

EIS 9/2015

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and Domestic
Factors in the
Negotiation Process
on Renewable
Energy Support
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Submitted
04/2015
Accepted for
publication
07/2015

Intergovernmental and Domestic Factors in the Negotiation Process on Renewable Energy Support Schemes

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<http://dx.doi.org/10.5755/j01.eis.0.9.12794>

Abstract

The adoption of the Directive 2009/28/EC on the promotion of the use of energy from renewable sources was an important step for the successive contribution to the global Climate Change Regime as well as the diversification of energy supply, thus ensuring energy security and reducing dependence on external suppliers. However, although the Directive sets out legally binding targets for each Member State by 2020 as well as interim targets, it does not provide any legally binding instruments, i.e., renewable energy support scheme(s), to achieve the above-mentioned objectives.

Since the overall EU target as well as national targets are fairly ambitious, it poses a question, why the Directive does not include specific legally binding instrument(s) for achieving these targets, whereas the so-called flexibility mechanisms, provided in the Directive, are limited only to non-obligatory cooperation between Member States. It is important to mention that, during the negotiation process on the Directive, the harmonization of Member States' renewable energy policies through the EU-level mechanism of Guarantees of Origin was widely debated. Therefore, the intergovernmental negotiation on the Directive's provisions on renewable energy support scheme which should allow Member States to achieve their national targets as well as the overall EU target shall be submitted as the object of this article, while the purpose is to analyze the case of negotiating the EU-level renewable energy support scheme and to investigate the intergovernmental factors such as asymmetrical bargaining power of Member States as well as specific domestic factors' influence for the negotiation's results, applying liberal intergovernmentalist approach as the theoretical framework for analysis. The main tasks of the article are:

- to introduce the basic provisions of liberal intergovernmentalism and to formulate principal theoretical assumptions for further empirical analysis;
- to present a compact overview of the support schemes for renewables, applied in the EU;
- to define the role of the European Commission in the negotiation process, to determine the positions of the Member States on a common support scheme for renewable energy, to analyze the process of interest bargaining through coalition-forming and to detect the essential results of the negotiation.

The main methods applied in this article include an analysis of the documents and the Member States' position papers, conducting a case study of the negotiation process on the mechanism of Guarantees of Origin as the common EU-wide support scheme for renewables in the Directive 2009/28/EC on the promotion of the use of energy from renewable sources.

The article consists of three parts. The basic provisions of liberal intergovernmentalism as well as



the principal theoretical assumptions are examined in the first part of the article as the theoretical framework for further empirical analysis. Renewable energy support schemes, applied in the EU, are presented in the second part and the case study of the intergovernmental negotiation on the pan-European support scheme for renewables based on the mechanism of Guarantees of Origin is carried out in the third part.

The findings show that the majority of the Member States demonstrated strong opposition to the European Commission's proposal for harmonizing their renewable energy policies through specific pan-European support scheme, i.e., the mechanism of Guarantees of Origin. The Commission's initiative was rejected by posing an argument that the instruments for reaching the renewable energy targets must be selected according to the principle of subsidiarity with respect to each Member State's national specifics as only under these circumstances renewable energy support schemes could function in the most sufficient and effective manner. Therefore, the Commission's initial proposal had to be significantly modified thus abandoning the idea of the EU-level support scheme for renewables. The findings also verify theoretical assumptions based on liberal intergovernmentalism which postulate that the negotiation's results mainly depend on asymmetric bargaining power and the most powerful Member States' preferences determined by their national specifics, support schemes and other domestic factors.

KEYWORDS: renewable energy support schemes; mechanism of Guarantees of Origin; renewable energy policy harmonization; intergovernmental negotiation; EU Member States' national preferences.

Since the very end of the 20th century, the European Commission has frequently criticized the highly fragmented variety of support schemes across the EU and has been urging the Member States to turn towards a stable, unified EU-wide support mechanism for renewables (Jacobs, 2012).

The latest effort to harmonize the renewable energy support schemes can be seen in the negotiation process on the Directive 2009/28/EC on the promotion of the use of energy from renewable sources, reflecting the Commission's proposal for the harmonized mechanism of Guarantees of Origin. However, this effort was rejected by the Member States.

The aforementioned situation poses the question regarding the reasons for the unwillingness of the Member States to accept the Commission's proposal for joint instrument, i.e., a common support scheme for renewables, during the negotiation process on the Directive. Therefore, to answer this question, two main assumptions will be made and tested in the further analysis.

Firstly, the outcomes of the EU-level negotiations depend on the Member States' bargaining power as well as on the national preferences of the most powerful Member States. Consequently, the main purpose here will be to track the coalition-forming processes during the negotiation as well as to identify the interests of different Member States and to analyze the process of interest coordination by exposing the so-called „winners“ and „losers“ of the negotiation.

Secondly, the functions of supranational institutions in the policy-making process are strictly limited to the initiation and coordination of political agenda as they are almost unable to participate in the decision-making process without the support of the most powerful Member States. Therefore, these institutions are forced to give up their initiatives or to make the significant amendments which match the positions of the most powerful Member States. Here the main purpose will be to assess the Member States' potential to remove the Commission's proposals from the political agenda or to reduce them to a level which does not pose threats to their national interests.

Therefore, the intergovernmental negotiation on the Directive's provisions on renewable energy support scheme which should allow Member States to achieve their national targets as well as the overall EU target shall be submitted as the object of this article, while the purpose is to analyze the case of negotiating EU-level renewable energy support scheme and to investigate

Introduction

the intergovernmental factors such as the asymmetrical bargaining power of the Member States as well as the specific domestic factors' influence for the negotiation's results, applying liberal intergovernmentalist approach as the theoretical framework for further analysis. The main tasks of the article are:

- _ to introduce the basic provisions of liberal intergovernmentalism and to formulate principal theoretical assumptions for further empirical analysis;
- _ to present a compact overview of the support schemes for renewables, applied in the EU;
- _ to define the role of the European Commission in the negotiation process, to determine the positions of the Member States on a common support scheme for renewable energy, to analyze the process of interest bargaining through coalition-forming and to detect the essential results of the negotiation.

The main methods applied in this article include an analysis of the documents and the Member States' position papers, conducting a case study of the negotiation process on the mechanism of Guarantees of Origin as the common EU-wide support scheme for renewables in the Directive 2009/28/EC.

The article shall consist of three parts. The basic provisions of liberal intergovernmentalism as well as the principal theoretical assumptions shall be examined in the first part of the article as the theoretical framework for further empirical analysis. Renewable energy support schemes, applied in the EU, shall be presented in the second part and the case study of intergovernmental negotiation on the pan-European support scheme for renewables based on the mechanism of Guarantees of Origin shall be carried out in the third part.

Prior to the analysis, it is necessary to mention that only a few academic papers and media articles analyze the negotiation process on renewable energy policy as well as the Member States' positions on these issues. Moreover, even the scientific articles usually examine only the Climate part of the negotiation process on the Climate and Energy package for 2020, paying very little attention to the renewable energy issues, e.g., the provisions of the Directive 2009/28/EC. One of the reasons for this may be that the detailed positions of the Member States in the intergovernmental negotiation are of limited public availability, while some of them are entirely inaccessible and classified by the national authorities due to national security issues. However, the majority of the Member States' positions on the mechanism of Guarantees of Origin, i.e., the common EU-wide support scheme for renewables (analyzed further in this article), are reflected in the documents of the General Secretariat of the Council.

Theoretical framework: the main assumptions of liberal intergovernmentalism

Liberal intergovernmentalist theory emphasizes the vital interests as well as the preferences of the Member States as the main stimulus for their integration. According to the postulates of this theory, the Member States seek the best possible outcome which matches their national interests during the process of intergovernmental negotiation. In order to verify this assumption, the analysis of the Member States' positions on the mechanism of Guarantees of Origin, set out in the Commission's proposal for the Directive 2009/28/EC on the promotion of the use of renewable energy, will be carried out to identify their preferences and national interests.

Currently, the intergovernmental theories based on realist assumptions are dominant in the studies of European integration. From an intergovernmental theory perspective, the EU integration process may be defined by the following provisions, which also reflects the criticism of (neo)functionalist theory.

Firstly, the Member States are the main actors determining the scale and speed of sovereignty delegation to the supranational authorities, while supranational institutions should be perceived as agents controlled by the Member States, with no actual decision-making prerogatives, except in the cases when these institutions are supported by the large and most powerful Member States.

Secondly, in contrast to the postulates of (neo)functionalist theory, the political and economic union is not self-sustained and an inevitable process. Thirdly, the integration is possible only on the so-called routine issues on daily basis, which can be determined as matters of low-politics, where conflicts based on Member States' vital national interests are less likely to occur.

Realistic or classical intergovernmental theoretical approach particularly emphasizes the importance of nation-states and their impact on the processes of integration. The theory is based on the core (neo)realist principles, i.e., the anarchistic nature of international system which consists of formally and functionally equal elements, i.e., nation-states (Rosamond, 2000). In this case, the focus should be placed on the distribution of power between the units, i.e., the nation-states, while the distribution of power should be described by analyzing how much influence or power the particular state A has on the particular state B (*ibid.*). In this way, the interstate cooperation is often perceived as complicated, for nation-states, as rational actors, always seek to maximize their gains, while the interests followed by respective actions of the most powerful actors determine the whole nature of the international system (*ibid.*).

Classical intergovernmental theory perceives the nation-states as the main actors who influence supranational institutions, maintain autonomy and defend their national interests (Richardson, 2006). In this regard, supranational institutions do not weaken the sovereignty of nation-states. On the contrary, they serve its maintenance so the suppression of national interests for the common international cooperation remains unlikely. Therefore, it is necessary to distinguish two forms of cooperation, i.e., the one on collective issues on daily basis within the framework of routine or low policy matters and the one on strategic high policy issues which would always be limited by opposing vital national interests. Consequently, the principles of (neo)functionalist theory, such as the spill-over effects, fostering the integration, may only be actualized or implemented in the framework of low politics.

In the early phase of its development, the intergovernmental theory was based on the assumption that the Member States have fixed preferences or national interests based on geopolitical constellations, and the integration is highly determined by the realization of national interests. The classical intergovernmental theory was later modified, resulting in a newly evolved liberal intergovernmentalist approach, considered to be one of the dominant theoretical tools of European integration studies. A.Moravcsik is universally recognized as the founder and the prime scholar of this approach, clearly conceptualizing the issues of national preferences' formation and thus developing the classical intergovernmentalism into a multi-level theory.

Liberal intergovernmentalism suggests that the course and the results of intergovernmental negotiations (as well as the integration process itself) are determined by domestic policy matters and based on three fundamental principles: the assumption regarding the rational nature of the state, the scheme of preference-formation, based on the postulates of liberalism, according to which the preferences are influenced by various domestic actors, and the analysis of intergovernmental negotiation (Moravcsik, 1993).

Contrary to the classical theory of intergovernmentalism which emphasized the importance of geopolitical interests, the liberal approach by A.Moravcsik stresses the significance of states' economic interests in the preference-shaping process. However, liberal intergovernmentalism retains the fundamental principles of classical intergovernmental theory as both theories recognize that the Member States are the fundamental actors in the EU-level negotiations and that the power of supranational institutions in this respect is highly limited. The results of negotiations in this case depend on the relative power of the Member States as well as on the intensity of their national preferences (Pollack, 2000).

A.Moravcsik suggests a three-stage model of international negotiation which encompasses the formation of national preferences, the process of intergovernmental negotiations and the dele-

gation of sovereignty to the authorities higher than national-level, i.e., supranational institutions (Laursen, 2008). In the first stage, national preferences are formed as a result of competition between domestic interest groups, which eventually are represented by the state in intergovernmental negotiation process. The state-public relations are of particular importance in this stage, as foreign policy is highly dependent on public society and various interest groups (Moravcsik, 1997).

In the second stage of international negotiation, national preferences aggregated domestically are transferred to the international level, where the states seek the realization of their vital national interests by exploiting a variety of strategies and techniques. The stage of intergovernmental negotiation is based on three key theoretical assumptions.

Firstly, the negotiation process is a nonviolent, voluntary action, i.e., the parties have full power to reject an agreement which would be less useful than unilateral decision. Secondly, the parties are provided with all the necessary information regarding each other's national preferences. Thirdly, the outcome of the negotiation and the distribution of benefit is determined by the bargaining power of the parties, which depends on the relative value provided by particular party to the particular agreement as compared with the best results of alternative policies; in other words, the bargaining power arises from the asymmetry of the Member States' preference intensity (Moravcsik, 1999).

The third stage of A.Moravcsik's model encompasses the delegation of sovereignty to supranational institutions in two ways. Firstly, in the case of pooling sovereignty, states are prone to dealing with a number of issues by means other than unanimity, e.g., by qualified majority voting. Secondly, in the case of delegating sovereignty, the decision-making prerogative is assigned to the supranational institutions, e.g., the European Commission or the European Court of Justice, without states' intervention or unilateral *veto* decisions (*Ibid.*). In this case, the decision-making efficiency increases, but the parties' abilities to control the process decline. Alternatively, in the former case of pooling sovereignty, parties are less likely to lose control over decision-making, though a problem of inefficiency occurs.

Having assessed the notions, posed by A.Moravcsik that the results of intergovernmental negotiations are determined by the differences in states' bargaining power as well as asymmetric interdependence, it can be assumed that such negotiations determine "winners" and "losers". The most powerful Member States have more options to shape the EU policies by uploading their national interests to the international level, thus imposing their preferences on the relatively less powerful Member States which can be perceived only as EU policy downloaders or takers.

The existence of above-mentioned roles, such as policy uploaders or shapers, i.e., the most powerful Member States, and policy downloaders or takers, i.e., Member States possessing relatively weaker bargaining power, also offers an answer to why the integration within the domains of certain EU policies is often described as highly fragmented because of particular disparities. The powerful Member States actively support the idea of integration on certain issues, while the Member States with relatively weaker bargaining power are sometimes reluctant to implement the international commitments imposed on them during the negotiations. Two main assumptions which are essentially based on liberal intergovernmentalist theory will be discussed in this article for the purpose on the EU renewable energy policy.

Firstly, the outcomes of the EU-level negotiations depend on the Member States' bargaining power as well as on the national preferences of the most powerful Member States. Consequently, the main purpose here will be to track the coalition-forming processes during the negotiation as well as to identify the national interests of different Member States and analyze the process of interest coordination by exposing the so-called "winners" and "losers" of the negotiation.

Secondly, the functions of supranational institutions in the policy-making process are strictly limited to the initiation and coordination of political agenda, as they are almost unable to participate in the decision-making processes without the support of the most powerful Member States. Therefore, these institutions are forced to give up their initiatives or to make the significant amendments which would match the positions of the most powerful Member States. Here the main purpose will be to assess the Member States' potential to remove the Commission's proposals from the political agenda or to reduce them to a level which does not pose threats to their national interests.

In order to test these assumptions, the intergovernmental negotiations as well as the Member States' bargaining positions on the mechanism of Guarantees of Origin, proposed by the European Commission as the EU-wide support scheme for renewables in order to harmonize the renewable energy policies within the EU, will be further analyzed in this article.

Since the very start of the development of renewable energy, it demanded a certain amount of financial support from the state, so some renewable energy promotion instruments, i.e., the support schemes, eventually emerged. The European Commission emphasizes two groups of support instruments which encompass the instruments focused on the price, i.e., feed-in tariff schemes, and the quantity-oriented instruments, i.e., quota and the green certificate system as well as the scheme of auctions and tendering (Jacobs, 2012). However, it should be noted that the spectrum of support schemes applied in the EU has now expanded to include a broad variety of modifications as well as some hybrid models. The most common renewable energy support schemes in the EU range from the so-called feed-in and feed-in premium tariffs to auction and tendering scheme for renewable energy quota allocation, quota and the green certificate system and other support instruments, such as investment support, tax exemptions, soft loans, etc.

The feed-in tariff scheme is applied in the vast majority of the EU Member States (Canton & Johannesson Linden, 2010). The Member States using the latter support scheme commit to support renewable energy by establishing long-term feed-in tariffs. In this case, renewable energy producers receive a fixed amount per unit of energy for a fixed period of time, regardless of the energy market price. It is considered that the feed-in tariff is the most favorable support scheme for a steady development as well as a promotion of renewables, since it ensures stable income flows for producers and investors and allows them to clearly predict the payback periods of renewable energy projects (Held, *et. al.*, 2014). As a result, it becomes easier to convince the creditors to grant loans, which also guarantees a stable development of renewable energy.

Feed-in premium support scheme functions quite similarly to the feed-in tariff, but in this case the renewable energy is traded on the market and its producers receive a fixed premium to the market price, which goes as a fixed amount or as a changing amount depending on the market price fluctuations (*ibid.*).

For the above-mentioned reasons, the feed-in tariffs are considered as the most effective support schemes in the EU by a broad consensus of Member States, investors, producers and the scientific community (Haas, *et. al.*, 2001; Haas, *et. al.*, 2004; Reich & Bechberger, 2004; Held, *et. al.*, 2006; Ringel, 2006; Lauber, 2007; Haas, *et. al.*, 2011).

The auction and tendering scheme is applied with the purpose of allocating quotas for renewable energy by announcing calls for tenders. In this case, the tender winners are provided with quotas as well as feed-in tariffs for a defined period of time. The latter support scheme usually requires that (potential) competitors, i.e., auction participants, meet certain criteria, e.g., financial guarantees for renewable energy projects, penalties for delays of project implementation or non-implementation, etc., in order to reduce the number of potential tender participants on purpose to retain only those market players with the sufficient technological, financial and

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other resources (Held, *et. al.*, 2014). It is argued that the effectiveness of auction and tendering support scheme depends on the specific terms of the auction, the attractiveness of the renewable energy market for potential investors as well as the prospects of economic growth, the number and the special characteristics of tender participants and other factors.

In the case of a quota or green certificate support schemes, various entities operating within the state must use renewable energy by producing or purchasing it from other entities or by acquiring the so-called green certificates. Here renewable energy producers receive the green certificates from state authorities, which can be sold to other energy producers who are committed to produce a certain quota of renewable energy. It is argued that the main advantage of this scheme is its compatibility with the principles of the market as well as competitive energy prices, though it should be noted that the use of green certificates may increase the overall costs of renewable energy policy implementation when energy prices are unstable (*ibid.*).

The feed-in tariff schemes focus on the specifics of renewable energy technologies, so they can be intended to support a wide range of technologies, while the quota or green certificate support schemes do not take into account technological specifics and they are intended to support the least competitive technologies or sources of renewable energy as well as large-scale projects. This may explain why the efforts to unify support schemes in the EU by their harmonization on the basis of the quota scheme have received opposition from those Member States who oppose the centralization in the energy sector as well as resistance from small renewable energy market participants (Jacobs, 2012).

It should be mentioned that there have been some efforts to harmonize renewable energy support schemes on the EU level, though these efforts still remain unimplemented due to strong reluctance from the majority of the Member States. The first harmonization initiatives appeared in The Green Paper of 1996, in which the European Commission criticized the fragmented and fast-changing support schemes in the EU Member States, encouraging them to move towards a unified and stable EU-wide scheme (*ibid.*). In 1997, the Parliament published their opinion, urging for an EU-wide application of a feed-in tariff scheme, whereas the Commission supported a quota scheme, since the feed-in tariff was less competitive compared to the quota scheme, according to the Commission's judgements (*ibid.*). However, the diversity of support schemes for renewables across the EU was retained, legally resulting in the Directive 2001/77/EC on the promotion of electricity produced from renewable energy sources in the internal electricity market, with no specific provisions regarding the application of particular support scheme(s) (European Parliament, European Council, 2001).

What is more, the assessment of the Member States' progress on the implementation of the targets set out in the Directive 2001/77/EC, accomplished by the European Commission in 2004 and 2006, estimated that respectively only four and three Member States managed to meet their commitments, as most of them applied a feed-in tariff to reach their national renewable electricity targets (Jacobs, 2012). Yet another attempt to harmonize renewable energy support schemes followed during the negotiation process on the Directive 2009/28/EC on the promotion of the use of energy from renewable sources, amending and subsequently repealing the Directive 2001/77/EC, but this initiative also ultimately failed.

The Directive 2009/28/EC on the promotion of the use of energy from renewable sources is generally acknowledged as one of the central legal acts in the field of renewable energy legislation. However, although the Directive sets legally binding targets for each Member State by 2020 as well as interim targets, it still does not provide any legally binding instruments, i.e., renewable energy support scheme(s), to achieve the aforementioned objectives (European Parliament, European Council, 2009).

Since the overall EU target as well as national targets are fairly ambitious, it poses a question why the Directive does not include specific legally binding instrument(s) for achieving these targets, whereas the so-called flexibility mechanisms provided in the Directive are limited only to non-obligatory cooperation between the Member States. It is important to mention that, during the negotiation process on the Directive, the harmonization of Member States' renewable energy policies through EU-level mechanism of Guarantees of Origin was widely debated. However, despite the fact that the agreement on EU-wide as well as legally binding national renewable energy targets was reached by the Member States, they were quite reluctant to accept the Commission's proposal on a common instrument for reaching those targets, i.e., the mechanism of Guarantees of Origin, in order to protect their national support schemes which match their national specifics according to the principle of subsidiarity.

As liberal intergovernmentalist theory pays as much attention to supranational institutions as they serve the interests of the Member States, supranational authorities' (in particular, the European Commission) main function mainly encompasses the agenda-setting prerogatives. The Member States delegate their sovereignty to the Commission in particular policy areas, such as renewable energy policy, to define the direction and to institutionalize the outcomes of negotiation process. The existence of the Commission reduces the number of proposals submitted for consideration as well as the so-called transaction costs and makes further negotiation process more efficient. Thus, the main function of the Commission in many cases as well as in this particular case is the political agenda-setting through formulation of particular proposals, which Member States can accept or reject during the negotiation process. In the case of the negotiation on renewable energy support scheme in the Directive 2009/28/EC, the main role of the Commission was to introduce the initial proposal on the Guarantees of Origins for the negotiation process, as it was seeking (at least) partial harmonization of the EU renewable energy support schemes, and to monitor the implementation of the Directive, which can be perceived as the negotiation's outcome.

A wide range of permanent as well as *ad hoc* Member States' coalitions can be seen while researching the processes of various international negotiations. Most commonly, the coalitions, particularly in the field of energy policy, are based on the distinction between the so-called new Member States (joined the EU in 2004 and afterwards) and old Member States. According to the theory of liberal intergovernmentalism, intergovernmental negotiations are also usually characterized by classical distinction between the most powerful large Member States and the periphery Member States. Some other distinctions depending on the location, size and economic power of Member States' exist as well. Therefore, one of the purposes of this case study will be to identify the structure of coalitions during the process of intergovernmental negotiation on renewable energy support scheme, i.e., the mechanism of Guarantees of Origin.

As one of the central issues of the negotiation on the Directive 2009/28/EC was the Commission's efforts to harmonize the Member States' renewable energy support schemes through the above-mentioned mechanism, this issue caused most disputes and disagreement among the Member States. It should be noted that, speaking in terms of liberal intergovernmentalism, Member States opposing the Commission's proposal to harmonize the renewable energy policies across the EU through the universal mechanism of Guarantees of Origin became the "winners" in the negotiation. The latter mechanism can be described as an EU-wide harmonized support scheme, by its nature very similar to the quota or green certificate support scheme, which also formally proves that a certain unit of energy is produced from renewable sources (Jacobs, 2012). The latter mechanism was initiated to help Member States cover their shortages of renewable energy by buying the certificates of Guarantees of Origin from each other if

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they failed to reach their national targets (*ibid.*). Trading the latter certificates between operators was also set out in the proposal and widely debated during the negotiation.

While assessing the issue of the mechanism of Guarantees of Origin, it can be noted that the contradiction between the Member States in the negotiation process was determined by the variety of national support schemes. The Member States which apply feed-in tariffs as well as small and medium-sized renewable energy companies advocated for the right of individual Member States to apply national support schemes according to their own discretion (Ydersbond, 2012). It is worth to mention that, prior to the official Commission's proposal, the abandonment of national support schemes such as feed-in tariffs and replacing them with a legally binding trade-based system was debated, but the proposal was amended, allowing an optional trading system, where national feed-in tariffs would still be allowed (*ibid.*). The legally binding obligation for Guarantees of Origin certificate trading when particular Member States fail to reach their interim national renewable energy targets figured in the early draft of the Commission's proposal, but this provision was eventually removed by joint efforts of such feed-in tariffs' proponents as Germany, Spain and their allies (Dzionara, 2014; "Endsreport", 2008).

After the presentation of the proposal in January 2008, the process of negotiation began at the European Council and immediately a disagreement occurred among the Member States over the relationship between the mechanism of Guarantees of Origin and the national support schemes, especially the feed-in tariff, therefore, the Member States applying feed-in tariffs, particularly the above-mentioned EU renewable energy leaders Germany and Spain, were very reluctant regarding the common support mechanism (Dzionara, 2014). The opposing Member States' positions reflected a strong contradiction, especially regarding the state-controlled trading in Guarantees of Origin. The reluctance towards the common support scheme was based on fears that the mechanism of Guarantees of Origin may lead to the eventual top-down harmonization of Member States' renewable energy policies through the total abandonment of the national support schemes (as it is widely recognized that sooner or later the EU will have to regulate national support schemes (Delgado Piqueras, 2012)).

Finally, taking into account the pressure on the national level, the UK altered its position on Guarantees of Origin from positive to rather skeptical. This resulted in the joint statement of Germany, Poland and the UK which offered a reduction of Guarantees of Origin from EU-wide support scheme to a simple formal tool, which solely proves that the origin of energy is of renewable nature, as well as a number of the so-called flexibility mechanisms which should help Member States meet their renewable energy targets, i.e., voluntary cooperation between the Member States by trading or joint projects in the field of renewable energy (Dzionara, 2014; Nilsson, *et al.*, 2009). This change in UK's position in the very beginning of the negotiation came as a surprise to Member States with a strong reluctance towards the mechanism of Guarantees of Origin, such as Germany and Spain (Jacobs, 2012).

At first the UK stated in its position that the mechanism of Guarantees of Origin may be economically efficient and could help achieve the renewable energy targets, together with national support schemes (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from the United Kingdom, 2008). However, later some doubts were expressed that the mechanism is already criticized by some Member States for its potential "legal uncertainty" and the possible negative outcomes for national support schemes (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Denmark and the United Kingdom, 2008). The United Kingdom claimed that the latter criticism may be perceived as reasonable and stressed that the flexible and efficient alternative proposal shall be introduced together with other Member States (*ibid.*).

Poland also showed concerns regarding the mechanism of Guarantees of Origin, suggesting that it could only operate as an additional instrument next to national renewable energy support schemes. Otherwise, the renewable energy sector investment climate would be challenged by threats to its stability, the efficient operation of existing support schemes would be disrupted and even the implementation of the EU's renewable energy targets could be jeopardized (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Poland, 2008).

In its bargaining position on the mechanism of Guarantees of Origin, Germany stated that just as important as quantitative renewable energy targets are adequate support schemes (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Germany, 2008). Germany posed its rather negative attitude toward Guarantees of Origin certificate trading by pointing out that, although this mechanism could help minimize the burden on the Member States, there is a need for discussion on the application of the mechanism and its coordination with the national renewable energy support schemes, especially feed-in tariff, as another option for reaching the renewable energy targets, according to Germany, would be the cooperation between the Member States, increasing flexibility and maintaining competitive and time-tested national support schemes at the same time (*Ibid.*). Germany also showed strong reluctance regarding Guarantees of Origin certificate trading between operators, as such trade would be difficult to implement due to legal as well as other issues (*Ibid.*).

In its position paper, Spain stated that there is no need for strict binding measures, given the geographical, social, economic and energy diversity as well as other aspects of national specifics of the Member States. Therefore, the subsidiarity principle must be applied when adopting support schemes for renewables. "Spain, along with Germany and other countries, represents a case of success (in terms of renewable energy penetration, creation of technological structure, a fall in the learning curve towards competitive costs, etc.), and both countries exemplify the use of the feed-in tariff system of support for renewables", so "we must ensure that the use of flexibility mechanisms to meet the targets does not undermine the operation of successful practical support systems, such as feed-in tariffs" (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Spain, 2008).

Greece stressed the need to take into account a variety of specific national aspects of the Member States as well as the need to protect and develop the competitiveness of energy sector. In its position paper, Greece suggests that Member States should continue applying a variety of renewable energy support schemes, particularly the feed-in tariff, which has been already tested in many Member States and has demonstrated high efficiency (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Greece, 2008). Additionally, it is stated that the mechanism of Guarantees of Origin could harmonize the Member States' support schemes and work efficiently only in a single European electricity market, but such a market "is not yet the case in the current transitional period in which we have many different national electricity markets and prices in the EU" (*Ibid.*).

Cyprus stated that it has strong doubts regarding the efficiency of Guarantees of Origin certificate trading as well as the added value and cost-effectiveness of the mechanism (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Cyprus, 2008).

In its bargaining position, Portugal welcomed such Commission's proposals as national renewable energy action plans and the interim renewable energy targets, but it also emphasized that the mechanism of Guarantees of Origin is not a sufficient renewable energy incentive and stressed its focus on feed-in tariff as well as other support schemes, such as lower taxes and other benefits for renewable energy (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Portugal, 2008).

Belgium acknowledged that renewable energy targets for 2020 are ambitious, but noted that flexible instruments are necessary alongside the national targets. (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Belgium, 2008). In objection to the Commission's proposal, Belgium mentioned its doubts about the effectiveness of the mechanism of Guarantees of Origin (*ibid.*).

Finland's position paper emphasized that the mechanism of Guarantees of Origin is more compatible with the green certificates support scheme, but is less suitable for the Member States using the feed-in tariff (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Finland, 2008). Finland did not support Guarantees of Origin certificate trading between operators as it envisaged national risks, stating that the mechanism should not impair the existing national support schemes as well as the Member States' abilities to ensure secure and sustainable energy supplies (*ibid.*).

In its position, Denmark stated that it expects a stronger commitment of the Member States to promote renewable energy production and consumption, and stressed that it would show support to the mechanism of Guarantees of Origin only if it functioned alongside the national renewable energy support schemes. Denmark was in favor of a system functioning according to the principles of the market, in which the Member States could voluntarily reject the mechanism so that it would not jeopardize the national support schemes (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Denmark and the United Kingdom, 2008).

Sweden emphasized the importance of avoiding a strict set of rules for the development of renewable energy, as the development would become more complicated for this reason (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Sweden, 2008). Sweden claimed that the effective national control mechanisms are necessary in order to reach national targets as well as an overall EU target, taking into account the national priorities of the Member States (*ibid.*). In other words, each Member State must have the right to independently select and apply renewable energy support schemes that are most compatible with their national specifics. The Swedish Government doubts if this mechanism could ensure stable investments in the renewable energy sector, and stresses that the application of the mechanism requires a deeper analysis as well as further discussion (*ibid.*).

Assessing the Commission's proposals on the mechanism of Guarantees of Origin, Estonia expressed doubts whether this mechanism should be applied equally to both electricity and heat sectors, emphasizing the fact that the latter sector differs from electricity sector by its nature, so a uniform mechanism for both sectors should benefit heat producers more (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Estonia, 2008). It was also noted that the mechanism of Guarantees of Origin is not strictly necessary if national support schemes work effectively and are beneficial to investors.

The French position emphasized that the French Presidency of the Council at the time will make all the necessary efforts and pay special attention to Europe's energy security as well as the adoption of the Directive and it will certainly be a priority to the French Presidency (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from France, 2008). Assessing the proposal on the mechanism of Guarantees of Origin, similarly to many other Member States, France's point of view was that this mechanism should not contradict the existing and effectively functioning national support schemes, as it emphasized that the mechanism must be strictly controlled in order to allow the Member States to stimulate the use of renewable energy by feed-in tariffs (*ibid.*).

The position paper of Romania regarding the mechanism of Guarantees of Origin reflected a neutral point of view as Romania held a relatively moderate position, offering to improve the

proposal by introducing some clarity into this issue, particularly on the transfer of certificates of Guarantees of Origin between the Member States. (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Romania, 2008).

In its position, Lithuania noted that the Directive will require significant efforts by the Member States to achieve the targets set for renewable energy. Lithuania also stated that the Member States have different renewable energy potentials as well as different economic opportunities for renewable energy development. Therefore, the efficient and flexible mechanism is necessary for the implementation of the targets, as that would ensure that they are reached in the most competitive manner in terms of price. Lithuania thus considered that the mechanism of Guarantees of Origin is the most competitive and flexible way to achieve the aforementioned purposes (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Lithuania, 2008). Its position also suggested that the harmonization of renewable energy support schemes at EU level would be too early, as it would harm the investors and adversely affect the obligations of the Member States to such investors. As a result, the Member States should maintain the existing support schemes and should complement them with the mechanism of Guarantees of Origin (*Ibid.*).

The Slovak Republic also expressed strong support for the mechanism, as it believed that a common support scheme reflects solidarity between the Member States. The Slovak Republic also noted in its position that during the process of negotiation it would endeavor to clear rules and minimum legal-administrative barriers to the application of the mechanism (General Secretariat of the Council. Climate - Energy Legislative Package: Policy Debate. Contribution from Slovak Republic, 2008).

Hungary also supported the Commission's proposal as a flexible, competitive and investment-promoting instrument for achieving national targets, which would enable the Member States to reduce their burden, but stressed that the national control of the mechanism of Guarantees of Origin requires clear and strict rules (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Hungary, 2008).

Bulgaria expressed support for the Commission's proposal on the mechanism of Guarantees of Origin in its position, and noted that this would be the most effective instrument of direct investment for reaching the targets (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Bulgaria, 2008). Bulgaria also stressed that renewable technologies require huge initial investments and create a considerable risk to investors, and this consequently requires stable and transparent instruments for long-term investment. Consequently, in its position paper, Bulgaria emphasized the importance of the economic efficiency of renewable energy, i.e., the lowest possible price (*Ibid.*).

Probably the most obvious opinion on the mechanism of Guarantees of Origin came from Italy. Italy strongly advocated for the harmonization of support schemes based on the mechanism of Guarantees of Origin (with some exceptions related to the effectiveness of this mechanism in the case of interim targets) as it campaigned for the application of the mechanism not only within the EU, but also between the EU and third countries (General Secretariat of the Council. Climate - Energy Legislative Package: Policy debate. Contribution from Italy, 2008). In its position, Italy stated that in order to achieve the maximum cost-effectiveness in the sector of renewables, it is necessary to harmonize the Member States' support schemes (*Ibid.*).

Assessing the negotiation process on the common EU-level mechanism of Guarantees of Origin, it can be noted that this issue revealed deep disagreements between the Member States on the Commission's efforts to harmonize their renewable energy support schemes through the joint mechanism. The Commission's proposal was eventually rejected by the joint efforts of

Germany, Spain, Portugal, France, Poland, the UK and other Member States. However, a certain degree of flexibility, given the cooperation between Member States as well as joint projects and international trade, has been maintained in the final text of the Directive, although the pan-European mechanism of Guarantees of Origin was rejected as it posed threats to the existing national support schemes. Therefore, the attempts for the Member States' renewable energy policy harmonization failed once again. Those Member States which remained negative regarding the common support scheme and were actively seeking to preserve their national support schemes (particularly Germany, Spain, Portugal and others) became the "winners" in the negotiation, in terms A.Moravcik. The outcomes of the negotiation process were a very accurate representation of the main notion of liberal intergovernmentalism that the integration in particular is based on the logics of economic interests, so it could unfold and take place only until violations of the Member States' vital national interests occur. In this case, the Member States' integration into the field of renewable energy policy was hindered by the efforts of the Member States to protect the most economically advantageous, time-tested national support schemes, according to a variety of specific economic as well as energy domestic parameters. However, from the perspective of intergovernmentalism, this phase of the negotiation process resulted in reaching the lowest common denominator, partially satisfying all parties involved by rejecting the harmonization of support schemes through the mechanism Guarantees of Origin and replacing it with the alternatives of voluntary Member States' cooperation in the renewable energy sector as well as offering a variety of concessions and trade-offs in other debated issues regarding the whole package, such as Climate Change.

According to the results of the case study and one of the main notions of liberal intergovernmentalism (that the international policy agenda is generally determined by the positions, preferences and national interests of the great powers), it can be noted that one of the main coalitions during the process of negotiation was composed of the most powerful Member States, i.e., Germany, the UK and France. As a result of the cooperation of these three great powers and their allies, the mechanism of Guarantees of Origin was essentially eliminated from the final text of the Directive, retaining only a symbolic function of a formal instrument proving the renewable origin of energy.

From the perspective of liberal intergovernmentalism, the pattern of coalition-forming is sufficiently clear during the process of negotiation on the Directive 2009/28/EC, considering the three great powers of the EU. Consequently, this denies the basic provisions as well as tendencies of supranational federalism, as it demonstrates the importance of national interests and the bargaining power of the Member States in the processes of intergovernmental negotiations on the prospects of European integration. On the other hand, in terms of the outcomes of the negotiation, it can be noted that the assumptions of the (neo)functionalist theory regarding the supranational consensus, European integration by various spill-overs as well as harmonization of national policies are clearly limited by the Member States' preferences and their vital national interests which distinctly adjust the proposals of supranational institutions, i.e., the European Commission.

The Scandinavian countries, which essentially opposed the proposal on the mechanism of Guarantees of Origin as a common EU-wide support scheme for renewables, together with Estonia, Spain, Portugal, Greece, Cyprus, Belgium, Poland and other Member States should also be perceived as the "winners" of the negotiation, as they reached a significant victory after safeguarding their specific national support schemes. Conversely, Italy, Slovakia, Lithuania, Bulgaria and Hungary, which expressed their support for the common support scheme, can be identified as the "losers".

While analyzing the aforementioned coalitions of the Member States, it can be noted that none of them clearly meet the criteria for the distinction between the so-called new Member States, which joined the EU in 2004 and afterwards, and the old Member States. It is also worth adding that a clear

distinction between coalitions in terms of regional or geographical position, size and political or economic power does not exist either. In this case, the conclusion can be drawn that this distinction is based on the postulates of liberal intergovernmentalist theory, that the formation of certain coalitions during intergovernmental negotiations is determined more by the national preferences and economic interests of the Member States than their size, geographical position, etc.

The Member States composing the aforementioned coalitions during the process of negotiation have different potential and energy mix of renewables, maintain different models and practices in the renewable energy sector as well as different support schemes, etc. Therefore, their national interests as well as bargaining positions reflect a certain degree of heterogeneity and some mismatch over the “old vs. new Member States” distinction. As a result, the coalitions of the Member States, namely over the issue of a common EU-wide support scheme, can be regarded to be of *ad hoc* nature.

The results of the case study revealed the energy integration disparities across the EU.

The most powerful EU Member States, particularly Germany, France and the UK, have engaged in the implementation of green policies as well as in active participation in the global Climate Change Regime. On the other hand, these Member States are facing an active public advocacy for renewables as well as pressures from the renewable energy lobby groups seeking policy continuity safeguards from national authorities.

Germany should be perceived as one of the biggest “winners” of the negotiation, as it might reasonably be seen as a constructive pusher or even a unilateral policy maker, taking the agenda-shaping role in the process of negotiation (Dzionara, 2014). Germany played a key role in the negotiation process and is currently characterized as one of the renewable energy leaders across the Globe. In the context of the negotiation process, Germany can be considered as the constructive pusher whose presidency in 2007 was essential for adopting the 20 percent target for renewables at the EU-level. Germany was also one of the few Member States which has managed to implement the previous (not legally binding) targets at the national level by ensuring the necessary conditions for renewable energy development (Sokolov, 2011). Germany's role as a constructive pusher in the negotiations process on the Directive was determined by its course of domestic policy patterns, such as strengthening economic and political positions in environmental policy with regard to Climate Change prevention and the rapid development of renewable energy as well as a long-term favorable attitude of the ruling coalitions to green policies, with the continuity of Chancellor G.Schroeder's policy by his successor A.Merkel (*Ibid.*). As the largest emitter of the CO₂ emissions in the EU (and the sixth in the world), Germany is very strongly committed to the development of the green agenda at the EU level as well as to the global Climate Change Regime, actively implementing the Kyoto protocol (*Ibid.*). Therefore, the maintenance of the national feed-in tariff support scheme during the negotiation on the Directive was an important task for Germany, as the feed-in tariff stimulates renewable energy development, which in turn significantly contributes to Climate Change prevention.

Although the share of UK's renewable energy sources was one of the lowest in the EU during the time of negotiation on the Directive, precisely because it relied strongly on nuclear energy as well as on oil and gas reserves in the North Sea, it also supported the 20 percent overall EU target and showed reluctance regarding the common support scheme for all the Member States. However, unlike the Scandinavian countries which have carried out their national policies for developing more renewable energy, the UK focused on the importance of Climate Change prevention and the commitments to the global Climate Change Regime under the Kyoto protocol (*Ibid.*).

Even though France also largely relies on nuclear energy, it also supported the 20 percent overall EU renewable energy target. In 2002, French Ministry of Economy organized the first large-scale

national debate on the topic of energy, the results of which showed that approximately 70 percent of the population had very low knowledge of energy, while the other part showed strong interest in energy-related issues (ViePublique.fr, 2005). Therefore, the so-called White Paper was adopted as a result of the debate which highlighted the prospects of the legal regulation of energy sector in three areas, namely energy efficiency, diversification of energy supply and significant increase in renewables (Sokolov, 2011). According to these provisions, the 23 percent target for renewables in final energy consumption was introduced as well as the 50 percent increase in the use of renewable sources in the heating sector since 2020 (*Ibid.*). Like the UK, France has also assumed the high international commitments in combating Climate Change under the provisions of the Kyoto Protocol.

The Scandinavian Member States are universally recognized as the pioneers and leaders in the field of renewable energy, fostering a single energy market as well as efficient renewable energy policies, although these policies are based on different principles, support schemes and renewable energy sources. For example, Denmark is currently one of the leaders in the EU's renewable energy sector and the largest producer of renewable energy technologies who has begun exploiting its national renewable energy potential (especially wind energy) since the oil crisis of the seventies. It has been further developing the electricity transmission network by expanding it to the neighboring countries, increasing the export of renewable energy technologies threefold by the end of 20th century, and committing to achieve a complete energy independence from fossil fuels as well as 30 percent of renewables in the final energy consumption by 2020 (*Ibid.*). Estonia should also be attributed to Scandinavian countries in the respect of renewables, for, according to the evaluation of the progress in reaching the interim renewable energy targets, Estonia is doing very well as it follows the plan in a timely manner (Spitzley, et al, 2014).

Southern European Member States, specifically Spain and Portugal, are one of the leaders at the EU-level and around the Globe in terms of wind energy production. They also share a common goal to connect their electricity transmission infrastructure with other EU Member States, especially France, as it would help them to further increase the renewable electricity production by exploiting potential export opportunities (EurActiv, 2014). Therefore, the protection of the national feed-in tariffs, most favorable for a steady development of renewable energy, was an important issue for Spain and Portugal during the process of negotiation.

Assessing the composition of the "loser" coalition in the negotiation, it can be noted that it largely consists of the so-called new EU Member States and Italy. Italy can be characterized as the Member State with a unique energy situation within the region of Southern Europe. It still tends to strongly rely on energy from fossil fuels and most of its oil and gas imports is based on long-term contracts (Dinmore, 2013). Unlike Spain or Portugal, Italy has never been a leader in the renewable energy sector. On the other hand, it is often noted that the Italian energy policy is short-sighted, lacking a comprehensive approach as well as a clear direction. It is usually emphasized that during its EU presidency in 2014 Italy failed to effectively coordinate the common energy policy issues and to solve the climate crisis-related questions (Colantoni, 2015). It is also easy to see that the three "losers" of the negotiations, i.e., Bulgaria, Slovakia and Hungary, have strongly relied on nuclear energy since the Soviet era or even implement new nuclear energy projects. Another new Member State, Lithuania, showed a strong reluctance regarding the decommissioning of Ignalina nuclear power plant according to the requirements set by the EU authorities for joining the EU. Moreover, Lithuania is not ready to abandon its nuclear state ambitions as it still plans to develop the Visaginas nuclear power plant project, with the intention to maintain the continuity of energy policy based on the reliance on nuclear power, even while facing pressures from the non-governmental sector and the

public. The later post-Soviet nuclear energy discourse as well as the ambitions to maintain the historically inherited centralized energy systems reflect the phenomenon of the so-called path dependency, when certain domestic policies, decisions or practices are based on the political or economic legacy, relying on historically determined knowledge and reasoning.

— A case study of the negotiation process on the mechanism of Guarantees of Origin as the common EU-wide support scheme for renewables in the Directive 2009/28/EC together with an analysis of Member States' position papers were carried out in this article. The results of the case study showed that the negotiation process and the bargaining positions of the Member States are determined by their economic interests. The opposition to a common support scheme very similar to the quota or green certificate support scheme by the Member States which apply feed-in tariffs can justify this assumption. The intensity of the negotiation process depends on whether and how much the debated issue is relevant to the national energy and/or economic interests of the Member States, which essentially reflects the basic notions of liberal intergovernmentalism. The majority of the Member States demonstrated a strong opposition to the Commission's proposal for harmonizing their renewable energy policies through a specific pan-European support scheme, i.e., the mechanism of Guarantees of Origin. The Commission's initiative was rejected by posing an argument that the instruments for reaching renewable energy targets must be selected according to the principle of subsidiarity with respect to each Member State's national specifics, as only then the renewable energy support schemes could function in the most sufficient and effective manner.

— The Commission's initial proposal had to be significantly modified, which resulted in abandoning the idea of an EU-level support scheme for renewables. The findings also verify the theoretical assumptions based on liberal intergovernmentalism which postulate that the negotiation's outcomes depend primarily on asymmetric bargaining power and the preferences of the most powerful Member States, determined by their na-

tional specifics, support schemes and other domestic factors. On the other hand, the case study of the international negotiation process on the mechanism of Guarantees of Origin sets aside the (neo)functionalist theoretical assumptions that integration is largely determined by the supranational level initiatives, since the European Commission's initiatives were significantly adjusted and even rejected by the Member States during the process of intergovernmental negotiation. Therefore, supranational consensus and the Commission's efforts to harmonize the Member States' renewable energy support schemes actually remain unaccomplished. Consequently, the energy integration as a result of intergovernmental negotiations is likely to emerge only to a certain degree, until the initiatives of supranational institutions, i.e., the Commission, are not contradictory to the national interests of Member States.

— The case study also revealed that domestic policy issues, characterized by such national factors as the potential of particular renewable energy sources and other types of specific parameters, determine national preferences and bargaining positions of the Member States, which are uploaded on the policy agenda on an international level during the process of negotiation. The distinction between Member States' domestic policy patterns on renewables, reflected in their bargaining positions, demonstrates the energy integration disparities across the EU.

— The most powerful EU Member States, particularly Germany, France and the UK, tended to successfully coordinate their positions without undermining their national interests during the process of negotiation. This provides positive stimulus for the common EU renewable energy policy, considering that the Member States which successful-

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ly upload their national interests on the EU agenda in the policy-making phase of inter-governmental negotiation will be inclined to effectively download the provisions of the common EU policy, formed as a result of the negotiation process, to transpose the latter provisions into their national law and to implement them in an efficient manner.

— On the other hand, the Member States which failed to upload their national interests during the negotiation process may be tempted not

to download, transpose or implement common EU renewable energy policy. Although the negotiation process resulted in an international compromise and a reconciliation of national interests with the consent of the so-called lowest common denominator by applying certain concessions and trade-offs, the Member States in favor of a common renewable energy support scheme, such as Italy, Bulgaria, Hungary and others, may still be perceived as the “losers”.

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