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“Let’s talk cash”: cantons’ interests and the reform of Swiss federalism

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Abstract

In 2004 the Swiss people accepted a new equalization scheme and a new distribution of competences between the federal state and the cantons. Braun (2009) argues that the reform was successful because of the capacity of veto-players to overcome their interests and adopt a ‘problem-solving’ interaction mode. We propose a different interpretation and argue that distributive issues and the accommodation of actors’ interests crucially mattered. We identify three mechanisms that contribute to a successful reform, i.e. package-deals, side-payments, and the downsizing of the reform. Our in-depth, mainly qualitative study of both the content of the reform and related decision-making process supports the pertinence of these strategies for the explanation of the successful reform of Swiss federalism.

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INTRODUCTION

In 2004 the Swiss people accepted a reform of the fiscal equalization and division of tasks between the Confederation and the cantons (“Neugestaltung des Finanzausgleichs und der Aufgabenteilung zwischen Bund und Kantonen”, hereafter NFA). These far-reaching constitutional changes have led to a fundamental reform of Swiss federalism (Dafflon, 2005; Mottu, 1997; Frey, 2000; Sciarini, 2005). In light of the low innovation capacity of the Swiss political system and the general difficulty to revise constitutions (Linder, 2009; Simeon, 2009), this success is puzzling. It is even more puzzling if compared to the failure of earlier attempts at revising competences allocation and fiscal equalization in Switzerland, or to the unsuccessful outcome or only modest achievements of similar reform in others federations (Behnke et al., 2011).

In a recent article Braun (2009) claims that the veto-player theory and related assumption of pure ‘opportunism’ cannot solve the puzzle. On the one hand, he does not deny that the bargain had a distributive character and, therefore, created winners and losers. On the other hand, however, he claims that strategies of maximizing individual benefits are not compatible with constitutional consensus building, which depends on the capacity of actors to overcome their interests and to adopt a problem-solving orientation. Therefore, to account for the successful, comprehensive reform of Swiss federalism, Braun (2009) relies on the constitutional political economy literature (Vanberg and Buchanan, 1989) and on ‘actor-centered institutionalism’ (Scharpf 1997). In his view, the procedural separation of problem-solving and distributive bargaining during the decision-making process was a key, necessary condition for the success of the reform project. By initially focusing on the general principles of the reform and by postponing the discussion on its more concrete consequences to a later stage, policy-makers were able to adopt a problem-solving interaction mode. In addition, several “facilitating factors” also played a decisive role (Braun, 2009).¹

In this article, we put forward a different explanation of the reform of Swiss federalism. We argue that distributive issues and the related accommodation of cantonal interests were far more important than is suggested by Braun's (2009) interpretation. First, we demonstrate that distributive and selfish considerations played a role from the outset and expressed themselves all along the decision-making process. Second, we show how the interests of likely winners and losers were accommodated and, therefore, how the distributive conflicts could be solved. To that end, we elaborate theoretically on three mechanisms that may help to overcome potential veto points and check whether and to what extent these mechanisms were at work during the decision-making process leading to the NFA.

While the main goal of this article is to contribute to the explanation of the successful reform of Swiss federalism, it may have broader implications: Given its high number of institutional veto points, the Swiss political system can be seen as a test case with respect to the mechanisms that may help to overcome veto-points. If we can show that these mechanisms indeed played a positive role in the Swiss context, then we can be confident that they could also contribute to a successful federal reform in other countries.

Methodologically, we carry out an in-depth, mainly qualitative study of the reform based on a rich collection of data from various sources (interviews with members of the political elite, official documents, and newspaper articles). The remainder of the article is structured as follows. In the next section we develop our analytical framework and discuss the mechanisms that may help to address distributive issues and to overcome veto points. We then present our methodology and data, and we offer some background information regarding the project (content of the reform, actors involved and potential conflict lines). This sets the stage for the empirical analysis, in which we carefully look at whether the mechanisms that help to accommodate actors' interests were indeed used during the decision-making process, and how

they contributed to the successful outcome. The conclusion summarizes our findings and highlights the complementarities between our and Braun's approaches.

ANALYTICAL FRAMEWORK

Political decision-making takes place in various parallel or subsequent institutional arenas. In each of them, interested actors have the possibility to influence or even veto policy change. The latter is possible especially if the agreement of all actors is needed. A political system like the Swiss one with a high number of veto-points grants opponents with several opportunities to block policy changes and thereby promote the status quo (Immergut, 1992). Thus, policy change can only be successful if it favors or at least does not harm actors who have the power to activate veto-points during the decision-making process (Tsebelis, 2002).

Scharpf (1988, 2006) discusses more specifically the risk of reform failure due to federal veto-players². He argues that major policy changes concerning the federal division of competences are very unlikely in political systems that require the (quasi-) unanimous agreement of both national and sub-national actors (see also Braun, 2003). Instead, self-interested bargaining among actors from different state levels runs the risk of sub-optimal policy outcomes, inefficient lowest-denominator compromises, or even deadlocks (Scharpf, 2006: 848). This is what Scharpf (1988) first called the "joint-decision trap" and later referred to as the problem of "compulsory negotiation systems" (Scharpf, 2006).

The Coase theorem (1960) postulates that in a negotiation between selfish interests an optimal solution can be reached, provided information is easily available and transaction costs are absent. Scharpf (2006: 850) notes that transaction costs can be reduced by asking a single, central agent to identify a consensual solution. If such a central agent is able to assess the interests and constraints of all veto-players early in the process, e.g. through extensive consultations, it may come up with innovative win-win solutions for all veto-players by, for

example, identifying potential issue-linkages. Under such conditions, “talking cash” from the very beginning of the decision-making process may prove promising.³

In Switzerland, the federal government and its administration can play the role of a central agent. Due to the optional and compulsory referenda, they need to cooperate with potential veto-players from the very start of the decision-making process, in order to reduce the risk of failure at the end of the process, in a popular vote. This has led to the development of sophisticated consultation mechanisms such as expert commissions or the formal consultation procedure in the early, pre-parliamentary phase of decision-making processes (Neidhart, 1970). These mechanisms help the federal administration to assess the preferences of every potential veto-player and, possibly, to identify consensual solutions.

Once the interests of veto-players are known, central agents may propose several mechanisms to overcome the risk of failure. First, actors may refrain from using their veto-power on a given issue in exchange of a similar behavior by other actors on another issue. By linking various policy dimensions in a package deal, one may increase the likelihood of a successful reform (Jeffrey, 2003; Martinelli and Tommasi, 1997; Wei, 1997). Actors may agree to loose on a given issue, provided they can counterbalance this loss, and win on another issue that is important to them. Such arrangements may be rendered more constraining by binding various issues and integrating them into a single package that must be supported or rejected as a whole.

H1: Package deals taking advantage of the multidimensional character of the reform project contribute to a successful reform.

A second strategy to overcome potential opposition is to offer side-payments to veto-players that are expected to lose from the reform. Side-payments are closely related to package deals (Milner, 1997), but the two mechanisms analytically differ from each other in two important

respects. First, while a package deal is based on an exchange of concessions leading to overall welfare gains, a side-payment consists of a compensation offered to the potential losers, which reduces the overall welfare. Second, while a package deal regards issues that are intrinsically part of the reform project, side-payments have an exogenous and ad hoc character: they only serve to "buy" the political support of the actors harmed by the reform.

Side-payments are most prominent in the literature on the domestic compensation of actors bearing the costs of international economic openness (Katzenstein, 1985; Mayer, 1992; Hays et al., 2005; Fischer, 2005). They can be used if the net effects of a reform are positive, i.e. if the reform is likely to be more beneficial for some actors than detrimental for the rest of them.

H2: A compensation strategy including side-payments to veto-players likely to bear important costs contributes to a successful reform.

Finally, according to the veto points literature, if a major reform proposal meets with resistance, the only possibility to change the status quo is to rely on a more modest reform strategy, one that is likely to be supported by all (or most) important players (Tsebelis, 1995: 295). In some cases, downsizing the reform project altogether or putting aside some especially controversial issues may be the price to pay for winning enough support for the reform.

H3: A careful downsizing of the reform project that deliberately puts aside the most controversial issues or reduces the initial goals contributes to a successful reform.

Note that the three mechanisms (package-deals, side-payments and downsizing) are independent from each other. Each mechanism can by itself contribute to the success of a reform, and a successful policy change does not necessarily require that the three mechanisms are all used simultaneously. However, the three mechanisms complement each other, and far-reaching reforms are more likely if they are jointly at work. While a package-deals strategy

creates the largest available net benefits, side-payments redistribute part of these gains to compensate losers. In addition, the downsizing of the reform puts aside the most controversial parts of the reform, for which compensation would presumably be excessively costly.

METHODOLOGY AND DATA

We can corroborate our hypotheses if we are able to demonstrate that the three mechanisms presented in the previous section have played an important role in the success of the reform and – like in counterfactual reasoning (Fearon, 1991; Haverland, 2006) – that their absence would have led to the failure of the reform project. To that end, we rely on an in-depth, qualitative study of the decision-making process leading to the NFA. This qualitative study uses a rich collection of data from various sources. First, we analyze the official documents produced by the Federal Council (the executive branch of the Swiss federal government) and its administration all along the decision-making process. This includes the messages of the Federal Council to the parliament, the reports submitted to consultation by the federal administration in the pre-parliamentary phase, the results of these consultation procedures and the expert reports commissioned by the federal and cantonal governments on the expected effects of the reform. Second, we rely on the information gathered during 31 semi-structured interviews carried out with representatives of the collective actors (federal state actors, cantons, political parties, interest groups, experts) who participated in the decision-making process.⁴ Third, we collected all newspaper articles covering the project in the French-speaking newspaper *Le Temps*, one of the leading newspapers among the political elite⁵.

CONTEXT

The NFA is seen as one of the most far-reaching reforms in Switzerland's recent history (Dafflon, 2005; Mottu, 1997; Frey, 2000; Sciarini, 2005). Its goal was fourfold: To build up a more efficient system of fiscal equalization, one that would reduce cantonal differences regarding financial resources; to stop the process of centralization of competences towards the central state; to disentangle and clarify the competence allocation and financial flows between the central state and the cantons; and to foster cooperation among cantons. The decision-making process started in 1992 and lasted more than 12 years. It led to 27 changes of constitutional articles and to changes of more than 30 federal laws.

The reform consisted of four main pillars. A first pillar dealt with the separation of tasks and related financial transfers between the Confederation and the cantons. Based on the principles of subsidiarity and fiscal equivalence, either the Confederation or the cantons were awarded integral responsibility for a given policy domain. In addition, new forms of cooperation and financial transfers between the Confederation and the cantons were introduced with respect to tasks where both levels would still share responsibilities in the future.⁶ The second pillar consisted of an intensification of cooperation among cantons. For 9 pre-defined domains associated with spill-overs and externalities, such as universities, waste processing or urban public transportation, the reform facilitated the conclusion of inter-cantonal conventions regulating the equalization of burdens among cantons. More specifically, it allowed center cantons to be compensated for the services and goods they provide to neighbor cantons. Third, the financial equalization scheme, which regulates the financial flows between the Confederation and the cantons and between rich and poor cantons, was completely redesigned. The equalization of financial resources, which guides the transfers among cantons and the contributions from the Confederation to the cantons, is henceforth based on the tax potential of the cantons – rather than on their actual tax incomes as in the old system. Finally,

according to a new equalization scheme the Confederation allocated additional contributions to cantons that suffer from extra burdens (“excessive costs”), owing to their geo-topographic or socio-demographic characteristics.

The main actors of the reform of Swiss federalism were the central state and the cantons. By contrast, partisan politics did hardly play a role. This may come as a surprise, but can be accounted for by the nature of the reform at stake, and by the specificity of the Swiss political system. First, as the reform was mainly a matter of task distribution and fiscal equalization between the federal state and the cantons, the process was from the outset led by a group of technocrats in which the federal state and the cantons were equally represented. Second, in the Swiss “consensus democracy” (Lijphart, 1999; Linder, 2010) partisan politics does not play a substantial role among state executives: At both the national and cantonal level governments are formed by multiparty coalitions comprising both right- and left-wing parties.

The strength of state (federal and cantonal) actors and the weakness of non-state actors clearly transpire from our interviews with the political elite participating in the decision-making process. Based on a list comprising 68 actors, our interview partners were asked to name those actors that, in their view, have been most influential. From that we calculate a measure of reputational power, which informs about the share of respondents who see a given actor as most influential. Table 1 shows that 9 of the 15 most powerful actors in the decision-making process leading to the NFA were federal or cantonal actors. By contrast, parties and interest groups only played a marginal role.

Table 1: Reputational power of actors

Actor	Reputational power⁷
Federal Department of Finance	62.5
Conference of Cantonal Directors of Finance	54.2
Conference of Cantonal Governments	47.9
Federal Finance Administration	41.7
Federal Council	20.8
Conference of Cantonal Directors of Social Affairs	14.6
Interest association „Social NFA“	12.5
Cantons in general	8.3
Federal Office of Justice	6.3
Federal Social Insurance Office	4.2
Scientific experts	4.2
Swiss Association of Cities (SSV)	2.1
Christian Democratic Party (CVP)	2.1
Radical Democratic Party (FDP)	2.1
Association „Spitex“	2.1

Note: federal and cantonal state actors are highlighted in grey

The project could potentially trigger several conflict lines. Jeffery (2003) identifies two⁸ “fault-lines” where conflict regarding horizontal equalization may occur. The first opens up between “rich” and “poor” sub-national states. The former are expected to transfer parts of their wealth to the latter in the name of federalist solidarity. Even if the principle of equalization is undisputed, “rich” sub-national states may still fear to be too heavily burdened, while “poor” sub-national states may call for additional transfers. The second fault-line concerns the balance between revenue-based and cost-based mechanisms of fiscal equalization. In addition to revenue inequalities, does one also need to compensate for specific costs and, if yes, which kind of costs? In addition to the fault-lines that may be triggered by horizontal equalization between cantons there is also a potential conflict between the Confederation and cantons. This likely conflict regards both the distribution of competences over public policies, and the financial transfers from the Confederation to the cantons.

EMPIRICAL ANALYSIS

Package deals (hypothesis 1)

Hypothesis 1 states that the combination of several issues in a package deal contributes to the success of a reform, since it increases the overall welfare and enables most actors to be better off after the reform than before. A careful look at the content of the project and at the effects of the reform pillars demonstrates that the reform was indeed a package deal and that decision-makers extensively resorted to the strategy of mutual concessions. First, the multidimensional character of the NFA was most obvious from the outset, as it explicitly rested on four distinct pillars. Second, and more importantly, for both the federal state and the cantons the expected effects of the reform strongly differed across pillars: Nearly all actors were likely to bear costs from a given pillar, but to benefit from others. Table 2 summarizes the components of the package deal and sheds light on the anticipated effects for the Confederation and the cantons.

Table 2: Reform dimensions and actors' interests

	Confederation	Cantons bearing costs	Cantons benefitting
Tasks allocation and financial separation	Gains: Savings associated with the delegation of tasks to cantons	Poor and small cantons unable to take over additional tasks	Rich cantons able to take over additional tasks
Equalization of financial resources	Loss - contribution to the equalization fund	ZH SZ NW ZG BS BL GE and partially VD	All other cantons
Compensation of excessive costs	Loss - contribution to the compensation fund	No or weak benefit from the compensation fund: ZG SO BL AG	All other cantons
Inter-cantonal cooperation	Indifferent – the pillar mostly concerns cantons	SZ OW NW GL ZG SO SH AR AI GR AG TG	ZH BS GE

Now, a more crucial test of our first hypothesis needs to demonstrate that the reform resulted in an overall welfare gain, i.e. that the Confederation and the cantons were overall better off

after the reform. Additionally, we need to show that without a package deal, the reform would have most likely failed.

Expected effects for the Confederation

At a first glance, the Confederation was harmed by the NFA, as it had to contribute to two reform pillars: The equalization of cantons' resources and the compensation fund for excessive costs. The new constitutional articles stipulated that the Confederation's contribution to the equalization of resources had to amount to at least 125% of the contribution of all cantons taken together. In addition, the financing of the compensation fund for excessive costs entirely rested on the Confederation. Before the popular vote in 2004 the overall amount of the Confederation's additional spending for these two new pillars was expected to reach 2.15 billion Swiss francs (CHF) a year. On closer inspection, however, the Confederation gained from the NFA. First, it benefited from the reform of tasks allocation and financial separation. This reform, together with the related abolition of the old equalization scheme,⁹ resulted in a net saving of roughly 600 million CHF a year for the Confederation.¹⁰ Second, the share of the direct federal tax granted to cantons was also reduced, which enabled the Confederation to save an additional 1.53 billion CHF a year (CF, 2001: 2355). Overall, then, from a budget perspective the net effects were neutral for the Confederation. However, the Confederation expected to save an additional 1.8 billion CHF, owing to the efficiency gains arising from the separation of tasks and the new equalization scheme (EFD and KdK, 1996: 56).¹¹ The fact that negative and positive effects on the Confederation's budget were balanced was crucial for the success of the reform. A reform with a clear negative impact on the Confederation's budget would not have been accepted. As actors repeatedly claimed, "budget neutrality" was a central aim of the reform, meaning that the latter should not result in any additional burden for the Confederation or the cantons as a whole (EFD and KdK, 1996: 60).¹²

Expected effects for the cantons

Cantons were early aware of the likely consequences of the new equalization scheme, i.e. of whether they would gain or lose from it (EFD and KdK, 1996: 45): According to the guidelines of the reform eight cantons with a high resource potential would have to contribute to the new equalization system: Zug (ZG), Basel-City (BS), Geneva (GE), Zurich (ZH), Nidwalden (NW), Glarus (GL), Basel-Land (BL) and Vaud (VD).¹³ On the contrary, for most of the cantons with low resource potential the attractiveness of the reform was most obvious: the (high) gains arising from the increased equalization of resources exceeded by far the (low) costs associated with the other reform pillars. Some cantons with a low resource potential nevertheless feared they would be worse-off with the new than with the old fiscal equalization scheme.

The case of the cantons with a high resource potential is however especially intriguing and will thus deserve closer look: these cantons were most likely to be hurt by the new equalization scheme and they were, therefore, also most likely to oppose the reform. While they did not hold a majority of seats in either chamber of the Swiss parliament, they were still very influential. By allying with left-wing parties, which opposed the reform for other reasons, the cantons with a high resource potential could reach a majority against the project in the National Council and, therefore, veto the process. However, the multidimensional character of the NFA, and more specifically the gains they could expect from the other reform pillars helped to win their support – or at least the support of a majority of them.

The next sub-sections highlight which part of the package deal was important, and for which group of cantons. We start with the compensation fund for excessive costs, and show that it mattered for both the cantons with high resource potential, and the cantons with low resource potential.¹⁴

Cantons' interests and the compensation for excessive costs

The new fund that would compensate cantons for the excessive costs they faced due to their geo-topographic and/or socio-demographical characteristics was a crucial aspect of the package deal.¹⁵ According to economic criteria the funds allocated to the two types of compensation mechanisms should be determined by their impact on the cantonal finances (Frey et al., 1994). More specifically, the compensation fund for excessive socio-demographic costs should receive about twice the amount granted to the compensation fund for excessive geo-topographic costs (Ecoplan, 2004). While such a distribution between the two funds was economically efficient it was politically problematic, since it would result in lower subsidies for mountain cantons than in the old equalization scheme. The Federal Council (2006: 627, 628) argued that it was politically safer to keep the compensation fund for geo-topographic costs at a high level. Therefore, it was eventually decided that the two funds would be of the same size (50-50, rather than 70-30).

In addition, a relaxing (i.e., a “manipulation”) of the criteria used to calculate the excessive geo-topographic costs helped to increase the number of cantons benefitting from the related compensation fund from 8 to 18 (EFD and KdK, 2000; see table 3).¹⁶ This came as a response to the claims formulated by many cantons during the consultation procedure (EFV 2004). Therefore, while according to the initial project 12 cantons did not receive any compensation (EFD and KdK, 1999: 57), the corresponding figure eventually fell to three.

Table 3: Cantons benefiting from the two new compensation mechanisms, depending on their resource potential

	Socio-demo. compensation	Geo- topographic compensation	No compensation
High potential of resources	ZH BS GE VD	SZ NW ZG	BL

Low potential of resources	BE SH TI NE	BE LU UR VS OW GL FR AR AI SG NE GR TG TI JU	SO AG

Source: EFV (2004), cantons in bold benefit from both compensation mechanisms.

Table 3 presents the list of cantons that would benefit from the two new compensation mechanisms, depending on their resource potential, as stated in the last report published before the popular vote on the reform package (EFV, 2004). Given the necessity to win across-the-board support for the reform it should not come as a surprise that i) an overwhelming number of cantons was expected to receive a compensation for their geo-topographic situation, ii) three cantons were considered as both urban and mountain cantons, and iii) cantons that could hardly be defined as mountain cantons like Lucerne or St.Gallen also largely benefit from the geo-topographic compensation scheme.

We see from table 3 that the new compensation fund for excessive – and more especially the compensation for socio-demographic costs – would also have positive effects for several cantons with a high resource potential.¹⁷ Among these cantons only Basel-Land did not receive any compensation. In other words, the new compensation funds considerably increased the attractiveness of the reform project for the cantons with high resource potential, i.e. for those that would lose from the new equalization of financial resources (see above). A closer look at the figures helps to evaluate the size of the corresponding transfers (table 4).

Table 4: Smoothing effects of the compensation mechanisms (CHF per capita)

Canton	Equalization of financial resources (EFV, 2004)	Compensation (EFD and KdK, 1999)	Compensation (EFV, 2004)
Zug (ZG)	1190	-	1
Nidwalden (NW)	301	-	23
Schwyz (SZ)	294	-	28
Zürich (ZH)	226	19	61
Geneva (GE)	201	137	208
Basel-Land (BL)	147	-	-
Basel-City (BS)	10	197	228

Notes: Equalization: Numbers represent cantons' additional contributions to the new resource equalization scheme, as compared to the old system (own calculations). VD does not appear in the table because it was a net beneficiary according to the calculations in 2004.

Column 2 of table 4 shows the amounts that the cantons with high resource potential were likely to spend for the new equalization of resources. Columns 3 and 4, in turn, show how much they were expected to benefit from the two compensation funds in 1999 and 2004, respectively. Two main findings emerge. First, for all cantons the expected compensation increased between 1999 and 2004, this owing to both a higher endowment of the compensation funds and a new formula more favorable to large urban centers (FC, 2001). Second, and more fundamentally, the creation of the two compensation funds considerably attenuated the financial consequences of the new equalization scheme for the cantons with high resource potential, and it even enabled two cantons (Geneva and Basel-City) to join the group of overall net winners.

In sum, the new compensation fund for excessive costs served to counterbalance the costs of the new fiscal equalization scheme for both cantons with high resource potential and cantons with low resource potential. The compensation scheme was especially attractive for the cantons with low resources, which could expect to receive more – or at least as much – after the reform, than before. By contrast, and as a result of the decision to allocate the same amount to each of the two funds, the urban cantons ended up receiving less compensation for their (socio-demographic) excessive costs than initially planned. They were unsatisfied with this decision, but they refrained from rejecting the whole reform project. On the one hand, for the urban cantons the recognition of their specific burdens in a constitutional provision was a major achievement, which created the basis for future claims towards fairer compensation.¹⁸ On the other hand, they could still count on additional gains from other pillars of the reform project. This is to what we turn now.

Cantons' interests and the new division of tasks

Cantons with high resource potential were also expected to benefit from the new division of tasks with the Confederation, which grants cantons with exclusive competences on several public policy domains that were previously controlled and funded by the Confederation (see EFV, 2007a). This change overall favored the cantons and reinforced their autonomy: In the old system, cantons received a financial support from the Confederation but had no decision-making rights; in the new system, and in line with the principle of fiscal equivalence (Olson, 1969), the actor who pays (i.e. a given canton) is also the one that decides.

During the first consultation procedure on the reform guidelines, the smallest cantons expressed their concerns about the withdrawal of the Confederation as a funder. They feared they would be unable to take over new responsibilities (Mottu, 1997: 13-14). Of the eight cantons with a high resource potential, three were likely to be negatively affected by the new task allocation, because of their small size: Zug, Schwyz and Nidwalden. By contrast, Zurich, Geneva, Vaud and the two Basel (which closely cooperate with one another) had the requested size – and means – to take advantage of the new competence distribution. For these four cantons, the separation of tasks brought benefits that also contributed to counterbalancing the costs of the equalization of resources.

Cantons' interests and the new system of (mandatory) inter-cantonal cooperation

The results of the second consultation procedure showed that the issue of inter-cantonal cooperation and related equalization of burdens was controversial among cantons (EFV and KdK, 2000). On the one hand, the center cantons welcomed a new instrument that would enable them to share the costs of public services comprising spillovers with their neighbors.

On the other hand, the peripheral cantons feared they would be forced to contribute to the financing of services produced inefficiently by the center and on which they could not decide. An estimation of the gains and losses shows that the three cantons which would benefit most from the equalization of burdens were also cantons with a high resource potential (EFD and KdK, 1999: 168; FC, 2001: 2363): Zurich, Basel-City, and Geneva. In particular, the canton of Zurich repeatedly claimed that its support for the overall reform project was conditional on some sort of instrument that would force cantons to cooperate – and to share the costs borne by center cantons.¹⁹ Note, however, that three additional cantons with a high resource potential (Zug, Nidwalden, and Schwyz) ranked among the cantons that would be mostly hurt by this specific reform pillar, whereas two (Basel-Land and Vaud) were weakly affected. Thus, for three cantons with a high resource potential the parallel introduction of the equalization of resources and the inter-cantonal equalization of burdens was likely to weaken their opposition to the reform. The opposite holds, however, for three other cantons.

In short, our analysis of package deal mechanisms reveals that for five out of eight cantons with high resource potential the combination of various reform instruments helped to compensate the losses induced by the equalization of resources. Interestingly enough, the three cantons with a high resource potential that rejected the reform in the referendum of November 28, 2004 (Zug, Schwyz and Nidwalden) are precisely those that would benefit least from – or that would even be further harmed by – the other issues of the reform. This finding suggests that if a canton was a loser on several pillars of the reform it most likely ended up rejecting the related constitutional changes.

In sum, our analysis supports our first hypothesis that the package-deal character of the NFA contributed to the success of the reform. Such a strategy was already mentioned during the early stages of the project (EFD and KdK, 1996: 57), and it was also strongly supported by the Swiss government: The Federal Council (2001: 2188-2189) was aware that an overall

balance of costs and benefits among cantons was required. It clearly stated that the reform would necessarily be a package, because the cantons contributing to the equalization scheme expected “to see their room for maneuver for policies and budgets extended (...)” and “a compensation for the services they provide to peripheral cantons”. Focusing the reform on the fiscal equalization scheme only was thus not an option, because it would not allow negotiating mutual concessions (Wettstein, 2002). This argument is also supported by several of our interview partners, who emphasized the importance of the multidimensional nature of the reform and mutual concessions on several dimensions.²⁰ Additionally, the fact that the balance between the various pillars was not substantially modified during the parliamentary phase also accounts for the positive outcome.²¹

Side-payments (hypothesis 2)

Our second hypothesis states that side-payments to actors that would be harmed by the reform may help to win their support. In this section we focus on a side-payment that appeared in the last phase of the bargaining process over the fiscal equalization, but played a key role for the successful outcome, the so-called “cohesion fund”. The first evaluations of the consequences of the new fiscal equalization scheme revealed that several cantons with a low resource potential would receive less money under the new system than under the old one.²² The reasons for this unexpected outcome were unclear (Dafflon, 2004: 550), but the issue soon became highly controversial. In fact, the whole reform process was at risk, since the opposition from these cantons would add to the potential opposition of the cantons with a high resource potential.²³ Additionally, the problem mainly affected the French minority (i.e., four out of six French-speaking cantons) and could thus raise a linguistic cleavage. To solve this problem, which was seen as crucial by the project leaders,²⁴ the Confederation and cantons agreed on the creation of a “cohesion fund for cases of hardship”. This new fund was included in the reform package only shortly before the parliamentary phase, i.e. after the consultation

procedure that usually serves as an acceptance test for a project before it is handed over to parliament.

Amounting to 430 million CHF a year, the cohesion fund was allocated to cantons with low resource potential, in order to make sure that these cantons would not be hurt by the reform. Two thirds of the funding was provided by the federal government and one third by the cantons, according to the size of their population. The cohesion fund is a "foreign body" in the fiscal equalization reform and it is accordingly limited in time: It will last 28 years, with a gradual decrease over time. In addition, the renewal of the fund is subject to a periodical decision (every four years) by the Federal Parliament.²⁵

The only rationale for this additional, transitory fund was the need to win the support of cantons with low resource potential.²⁶ In its message to the Parliament the Federal Council (2001: 2272) explicitly acknowledged the "side-payment" character of the cohesion fund, stating that "this compensation can be considered as the price to pay for the NFA, or as an investment of a portion of the efficiency gains for the acceptability of the project". In other words, in the government's view the expected efficiency gains justified side-payments that would increase the likelihood of a successful reform. The late introduction of the cohesion fund further its necessity for the acceptance of the reform.²⁷

Summing up, the cohesion fund was used as a side-payment, and contributed to the success of the NFA. This corroborates our second hypothesis that without side-payments a higher number of cantons would have opposed – and, possibly – jeopardized the reform.

Downsizing the reform (hypothesis 3)

According to our third hypothesis a downsizing of the reform project that puts aside the most controversial issues also contributes to its success. In this section we show that such a strategy was applied to a specific pillar of the project, namely the allocation of tasks between the

Confederation and cantons, and that this strategy was a key condition for a successful outcome.

The number of public policies for which separation was required was much higher in the first expert report (Frey et al., 1994) than in the 1996 guidelines (EFD and KdK, 1996). While additional separations were required in order to meet the new constitutional provisions regarding subsidiarity and fiscal equivalence, they proved politically impossible.²⁸ The tasks under the responsibility of the Federal Office for Environment are a case at hand in that respect. Initially, these tasks were supposed to be completely transferred to the cantons. However, the Federal Office for Environment opposed such a transfer already during the very first consultations within the federal administration, as it did not want to lose control over environmental policies.²⁹ As an alternative, it suggested to introduce new forms of cooperation between the Confederation and the cantons. Given that such reform was not possible without the expertise of the offices concerned, the request has been heard. In addition, this solution was subsequently extended to other policy domains.

Similarly, a downsizing of the reform project also shows up when comparing the areas covered by the reallocation of tasks in the guidelines (EFD and KdK, 1996) with the areas mentioned in the subsequent report on the implementation (EFD and KdK, 1999). The first report of 1996 lists seven areas as exclusively federal and 12 areas as cantonal (Mottu, 1997: 9). However, in the second report of 1999, the federal tasks were reduced to only four.³⁰ The remaining three tasks were only subject to partial separation or were still treated as common tasks between the Confederation and the cantons. The same holds for the 12 areas that initially fell under the responsibility of the cantons: Only half of them were indeed fully transferred to the cantons.³¹

Finally, additional concessions had to be granted to the cantons in a later phase.³² First, three areas that were supposed to be disentangled³³ were excluded from the reallocation project.

The Federal Council justified this by the willingness “to put aside controversial proposals that are not of utmost importance for the reform” and, by so doing, “to improve the acceptance of the whole package” (FC, 2001: 2317). Second, at least five areas were removed from the project and transferred to parallel decision-making processes (see FC, 2001: 2315). The most important among them was certainly higher education, an issue that proved controversial already in the initial negotiations.³⁴ Third, the transfer of tasks to cantons had to be further reduced, for example with respect to the financing of main roads (FC, 2001: 2285) and maintenance of historic buildings (FC, 2001: 2311).

In sum, our analysis shows that several issues that ought to be separated – and that, in fact, were included in the initial reform project – were subsequently “sacrificed”, i.e. either put aside or downsized for the sake of the reform success. Both the Federal Council and the Conference of Cantonal Governments agreed that it was safer to rely on a more pragmatic and modest approach (FC, 2001: 2193). Unsurprisingly, opposition to the division of tasks only came from some secondary actors that were hardly able to veto the process.³⁵

CONCLUSION

This article offers an interpretation of the reform of fiscal equalization and tasks allocation in Switzerland that differs from the one put forward by Braun (2009). Both articles look at the reform through different theoretical lenses and, therefore, shed light on different aspects of the reform. Braun (2009) emphasizes a problem-solving orientation and other procedural and normative factors that according to his analysis positively contributed to the successful outcome. Our article focuses on interests, opportunism and the successful bargain over distributive issues. It demonstrates that selfish considerations and redistributive issues were strongly present in the decision-making process, but were carefully addressed and skillfully overcome. On the theoretical level, we point to three mechanisms that help to overcome

federal veto-points, namely package deals, side-payments and reform downsizing. Focusing on the most important actors of the reform, i.e. the Confederation and the cantons, our in-depth study of the decision-making process demonstrates that the three mechanisms indeed played a crucial role.

As Braun (2009: 318) himself acknowledges, the “veil of ignorance” was too thin to hide all distributive issues. In fact, cantons were soon aware of the likely consequences of the reform with respect to public finances and competence allocation, and they acted accordingly. That is, they voiced and actively defended their interests all along the process.

Mutual concessions in the form of package deals, side-payments to actors that were likely to lose from the reform, and downsizing of the reform project were all used, and they strongly contributed to the successful outcome. In addition, counterfactual reasoning suggests that in the case under study all three mechanisms were necessary for the success of the reform. First, the multidimensional nature of the reform allowed for mutual concessions and resulted in a broad package deal. This helped to reduce the number of actors bearing the costs of the reform, to strike a balanced deal and, therefore, to forge consensus. This strategy was especially important for the cantons with a high resource potential, whose – crucial – contribution to the new fiscal equalization scheme could be compensated for by net gains from other instruments. Second, a side-payment in the form of “ad-hoc” compensation (the cohesion fund) to the potential losers of the reform, i.e. the economically weak cantons, also helped to win their support for the reform project. Without this “safety net” these cantons would most likely have rejected the reform. Third, the downsizing of the reform regarding the new allocation of tasks between the Confederation and cantons also increased the likelihood of a successful reform. Overall, then, the skillful combination of various reform instruments eventually led to a broad support for the NFA.

While the equalization reform was undoubtedly a success, it nevertheless suffers from some shortcomings. First, as demonstrated in our analysis, actors were unable to overcome a number of inefficiencies of the old system. This holds, most notably, for the reform regarding tasks separation, where the final outcome is not in line with the initial plans, nor with the new constitutional provisions regarding fiscal equivalence.³⁶ Second, a similar argument also holds for the new fiscal equalization scheme. On the one hand, the reform creates innovative, economically sound instruments, such as the equalization of resources or the compensation for excessive socio-demographic costs. But on the other, it also introduces sub-optimal, mainly politically driven instruments, such as the cohesion fund. In that sense, our analysis suggests that the reform of Swiss federalism did not completely escape the joint-decision trap (Scharpf, 1988). The bargaining power of cantons led to sub-optimal policy outcomes and inefficient lowest-denominator compromises. In other words, while the NFA was able to avoid failure and is thus certainly a formal success, it is not a full substantial success.³⁷

What are the broader implications of our findings? First, our analysis points to a strategy that may be useful for policy-makers aiming at constitutional or policy change in a political system with institutional veto-points: In our case the extensive consultation of political actors on the various drafts of the reform helped to identify the most controversial issues, and the related actors' preferences; such information is a fundamental resource for state executives, since it informs them about the reform dimensions, the likely threats, and the potential for mutual concessions and consensus building. In that sense, identifying actors' interests, which is possible only when "talking cash", appears as a more promising strategy than attempting to hide them. It is certainly no coincidence that Switzerland, one of the political systems with the highest number of veto-points, developed strong consultation mechanisms (see Neidhart, 1970).

Second, our empirical analysis suggests that the three mechanisms are not all equal with respect to the efficiency gains that one may expect from a reform. Package deals are the best solution because they allow reaching the reform aims without welfare losses. By contrast, side-payments and the downsizing of the reform project generate a reform that is more limited in scope than initially planned – and that may even lead to a net welfare loss.

Finally, looking forward our analysis also raises the issue of the stability and acceptability of the reform in the long run. One may wonder whether a reform based on mutual concessions and long lasting, but not permanent, side-payments is stable or whether it will become the target of new, conflicting claims in the future. Similarly, it will be worth looking at the implementation phase: Recent events suggest that cantons will take advantage of the renegotiation, every four years, of the money allocated to the various instruments of the equalization scheme to ask for a more fundamental reorientation of the fiscal equalization scheme.³⁸

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¹ “Ideational factors” such as a common frame of references, focal points, and a shared understanding of the causal links underlying fiscal equalization; as well as “process factors” such as agenda-crafting, cooptation of cantons as equal partners, and the long duration of the decision-making process.

² For a discussion of the applicability of Scharpf's theory to the Swiss case, see Fischer et al. (2010).

³ This may account for the fact that central state actors are more successful than others actors in preparing a constitutional change (Lorenz, 2011: 411).

⁴ To select the most important organizational actors we used the classic combination of positional, decisional, and reputational approaches (see e.g. Knoke, 1993: 30). Interviews took place between February and July 2008. The list of interviews can be found in the appendix. The time elapsed between the reform and the interviews calls for a triangulation with official documents and newspaper articles.

⁵ Additional analysis, not reported here, shows that the content of media coverage regarding the NFA in the two leading German-speaking newspapers (*Neue Zürcher Zeitung* and *Tages-Anzeiger*) is very similar to that in the French-speaking newspaper *Le Temps*, which we use in this article. This is in line with Tresch's (2008) analysis,

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which shows that there are no substantial differences regarding the way major political issues are discussed or framed in the French-speaking and in the German-speaking press.

⁶ In line with the principles of New Public Management, it is up to the Confederation to define the objectives, whereas the cantons are responsible for the implementation. Accordingly, the financial contributions from the Confederation to the cantons take the form of goal-targeted grants, instead of subventions proportional to the actual costs as in the previous system. In the remainder of this article we do not discuss further this specific part of the reform, which was largely undisputed.

⁷ Numbers represent the percentage of interview partners that mentioned a given actor as one of the three most important actors.

⁸ Jeffery (2003) cites three interrelated fault-lines, but we argue that the third one (uniformity vs. diversity) is largely covered by the other two.

⁹ The old equalization system was based on the so-called “equalization supplements” granted to the financially weak cantons. For more details see Dafflon (2004).

¹⁰ The gross gain was in fact higher (1.042 billion), but it was reduced by an expected loss of roughly 435 million CHF associated with the new division of tasks (EFV, 2004: 4).

¹¹ A part of these gains are invested in the new “cohesion fund” (see hypothesis 2).

¹² E.g., interviews 7, 21.

¹³ This list remained almost unchanged until the enforcement of the new scheme in 2008, with only the canton of Glarus moving to the group of winners, the canton of Schwyz (SZ) moving to the group of losers and the canton of Vaud oscillating between the two groups from one evaluation to the next (EFD and KdK, 2000; EFV, 2004; EFV, 2007b). Our analysis is based on the 2004 situation, where the high potential cantons were Zug, Basel-City, Geneva, Zurich, Nidwalden and Basel-Land. In addition, we also analyze the case of Vaud, which turned into a high potential canton during the implementation phase.

¹⁴ For a residual group of cantons with low resources the package deal strategy was complemented in the later stage of the reform process with additional side-payments (see the test of hypothesis 2).

¹⁵ The compensation fund for excessive costs did not belong to the initial reform project. It was put forward by an expert report in 1994 (Frey et al., 1994), and was incorporated in the reform package at a later date (EFD and KdK, 1996, 1999).

¹⁶ Initially, the criteria took into account population density, road length per capita, length of watercourses per capita and forests, coppices, and bushes per capita. Subsequently, only the criterion regarding population density

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was kept, while the other criteria were replaced by three new criteria: The share of the cantonal area located above 1080 meters, the share of the population living above 800 meters and the number of inhabitants living in localities with less than 200 inhabitants. The last two criteria are especially questionable, since it is difficult to connect them with excessive costs (Dafflon, 2005). In addition, the 1080 meters threshold appears as artificial (Frey, 2001: 17): “We cannot avoid thinking that this threshold was chosen on an ad hoc basis in order to benefit the alpine cantons (...). We do not understand the threshold of 1080 meters (...). What are the additional costs that glaciers and rocks generate for the cantons?” Our interview with one of the project leaders confirms that the criteria were set in light of their financial consequences for the cantons (Interview 7, see also *LeTemps*, 28.4.2001).

¹⁷ E.g., interviews 11, 20, 21, 30, 31. See also *LeTemps*, 2.10.2002.

¹⁸ Such claims were indeed voiced by urban cantons early on in the implementation phase.

¹⁹ Interview 20. See also the statement of the member of the Zurich government on the importance of the inter-cantonal equalization of burdens in *LeTemps*, 2.10.2002.

²⁰ Interviews 6, 7, 9, 10, 12.

²¹ Interviews 3, 13, 18, 31.

²² *LeTemps*, 25.3.2002. The cantons concerned are Fribourg, Vaud, Neuchâtel, Jura, Obwalden, Appenzell Ausserrhoden, Aargau, and Berne.

²³ See *LeTemps*, 12.2.2001.

²⁴ Interview 7. See also *LeTemps*, 31.5.2001.

²⁵ Some cantons have complained about the “disastrous” effects that the gradual reduction of the cohesion fund will have on their public finances (EFV, 2010). Reacting to this complaint, the Federal Council has recommended that the fund should not be cancelled in advance (FC, 2010: 104). This suggests that distributive conflicts regarding the cohesion fund are likely to occur in the future.

²⁶ Neue Zürcher Zeitung (NZZ), 9.8.2001 and *LeTemps*, 25.3.2002.

²⁷ Interview 6.

²⁸ Interviews 6, 7.

²⁹ Interview 7.

³⁰ Individual insurance services of the old age and widows’ insurance and of the invalids’ insurance, family allowances, encouragement of fundamental research, of applied research and of technology transfer, and maintenance. and operating of national roads.

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³¹ Walking trails, land use planning, collective contributions of the old age insurance to institutions of support for the elderly people and care services at home, collective contributions of the disability insurance to the homes for the handicapped and to special schooling, fellowships for studies (until secondary level) and the promotion of the construction and the acquisition of residential property.

³² *LeTemps*, 16.11.2004.

³³ Gymnastics and sports, maintenance of walking trails, big parts of agricultural politics.

³⁴ The issue of higher education was then linked to that of compulsory education and resulted in new constitutional articles. Ironically enough, in this field the outcome of the negotiation process between Confederation and cantons led to higher entanglement, not lower: The new articles on education increase the intervention of the federal state in policy areas that previously fell under the responsibility of the cantons (Fischer et al., 2010).

³⁵ An exception to this was the opposition of left-wing parties, trade unions and various associations active in the domain of social policy that repeatedly criticized the transfer of competences to the cantons in this field (Mottu, 1997: 13). However, the Federal Council coped with it through the adoption of various transitory rules (FC, 2001: 2301, 2305) and a framework law that *de facto* strongly limited the (new) autonomy of the cantons. This approach proved successful, as it allowed splitting the opponents into two groups, one still opposed to the reform, and the other satisfied with the concessions obtained (see also *LeTemps*, 12.11.2004).

³⁶ Admittedly, a fully dualist federal system can hardly be achieved in Switzerland due to its small size, and this was not the goal of the reform project anyway. However, our analysis suggests that even in domains where task disentanglement seems to be technically feasible, it may fail for political reasons.

³⁷ For a thorough discussion of the distinction between formal and substantial success, see Behnke et al. (2011).

³⁸ *Le Temps*, 03.06.2006, 17.06.2006, 15.03.2007, 12.10.2012.

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Appendix

List of interviews

Nr.	Representative of	Location	Date
1	Federal Council	Fribourg	05.05.08
2	State Secretariat for Education and Research	Berne	14.02.08
3	Federal Social Insurance Office	Berne	20.03.08
4	Federal Department of Defense, Civil Protection and Sport	Berne	22.05.08
5	Federal Office for the Environment	Berne	15.04.08
6	Federal Finance Administration	Berne	13.03.08
7	Federal Finance Administration	Berne	15.02.08
8	Federal Office of Justice	Berne	18.04.08
9	Conference of Cantonal Governments	St.Gallen	21.04.08
10	Conference of Cantonal Governments	Berne	17.03.08
11	Conference of Cantonal Directors of Finance	Berne	13.03.08
12	Conference of Cantonal Directors of Social Affairs	Fribourg	04.04.08
13	Swiss Association of Cities	St.Gallen	20.03.08
14	Swiss Association of Municipalities	Berne	12.03.08
15	Economiesuisse	Zurich	14.03.08
16	Swiss Association of Trade Unions	Berne	17.06.08
17	Spitex – Swiss Association for Home Care	Berne	30.04.08
18	Integras - Professional Association for Social Education	Zurich	19.03.08
19	Swiss Federation for the Integration of Handicapped Persons	Zurich	17.03.08
20	Radical Democratic Party	Berne	02.04.08
21	Radical Democratic Party	Zurich	11.06.08
22	Social Democratic Party	Berne	12.03.08
23	Social Democratic Party	Buchs	13.05.08
24	Swiss People's Party	Mettmenstetten	23.06.08
25	Swiss People's Party	Berne	12.06.08
26	Christian Democratic Party	Berne	05.06.08
27	Christian Democratic Party	St.Gallen	21.04.08
28	Green Party	Lucerne	27.03.08
29	Evangelist People's Party	Wettingen	13.03.08
30	Liberal Party	Nyon	10.04.08
31	Scientific expert	Basel	25.03.08