands.

In addition, in order to assess the role of European and WHO smoke-free regulations and policies in advancing the smoke-free policy of the Netherlands, it will be specifically investigated whether: If the analysis of the national laws of countries show that the smoke-free policies have been implemented and or the EU resolution have been implemented and or the FCTC have been ratified, the following empirical

indicators are going to be analysed:

- The areas covered by the EU resolution.
- The areas covered by the FCTC.
- The number and types of areas where smoking restrictions are enforced by law.
- The strictness of the policies per area, in terms of the number of exceptions.
- The number and kinds of policy instruments applied.

In summary, in the first place the degree of similarity of the different national smoke free policies will be assessed. By doing this, the occurrence of policy convergence or in other words the degree of policy transfer will be assessed. There are four different degrees of transfer defined. ● Emulation

- copying
- Combination
- Inspiration

Table 4 provides an overview of the empirical indicators that will be used to assess policy convergence between the Netherlands and its neighbouring countries and to assess the role of the EU and the WHO in advancing the smoke-free policy of the Netherlands. Moreover, this table specifies the data sources used for these assessments.

In addition, in order to assess the role of European and WHO smoke-free regulations and policies in advancing the smoke-free policy of the Netherlands, it will be specifically investigated whether: If the analysis of the national laws of the countries show that the smoke-free policies have been implemented and or the EU resolution on SHS have been implemented and or the FCTC have been ratified, the following empirical indicators are going to be analysed:

- The areas covered by the EU resolution.
- The areas covered by the FCTC.
- The number and types of areas where smoking restrictions are enforced by law. ● The strictness of the policies per area, in terms of the number of exceptions. ● The number and kinds of policy instruments applied.

In summary, in the first place the degree of similarity of the different national smoke free policies will be assessed. By doing this the occurrence of policy convergence or in other words the degree of policy transfer will be assessed. There are four different degrees of transfer defined: ● Emulation

● copying

● Combination

● Inspiration

3.4.2 Operationalisation policy convergence mechanisms

To be able to assess the mechanisms through which policy convergence or divergence has occurred empirical expectations are also derived from theoretical expectations described in chapter 2. From the empirical expectations empirical indicators are obtained. In this section, empirical indicators of the policy convergence mechanisms are discussed. A summary of the empirical indicators is given in Table 5.

To be able to empirically assess if the mechanisms displayed in table 5 are the driving forces of policy convergence in the smoke-free policy area a certain initial condition and a specific outcome must be empirically assessed. With this analysis the role of the European and International institutions will be assessed. For this analysis the mechanisms are seen as the indicators. For imposition, for example, the initial condition is the formulation of directives, regulation or binding rules. In addition with the help of table 5, the following specific expected output will be empirically assessed:

1. A complete similarity between the policy content: policy goals, and -instrument of the imposing institution and the submitting countries. With other words all of the policy content of the directive, regulation or binding rule on creating a smoke-free environment should be adopted by the Netherlands. As such the Dutch legislation should cover the same areas the European legislation indicates.

2. The similarity or dissimilarity in the direction of the convergence of the different countries is going to be assed, as such, the kind of state intervention or strictness of the regulation is going to be analysed.

3. If there is a high scope of convergence, in the sense that the exact same policy goals, policy instrument thus the policy content should be witnessed in other European member states. In this case the content of the Dutch, German and Belgian smoke-free policies will be compared also with their respect to their coverage and strictness.

Table 4/5 Operationalisation policy convergence and policy convergence mechanisms

dependent variable	independent variable	indicator	policy instruments	data
dutch smoke free policy	**Policy convergence Netherlands vs Germany and Belgium**	the presence of smokefree policies The number and types of areas where smoking restrictions are enforced The strictness of the policies per area in terms of the number of exceptions and their importance The similarity in the number and kinds of policy instruments applied	Juridical	Dutch Tobacco Act on SHS Academic literature on German Smoke-free policy/legislation Academic literature on strictness of the European SHS policies Dutch Tobacco Act on SHS Academic literature on strictness of the European SHS policies Academic literature on Belgian SHS policy/legislation

dutch smoke free policy	**Role of EU in advancing the smoke-free policy**	Adoption EU resolution on SHS. Adoption of most of the recommendations of EUresolution on the prevention of SHS.	Economic	EU resolution on prevention of SHS Dutch Tobacco Act on SHS Smoke free policy documents Academic literature on EU smokefree policy

				Academic literature on Dutch Smoke-free policy/legislation

dutch smoke free policy	**Role of WHO in advancing the smoke-free policy of the Netherlands**	Adoption of FCTC. Adoption of most of the recommendations of FCTC.	Communicative	FCTC Dutch Tobacco Act on SHS Policy document on FCTC Academic literature on Dutch Smoke-free policy/legislation

dutch smoke free policy	**Imposition**	The formulation of one of these EU rules: Directives on the prevention SHS Regulations on the prevention of SHS Binding rules on the prevention SHS Complete similarity of the policy content: all the stipulated recommendations are adopted by the Netherlands Complete similarity between Dutch smoke-free policy content and German and Belgian	Juridical	Online sources such as EUR-Lex: European Directives EU regulation EU binding rules Online sources such as the Staatsblad: National Tobacco Act Smoke-free policy documents Online sources such as the online catalogues of the university of Leiden: Academic literature on German and Belgian smoke-free policy and legislation

		smoke-free policy content in terms of areas covered by the legislation and or strictness of the policies		

dutch smoke free policy	**International Harmonization**	Ratification FCTC: Implementation of the majority of the recommendation stipulated in the FCTC.	juridical	Online sources such as online catalogues of the University of Leiden: Academic literature on German and Belgian smoke-free policy/legislation Academic literature on FCTC and European Resolution on smoke-free policy/legislation

dutch smoke free policy	**Regulatory competition**	European resolution founding treaty the Single Act.	communicative	Online sources such as EUR-Lex: European Resolution on the prevention of SHS Online Sources such as online catalogues of the University of Leiden Academic literature on EU Resolution on the prevention of SHS.

dutch smoke free policy	**Transnational communication:** **Lesson drawing** **Emulation**	General condition for these mechanisms: Dutch smoke-free policy/law enacted after German and Belgium smoke-free policy Similar areas covered by smoke-free policy/legislation by Netherlands, Germany and Belgium Complete similarities		Online sources such as the Staatsblad: National \ Tobacco Act Policy document on the prevention of SHS (second hand smoking) Online sources such as the online catalogues of the university of Leiden: Academic literature on German and Belgian

dutch smoke-free policy		with the Belgium or German policy content in terms of areas covered by the legislation andor strictness of the policies. Formulation EU Resolution and FCTC formulation and adoption **before** the implemenation of Dutch Smoke-free policy		Smoke-free policy/legislation Membership Netherlands, Belgium, Germany to EU and WHO Online sources such as EUR-Lex: European Resolution on prevention of SHS. Online source such as online catalogues of the University of Leiden: Academic literature on EU Resolution on second-hand smoking.
Dutch smoke-free policy	**Transnational problem-solving**	European Resolution on the prevention of SHS adopted before or during the		

Dutch smoke-free policy	**International policy promotion**	implementation of the Dutch SHS policy The adoption of the majority recommen-dations stipulated by the EU Resolutions		

dutch smoke free policy	**Independent problem-solving**	The implementation of the Dutch Smoke-free policy before the formulation of EU Resolution and FCTC		Online sources such as the WHO homepage Policy document on FCTC Online sources such as EUR-Lex: European Resolution on the prevention of SHS. Online sources such as the Staatsblad: National Tobacco Act

				Smoke-free policy document/legislation

3.4.3 Transnational communication

The following empirical indicators are derived for the transnational communication mechanisms that are described in section 2.6. Since these mechanisms are based on communication among countries it is very difficult to assess which of these mechanisms were the driving force of the policy convergence. Table 5 gives a summary of the indicators which can indicate which transnational communication mechanism was the driving force of the policy convergence in the smoke-free policy area.

For example, a general condition for these mechanisms to be the driving force of the policy convergence between the Netherlands, Germany and Belgium is that the Dutch SHS policy/legislation should be enacted after the German and Belgian policy. Lesson drawing or emulation is for example the driving force of policy convergence in the smoke-free policy area if it is empirically assessed that:

The Dutch smoke-free policy has some similarities with the Belgian or German policies, with respect to the strictness of, or the areas that are covered by the legislation.

International policy promotion is the driving force of policy convergence in the smoke-free policy area, if it is empirically assessed that:

1. The European Resolution on the prevention of SHS has been formulated before or during the adoption of the Dutch smoke-free policy.

2. The majority of the recommendations formulated in the resolution have been adopted by the Netherlands.

Independent problem-solving is the driving force of policy convergence in the smoke-free policy area, if it is empirically assessed that:

During or before the implementation of the Dutch SHS policy, the European resolution has not been adopted nor has the FCTC been ratified by the Dutch government.

3.5 Validity and Reliability

In the first place, note that it is difficult to analyse if policy convergence occurred through transnational communication with a desk analysis. To be able to precisely find out whether the Dutch smoke-free policy is the result of transnational communication a qualitative research method is more adequate. In order to find out whether there was some information exchange and communication with other countries, interviews with relevant policy makers could give more insight on policy making around the smoke-free policy.

Given the fact that there was not enough time to conduct interviews with the relevant policy makers, mixed sources of information have been used to increase the validity and reliability of this research. In this case the data collection consisted of collection of policy documents and regulations formulated from approximately 1989 until January 2015.

The other sources used for this analysis consisted of academic literature describing the European, the International, the German, the Dutch and Belgian smoke-free regulations and policy. This comparison of these data provides for a double check of validity and reliability of the information of the documents.

To be able to guard the accuracy, consistency and reliability of the research, the concepts and the indicators were defined clearly as table 3 and table 4 shows. The adoption of similar concepts and indicators in other research of policy convergence should lead to similar results.

Furthermore all research design should be internally valid and externally valid and should produce reliable results and should be suitable for replication (Vaus 2001:233). Case study designs are often seen to be deficient in all these areas.

To be able to develop a complete explanation of the case and achieve high internal validity the following steps are taken (Vaus 2001:232-233). For this research the most critical formulated account on which mechanisms are the proper ones to empirically assess policy convergence has been given by Holzinger and Knill (2005). Holzinger and Knill (2005) specially argued that with their categories of mechanisms they strive for creating order in the great amount of overlapping mechanisms that were formulated. Case studies are sometimes criticized for lacking external validity. However, case studies are not known to strive for statistical generalisation but rather theoretical generalisation. Theoretical generalisation involves generalising a study to a theory. The case study approach is thus designed to help develop, refine and test theories (Vaus 2001:237). Although it is difficult to guarantee the generalizability of this research, since the data of this case

study is limited, this research does provide more understanding of when policy convergence has occurred and how.

4. POLICY CONVERGENCE IN SMOKE-FREE POLICY: THE CASE OF THE NETHERLANDS

In this chapter, it will be assessed if policy convergence has occurred between the Netherlands, Germany and Belgium in the area of smoke-free policy. In addition, it will be assessed which role European policymaking and the WHO Framework Convention on Tobacco Control have played in advancing smoke-free policies in the Netherlands. Moreover, the various policy-convergence mechanisms will be investigated. These assessments will provide answers to the in chapter 3 mentioned research questions.

First, in section 4.1, we will discuss smoke-free policy innovations implemented by the Netherlands since the 1950's (question 1). Then the German and Belgium smoke-free policies and/or legislation will be discussed in section 4.2. The discussion will be followed by a discussion of the differences and similarities between the German, Belgian and Dutch smoke-free policies (questions 2) in order to investigate if policy convergence has occurred.

European and international smoke-free regulation and policymaking will be discussed in 4.3. This discussion will be followed by an assessment of the differences and similarities between the European and the Dutch smoke-free policies (question 3). In addition differences and similarities between international or World Health Organization policies and the Dutch smoke-free policies will be assessed (sub-question 4). The comparisons will provide more insight into the role of the European Union and the WHO.

In section 4.4 it will be assessed which of the various convergence mechanisms were the driving forces of the policy convergence in the smoke-free policy area (question 5).

4.1 Smoke-free policies implemented in the Netherlands since the 1950's

This section will briefly describe the development of the smoking ban in the Netherlands. Around 1950 in the Netherlands it was perceived as a normal and kind gesture to present a 14 year old boy a cigarette with the question "do you already smoke?" Programs on the television were even often hosted by a smoking reporter. In schools teachers were often found smoking in front of the class and in a few schools even students smoked during the lectures. Officials gave interviews while smoking and even the Queen was often captured on television while smoking. Movie theatres, busses, trams and trains were equipped with ashtrays and nobody was even thinking about the creation of smoking-free areas. Afterwards, despite the growing scientific evidence about the health hazards of smoking since 1950, most European countries did not take active measures to control tobacco consumption through

finance tax, regulation and education until the 1980's (Studlar et al 2011:729). The first countries that took action after the first authoritative government report 1960 were the Nordic countries with exception of Denmark and the UK (Studlar 2011:729). Now more than half a century later, tobacco control is of considerable concern at various levels of government, ranging from the local to the international level. Until 1993, the Netherlands was one of the countries that opposed some of the EU Tobacco control ambitions. Because of states' international sovereignty, states were responsible for the formulation of their own tobacco control policies in response to the accumulating evidence on the dangers of smoking, but it was not until 1980 that a few states took actions. For the most part, states with an economic interest in the tobacco production, thus states with tobacco growers and/or tobacco manufacturers even continued to support these economic sectors through subsidies and include them in trade initiatives and negotiations with other countries (Studlar 2006).

The aim of the legal smoking ban for public places and workplaces is to protect non-smokers from the danger of environmental tobacco smoke (ETS). Additionally the ban was seen as a measure that contributes to the reduction of smoking prevalence and the number of consumed cigarettes by smokers.

Until 1993, the Netherlands was one the countries that opposed some of EU Tobacco control ambitions. As mentioned earlier the aim of a legal smoking ban for public places and workplaces is to protect non-smokers from the danger of environmental tobacco smoke (ETS. Since 1990 the Dutch government used several legal policy instruments to implement the workplace-smoking ban

for the public sector only, as such it became prohibited to smoke in schools, hospitals, public administration and social services. Verdonk-Kleinjan et al.(2012:200-201) stressed in that time no extra activities were undertaken to increase the adoption and implementation of the smoking ban. On 1 January 2004, for the remaining workplaces, the smoke-free workplace legislation was implemented. Employers within the hospitality branch were at first excluded from this obligation, but were urged to take measures that would offer their workers and visitor protection from ETS. On 2005 the Netherlands ratified the FCTC and was as such obligated to take measures that offered protection against tobacco smoke. In July 2008, the smoking ban for the hospitality sector was implemented. It was prohibited to smoke inside, but allowed designated smoking rooms. Table 6 shows an overview of the policy measures that were taken to achieve the main goal namely create a level of protection against the dangers of environmental smoke. The implementation of the smoke-free policies that were taken by the Dutch government to protect non-smokers from the danger of environmental smoke were assigned by the Dutch Ministry of Food, Health and Sport. To be able to guarantee the general compliance to the smoking ban, in 2002, the Ministry of health, welfare and Sport assigned the Dutch Food and Consumer Product Safety Authority

(FCPSA) was assigned to be legally responsible for the enforcement of the law. The FCPSA was allowed to use juridical policy policy instruments in the form of fines and was equipped with the task to check the compliance. The FCPSA was given authority to impose fines in case of non-compliance. These fines started at 300 euro and increased to a maximum of 2400 euro in case of continued non-compliance (Staatsblad 2008, 2011, 2014; Verdonk-Kleinjan et al. 2012:201).

Subsequently on 1 January 2004, articles 10-11b were included in the Dutch Tobacco Act. With this addition to the smoke-free workplace legislation the smoking ban for the remaining workplaces was ratified. Employers within the hospitality branch were at first excluded from this obligation, but were urged to take measures that would offer their workers and visitor protection from the exposure to tobacco smoke (Tabakwetgeving 2015).

In 2005 the Netherlands ratified the Framework Convention on Tobacco Control (FCTC) and was as such obligated to take measures that offer protection against tobacco smoke. In July 2008, the Dutch tobacco Act was again amended and the smoking ban for the hospitality sector was implemented. As a result it was prohibited to smoke inside, but allowed in designated

smoking rooms (Tabakswet 2015; Staatsblad 2008;Verdonk-Kleinjan et al. 2012:200-201). Moreover, communication policy instrument were used to acquire the needed support for the new law, through a media campaign. It seems that in the Netherlands the implementation of the smoking ban did not go as smoothly as in other countries because the Dutch government did not inform citizens well on the dangers of second-hand smoking (SHS). Moreover, most of the media attention on anti smoking policy predominantly focused on the economic aspects rather than health aspects. As such the media coverage had a small negative effect on the support for smoke-free legislation (Nagelhout 2012:112). There was an overall negative support for the smoke-free legislation. Although the discussion was dominated by the smoking-ban opposition, smokers who were more aware of the harm of second-hand smoking were more often supportive of smoke-free legislation. On the other hand, there was a lot of disagreement from the side of the small hospitably owners and they tried to impede the implementation of the smoke-free legislation. They argued that the law requested unreasonable measures to be taken by the small hospitality owners. The small hospitality owners, in contrast to the bigger businesses, did not have sufficient resources to create a separate smoking area. In order to come towards the independent small business needs, the government decided to exclude businesses smaller than 70 m^2 without staff from the smoking-ban obligation (Staatsblad 2011:5). This decision was formalized with an amendment of the Dutch Tobacco law in 2011.

However, the Court of Justice stated that the decision to exclude independent small businesses from the

smoking ban, was conflicting with the treaty (FCTC) signed by the Dutch government (NOS 2013). In 2013, the general responsibility of the general compliance was given to the municipality (Nota Tweede kamer 2013-2014:6). On 10 October 2014, the government amended the Dutch Tobacco Act and implemented a complete smoking ban for the entire hospitality branch (Staatsblad 2014:4). On 1 January 2015 the smoking ban was officially enacted.

Table 6 Dutch smoke free measures, enforcement and legislation through time

Year	**Policy measures**	**Responsible for the enforcement**	**Policy instruments: Smoke-free legislation**
1990	Smoking ban public places	Ministry of Food, Health and Sport	European Resolution Dutch Tobacco Act 1990
2002	Responsibility general compliance FCPSA	FCPSA	
2004	Smoking ban for remaining places Voluntary smoking ban in hospitality Sector	Ministry of Food, Health and Sport FCPSA	Dutch Tobacco Act inclusion articles 10-11b
2008	Indoor smoking ban hospitality sector; allowed in designated smoking room Small hospitality owners excluded	Ministry of Food, Health and Sport FCPSA	Amended Tobacco Act 2008 FCTC

2011	Exclusion from the smoking ban for hospitality businesses smaller than 70 m^2	Ministry of Food, Health and Sport FCPSA	Amended Tobacco Act 2011
2013	Responsibility general compliance on local level	Municipality	Tobacco Act 2008
2015	Complete smoking ban hospitality branch	Ministry of Food, Health and Sport FCPSA	Amended Tobacco Act 2014

4.2 The role of the EU and WHO in advancing the Dutch smoke-free policy

In the first place, it can be concluded that the Dutch smoke-free policy has become similar to the European policy over time. Gradually the majority of the recommendations of the European resolution were implemented. In the European press database the commission confirmed that it had been informed that the Netherlands had adopted and implemented the European Resolution on second-hand smoking. In concrete, the measures that Netherlands has taken for the protection from exposure to tobacco smoke that were described in section 4.1 were in compliance with the first three mentioned recommendations stipulated in the Resolution namely:

1. Ban smoking in enclosed premises open to the public which form part of public or private establishments

2. Extend the ban on smoking to all forms of public transport.

3. Provide, where necessary, for clearly defined areas to be reserved for smokers in the above mentioned establishments and, if possible, in public transport, particularly for long journeys.

In the second place, it can be concluded that the Dutch smoke-free policy has become similar to the WHO policy over time. The comparison of the FTCT and the WHO recommendations with the Dutch Tobacco act and the policy documents has shown that the majority of the recommendations of the FCTC was implemented. After the ratification in 2005, the Netherlands extended the smoking-ban further than the EU Resolution on second-hand smoking as recommended. In contrast to the EU the WHO did urge the member countries to enact a complete smoking ban. Not all of the recommendations the WHO recommended were taken in consideration, but most of the measures that were taken were in compliance with the FCTC. Article 8, which was seen as an international rule on smoke-free legislation was adopted on national level.

Moreover, the following recommendations were taken in consideration:

1. Remove the pollutant -the tobacco smoke- by implementing a 100% smoke-free environment.
2. The WHO sees this as the only effective strategy to reduce exposure to tobacco smoke to a safe level to provide an acceptable level of protection against the dangers of SHS exposure.
3. Ventilation of smoking areas, whether separately from non-smoking areas or not, does not reduce exposure to an acceptable level of risk and is not recommended.
4. Enact legislation requiring all indoor workplaces and public places to be 100% smoke free environments.
5. Laws should ensure universal and equal protection for all.
6. Voluntary policies are not an acceptable response.
7. Implement and enforce the law. Its proper implementation and enforcement will require critical efforts and means (WHO 2007:2).

In conclusion, it seems that the EU and the WHO has played a role in the development of policy convergence between the Netherlands, Belgium and Germany in the smoke free area. The analysis has shown that the Belgian smoke free policy is to an extent a copy of the Dutch smoke policy. In adherence, the German smoke-free policy seems to be a combination of the Belgian and the Dutch smoke-free policy. From this follow that the development policy convergence has been stimulated from two directions. In the first place vertically, by the European Union through the creation of not-binding European agreement in the form of broad goals and standards that national policies should aim to

achieve. In the second place, by the International institutions (WHO) through the creation of international laws, that ought to be implemented and being complied to after ratification. The second direction stimulated horizontally the development of policy convergence through transnational communication, which is going to be discussed in the following section. It might be the case through direct or indirect communication, other Belgium and Germany copied or developed their own version of the smoke free policies.

4.2.1 Comparison between the smoke-free policies of the Netherlands and the WHO

Actions against tobacco consumption occurred first at the domestic tier of governance. The tobacco policy sometimes was initiated on a central level, and sometimes on a sub-central level, especially in federal and quasi-federal systems with divided authority over public health. But because of the increasing recognition that the tobacco industry was becoming more global, several actors realized that an effective control policy also needed an international network.

As table 7 shows, the WHO was the second (international) institution that took measures for the protection against exposure to tobacco smoke, but the initiative on tobacco control started long before that, with the first World Conference on Smoking and Health in 1967. Originally in selective ways, states and nongovernmental networks, were paving the way for the creation of an international framework. In 1967 civil society groups and individuals took the initiative by organizing the first World Conference on Smoking or Health in New York City to find a collective solution for the worldwide spread of tobacco consumption. Subsequently, in 1970 the WHO became actively involved in this issue with the first World Health Assembly resolution on tobacco control (Mamudu 2005: Mamudu and Studlar 2011:79). Since 1970, the WHO has been more active with its Tobacco or Health Program and “world no-tobacco day”. Following the World Conference on Tobacco or Health recommendation in 1994, the World Health Assembly adopted resolution WHA48.11, International Strategy for Tobacco Control, to begin what became the Framework Convention on Tobacco Control (FCTC). The FCTC was the first public health treaty, introduced in 2003. As mentioned in the introduction, tobacco control has become a unique policy area in terms of global health governance, because the FCTC represents the first time WHO has used its constitutional powers to lead the development of a formal treaty. The development of the FCTC established a new level of international governance in public health and thus provided an additional venue for shared sovereignty between supranational/international organizations and its member’s states. The FCTC sets out legally binding international rules on smoke free legislation such as article 8:

Article 8

Protection from exposure to tobacco smoke

1. Parties recognize that scientific evidence has unequivocally established that
exposure to tobacco smoke causes death, disease and disability.

2. Each party shall adopt and implement in areas of existing national jurisdiction
as determined by national law and actively promote at other jurisdictional levels
the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure
to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places (WHO 2003:9).

But also international binding rules on tobacco marketing and pricing policy have been developed. To date the FCTC has been ratified in over 170 countries around the world including the Netherlands. By doing this the Netherlands and the other countries have legally committed themselves to implementing national legislation that is consistent with the FCTC. To help the countries fulfil the FCTC commitments, the WHO has defined a package of FCTC policies that are considered the best practices in reducing the prevalence of smoking and are thus seen as the most important to implement. These policies are known under the acronym MPOWER and are consistent with the policies that the World Bank designated in 2003 as the most cost effective tobacco control measures (World Bank 2003: Nagelhout 2012: 11-12). The acronym MPOWER stands for Monitor tobacco use and prevention policies and urges governments to:

1. Monitor the impact of control policies on tobacco use and the tobacco use itself. 2. Implement tobacco-smoke legislation.

3. Offer help to quit tobacco use.

4. Warn about the dangers of tobacco.

5. Enforce bans on tobacco advertising, promotion and sponsorship.

6. Raise taxes on tobacco. (Nagelhout 2012:12)

To ensure successful implementation the WHO also encouraged the member state to follow several recommendations. Some of these recommendations were also seen as lessons learnt to advance the goals of public health through legislated implementation of 100 % smoke free environments in the workplace and public places. Lessons learnt and recommendations are included in Appendix A.

If we compare the Dutch smoke-free policy and the WHO formulated FCTC treaty, which has the goal to protect citizens from the exposure to tobacco smoke, the following similarities and differences are observed.

In the first place, the analysis of academic literature has shown that the Netherlands has ratified the FCTC in 2005. This ratification legally commits the Netherlands to implementing national legislation that is consistent with the FCTC. In line with article 8 of the FCTC we can see that the Netherlands has implemented national law for the protection against the exposure to tobacco smoke.

Subsequently, If we also take a look at Appendix A concerning the lessons learnt and recommendation, the Dutch government gradually provided protection from exposures to tobacco smoke in indoor workplaces, public transport, indoor public places and other public places. The Dutch legislation as such mandates a smoke-free environment, and did not implement voluntary policies, as the WHO discouraged countries to do. However, other than recommended by the WHO, the Dutch Tobacco Act shows that the Netherlands did not directly implement a 100% smoke-free environment, but implemented legislation gradually and finalised a complete smoking ban on 1 January 2015. Between 1990 and 2015, the Dutch government amended the Dutch Tobacco Act on several occasions. As mentioned in section 4.1, after a lot of negative reactions from the small hospitality owners the Dutch government changed the legislation formulated in January 2004 in order to come towards the needs of independent small businesses, and decided to exclude businesses smaller than 70 m^2 with no staff, from the smoking obligation. On court orders, the government reversed this decision and implemented a complete smoking ban for the entire hospitality branch on 10 October 2014 (Tabakswetgeving 2015; Staatblad 2011; 2014).

Moreover, the case analysis has shown that the Dutch government initially did not anticipate and respond enough to the opposition, although this was recommended by the WHO. The biggest opponents were the hospitality owners, who argued that the smoking ban would cause them economic disadvantage. The analysis has also shown that, other than the WHO recommended, the Dutch government did not deliver enough information on the dangers of smoke-free and as such did not create sufficient support for the smoking ban legislation (Nagelhout 2012:112).

4.2.2 The role of European organizations in advancing the Dutch smoke-free policy

In this section the Dutch smoke-free policy will be compared with the smoke-free policies of the European Union. The result of this analysis should make clear which role the European Union has played in the occurrence of policy convergence in the smoke free policy area. At the same time it could also explain the development of policy convergence in the different domestic policy areas.

4.2.3 Comparison between the Dutch and the European smoke free policies

The European Union (EU) traditionally focused on essentially economic tasks. Its role in foreign policy, justice, home affairs and welfare state is perceived to be weak, which reflects the member's state's interest in maintaining control over those aspects of politics. In the case of health policy, this means that member states have limited EU action to issues such as public and occupational health, which are closely linked to the internal market's social dimensions and far from core aspect of provision and finance that make up the centre of health policy in every member state (Greer 2001:134).

Despite the clear protections against EU intervention in state health policy, the EU institutions have exercised a substantial and growing influence over the health services. This has led to the development of an EU health policy arena. The member states' health policy arena, which was so carefully shielded by member states from formal EU policy intervention, is rapidly being reshaped by European legislation and jurisprudence. As a consequence, several authors are wondering why this is happening. An answer to this question, on the policy level is that health systems are large organizations that require money, staff, users and materials as they go about their tasks and that these factors are all subjected to the EU legal regime. In addition, the regulations and juridical decisions concerning purchasing, workplace and employment issues and the principle of non-discrimination all shape the environment from which health systems must draw their resources within which they conduct their activities (Greer 2006:135). These developments seem to be a confirmation of a traditional version of neo-functionalist theory of European integration. The best intergovernmental efforts of the member states to keep the EU out of a core area of their welfare states and the structures that allocate health policy responsibility within states are being undermined by the EU institutions activities. As a consequence, these developments are resulting in the increasing Europeanization of health (Greer 2006:135). Other authors confirmed these developments and argued that throughout the decades the European Commission has

attempted to expand its regulatory authority beyond the mandate specified by the treaties. The commission's efforts in the realm of public health represent one of the most recent instances of attempted regulatory expansion. In some instances the commission has aggressively pursued new policy realms by taking advantage of openings, windows of opportunity or the distraction of member states. In other instances the treaties themselves have made this possible by failing to specify in precise terms what exactly the commission scope of action would be. In the case of health, the ambiguous language of the treaties thus encouraged the commission to take action (Duina and Kulzer 2004:57). For example, the Single European Act (SAE) of 1986 for the first time, in somewhat vague terms, stipulated health as an important dimension of European integration.

Soon after the Single European Act (SEA), the commission set out to test its new boundaries and set itself the task to increase public awareness about the dangerous effect of tobacco and mobilized to produce a ban on all forms of advertising (Duina and Kurzer 2004:28). Hence, with the SEA as base the new Directive would be presented as an internal market initiative aimed at harmonizing disparate national legislative frameworks for the marketing of commercial products. By eliminating a legal economic activity and furthermore by restricting a fundamental individual right, as set out in Article 6 of the Treaty on European Union (TEU), the directive would promote public health as an ultimate good (Duina and Kurzer 2004:58). As such, a tier in governance of tobacco control at the EU Level started to evolve by the mid-1980's.

The EU Commission has utilized "hard laws," EU treaties and binding regulations (directives), and "soft laws," non-binding regulations (recommendations and resolutions) as well as accession rules for new members and EU-wide tobacco control programs (Mamumba and Studler 2000:83). The EU has established its own directives on advertising, product regulation, tax, harmonization, and labelling, including health warnings on cigarette packages. It also has taken legal action against major cigarette companies for their complicity in smuggling and engagement in media campaigns. At the same time, individual EU Member States have enacted their own tobacco control policies, including taxation, sales restrictions, content regulation, media campaigns, and non-smoking policies (Gilmore and McKee 2004; Mamudu and Studlar 2011:81).

Table 8 Chronology of Tobacco Control in the European Union

1970 Tobacco growing subsidized in Common Agricultural Policy

1985 First European anti-tobacco campaign, Europe against Cancer (implemented in 1987)

1989 First EU health warnings; Television ad ban; Limits on product labelling; First EU non binding resolution on smoking in public places / smoke-free

1990 First limits on toxic ingredients

1992 Tax harmonization for cigarettes

1993 Maastricht Treaty expands EU role in health but also emphasizes markets and subsidiarity; EU-level tobacco industry became more organized

1994 First EU financing of NGO capacity-building projects

1995 First advisory body on tobacco control, European Bureau for Action on Smoking Prevention (BASP), ends, eventually replaced by ENSP (1997)

1996 First general EU statement on tobacco control policy (others 1999, 2002) 1997 First EU general ad ban approved (TAD1)

1999 Amsterdam Treaty, Article 129, "A high level of human health level protection shall be assured in the definition and implementation of all Community policies and activities"; EU recommended policies for Member States

2000 European Court of Justice (ECJ) strikes down TAD1; Lisbon Process

2001 Larger health warnings; Bans on "light and mild" descriptors

2002 EU sues tobacco companies for smuggling in the U.S.; Council recommendation on improving tobacco control

2003 Revised EU print, telecast, and internet ad and sponsorship ban (TAD2); Graphic warning labels approved; Framework Convention on Tobacco Control (FCTC) signed

2005 Agricultural price support for tobacco reduced, to end by 2010; Ten accession countries given delays for acquis on tobacco tax; Ratification of FCTC

2006 Commission refers Germany to the ECJ for lack of advertising ban transposition;

Finnish presidency emphasizes health in all policies, including tobacco

Source:Dimiter Tochkov (2013:456)

Table 5 The European and the WHO smoke free regulations

	European Union	**World Health Organization**
1967		First world conference on smoking and health
1970		First world health assembly resolution on tobacco control
1989	Resolution smoking in public places	
2003		Introduction of the FCTC Ratification Framework Convention on Tobacco Control (FCTC)

Resolution smoking in public places

Table 8 shows the chronology of tobacco control in the European Union. As can be seen in Table 9, in 1989 the European Union adopted the *Resolution on smoking in public places*. The Resolution invites Member States to adopt measures banning smoking in public places and on all forms of public transportation (Mamudu and Studlar 2011:84). In addition, Table 8 in combination with Table 9 displays that the European Union was the first (supranational) institution that took measure for the protection against exposure to tobacco smoke.

From 1989 on, since the first proposal was presented, a coalition of five member states: Denmark, Germany, Greece, the Netherlands and the UK vetoed all measures until December 1997. France, Italy and a number of smaller countries in contrast expressed their support from the earlier phases by at times offering compromises to ensure adoption of a law and at other times asking for a more ambitious directive (Duina and Kurzer 2004:61).

The 1989 Resolution on smoking in public places urged member states to:

1. Ban smoking in enclosed premises open to the public which form part of the public or private

establishments.

2. Extend the ban on smoking to all forms of public transport.

3. Provide, where necessary, for clearly defined areas to be reserved for smokers in the above establishments and, if possible, in public transport, particularly for long journeys. 4. Ensure that, in the event of disputes, in areas other than those reserved for smokers, the right to health of non-smokers prevails over the right of smokers to smoke.

5. Inform the Commission every two years of action taken in response to this resolution. (European Council 1989).

In contrast to directives, resolutions are not binding on member states. They represent a guideline for action, which describes why smoking ban policies are considerably different in the EU. One EU country could have a stricter ban on smoking in bars and restaurants than other countries (Studlar 2011:728; Toshkov 2013:456).

In 1996, a European Commission report on the implementation of the resolution found that all member states had some measures to restrict smoking in public places. Since then most European countries have implemented laws that offer some degree of protection from second-hand smoke. By January 2011, 16 countries had laws prohibiting smoking in bars and restaurants, with more planning to do so (Ash. factsheet 2015).

In order to understand why the Netherlands and the other European countries pursued to adopt non-tax policies such as smoke-free regulations as part of their programs of comprehensive tobacco control, it is important to discuss the EU cigarette tax harmonization policies. Under the Single European Act, the EU allows free competition of goods across member state boundaries. Moreover, the EU has attempted to create positive integration of the market through harmonization of cigarette excise taxes. Despite this harmonization there is still variation in cigarette prices due the complexity of the process, and some small temporary derogation for individual states as well as other factors such as the cost of production and popularity of different brands.

The first policies on tobacco and SHS control have resulted in high taxation across the older member states, which led these member states to direct their attention to non-tax policies, such as smoke-free policies, aimed at lowering the national tobacco consumption (Studler et al 2011:731).

The influence of the supranational institutions on domestic smoke-free policy was noticed in the Netherlands in different areas. In section 4.1 concerning the smoking ban in the Netherlands, it was

mentioned that in 1990 the Dutch government introduced the workplace-smoking ban for the public sector only, one year after the adopted EU resolution (Tabakswetgeving 2015). As such it became prohibited to smoke in schools, hospitals, public administration and social services. The European commission online press released database also confirms that on 1 January 1990, the Netherlands had national legislation implementing the 1989 Resolution. The European commission describes that approximately 50000 public buildings were placed under the obligation to introduce a smoking ban. These buildings are described as institutions, services and businesses run by the state, public bodies or the authorities at provincial and local level. The commission adds that the smoking ban was also extended to health care establishments, teaching establishments, social welfare and cultural institutions and enclosed state run sports establishments. They also confirm that, as the resolution recommended, in the Netherlands areas were designed for customers to smoke if necessary. This is different than the FCTC urges and the WHO recommended in 2003, as the WHO recommended a complete smoking ban, in contrast to the EU Resolution.

In January 2004, for the remaining workplaces the smoke-free workplace legislation was implemented. Employers within the hospitality branches were at first excluded and could voluntarily take measures to protect their visitors and employers from the danger of smoke-free (Tabakswetgeving 2015; EU-rapid press release 2015).

TABLE 6

Chronology of Tobacco Control in the European Union

1970	Tobacco growing subsidized in Common Agricultural Policy
1985	First European anti-tobacco campaign, Europe against Cancer (implemented 1987)
1989	First EU health warnings; Television ad ban; Limits on product labelling; First EU non binding resolution on tobacco control, second-hand smoke
1990	First limits on toxic ingredients
1992	Tax harmonization for cigarettes
1993	Maastricht Treaty expands EU role in health but also emphasizes markets and subsidiarity; EU-level tobacco industry became more organized
1994	First EU financing of NGO capacity-building projects
1995	First advisory body on tobacco control, European Bureau for Action on Smoking Prevention (BASP), ends, eventually replaced by ENSP (1997)
1996	First general EU statement on tobacco control policy (others 1999, 2002)
1997	First EU general ad ban approved (TAD1)
1999	Amsterdam Treaty, Article 129, "A high level of human health level protection shall be assured in the definition and implementation of all Community policies and activities"; EU recommended policies for Member States
2000	European Court of Justice (ECJ) strikes down TAD1; Lisbon Process
2001	Larger health warnings; Bans on "light and mild" descriptors
2002	EU sues tobacco companies for smuggling in the U.S.; Council recommendation on improving tobacco control
2003	Revised EU print, telecast, and internet ad and sponsorship ban (TAD2); Graphic warning labels approved; Framework Convention on Tobacco Control (FCTC) signed
2005	Agricultural price support for tobacco reduced, to end by 2010; Ten accession countries given delays for *acquis* on tobacco tax; Ratification of FCTC
2006	Commission refers Germany to the ECJ for lack of advertising ban transposition; Finnish presidency emphasizes health in all policies, including tobacco
2007	Green Paper on second-hand smoke; Two more accession countries

4.3 Policy convergence between the Netherlands and its neighbouring countries

In this section, the smoke-free policy of the Dutch neighbouring countries, Germany and Belgium will be discussed to be able to make the comparison between these policies and to assess whether policy convergence occurred.

4.3.1 The German smoke-free policy

Germany was one of the latest countries in Western Europe that set the policy goal to provide the non-smokers protection of the dangers of environmental tobacco smoke. To be able to achieve this policy goals it used several juridical policy instruments. In the first place, it introduced a smoking ban in public spaces through the ratification of the WHO Framework convention on Tobacco Control (FCTC) on 12 December 2004. Later on, Germany enacted the federal non-smoker protection. In 2006 it became prohibited to smoke in federal government buildings and hospitals. In the rest of the country it was mostly allowed to smoke everywhere. In September 2007, the law for protection from the hazards from passive smoking came to force in the Federal Republic of Germany. It became prohibited to smoke in trains. In stores and workplaces a complete smoking ban had not been enacted.

Furthermore, this law led to various changes and amendments to the existing legislation. It included an article imposing a ban on smoking in federal facilities and public transport, named the Law for the Introduction of a Smoking Ban in Federal Facilities and Public Transport (The Federal Non-smokers Protection Act). The act regulated two aspects: (1) it prohibited smoking in federal facilities as well in the constitutional bodies of the federation, that is, government agencies, courts or federal corporations, institutions and foundations. However, these institutions were allowed to establish smoking zones where tobacco could be consumed. The law also banned smoking in all modes of public transports (planes, trains, buses, trams, taxis and passenger ships) and in all train station buildings. If space allowed, smoking was permitted in designated and appropriately marked areas of the train stations. The German Railway extended the station smoking ban in their house rules from station buildings to the entire station area with the exemption of designated smoking areas. With the Law for Protection from the Hazards of Passive smoking the federal Workplace Regulation was modified. The following sentence was added:

The employer shall ban smoking in all or specific areas of the workplace to the extent necessary to effectively protect non-smoking employees from the health hazards of tobacco smoke.

Pubs and restaurants were excluded from this strict federal regulation and only required to ban smoking depending on the business of type of employment. In addition to the Law for Protection from the Hazards of Passive Smoking other policy instruments were used to protect non-smokers in the gastronomy sector in the form of communicative policy instruments. In 2005, a non-binding agreement between the Federal Ministry of Health and the German Hotel and Restaurant Association was signed. This did not lead to the desired improvement in non-smokers protection. In fact, the federal government declared that it lacked the legislative competence in this area and that since 2007 the non-smoker's protection in the gastronomy sector had been regulated by state laws (Kohler and Minkner 2014:688).

The states' non-smoker protection was achieved with the help of the following juridical policy measures. First of all, each of the 16 federal states of Germany had a different set of regulations for non-smokers protection. All state smoke-free laws in Germany have undergone at least one change since taking effect (Kohler and Minkner 2014: 686-688). Starting in 2007, each of the 16 federal states in Germany introduced a state law for the protection of non-smokers. On 1 July 2008, the smoke free laws were ratified in all federal states, but smoking in public places became prohibited to a different extent across states (Kohler and Minkner 2014:689). For example, smoking in pubs and restaurant is banned throughout Germany, but in most states there are exemptions from the ban that allow smoking in separate rooms in the so-called smoking pub, that operates on less than 75 m^2 and only admits people over 18 years old (Kohler and Minkner 2014:690). However, after two innkeepers and a nightclub operator had filed constitutional complaints against the non-smoker protection laws of Berlin and Baden-Wuertemberg, putting forward their concerns that nightclubs are disadvantaged if the smoke-free law allows gastronomic facilities but not nightclubs to establish separate smoking rooms.

Another concern within the gastronomic facilities was that smaller facilities were put in an economic disadvantage through the smoke-free law if larger facilities were allowed to permit smoking in a separate room. As a result of these complaints, the Federal Constitutional Court declared the concerning clauses of the smoke-free laws in these two states incompatible with the constitution and mandated to either eliminate or extend smoking ban exemptions in a manner that does not discriminate against nightclubs or small gastronomic facilities. The new non-discriminating regulations were issued by 31 December 2009.

After this leading decision of the Federal Court on two state smoke-free laws, most German states allowed smoking under certain conditions in small gastronomic facilities that operated in one room only (Kohler and Minkner 2014:691). On 24 January 2012, another constitutional complaint against statutory smoking bans affected the state smoke-free law of Hamburg. The complaint concerned the discrimination among gastronomic facilities in Hamburg, where pubs that focus on selling drinks under certain conditions could permit smoking, but restaurant that focus on selling food could not. The complaint led to a revised non-smokers protection law and eliminated the condition that smoking could be allowed in separate rooms only if no food was prepared in the gastronomic facility (Kohler and Minkner 2014:692). Moreover, the responsibility for the general compliance to the smoking ban lies in Germany on local level and not on national level (Overview of smoke-free legislation and its implementation in the EU: 14). The fines for violations ranges from €5 to €1,000 (Appendix B).

4.3.2 The Belgian smoke-free policy

On 1 November 2005 Belgium also ratified the FCTC, to be able to provide protection against environmental smoking. The implementation of the smoking ban was implemented in different phases with the help of the following juridical policy instruments. In January 2006, the government required all public places and workplaces to be smoke free. During this phase the bars, cafes, restaurants, nightclubs and discos were exempted from this obligation. In January 2007, the legislative ban on smoking in restaurants was introduced. For bars that served food smoke-free legislation was implemented in January 2010. Finally in July 2011 a comprehensive ban including bars discos and casinos was introduced (Cox et al 2014:1430). Furthermore, in general workplaces and enclosed public places, Belgium legislation allows smoking in clearly designated smoking rooms with appropriate ventilation. In hotels, accommodations, restaurants, bars, and health care facilities the smoking room cannot take more than 25% of the total surface of the establishment. Any kind of service is forbidden and the customers can only take their drinks with them. In education facilities and public transport a total ban is enacted. Moreover, to be able to achieve general compliance to the smoking ban, the Belgium government assigned the Ministry of Public Health for public places and the Ministry of Labour for working places (Overview of smoke-free legislation and its implementation in the EU 2013:14). Since May 2016, the fines can amount to €6,000 for the first conviction and €12,000 for a second conviction (http://www.flanderstoday.eu/business/one-four-bars-ignoring-smoking-ban)

4.3.3 Comparison between the Dutch, German and Belgian smoke-free policies.

If we compare the Dutch smoke-free policy with the German and Belgian smoke-free policies, there are some similarities and some differences in the use of policy instruments to provide protection against environmental smoke. In the first place, it becomes clear that the Netherlands was the first of the three countries that used juridical policy instruments in the form
of regulations for the protection against the dangers of environmental tobacco smoke. However, Germany was the first of the three countries that ratified the FCTC. The Netherlands used communicative policy instruments, to be able to get the needed support for the smoking ban. The research did not clearly show that in the other neighbouring countries communicative policy instruments were adequately used to get the needed support for the smoking ban. All of the countries did use juridical policy instruments in the form of fines in case of non-compliance. In the Netherlands and Germany, the municipalities ended to be equipped with the task to check the compliance (Staatsblad 2008,2011,2014; Verdonk-Kleinjan et al 2012:201;Overview of smoke-free legislation and its implementation in the EU:2013:14). In Belgium the government assigned the Ministry of public Health for public places and the Ministry of Labour for working places with the task to check compliance (Overview of smoke-free legislation and its implementation in the EU 2013:14).

Moreover, table 7 shows that Germany and Belgium both enacted a smoking ban in 2006 but the legislations of the different countries covered different areas. For example, Germany enacted a smoking ban only in federal buildings and hospitals in 2006 and Belgium enacted a smoking ban in public places and working places. In 2007, Germany enacted a smoking ban in all public transportation and in stores and in constitutional bodies of the federation, but smoking was allowed in designated smoking areas. Before Germany and Belgium, the Netherlands enacted a smoking ban for public places in 1990 and for working places in 2004. The Netherlands ratified the FCTC in the same year as Belgium, but after Germany. The Netherlands enacted a smoking ban for the hospitality sector in 2008, as the first of the three countries. In the hospitality sector smoking was allowed in the designated rooms and small hospitality owners were excluded from the smoking ban. Germany followed with a smoking ban that differed across states. Smoking was not allowed in businesses that sold only drinks. In 2009 the nightclubs were also excluded from the smoking ban. Belgium followed with a smoking ban for bars that

served food in 2010. In 2011 Belgium enacted a smoking ban for bars, discos and casinos. Germany followed in 2012 with the expansion of the smoking ban for businesses that sold food just as Belgium did in 2011. In 2015 the Netherlands finalized, as first, the smoking ban for the whole hospitality sector.

Table 7 Dutch, German, Belgian smoke-free policies in chronological order.

Year	**Netherlands**	**Germany**	**Belgium**
1999	Smoking ban public places		
2004	Smoking ban remaining places. Voluntary smoking ban hospitality sector.	Ratification FCTC	
2005	Ratification FCTC		Ratification FCTC
2006		Smoking ban federal government buildings and hospitals. Responsibility general compliance on local level.	Smoking ban public places and workplaces. Responsibility general compliance ministry of public places and the ministry of labour for working places. .

2007		Smoking ban in trains and stores. Partly smoking ban in workplaces. Smoking allowed in designated smoking areas. Smoking ban in constitutional bodies of the federation. Smoking ban in all forms of	Smoking allowed in designated smoking areas, no more than 25 percent of the total area. Bars, cafes, restaurants, nightclubs and discos were excluded
		public transportation. Hospitality sector excluded.	

2008	Indoor smoking ban hospitality sector; allowed in designated smoking room. Small hospitality owners excluded.	Different smoking ban across states. Partly smoking ban for businesses that sell only drinks.	
2009		Small hospitality owners and nightclub excluded	
2010			Smoking ban for bars that serve food
2011	Exclusion from smoking ban for hospitality sector smaller than 70m2		Smoking ban for bars, discos and casinos
2012		Smoking ban for businesses that sell food	
2015	Complete smoking ban hospitality branch		

4.3.4 Has policy convergence occurred?

In this section, the assessment will be continued with the evaluation of the question: is there policy convergence in the smoke-free policy area? The Dutch smoke-free policy will be compared with the smoke-free policies of her neighbouring countries, in terms of the similarity or dissimilarity of the policy goals, in the use of policy instruments, the

strictness of the ban and the areas covered by the legislation.

Table 7 shows that between 1990 and 2015, the Netherlands, Germany and Belgium, had undertaken steps to implement the same policy goal, namely to provide protection from the exposure to tobacco smoke. In accordance, with the policy goals, the Netherlands, Germany and Belgium began to implement measures to provide protection from the exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and other public places such as in the hospitality sector.

At the time of writing the Dutch smoke-free policy has become more different and covered more areas than the German and Belgian policies. In 2015, the Dutch smoke-free policy could be considered the most strict of the three countries that were analysed.

Table 7 shows that, if we compare the development of the Dutch smoke-free policy with the Belgian and German smoke-free policies, there are some similarities and some differences. In the first place, it becomes clear the Netherlands was the first of the three countries that used juridical policy instruments in the form of regulations for the protection against the dangers of smoke-free. The Netherlands enacted the smoking ban in public places in 1990 and ratified the FCTC in 2005. Belgium ratified the FCTC in 2005. Germany was the first of the three countries that ratified the FCTC in 2004.

From the comparison it follows that the German and Belgian smoke-free regulations between 1990 and 2015 gradually have covered similar areas as the Dutch legislation. Table 7 shows that Germany and Belgium both enacted a smoking ban in

2006 but the legislations of the different countries cover different areas. For example in 2006, Germany enacted a smoking ban only in federal buildings and hospitals and Belgium enacted a smoking ban in public places and working places. In 2007, Germany enacted a smoking ban in all public transportation and in stores and in constitutional bodies of the federation, but smoking was allowed in designated smoking areas. Before Germany and Belgium, the Netherlands enacted a smoking ban for public places in 1990 and for working places in 2004. The Netherlands ratified the FCTC in the same year as Belgium, but after Germany. The Netherlands enacted a smoking ban for the hospitality sector in 2008, as the first of the three

countries. In the hospitality sector smoking was allowed in the designated rooms and small hospitality owners were excluded from the smoking ban. Germany followed with a smoking ban that differed across states. Smoking was not allowed in businesses that sell only drinks. In 2009 the nightclubs were excluded from the smoking ban. Belgium followed with a smoking ban for bars that served food in 2010. In 2011 Belgium enacted a smoking ban for bars, discos and casinos. Germany followed in 2012 with the expansion of the smoking ban for businesses that sell food**.**

Since 2015, the Dutch smoke-free legislation can be considered to have a full level of strictness. This means that the Dutch legislation does not leave less room for exceptions. From the previous it follows that the Belgian smoke-free legislation leaves less room for exception than the German smoke-free legislation.

In conclusion until 2015, the different countries have used different policy instruments to be able to provide protection against environmental smoke in their countries. The analysis has shown that the different countries have used juridical policy instruments. Different than for Germany and Belgium the analysis has shown that the Netherlands has also used communicative policy instruments to be able to acquire the needed support for the new smoke free laws.

Furthermore, when comparing the different areas that the smoke-free legislations cover in the different countries, it seems that these legislations cover similar areas. However, the analysis has shown that in Germany the federal legislation has made more exceptions for different areas, than Belgium. In 2015, the Dutch smoke ban can be considered to be the most strict, followed by Belgium and then Germany.

In answering the research question, from the previous it follows that there has been a case of policy convergence before 2015. It seems that the Dutch smoke free policy has been transferred by the Belgian and German government to the domestic level. The Dutch smoke free policy seems to be to an extent copied by the Belgian government. In the final place, the German smoke free policies can be considered as a combination of the Dutch and Belgian smoke-free policy. However, it seems that since 2015 the policy content of the different countries has become more dissimilar, because of the extension of the legislation of the smoke-laws over more areas. From this period on policy divergence has occurred in the smoke-free policy area.

4.4 Driving forces of policy convergence?

In this chapter, the analysis will be focussed on finding out which policy convergence mechanisms were the driving forces of policy convergence in the smoke-free policy area. As table 1 in chapter 2 showed, each mechanism combines a stimulus and a corresponding response. A response is defined here as the specific behaviour leading to the convergence. The causal mechanism leads to convergence if the response actually occurs. In this section, the various responses from the Netherlands to supranational, international, German and Belgian policymaking in the area of smoke-free will be analysed. Subsequently, based on the distinction of the mechanisms made in chapter 2 and the empirical expectations formulated in section 3.4.2 an assessment will be made of which of these mechanisms are the driving forces of convergence in the area of smoke-free policies.

4.4.1 Imposition

As a reminder imposition by international or supranational institutions is characterized by:

- The presence of international or supranational regulation.
- Institutions forcing / imposing a policy upon governments.
- Structural asymmetry of power, or
- Conditionality, where policies are conditions for economic resources. From the assessment followed, that in the first place, one cannot argue that the Dutch smoke-free policy is the result of a submissive reaction by the Dutch government. A submissive reaction could be expected when on domestic level the government is forced to adopt a policy innovation by an external actor or supranational institutions. This kind of policy convergence is labelled as imposition. On European level, it is known that a resolution for the prevention of SHS is formulated. A resolution is known to be not of coercive nature, it is only seen as a suggestion of a political desire to act in a given area. As such, imposition cannot be seen as the mechanism that drove the development of convergence in the smoke-free policy area, between the Netherlands, Belgium, Germany, and was not used by the European Union and the WHO as an mechanism to the drive policy convergence between the Netherlands, Belgium and Germany, by transferring the smoke free policy in a hierarchical way by the European Union and the WHO.

4.4.2 International harmonization

International harmonization is characterized by:

● Membership of states to international or supranational institutions.

● Sovereign states resolving common problems through voluntary cooperation within these institutions.

● Binding policies and programmes as an outcome of international cooperation. In this case, on the other hand, it seems that a portion of the package of measures that the Netherlands has taken to provide protection against the exposure to tobacco smoke, has been implemented to be able to comply with a legal obligation as a result of the ratification of the FCTC. The analysis of the academic literature that discusses the Dutch smoke-free policy, and analysis of the policy documents of the FCTC has shown that the WHO Framework Convention on Tobacco Control (FCTC) was introduced in 2003 and the Netherlands ratified the FTCT in 2005. In the following years the Netherlands gradually implemented most of the recommendations that were stipulated in the FCTC. The ratification of the FCTC, even led to the extension of the smoking ban in the Netherlands.

The case analysis has shown that after the ratification of the FCTC the most far reaching measures were implemented by the Dutch government. The implementation of these measures led also to much controversy. In compliance with the FCTC, the Netherlands increased the level of strictness of the smoking ban and finally enacted a 100% smoke-free environment in workplace and public places. Subsequently, the Netherlands also decided to implement legislation that mandates a smoke-free environment. Hence, it is safe to argue that international harmonisation is one of the most important driving forces of hierarchical policy transfer from international level to domestic level and it has driven policy convergence in the smoke free policy area between the Netherlands, the WHO and her neighbouring countries.

4.4.3 Regulatory competition

Regulatory competition is characterized by:

● Competitive pressure on governments to mutually adjust their policies.

● Governments lowering regulatory standards to avoid that economic actors will shift their activities elsewhere.

It seems that the European resolution was formulated to prevent regulatory competition throughout Europa. As already mentioned in chapter 2, the analysis of the academic literature on the European resolution has shown that the resolution is based on the Single European Act of 1986, which regulates European

integration in several dimensions. The literature indicated that the measures were formulated from the notion that in the process of creating a single market that was formalized with the Single European Act of 1986 health will be taken into consideration. The EU started to formulate directives on advertising, product legislation, tax, harmonization, labelling and to include health warnings on cigarette packages in the mid-1980's. Later on, the EU formulated the Resolution on smoking in public places that focussed more on the implementation of non-tax policies, such as the smoke-free policy. Hence, it is save to argue that the mechanisms of regulatory competition was one of the driving forces of hierarchical policy transfer from out the European Union to the Netherlands. On the contrary, one cannot argue that this mechanism was the driving force of policy convergence between the Netherlands and her neighbouring countries. As table 5 shows, Germany and Belgium did not take measures against the exposure of tobacco smoke, after the formulation of the European Resolution for the prevention of SHS. The case analysis has shown that Germany and Belgium began to develop policies on SHS after the ratification of the FCTC.

4.4.4 Transnational communication

Lesson drawing

Lesson drawing is characterized by:

- Governments making use of available experience elsewhere to solve domestic problems
- Governments voluntarily learning from other governments
- Development of policy inspired by another government's policy.

In 2015 the Netherlands employed a full level of strictness, but as table 6 shows that

until 2012 Belgium has copied to an extent the Dutch smoke-free policy and that

Germany has implemented a model that is an combination of the Dutch and Belgian

model or that Belgium has implemented a combination of the German and Dutch model.Germany and the Netherlands were both employing a level of partial strictness. As such one can argue that, policy convergence has taken place through the mechanism of lesson drawing.The comparison of the Dutch policy documents on SHS, the Dutch Tobacco Act and the academic literature on the Belgian and German smoke-free policies has shown that since 1950, the point of reference chosen for this research, the Netherlands was actually the first country that implemented legislation for the protection against the dangers of SHS. If we take a look to table 5, it is also safe to argue that the Netherlands maintained its

forerunner position in providing protection against the dangers of SHS. Based on this comparison it is not easy to argue that the Dutch SHS policy is the result of the transfer of a model originated from Belgium or Germany. On the other hand, it can be possible that Germany and Belgium transferred the Dutch smoke-free policy model on domestic level.

Emulation

Emulation is characterized by:

- One government copying a policy from another government
- A mere desire for conformity with other countries, rather that the search for an effective solution to a given problem

Since the national legislations of these countries differ in the use of policy instruments, the legislation covers different areas and excludes different policy areas, hence their smoke-free policy differs in strictness. Hence, one cannot argue that emulation was the causal mechanism of policy convergence between the Netherlands and her neighbouring countries. Although until 2012 these countries all had the same level of strictness, the case analysis has shown that the national SHS legislations in these different countries covered different areas. The legislations of these countries exclude different areas from the smoking ban. In Germany for example, several states still allow smoking in different areas within the hospitality sector. Moreover, currently in 2015, the strictness of the Dutch SHS policy differs from the German SHS policy and differs even more from the Belgian policy. Hence, it is safe to argue that the Dutch SHS policy has not been copied from her neighbouring countries in a mimetic manner. If a country's policy is copied in a mimetic manner, then the policy is the result of emulation.

Transnational problem-solving

Transnational problem solving is characterised by:

- The joint development of solutions to similar domestic problems
- Problem solving within transnational elite networks of policy experts It is clear that the European non-binding rules were formulated before the implementation of the Dutch SHS policy in the Netherlands in 1990. As such, it is most likely that the Dutch smoke free law is not the result of a joint solution formulated by a network, and the subsequent adoption of the commonly developed policy. Hence, one cannot argue that the mechanism transnational

problem-solving contributed to the development of convergence in the smoke-free policy area.

International policy promotion

International policy promotion is characterized by:

● Promotion of policy models, approaches and best practices by international institutions.
● Formulation of non-binding international agreements and propositions on broad goals and standards.Pressure to legitimate policies through international scrutiny.

It seems that the Dutch government, in order to provide protection against the exposure to tobacco smoke, adopted the recommended model, formulated by the EU in 1989. These recommendations were formulated in the form of a Resolution, a non-binding supranational proposition on broad goals and standards that national policies should aim.

As table 6 shows, a considerable number of countries had taken measures for the protection against the exposure to tobacco smoke, long before the Netherlands. As such it could be possible that because of this development the Netherlands experienced legitimacy pressures and subsequently adopted the recommendation formulated in the European resolution in 1990. As such it is safe to argue that the policy was implemented from the European Union to Dutch national level. Moreover it also contributed to the development of policy convergence between the Netherlands, Germany and Belgium in the area of SHS and was set in motion during the 1990's, by the causal mechanism of international policy promotion.

4.4.5 Independent problem-solving

Independent problem solving is characterized by:

● Political actors independently from each other address parallel arising problem pressures.
● Countries are not informed about the other country's policy changes.
● Countries do not behave as a reaction to international institution's actions. In the final place, it is also safe to argue that the Netherlands did not take that major turn from non-involvement in smoke-free control in 1950 to the active implementation of several SHS control measures from 1990 until 2015, independently from supranational, international or other member state actions. The Dutch smoking ban was not enacted prior to the existence of any sort of international binding rules or policy promotion. As such it is not

unlikely that the policy convergence in the smoke-free policy area between the Netherlands and the EU, the WHO, Germany and Belgium is not the result of independent similar responses, caused by the mechanism independent problem-solving.

In conclusion, the previous sections have shown that policy convergence has taken place in the area of smoke-free control, between the Netherlands, Germany and Belgium. Moreover, the Dutch smoke-free policy has become more similar to the European Union and WHO policies over time. Now that this is empirically assessed, the question has arisen how policy convergence has occurred. From the case analysis, follows that policy convergence in the area of smoke-free has occurred because several mechanisms contributed to this development. International harmonisation, regulatory competition , lesson drawing and international policy promotion are seen as the driving forces of policy convergence, with international harmonization as one of the most important causal mechanisms that has driven the development of the convergence.

5. CONCLUSION

The general research question of this thesis was: Is there convergence or divergence in the smoke-free policy between the Netherlands and its neighbouring countries, Belgium and Germany? Which role have international institutions and supranational institutions, such as the World Health Organisation (WHO) and European Union (EU), played in advancing the Dutch smoke-free policy? What explains this policy convergence? This research has shown that since 1990, the Netherlands has implemented far reaching policies in the area of smoke-free control. The policies were implemented with the purpose to provide protection from exposure to tobacco smoke in public places. Even at the time of writing, throughout Europe there is a lot of discussion on how to increase tobacco control in order to mitigate the rising number of tobacco related diseases. Other European countries have also acknowledged the dangers of tobacco and second-hand smoking. In addition to other jurisdictions than the state have been involved in tobacco and smoke-free control. In the area of smoke-free control, the central subject of this thesis, a tier of governance at the EU level started to evolve during the mid-1980's. On the international level, another tier of governance started, with the involvement of the World Health Organisation since 1970.

The increased prominence of tobacco control on the public agenda reflected the growth of the tobacco control movement in several European countries. As mentioned before, the question that arises from all of this is: what describes the adoption of similar innovations, i.e., laws, policies, instruments across different nations' smoke-free policy area? The most obvious assumption is that international actors, processes, institutions and other countries affect domestic policy, and may create policy convergence. Policy convergence is defined as a growing similarity of different policies over time. This research focussed on finding out why the Netherlands implemented the smoke policy and why and if there is policy convergence in the smoke-free policy area between the neighbouring countries the Netherlands, Belgium and Germany and what explains this development. Moreover, the analysis was focussed on which mechanisms were the driving forces of policy convergence.

Table 10, gives an overview of the mechanisms that drove the development of convergence in the smoke-free policy area in the Netherlands. In the first place, one of the findings was that from 2004 until 2012 horizontal policy convergence occurred between the Netherlands, Belgium and Germany :

● Different countries used different juridical policy instruments to be able to provide protection against environmental smoke in their countries.

● Different than for Germany and Belgium the analysis has shown that the Netherlands has also used communicative policy instruments to be able to acquire the needed support for the new smoke free laws.

● When comparing the different areas that the smoke-free legislations cover in the different countries, it seems that these legislations cover similar areas. However, the analysis has shown that in Germany the federal legislation has made more exceptions for different areas, than Belgium. In 2015, the Dutch smoke ban can be considered to be the most strict, followed by Belgium and then Germany.

● Table 9 from Toshkov (2013), which displays an overview of the strictness of European policies, confirms this finding and shows that until 2012 the different national policies were considered to have the same level of strictness. In this respect, it can be argued that policy convergence has occurred between the Dutch, German and Belgian smoke-free policies.

● The Dutch smoke free policy seems to be to an extent copied by the Belgian government.

● The German smoke free policies can be considered as a combination of the Dutch and Belgian smoke-free policies.

In the second place, it seems that since 2015 the policy content of the different countries under studie has become more dissimilar, because of the extension of the legislation of the smoke-laws over more areas. From this period on policy divergence has occurred in the smoke-free policy area. The second finding, is that the supranational institutions such as the European Union in the policy area of smoke-free control and the WHO as the international institutions facilitated the development of vertical policy convergence, which

has showed its played a role in the development of policy convergence in the smoke free area and thus it's influence in creating European integration and international harmonization. The comparison of the Dutch Tobacco Act and the policy documents concerning the European resolution on the protection from exposure to tobacco smoke, the Dutch Tobacco Act and the online European press releases follows that:

● The Netherlands adopted the European Resolution smoking in public places in 1989.

● Most of the recommendations stipulated by the European council were implemented on a national level.

The comparison between the policy documents on the FCTC and the DutchTobacco Act and the analysis of academic literature on the Dutch smoke-free policy, showed that the Netherlands copied to an extent the international smoke-free policies of the WHO. This conclusion follows from the fact that the Netherlands adopted most of the recommendations of the FCTC after the ratified the FCTC in 2005. The adoption of the recommendation was expected since, with the ratification of the FCTC, the Dutch government had legally committed themselves to implement national legislation that is consistent with the FCTC.

The analysis of mechanisms that leads to policy convergence has shown that the legitimacy pressures that are created by the EU as a supranational institution have led to the adoption of SHS control measures in the Netherlands and other European countries. Partly because of the fact that a great amount of countries adopted measures for the protection against the exposure to tobacco smoke. As can be seen in figure 2 in chapter 2, this indicates that policy convergence was driven by the mechanism international policy promotion

Still it seems that these legitimacy pressures stemming from supranational policy making are not always experienced by all member states. Germany and Belgium for example did not implement SHS control measures after the adoption of the EU resolution on SHS. The Netherlands adopted the European Resolution voluntarily. However, it seems that the recommended measures were adopted in response to legitimacy pressures, such as the desire for international acceptance. In conclusion international policy promotion can be seen as an important mechanism for policy convergence in this policy area. In addition, it seems that the competitive pressures experienced in the area of tobacco control or SHS control were sufficient reasons for the Netherlands and other EU member states to mutually adjust their SHS policies. In contrast, Germany and Belgium did not seem to experience this competitive pressure to adjust their

Smoke-free policies. Although Germany and Belgium did not implement all the recommendations stipulated by the EU, the mechanism regulatory competition seems to have contributed to policy convergence, since the Netherlands did adjust its SHS policy to other EU member states.

Finally, it can be argued that international harmonisation has been an important causal mechanism of policy convergence in the area smoke-free . It seems also that the mechanism of international harmonisation has had a stronger causal effect on the development of convergence than international policy promotion. As previously noticed, legitimacy pressures and competitive pressures have not driven Germany or Belgium to adopt a new model. In contrast, the ratification of an international law created more pressure to take measures against SHS, because it obligated the countries to comply with international law.

In conclusion, the case study has shown that in the smoke-free policy area policy convergence has occurred between the Netherlands, Belgium and Germany, and that the European Union, the WHO facilitated the development of policy convergence. The following policy convergence mechanisms contributed to the development of policy convergence: international policy promotion, regulatory competition, lesson drawing and international harmonization. International harmonization was one of the more important causal mechanisms that has driven the development of convergence. For other countries it could be possible that a distinct causal mechanism has played an important role, but it is very well possible that policy convergence has occurred in the area of SHS between other European countries and or European Union and the WHO.

Now that these results are known there are few things that have to be taken in consideration when one decides to perform a similar case study for other countries. Within Europe a similar case study can produce similar results in one area but different results in other areas. For example, for Eastern European countries an empirical assessment of policy convergence can produce similar findings as those for the Dutch case in some areas. A domestic policy innovation recommended by the European Union can have an effect on the older member countries, but also on countries that aspire to be a member of the European Union. An accession to the European Union is often accompanied by conditionality, where the domestic implementation of European policies is exchanged for membership to the European Union. To create harmonization between new member states and older member states within the European Union it could be very well possible that the accession of new member states is allowed on the condition that similar tobacco or smoke-free control policies are enacted as the older members state on domestic level (imposition). Moreover, the domestic

impact of the European Union on its member states could be bigger than in other non-European political systems, because of the growing ambition of the European commission and European countries, to deepen the European integration in different areas. This could mean that in the future, within Europe, policy convergence is also expected to develop more in other policy areas.

Furthermore, a similar case study could produce different findings in, for example, the United States. In the United States the federal government does not transfer some of its sovereignty to supranational institutions in the policy areas of its convenience. In this sense the European Union is a political regime that operates on one level above the state, and therefore has an unique way to influence the domestic policies of its member states. Furthermore this research can be relevant to be looked upon by policymakers because they can learn that if they want to implement an unpopular but an important policy that they can lobby at the European commission or form transnational networks that can lobby at the WHO or and convince them to make legislation that facilitates the implementation of an unpopular policy. Social scientists can learn from this research that a case study design can provide a lot of detailed information about a specific policy problem or question. It can interest them to use the case study design to answer other interesting research questions in policy areas. For social society this research is relevant because they can know how they can be restricted in their private area by the European union and the WHO and that maybe this is because it is important to vote during European elections. Although the smoking ban has restricted their smoking habit and their privacy it may have led to lower health costs and an overall better health for the society.

Table 9 Timing of enactment and the strictness of bans on smoking in bars and restaurants in the Netherlands, Germany and Belgium (Dimiter Tohkov 2013: 456).

Country	Time of enactment	Strictness
Netherlands	**July 2008**	**2(partial)**
Germany	**January 2008**	**2(partial)**
Belgium	**January 2007**	**2 (partial)**
Austria	January 2009	2 (partial)
Lithuania	January 2007	2 (partial)
Luxembourg	September 2006	2 (partial)
Bulgaria	January 2011	1(lax)
Malta	April 2005	3(full)
Cyprus	January 2010	3 (full)
Czech Rep.	NA	1(non-existent)
Norway	June 2004	3(full)
Denmark	August 2007	2(partial)
Poland	November 2010	2(partial)
Estonia	June 2007	2(partial)
Portugal	January 2008	1(lax)
Finland	June 2007	3(full)
Romania	January 2009	1(lax)
France	January 2008	2(partial)
Slovakia	September 2009	1(lax)
Slovenia	August 2007	2(partial)
Greece	September 2010	1(lax)
Spain	January 2011	2(partial)
Hungary	January 2012	1(lax)
Sweden	June 2005	3(full)
Ireland	March 2004	3(full)
Switzerland	May 2010	2(partial)
Italy	January 2005	3(full)
UK	March 2006	3(full)
Latvia	June 2006	3(full)

Sources: Dimiter Tohkov (2013: 456)

Table 10 Overview of SHS policy convergence mechanisms: the Dutch case

Mechanism	**Contribution**
Imposition	No
International harmonization	Observed
Regulatory competition	Observed
Transnational communication	
Lesson-drawing	Observed
Transnational problem-solving model	No
Emulation	No
International policy promotion	Observed
Independent problem-solving	No

5.1 Recommendations for future research

I can imagine that after reading the findings of this research some questions may remain. To empirically illustrate how policy transfer occurs through the mechanisms of transnational communication, a qualitative research is needed. Qualitative research could shed light on which mechanisms are the most effective in transferring policy innovations and to what extent countries work together or learn from each other when they experience similar problem pressures.

It would also be interesting to evaluate to what extent the phenomenon of policy convergence is desirable. Are countries sufficiently aware of the risks of implementing a policy model found elsewhere? What seems to be an effective policy for one country does not have to be effective for the other country. Hence it would be interesting to analyse to what extent policy convergence can lead to policy failure.

Another interesting suggestion for future research is to perform a case study on the extent to which citizens or interest groups contribute to the development of policy convergence. It can be expected that, as a result of globalization or Europeanization, European citizens are more aware of the rights, benefits and prerogatives of other European citizens, and are because of this more induced to demand the same rights, benefits or prerogatives from their government.

This research has made a contribution to the policy learning or policy convergence literature. It has shed light on the development of policy convergence in the area of smoke-free control between the Netherlands, the EU, the WHO and its neighbouring countries. In addition, it has described which policy mechanisms were the driving forces of the convergence. Hopefully in the future we can expect more case studies that focus on the link between policy convergence and the most effective causal mechanisms for different policy areas. For future research it would be interesting to also investigate the link between policy convergence and policy failure and the contribution from citizens and civil society to the development of policy convergence.

Appendix A: Lessons learned and recommendations, WHO

To ensure successful implementation the WHO also encouraged the member state to follow several recommendations. Some of these recommendations were also seen as lessons learnt to advance the goals of public health through legislated implementation of 100 % smoke free environments in the workplace and public places.

The lessons include the following:

1. Legislation that mandates smoke-free environments is needed to protect public health, not voluntary policies.

2. Legislation should be simple, clear and enforceable and comprehensive.

3. Anticipating and responding to the tobacco industry opposition, often mobilized through third parties, is crucial.

4. Involving civil society is central to achieving effective legislation.

5. Education and consultation are necessary to ensure smooth implementation.

6. An implementation and enforcement plan as well as an infrastructure for enforcement are essential

7. Implementation of smoke free environments must be monitored and ideally their impact measured and experiences should be documented.

In the light of the above experience the WHO made the following recommendations to protect the workers and public from exposure to SHS:

1. Remove the pollutant -the tobacco smoke- by implementing a 100% smoke-free environment.

● The WHO sees this as the only effective strategy to reduce exposure to tobacco smoke to a safe level to provide an acceptable level of protection against the dangers of SHS exposure.

● Ventilation of smoking areas, whether separately from non-smoking areas or not, does not reduce exposure to an acceptable level of risk and is not recommended.

2. Enact legislation requiring all indoor workplaces and public places to be 100% smoke free environments.

● Laws should ensure universal and equal protection for all.

● Voluntary policies are not an acceptable response.

3. Implement and enforce the law.

● Its proper implementation and enforcement will require critical efforts and means.

4. Implement educational strategies to reduce SHS exposure at home, recognizing that smoke-free workplace legislation increases the likelihood that people will voluntarily make their homes smoke-free (WHO 2007:2).

Appendix B: Fines, German States

Baden-Württemberg (Since August 1, 2007):
Fine for smoker: €40-150
Fine for host: --- (claims because of aiding and abetting)

Bayern (Since January 1, 2008):
Fine for smoker: €5-1000
Fine for host: €5-1000

Berlin (Since January 1, 2008):
Fine for smoker: up to €100
Fine for host: up to €1000

Brandenburg (Since January 1, 2008):
Fine for smoker: €5-100
Fine for host: €10-1000

Bremen
Fine for smoker: up to €500
Fine for host: up to €2500

Hamburg (Since January 1, 2008):
Fine for smoker: €20–200
Fine for host: €50-500

Hessen (Since October 1, 2007):
Fine for smoker: up to €200
Fine for host: up to €2500

Mecklenburg-Vorpommern
Fine for smoker: up to €500
Fine for host: up to €10000

Niedersachsen (Since August 1, 2008):
Fine for smoker: €5-1000
Fine for host: €5-1000

Nordrhein-Westfalen
Fine for smoker: €5-1000
Fine for host: €5-1000

Rheinland-Pfalz (Since February 15, 2008):
Fine for smoker: up to €1000
Fine for host: up to €1000

Saarland (Since February 15, 2008):
Fine for smoker: up to €200
Fine for host: up to €1000

Sachsen (Since February 1, 2008):
Fine for smoker: up to €5000
Fine for host: up to €5000

Sachsen-Anhalt (Since January 1, 2008):
Fine for smoker: ---
Fine for host: up to €5000

Schleswig-Holstein (Since January 1, 2008):
Fine for smoker: up to €1000
Fine for host: up to €1000

Thüringen (Since July 1, 2008):
Fine for smoker: €20-50
Fine for host: €50–500

Source: Smoke free partnership (2016)

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