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The International Negotiation Practices of the European External Action Service

Cross-application of Practice and Two-level Game Theories in International Negotiation Analysis

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Abstract

Putnam's seminal work on two-level game theory has been used widely in international negotiation research. The European Union is often argued to be a tough negotiating partner and its complex system of preferences poses a challenge to many of the fundamental assumptions of the two-level game model. The establishment of the European External Action Service (EEAS) in 2011 introduced another core stakeholder in EU negotiations which remains an under-researched area. This thesis proposes an alternative approach to the research of EU international negotiations based on the two-level game model: the integration of practice theory. The recent 'practice turn' in social sciences provides a unique theoretical and methodological approach to the investigation of international phenomena. It is based on the premise that world affairs are enacted through the performance of daily practices by human actors. This thesis thus combines two-level game theory and practice theory in order to describe the practices of the EEAS during the negotiation of the EU-Cuba Political Dialogue and Cooperation Agreement. In terms of methodology, the objective is to gain empirical insight in the performance of practices which necessitated data acquisition from semi-structured qualitative interviews and text based primary sources. The data is subsequently interpreted through the combined perspective of the two-level game model and the core concepts of practice theory. The findings demonstrate that the practices of the EEAS were crucial in the negotiation of the PDCA. The practice-based analysis also suggests that practices render preferences dynamic which may relax the assumption of the EU being a tough negotiating partner. Finally, it is concluded that despite the methodological limitations, practice theory promises valuable perspectives for the implementation of the two-level game model.

Keywords: EU international negotiations, European External Action Service, practice theory, two-level game theory, EU-Cuba negotiations, Political Dialogue and Cooperation Agreement

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1 Research Problem and Objective

Since the creation of the ‘second pillar’ in 1991 by the Maastricht Treaty, more commonly known as the Common Foreign and Security Policy (CFSP), the European Union has sought to increase its influence and visibility in the international arena. The development of the institutional framework has culminated most recently in the establishment of the post of the High Representative of the Union for Foreign Affairs and Security Policy (HR/VP) and in the creation of the European External Action Service (EEAS) in 2009 and 2011 respectively. Although the degree of sovereign power delegation to the EU institutions – also called as supranationalism – in the field of foreign affairs remains limited; nonetheless, the EU possesses considerable capabilities to pursue semi-independent foreign policy goals on behalf of its Member States.

The EEAS plays a crucial role in the fulfillment of these goals. It coordinates the activities of the over 140 EU delegations around the world (European Commission 2016c) and oversees a number of core international policy areas including the promotion of human rights and democracy through comprehensive cooperation agreements. The enactment of these foreign policy initiatives requires the cooperation between the EEAS and the various international stakeholders which predisposes them to be positioned in bilateral or multilateral negotiations, often having the mandate to lead the negotiations on behalf of the EU. The practices of the EEAS in international negotiations therefore directly shape the EU’s stance in international affairs and defines its position vis-à-vis the rest of the major global actors as well as its own Member States. The role of EEAS in international negotiations is a highly under-researched area (Kostanyan 2014 p. 374).

International negotiations research shows shortcomings – similarly to IR theories – in adequately explaining the EU’s foreign policy. Negotiations theory has traditionally focused nation-states as primary actors in international negotiations while it has sought to explain negotiation outcomes based on the realism and neo-realism driven concepts such as bargaining power, asymmetries, or material and military capabilities (see for example Habeeb 1988, Schelling 1980, Putnam 1988, Hopmann 1996). Although current international negotiations research avenues seem to be restricted in their ability to fully account for EU international negotiations activities, two-level game theory has proved valuable in this field. Nevertheless, the utilization of alternative complementary theoretical and methodological approaches are warranted to explain the EU’s international negotiation practices.

A recent theoretical development has introduced a promising alternative approach to investigate international affairs which may potentially live up to the above challenges. The so-called ‘practice turn’ established and coined by Schatzki, Knorr Cetina and Von Savigny (2000) has been utilized with growing popularity in the fields of international relations and diplomacy studies. One of the primary objectives of integrating practice theory in IR and diplomacy research is to take advantage of its

unorthodox theoretical, ontological, and epistemological tools to answer key questions and dilemmas. It not only provides a fresh ontology, but it also promises a highly empirical approach that penetrates the traditional units of analysis by inductively looking at how daily practices and the intersubjectivity behind them construct larger phenomena rather than using predetermined variables. Practice theory thus promotes a bottom-up approach which is furthermore complemented by the various methodologies it specifically advocates. Studies based on this approach have yielded interesting results and reinforced practice turn's validity in the field of IR, at least for now.¹ Practice theory's popularity in IR resulted in its preliminary application in international negotiation research as well (Voeten 2011, Adler and Pouliot 2011a, Adler-Nissen and Pouliot 2014). The evidence suggests that the field of international negotiations, more specifically two-level game theory could benefit from a more in-depth cross-fertilization from practice theory.

This thesis will thus investigate the negotiation practices of the EEAS in international bilateral negotiations. The negotiation of the Political Dialogue and Cooperation Agreement (PDCA) between Cuba and the European Union will provide the empirical case study. Accordingly, the research questions can be defined as follows:

Q1: What is the added value of practice theory in the study of international negotiations?

Q2: How can we describe the practices of EEAS in the negotiation of the PDCA?

Q3: What conclusions can be drawn on EU international negotiations?

First, answering these questions can provide better understanding on how the EEAS conducts international negotiations using practice theory. As the newly established diplomatic service of a supranational political entity, the EEAS is embedded in a highly unique political and institutional milieu. The EEAS thus lends itself particularly well for a practice approach; by focusing on the practices of EEAS diplomats, we may understand better how the EU negotiates with third parties. Therefore, the aim is to attain a deeper understanding on negotiation practices of the EEAS.

Second, the research strategy and the consequent analyses may also shed light on the institutional functioning of the EEAS as well as its institutional interrelations. The practice of international negotiations is not simply what happens around the bargaining table with the representatives of one nation at each side of it. It includes the complex processes of conveying information, negotiating preferences, communicating willingness (or unwillingness) with stakeholders at home as well as other relevant parties at various levels. A practice approach may promote our understanding how interinstitutional practices can influence negotiations.

Third and perhaps most importantly, the thesis aims to undertake a more abstract mission as well: to probe the applicability of practice theory in negotiations research and explore cross-fertilization between Putnam's two-level game model and practice

¹ See the section 2.2 for a more elaborate overview.

theory. While international negotiations may be considered as a subset field of IR, it nevertheless boasts with a long-standing and complex theoretical background and therefore it is well suited to be the subject of development and testing. This complexity can benefit from a bottom-up construction while international negotiations is a field which is especially warranted to be analyzed via the empirical points of view of the negotiators themselves. From this perspective as well, practice theory offers a promising analytical tool-set to conduct research in EU international negotiations. This approach – ideally – will contribute to our understanding of the EEAS, the EU as well as the field of international negotiations.

The objectives serve both a descriptive (e.g. the constellation and interrelation of various negotiation practices) as well as an explanatory (e.g. the effects of practice-based approach on negotiation research) purpose. The analysis will be conducted based on available primary sources, government documents, and data collected from interviews, as well as relevant secondary sources primarily in the form of research articles and books.

2 Theoretical Framework

The main theoretical objective is to investigate the synergies between practice theory and negotiation studies. Considering the relatively young ‘practice turn’ in social sciences, I believe that this objective could contribute to the overall theoretical development of both practice and international negotiation theories by testing their scope and probing the plausibility of this approach (George and Bennett 2005 p. 51). The theoretical framework is thus designed to make a case for the successful utilization of practice theory in the field of international negotiations.

2.1 Practice Theory – Definition and Core Concepts

2.1.1 Defining Practice

Practice theory, although rooted in many theoretical concepts like Bourdieusian social theories, Foucault’s cultural theories and discourse analysis, constructivism, and post-structuralism (Bueger and Gadinger 2015), it has grown to be a self-standing theory with the so-called ‘practice turn’ introduced by Schatzki, Knorr-Cetina, and Savigny (2000). It does not provide a singular approach; instead, it offers a variety of theoretical approaches rooted in, *inter alia*, ethnomethodology, praxeology, individualism, and rational choice theory (Adler and Pouliot 2011a p. 3, Pouliot and Cornut 2015 p. 300, Schatzki et al. 2000); in other words, a “collection of sensitizing concepts” (Bueger and Gadinger 2014 p. 78).

At the outset, a practice is often defined simply as arrays of human activity. Most practice theorists depart from Schatzki’s more composite definition which states that the “central core [...] of practice theorists conceives of practices as embodied, materially mediated arrays of human activity centrally organized around shared practical understanding.” (Schatzki 2000a p. 11). Adler and Pouliot’s (2011a p. 4) approach integrates the social aspects of practice to define it as patterns of action that count as socially meaningful issues. This is in line with how Bueger and Gadinger (2015) clarify the basic consideration of practice as being patterns of activity that renew and reproduce social order. Reckwitz, on the other hand emphasizes the importance of interconnectedness between “forms of bodily activities, forms of mental activities, ‘things’ and their use, a background knowledge in the form of understanding, know-how, states of emotion and motivational knowledge.” (2002b). Practice theorists also often highlight the difference between *a practice* and *practices*, with the former being an overarching concept comprising of various actions. This distinction, however, is not retained in this thesis, therefore practice and practices will be used interchangeably. Nevertheless, I argue that we need more than a firm grasp on shared skills alone to adequately explain practices.

A practice shall be defined as an interconnected constellation of patterned activities based on shared practical understandings and capable of producing socially meaningful collective accomplishments over time. Departing from this definition, the core

underlying concepts need to be explored in order to have analytical usefulness. This is crucial since practices are the smallest units of analysis in a practice-based research. Therefore, five core conceptual areas will serve as main pillars during the identification and analysis of negotiation practices: shared practical intelligibility, process, discourse, social relevance, and contexts.

2.1.2 Practical Intelligibility and Intersubjectivity

Schatzki argues (Schatzki 2000b p. 55) that human activities are driven by practical intelligibility, i.e. what specifically people do and what makes sense for them to do. While practical intelligibility is not the same as rationality, intelligibility still means a course of action that makes sense for a person to do, something that an actor performs knowingly and willingly.

Practice theory puts emphasis on how action is understood and constituted, how things and objects are perceived. As Schatzki puts it, “the institution of meaning is the establishment of the fact *that* it [something] bears meaning.” (Schatzki 2000b p. 56). Since practices are enabled and enacted by people, these arrays of activity also confer subjective meanings on the aims and motivations of people; i.e. what disposes them to enact the practice itself (Barnes 2000 pp. 29-30). The meaning of a practice is subjectively perceived by others; however, it is the collective shared understanding of human actors which establishes an intersubjectivity that underlies all practices. This collective attribute means that practitioners mentally frame this practical intelligibility in a quasi-identical fashion.

The intersubjectivity (i.e. the institution of meaning, shared understandings, collective know-hows etc.) underlying practices is an important factor in understanding the intricate relationship between practices and people. Intersubjectivism allows human agents, for example, to understand social order through the shared use of language and everyday communication (Bueger and Gadinger 2015, Reckwitz 2002b). Practices thus express a collective of meanings via practical intelligibility and it is the shared subjective understandings and skills that people rely on when carrying out actions. In addition, Barnes also argue that the joint enactment of these skills requires the constant coordination and propositional knowledge of each other and the relevant contextual settings (Barnes 2000). The underlying intersubjectivity informs practitioners on the purpose of practices and how they matter.

Shared practical intelligibility can be conceived as being dependent upon norms or rules of correct or incorrect practice (Rouse 2000 p. 199). I argue that rules, norms, and formal customs are intrinsic in providing intelligible guidance to practitioners. As human beings learn, share and develop the skills required to perform practices, they simultaneously create implicit rules which have the capacity to provide adequate guidance for the continuous and proper exercise of those skills and practices. On the other hand, practices may also involve explicit rules which frame relevant practices in a way that enables people to follow those rules (Turner 2000 p. 129).

In summary, practices are arrays of activity based on *shared practical intelligibility*. This signifies what actors do and what makes sense for them to do. Practices are enacted

based on collective understandings, skills, knowledge, and rules shared intersubjectively among other practitioners.

2.1.3 Practices as Patterned Processes

Routines and habitual behavior are important aspects of practices. As mentioned above, ideas, rules, norms, and culture are concepts which are articulated subjectively by a person's mind and dictating one's actions. Swidler argues that practice theory solves the difficulty of proving the causal link between individual thought and action by placing practices at the center. Instead of taking ideas as influencing factors of actions, human activity is rather considered as patterned practices. Practices thus obtain an "unconscious, automatic, un-thought character" (Swidler 2000 p. 83). This shift thus makes ideas, culture and values observable in the form of practices.

Practices are thus *patterned and processive*. Practice is not a single ad-hoc action, it is a process based on interactions and shared understandings. The patterned quality of practices involves dynamic development over time through the execution of shared practices themselves. It is patterned over time and space and possesses a degree of regularity (Adler and Pouliot 2011b p. 7). Since practices are enacted in a process, practices evolve through dynamic interrelation. As Barnes notes, "The successful execution of routines at the collective level will involve the overriding and modification of routines at the individual level." (Barnes 2000 p. 31).

2.1.4 Discursive Practices

Discourse analysis advocated foremost by Foucault has provided a strong conceptual background for the development of practice theory; hence the crossovers between the two theories (Reckwitz 2002a). However, many considerations distinguish it from practice theory. The focus on discourse and practices offered benefits in the study of meaning by eliminating the subjective understandings and the problem of linking thought and action. Discourse – the world of language, text, symbols etc. – complements practices well as it also departs from subjective ideas to a more objective analysis. This focus on 'discursive practices' eliminates the nigh-impossible task of identifying the causal link between ideas and action (Swidler 2000 pp. 84-86).

Although Michel Foucault considered practice as part of discourse, for practice theorists practices are the main departure point and they reverse the hierarchy between the two notions (Neumann 2002 p. 630). In practice theory discourse succumbs to practices and the latter is thus being the favored concept over discourse. Discourse can be understood as static, "structured totalities of meaningful entities" while practices are more dynamic, changing and moving (Schatzki 2000b p. 53). Furthermore, in practice theory the status of discourse and language is less prominent, discursive practices are only one type among many others despite its usefulness in understanding the causality between human action and subjectivity (Reckwitz 2002b p. 254).

In summary, practices are *discursive*. The use of texts, signs, language, symbols etc. – i.e. discursive elements – communicates intent and meaning to others. Since practice theory considers discourse in itself as practice, therefore meaning is carried and

transferred in and through practices. This underscores practical intelligibility being shared among practitioners, since “[i]n order for practices to make sense, then, practitioners must establish (contest, negotiate, and communicate) their significance.” (Adler and Pouliot 2011a p. 15). The interwoven character between practice and discourse establishes socially meaningful patterns.

2.1.5 Social Relevance and Recognition

Practice theory has highlighted in particular the social relevance of shared practices (Schatzki 2000a p. 13, 2000b pp. 50-51). Arrays of collective human activity based on shared skills and practical understandings form practices, and since that is where the social takes place, it is thus argued that social systems are “ongoing, self-reproducing arrays of shared practices” (Barnes 2000 p. 25). Since shared practices are realized by “interdependent social agents, linked by a profound mutual susceptibility” (Barnes 2000 p. 33), they produce collective accomplishments (Barnes 2000 p. 31, Schatzki 2000b pp. 60-61). The intersubjectivity of collective accomplishment affects the social manifold and thus becomes recognized and relevant. Practices are socially recognized forms of activity (Barnes 2000 p. 27), therefore, accomplishments have thus the power to induce change over time.

Practices are *socially recognized and reproduced*. Practice theory states that the social is located within the field of practices. Individual social beings perform a multitude of practices which are capable of forming collective accomplishments based on shared propositional knowledge and competences. Since these accomplishments as well as (discursive) practices communicate meaning, they become socially recognized and relevant. Through this recognition, practices produce social order but since “it is also from practices that social change originates” (Adler and Pouliot 2011a p. 18), practices are therefore constantly being reproduced through the complex interrelation between them.

2.1.6 Context as a Constellation of Practices

Practices can be also thought of as overlapping structures when considering practices in terms of social order. Swidler argues that practices are generalizable processes that function in multiplicity and simultaneously, overlapping, and cross-influencing. This way these practice-structures facilitate the continuity and development of other practices. However, because of the overlapping and potentially complex nature of practices, the question arises regarding the interconnectedness and even potential hierarchy between them. Swidler explains this phenomenon with an example of an architectural design, in which the architect must consider various other practices that informs the final design, such as whether people sleep alone or together, the financial transactions taking place after completion of the building, or the ownership status of the house (Swidler 2000 p. 89). In consideration of this argument, it would follow that a practice comprises of a whole set of other larger and smaller practices. This observation brings forward the question of causality and influence between practices, i.e. what makes certain practices more dominant than others.

Practices are therefore *contextual*. As Schatzki notes, social order exists in the nexus of practices based on the complex interrelation of a myriad of arrays of activity (Schatzki 2000b p. 63). Within this context practices are correlated and interwoven horizontally and vertically as well. A practice may be based upon a constellation of other practices forming a certain hierarchy.

2.2 Practice Theory and Two-level Games

One of the most influential effects of practice theory since the ‘practice turn’ has been its widespread utilization in international relations (IR) theory. Ripsman, for example, investigates the practice of bipartisanship in Congress to bridge the gap between agency and structure (Ripsman 2011) while diplomacy studies have extensively leaned on the use of practice theory to explain EU politics in Brussels (Cornut 2015, Kuus 2015, Adler-Nissen and Pouliot 2014, Neumann 2002, Wiseman 2015). Practice-based research has been applied in the field of EU foreign policy as well. Lequesne demonstrates how practices structure professional culture within the EEAS (Lequesne 2015) while others have explored practices in European security community building, counter-piracy missions, and the complex interaction between the EU and NATO (Bueger 2016, Græger 2016, 2017, Bremberg 2015).

Preliminary steps have been taken to integrate practice theory in negotiation research as well. A study by Voeten illustrates the utility of a practice approach in studying strategic bargaining and political manipulation in the United Nations General Assembly (Voeten 2011). Another article by Adler and Pouliot cast Schelling’s seminal work on bargaining in a practice light by explaining bargaining from the perspective of practice concepts, i.e. collective knowledge, patterned performance and social relevance (Adler and Pouliot 2011a). Finally, a study by Adler-Nissen and Pouliot utilized practice theory to explain how power is associated with diplomatic struggles for competence in multilateral settings (Adler-Nissen and Pouliot 2014).

Decades of international negotiation research and case-study analysis has resulted in a rich, complex, and invaluable body of literature. Many studies focused on simple bilateral models of bargaining based on game theoretic models and their relevance on international strategic interaction (Schelling 1980, Hopmann 1996). Researchers have often investigated the domestic political arena and its effects on international negotiations based on a bureaucratic politics or a two-level game model (Allison and Zelikow 1999, Putnam 1988). Other studies have focused specifically on negotiator behaviors reflected in bargaining strategies ranging from cooperative styles to more conflictual non-cooperative strategies (Walton and McKersie 1965, Raiffa 1982, Fisher et al. 1991, Elgström and Jönsson 2000, Müller 2004) while the psychological aspects of negotiator behavior have also acquired academic attention (Aquilan and Galluccio 2008). These rough contours are only the tip of the iceberg of a complex and disintegrated academic field. The various approaches to negotiation research remain unconnected and isolated (Odell 2010). Practice theory could be potentially valuable for the field of international negotiations to bridge gaps and connect approaches.

2.2.1 Two-level Game Theory

Among the multitude of negotiation theories, not many are suitable to explain single-handedly the proposed research questions. The two-level game theory, however, possesses the necessary theoretical qualities. It argues that the international and domestic political arenas are closely intertwined and that international negotiations cannot be understood without taking into account the domestic interests, preferences, and coalitions as well as the pressures exerted by them. While many “pure systemic theories” have discussed the effects of domestic politics on international relations, realist, liberal interdependence theories, and international political economy variants consider the level of analysis to be focused on the international scene (Moravcsik 1993 pp. 7-13). Two-level game theory, on the other hand, argues that statesmen pursue interests at the domestic and international arenas at the same time, cross-influencing and manipulating interests. Two-level game approach is a theory of international bargaining (Moravcsik 1993 PP. 16-17). Parties identify and approach each other’s interests within the bargaining space at the international level in order to reach an agreement acceptable for each party’s domestic constituents (Putnam 1988). Putnam laid down the conceptual elements of this model which were applied and tested in various case-studies effectively (Putnam 1993, Carment and James 1996, Knopf 1993, Hurst 2016) and the model was also developed and used extensively to explain EU (international) negotiation processes (Patterson 1997, Collinson 1999, Falkner 2002, Hubel 2004, Larsén 2007, Ki-Sik and Hyun-Jung 2014, Reslow and Vink 2015, Dimitrova and Steunenberg 2017). In light of the field’s disintegration, Odell argues that a multi-level game model has the potential to integrate some of the distinct core elements of negotiation theory (Odell 2010 pp. 626-627).

Putnam’s two-level game framework distinguishes between Level I, where the international negotiations take place, and Level II, the domestic arenas where each party seeks to ratify the agreement. The analysis of the international bargaining case in a two-level game theory model is often carried out in two phases: the phase of international bargaining and the phase of ratification. While Putnam realizes these processes may happen in simultaneous conjunction, this dual distinction was nevertheless retained for expository purposes (Moravcsik 1993 p. 23, Putnam 1988 p. 436). At Level I, negotiators utilize bargaining strategies aimed at maximizing the results in order to satisfy domestic groups and pressures while at Level II negotiators attempt to manipulate constraints and interests in order to find acceptable agreements at the international level. Theoretically, the two levels are linked by the concept of ratification at Level II, a process by which Putnam means any formal or informal process that is required for the agreement to be implemented and accepted. Decision makers are thus continuously influenced and pressured by interest groups, lobbies to adopt favorable policies. Ratification constrains Level I negotiations since both parties have to get the agreement accepted by their respective domestic groups and stakeholders before it can be finalized. This also means that any modification to the

preliminary agreement will have to be renegotiated accordingly at Level I before ratified at Level II (Putnam 1988 pp. 436-437).

The range of agreements negotiated at Level I still ratifiable at Level II is referred to as a win-set. When parties negotiate at the international level, both parties converge to each other's interests without giving up matters of priority. By definition, the win-sets of both parties need to overlap for an agreement to exist. Two-level game theory advances two basic arguments concerning the size of win-sets: 1) the larger the parties' win-sets the more likely it is that Level I negotiations will have a successful outcome proportionately reducing the chances for defection; 2) the size of the relative win-sets will determine the distribution of joint-gains from the agreement (Moravcsik 1993 p. 28).

Based on the first argument, successful Level I negotiations correlate strongly with the likeliness of voluntary or involuntary defection. While voluntary defection means the intentional renegeing on the agreement by one party, involuntary defection points to the inability of one party to get domestic constituencies to agree on the deal brokered at Level I. Credibility of the negotiators is therefore crucial, they must demonstrate their ability to successfully negotiate at Level II in order for negotiations to be successful at Level I. Failed ratification may still happen which is closely related to the uncertainty about the contours of possible win-sets at both sides (Putnam 1988 p. 339).

Conversely, based on the second argument above, win-set size also influences the distribution of joint gains. If one party's perceived win-set size is relatively large, that party may be expected to converge more while the party with a smaller win-set size is enabled to concede less. This translates into bargaining power potentially leading to an asymmetrical situation where one party's constrained win-set may provide a bargaining advantage at Level I which might affect the distribution of gains at the end (Putnam 1988 pp. 439-440). This is confirmed for example by the outcome of the post-Lomé negotiation process between the EU and the ACP Group where the EU's rigid mandates allowed the EU to achieve its goals through hard bargaining (Elgström 2005) or by the tight interest group control in EU-South Africa negotiations (Larsén 2007). On the other hand, smaller win-sets may also reduce reaching agreement at Level I.

According to Putnam, win-sets are determined by three sets of factors: 1) Level II preferences and coalitions, 2) Level II institutions and 3) Level I negotiation strategies. First, domestic preferences are often viewed at the outset in relation to the status-quo of no-agreement: the smaller cost of no-agreement the smaller is the win-set, while the larger the benefits of an agreement the larger will be the win-set as well (Moravcsik 1993 p. 23). Consequently, negotiators will try to manipulate Level II preferences and coalitions in order facilitate agreement at the international level which strongly correlates with the size of the win-set. The cost of no-agreement may largely vary between Level II stakeholders and therefore various groups may lobby for or fight against the agreement. As such, negotiators may try to influence the cost of no-agreement for the stakeholders to facilitate an agreement by e.g. manipulating domestic preferences and interest groups (Moravcsik 1993 pp. 24-25). Interest divergence is especially pronounced in multi-issue negotiations where different groups have vested

interests heterogeneously in various parts of the agreement and possess various degrees of influence. Strong domestic divisions can decrease ratification success since the range of agreements at Level I will most likely be unacceptable for one or more parties. However, divisions can also provide opportunities for the chief negotiator to influence domestic interests through issue linkages negotiated at Level I (Putnam 1988 pp. 443-444).

Second, Level II institutional contexts are crucial in terms of ratification and internal negotiations. Democratic ratification processes, such as the requirement for unanimous vote in the Council of the EU on external affairs, tend to make the adoption of Level I agreements more difficult. Consequently, the stronger one party's domestic autonomy, i.e. its independence from formal institutional processes, the larger its win-set size and the weaker its bargaining position since it cannot refer to its domestic pressures in order to successfully argue against a concession. Conversely, strong institutions can also limit negotiators opportunities to manipulate domestic constraints and therefore reducing her autonomy (Moravcsik 1993 p. 25). One the other hand, as seen from the above examples, rigid institutional context at Level II reduces win-set size and thus provides bargaining advantage during international negotiations.

Third, Level I negotiators strategies will also influence the overlap of win-sets and the possibility of agreement. Since the relative win-set sizes influence the distribution of joint gains, each negotiator thus has an interest in increasing the other side's win-set size in order to maximize its own gains from the agreement. However, with regard to his own win-set, the negotiator faces a usual bargaining dilemma: gain maximization without breaking down negotiations (Putnam 1988 pp. 450). This correlates strongly with the dilemma of traditional forms of bargaining in which one party's gain maximizing behavior shrinks bargaining space to a degree where agreement is no longer available (Hopmann 1996 pp. 59-60) – i.e. win-sets don't overlap anymore. However, these strategies are unlikely to suffice in negotiations characterized by multiple interdependent issues and strong misaligned preferences and would suggest the need for problem-solving type tactics (Hopmann 1996 pp. 94-95). This would necessitate the careful (re)consideration and investigation of win-set determination and bargaining strategies at Level I suggested by two-level game theory. Level I bargaining strategies will also depend on the negotiator's interests during negotiations vis-à-vis the preferences of its own domestic interest groups. In other words, if the negotiator's preferences align strongly with those of its domestic pressure groups, then the manipulation of its own win-set size will be unlikely.

The application of the two-level game model in EU international negotiations analysis necessitated modifications to account for the EU's complex polity. Many researchers argued that since the EU in itself constitutes an arena for international negotiations, the model was needed to be re-conceptualized as an aggregate of three levels: Level I as the international bargaining, Level II as the EU-level negotiations between institutions and Member States, and Level III for Member State domestic politics or intra-Commission negotiations (Collinson 1999, Hubel 2004, Larsén 2007).

However, a three-level distinction will not be utilized in this thesis since the cross-application of practice and two-level game theories is already a complex endeavor.

2.2.2 Bringing in Practices

As argued above, practice theory offers a unique set of ontological and empirical commitments which may bear important complementary value to negotiations theory. How do the core concepts of practice theory reformulate international negotiations construed as Putnam's two-level game? To reiterate the core concepts of practice theory outlined above, a practice is based on shared practical intelligibility, it is discursive, patterned, contextual, and socially recognized. These concepts will thus serve as the pillars for the alternative approach to international negotiations.

First, the practice of international negotiations is based on *shared practical intelligibility*. Defining it simply as what people specifically do and what makes sense to do, practical intelligibility informs practitioners on how to proceed in certain bargaining situations. Two-level game theory argues that party A will attempt to increase the size of party B's win-set in order to maximize its own gains during international negotiations. This requires knowledge on B's domestic affairs, the skills to interpret it and utilize it increase B's win-set and being shared among the key stakeholders of both parties. For example, offering a side deal to one of B's domestic interest groups in order to reduce the exerted pressures would increase B's overall win-set size. However, in order for party A to grasp why this is an adequate strategy, it needs to possess the necessary background knowledge and to understand the preferences and needs of B's domestic interest group. This is not a simple calculation of gains and losses, it is the manifestation of embedded know-how, practical knowledge, skills and implicit rules which allow party A to act accordingly, e.g. to carry out a side-deal. Since party A's side-deal changes B's domestic dynamics, it will no longer make sense for B's interest group exert pressure and both parties can converge towards an acceptable agreement within the overlap of their respective win-sets. All these actions and practices are infused with practical intelligibility and common background understandings.

Second, the practice of international negotiations is *discursive*. The use of symbols, texts, language permeates every aspect of this practice. The communication of interests, internal bargaining, manipulation are all fundamentally discursive which is the primary way to transfer meaning. The various discursive practices of the parties will inform one another regarding interests and appropriate next steps. As discursive action in itself is a practice, actors understanding and expectations are thus embedded in practices themselves and as such they become fundamentally communicative, to which Schelling referred to as 'tacit bargaining' (Schelling 1980).

Third, the practice of international negotiations is *socially recognized and reproduced*. Social recognition is well represented by the domestic pressures put in place by interest groups. The various stakeholders share the knowledge with the negotiating parties and thus understand the outcomes of the potential agreement. They recognize its relevance and they put pressure on the negotiating parties if they are

unsatisfied with potential outcomes. By influencing agendas and the course of the negotiations, the practice is altered and produces another outcome bearing modified recognition. Thus, it becomes reproduced. It is a process, dynamic in nature through the interaction and interrelation of various practices that constantly produce socially relevant meanings and outcomes. International bargaining also create social reality by the inarticulate formulation of norms, rules of the game and traditions (Adler and Pouliot 2011a p. 12). This is also an integral part of parties to understand institutional preferences and inter-institutional tensions which, for example, was crucially important during the EU-Moldova negotiation process (Kostanyan 2014). The process of international negotiations thus bears social relevance of varying degree to domestic and international groups who will shape their own actions accordingly.

Fourth, the practice of international negotiations is *patterned and processive*. This pattern manifests itself both temporally and spatially. Actors negotiate at the international level trying to utilize bargaining strategies to maximize gains and manipulate domestic pressures to facilitate ratification. These practices happen consecutively and over time. Parties might reach an agreement after several rounds of negotiations at the international level while communication with domestic constituencies and internal bargaining underscores the process in its length. The concessions and convergence at the international level can only happen in relation to the practices of the other party. Concessions given at Level I communicates intent and incentivizes some form of reaction. Even the prior practices of the parties will have an effect on the negotiations at both Levels, thus practices have a $t - 1/+ 1$ value being either informed by previous practices or extending into the future having repercussions later in time (Adler and Pouliot 2011a p. 12).

Fifth, the practice of international negotiations is *contextual*. International negotiations happen based on the dynamic interrelation of a constellation of various other practices. Two-level game includes, *inter alia*, the manipulation of domestic groups, strategic bargaining at the international level, the issuance of threats and promises, the offering of side deals and the constant internal negotiations with core stakeholders. The various activities form a hierarchy in which the successful internal negotiation of an offer facilitates the performance of reaching an agreement at Level I and ratify it at Level II having already been pre-negotiated with domestic actors. The context of practices not only means the constellation and hierarchy of various practices, but also the various artifacts, institutions and rules through which they coexist. Bargaining practices are capable of creating and reproducing social know-hows and rules of the game, i.e. tacit understandings underlying practical intelligibility, which informs practitioners how to proceed. These rules, however, also govern institutionalized activities and negotiation practices in an explicit manner. The process of ratification where voting rules are of crucial importance would be perhaps the most obvious example. Therefore, the constellation of practices throughout the levels of negotiations happen in a context of rules, norms, institutions, and other artifacts which serve as a conductor for continuous performance.

International negotiations submit itself well to the conceptual considerations of practice theory. However, the question is not whether international negotiations or two-level games can be fitted to the concepts of practice, but rather how these concepts promote a different understanding of negotiations theory.

2.2.3 A Practice-theoretical Reconsideration of Two-Level Games

The scientific literature on international practices has clearly shown that the utility of practice theory in IR does not depend on the reconceptualization of the definition of practice, but rather on the successful operationalization of the concepts in relation to the theories of IR. The case is the same with negotiations theory. Using the core commitments of practice theory in negotiations, some of the main tenets of the two-level game theory may be reconsidered.

At the very outset, two-level game is essentially considered as an aggregate of two sequential stages for expository purposes: the bargaining phase and the ratification phase. Practice theory would suggest considering both the bargaining and ratification phases as practices. Recall that practices are patterned and processive over time and space. The multiplicity of socially recognized practices is dynamically interrelated and it informs practitioners. As such, practices are socially reproduced which fosters and stabilizes change. The ratification process directly informs the win-set from the outset throughout the conclusion of the negotiations by outlining the set of arrangements acceptable for a negotiating party's domestic constituencies. Parties negotiate in light of what will be acceptable at the end. The various human practices constrict and expand the win-sets over time and thus rendering the notion of ratification a dynamic concept that is plied over time via the interplay of a constellation of different practices. In this way, bargaining at Level I will be regularly informed by the ratification process and the adjoining context of practices, such as manipulation of preferences, intra- and inter-institutional coordination or interest group pressures. Therefore, looking at practices we are better suited to reconstruct the dynamic interplay between ratification and international bargaining.

Everyday human activities and practices based on intersubjective knowledge across levels build up the entire practice of international negotiations. Domestic preferences and pressure groups have agendas which are based on practical intelligibility. They communicate intent through various channels and discursive practices. Only by looking at the actual practices of stakeholders can we reconstruct what lies behind domestic interests, how they are socially constituted in and through practices, and which practices instantiate changes in accordance with the preferences. Moreover, these actions and practices are informed by implicit rules (i.e. rules of the game, informal channels, acceptable manners of political pressuring etc.) as well as explicit rules (formal negotiating directives, parliamentary hearings, interim voting etc.). Statesmen and negotiators – amid the context of practices – will gauge the situation and make adequate calculations based on intersubjective propositional knowledge of what would be ratifiable at the end by their constituencies and at the same time acceptable for the other side as well.

Two-level game theory assumes preferences of domestic groups and the costs of status-quo remain unchanged throughout negotiations (Moravcsik 1993 p. 24). I would argue that domestic interest groups' preferences are communicated through practices. Since practices are dynamic and subject to change due to its contextuality and patterned quality, consequently preferences also change over time. A practice logic highlights the inherent change-inducing effects of various practices. In the case of the EU, for example, at the outset of an international negotiation process the Council of the EU issues negotiating directives to the chief negotiator. This practice is a manifestation and communication of various embedded interests stemming from Member States, EU institutions, civil groups and other relevant parties; preferences which possess cultural, historical, political memory and are informed by the past practices of the involved stakeholders. Pre-negotiations thus signify intersubjectivity, collective action, and relevant *ex post* and *ex ante* patterns. However, political influence of domestic interests comes to life in and through practices, they are socially recognized, reproduced, and change over time. Therefore, practices like interest group manipulation can influence intersubjective preferences and win-sets, even despite rigid negotiating directives. A practical consideration thus contradicts one time rational calculations of the costs of no-agreement and makes the changes of preferences and interests observable by recreating larger phenomena through practices.

'Moving up' one step from the domestic arena to the interrelation between the two levels, the statesman is argued to be the central strategic actor between the two levels. Two-level games' assumptions about the chief negotiator is rooted in principal-agent theory (Putnam 1988 pp. 456-457), suggesting the agent's and principal's interests do not necessarily overlap and consequently negotiators pursue their own set of interests. Difficulties arise from superimposing the principal-agent dichotomy on negotiations, namely the complex interest system stemming from having multiple principals and agents at the same time (Kurian 2011 p. 1353) which is not uncommon in international negotiations. Instead of attempting to disentangle a potential Gordian Knot, a practice approach would instead emphasize the intersubjective nature of practices at and across both levels. Practical intelligibility reflects interests and preferences in and through the enactment of a practice. Practitioners carry out domestic interest manipulation in socially recognizable ways since collective propositional knowledge is shared by both agent and principal, thus making practice transcend both categories. The in-depth analysis of domestic and international bargaining practices embedded in a context of (implicit and explicit) rules, institutional settings, and a constellation of interrelated practices reveals the diffusion of intersubjective interests. Finally, since the simultaneous double-edged calculations of domestic and international interests constitute the background knowledge of practices at both levels, a practice approach also sheds light on the problematic notion of how the two arenas are linked (Collinson 1999 p. 219).

This leads to the rational-choice considerations. Analysis of Level I negotiations favors assumptions that parties will always seek gain maximization in a distributive style negotiation in which the party with the more constrained domestic win-set gains

more than the party with a larger win-set. However, not only does this approach exclude non-zero sum bargaining scenarios, but this line of thought also disregards the preponderance of shared know-how, collective knowledge, and their effects on social action (Pouliot 2010 p. 12). Not everything is and can be calculated, many decisions are taken based on implicit rules which practitioners tacitly follow based on experience and adequate background knowledge. Practical intelligibility in two-level game negotiations is not only shared vertically at one side of the table, but also horizontally across the table, i.e. with the other negotiating party. This is especially relevant in multi-issue negotiations, where practical intelligibility dictates more confrontational style behavior in certain issues while it promotes value-creating tactics in others. Ontologically practice theory would rather look at the performed practices and ask why those actions made sense in those circumstances.

While multi-level game approaches are useful in explaining international negotiations and outcomes, I believe that practice theory renders the analytical designation of ‘levels’ somewhat redundant. Practice theory promotes aggregation, as Bueger and Gadinger note, its intention “is to keep ontology flat and re-conceptualize the ideas behind such constructions. Indeed, there is no such thing as micro, macro, local or global; they are not naturally given.” Two-level game theory offers a valid solution to the “level-of-analysis problem” often encountered in explanations of interstate relations: two-level game theory analyzes the international, the domestic and the individual levels simultaneously (Moravcsik 1993 p. 5). Nevertheless, it lacks practice theory’s ontological and methodological commitments to fully achieve this ambition. Practice theory takes practices as the smallest unit of analysis. In international negotiations, as briefly discussed above, many practices happen at multiple levels or simply transcend levels inconspicuously; it disregards levels altogether. Nevertheless, as two-level game intends to highlight the inter-influencing relations between the international and the domestic levels, the designation will be retained for expository purposes.

2.3 Summary and Hypothesis

Two-level game theory is a useful system for analyzing EU international negotiations. However, the EU’s complex polity challenges some of its assumptions which necessitates an alternative approach. The theoretical framework of this thesis therefore combines the added values of practice theory regarding two-level game theory. I applied the core concepts of practice to re-conceptualize assumptions and to describe how this might relate to EU negotiations. The concepts of practical intelligibility, discursivity, patterns, social recognition and reproduction, and contextuality underscore the validity of negotiation practices as the units of analysis.

Some researchers criticize the added values of practice theory. Ringmar calls into question its fundamental objectives as a new “academic study of international relations” (Ringmar 2014 p. 21-23) while Kustermans simply concludes that “I do not think that there is one coherent practice turn, and given the argument in the paper, I do not think

that there can ever be one.” (Kustermans 2016 pp. 195-196). On the other hand, practice theory can also promote conversations across methodologies (Kratochwil 2011 p. 58). Practice theory’s incoherence is argued to be its analytical strength, albeit within well-defined core concepts and theoretical boundaries (Bueger and Gadinger 2014 p. 13) which is precisely the reason why I argue that practice theory’s core concepts are transferable into two-level games as well. For this reason, practice theory seems equipped to explore the negotiation practices of the EEAS. Therefore, I hypothesize that practice theory can synergize well with two-level games to produce unique results for EU international negotiation research.

3 Methodology

One of the most basic methodological tenets of practice theory is that the various social and international phenomena cannot be understood from books conducting “armchair analysis” (Neumann 2002 p. 628). It rather argues that practices need to be observed, followed, immersed in, and ultimately practiced. Practice theory focuses on what actors say and do (Bueger and Gadinger 2014 p. 3). However, although practice theoretical discussions are vast, its methodological dimensions are much less explored. The scientific literature boasts with a diverse, yet disintegrated set of methods. Whether one emphasizes praxeology, ethnomethodology or a Bourdieusian framework, there is one thing practice theorists generally agree on: no universally supreme methodology exists for practice-theoretical research (Adler and Pouliot 2011b p. 22, Bueger and Gadinger 2014 p. 77).

Despite the lack of coherent practice-methodologies, Vincent Pouliot’s ‘sobjectivism’ (Pouliot 2010) and ‘practice-tracing’ (Pouliot 2014) are welcome exceptions. Having strong roots in the Bourdiesian framework, constructivist and process-tracing methodologies, Pouliot’s approach promote a number of common commitments. I will first describe this framework and then re-adapt the findings into one aggregate methodological framework tailored to conduct practice-oriented analysis of negotiations.

In addition to its strong empirical focus, practice research offers a heuristic device as a theory (Bueger and Gadinger 2015 p. 457) which promotes the inductive construction of new variables and causal mechanisms to explain social phenomena (George and Bennett 2005 p. 94) in order to “come to deeper understanding of how the world works in and through practices” (Bueger and Gadinger 2014 p. 4). As such, it principally constitutes an interpretative research methodology (Bueger and Gadinger 2015 p. 457, 2014 p. 80).

3.1 Pouliot’s Methodological Framework

The principal logic behind Pouliot’s framework is the intent to grasp subjectivity, intersubjectivity, and to objectify the background knowledge of practices with the simultaneous use of a variety of methods. The methodology consists of three main steps each possessing a distinct set of methods: induction, interpretation, and historicizing. While these stages are presented in order, this is by no means a rigid sequence; the methodology encourages moving back and forth between the stages as the researcher deems it necessary (Pouliot 2010 p. 65).

First, the researcher needs to inductively map practical intelligibility and the underlying subjectivity of practitioners (Pouliot 2010 p. 59). Since meaning is constituted and transferred through practices, getting immersed in the context of practices is crucial to acquiesce the underlying subjective realities, knowledge and tacit-know how of the actors. There are a variety of methods available for carrying out

this phase, including ethnomethodology (Pouliot 2010 p. 67), participant observation, qualitative interviews, textual analysis of relevant written materials (Pouliot 2013 pp. 47-48), or even less conventional techniques such as shadowing (Bueger and Gadinger 2014 p. 88). The main objective here is to get as close to practices as possible in order to ascertain the practical intelligibility and thus reconstructing practices as units of analysis (Pouliot 2014 p. 250).

Second, after having completed material acquisition and mapped practices, the researcher needs to interpret the observations. The interpretative process fundamentally aims to establish a wider context through the recovery of shared meanings, intersubjective contexts, and tacit know-hows (Pouliot 2010 p. 72). Practices are discursive; therefore, the contextual meanings may be discovered through the interpretation of signs, texts, symbols, speeches, stories etc. This stage relies heavily on Bourdieu's discourse analysis and what Pouliot terms 'practice analysis' (Pouliot 2010). The aim is to objectify the findings and reconstruct practical intelligibility and intersubjectivity. Although qualitative interviews are considered a valuable research method (George and Bennett 2005 pp. 21-22, Hopmann 2002 p. 76, Pouliot 2013 p. 51); however, it does not offer direct insight into the practice in question, but rather the subjective representation thereof which necessitates the careful interpretation of the data (Bueger and Gadinger 2015 p. 457). Unlike the positivist models of interviewing, where the desired information is assumed to exist in the minds of the interviewees based on facts (Rowley 2012 p. 270), practice theoretical interpretation wishes to look behind practices to understand the underlying intelligibility, i.e. where actors come *from* rather than *what* they actually discuss (Pouliot 2010 p. 68). Norms and rules are often well-articulated, tacit knowledge and common understandings are on the other hand invisible concepts embedded in practices and unconsciously interpreted by practitioners (Pouliot 2010 p. 51). It is Janus-faced in that background knowledge is both intersubjective, but at the same time intersubjectivity is interpreted subjectively (Pouliot 2010 p. 66).

Third, the methodology integrates a historical approach in order to shed light on the causal links of practice (Pouliot 2010 p. 75). Recall that practices are patterned over time and space which equips them with generative power. This quality renders practices well-suited for a historical approach further objectifying the findings by demonstrating the temporal and logical causality between practices. The abstraction of these causal links would then allow the results to be carried over to other cases based on analytical generalization. Using the method of practice tracing – an interpretative form of process tracing taking practices as units of analysis – enables the recovery of these objectives. It also elucidates social ontologies to establish causalities and moves the findings up the ladder of abstraction in order generalize the results for an across-the-cases application (Pouliot 2014).

This elaborate methodological framework of practice theory heralds apparent challenges. The sheer complexity of methods and commitments of the above practice methodology risks ending up in a highly disintegrated yet shallow analysis. This would lead to falling between two stools by sacrificing parsimony without attaining generalizability. Ripsman nonetheless underlines practice theory's methodological

value emphasizing that “while parsimony is helpful, explanatory power is critical. Sacrificing parsimony for theories that explain more and resolve critical puzzles is more useful for our understanding of international politics.” (Ripsman 2011 p. 223). To address this challenge, this thesis integrates a re-conceptualized version of Pouliot’s methodology by integrating two-level game model as a tool for interpretation. The added value of a practice approach lies in explaining the intersubjective causalities behind the negotiation process, while two-level game theory provides expository tools to locate practices and interpret them according to its main tenets. Negotiation research integrates many of the methods described above (Hopmann 2002) which further suggests the validity of integration.

3.2 Reformulated Methodology and Method Selection

Pouliot’s methodology requires the use of a variety of research techniques at each methodological stage, as shown above. These methods are complementary; however, each stage – induction, interpretation, historicizing – presents empirical challenges which requires the specification of proper method selection.

The primary objective of the first stage is to inductively immerse oneself in the relevant practices and to grasp their meanings through a variety of research techniques. Participant observation and shadowing are perhaps the most ideal tools for a researcher to get immersed in any practice. However, this kind of field-work comes with serious impediments, such as restricted access and costly implementation (Bueger and Gadinger 2015 p. 457). Understandably, the scope of this thesis precludes me from observing several years-long bilateral negotiations due to the limits of financial resources and time. This leaves semi-structured qualitative interviews and text analysis as the main sources of information regarding the selected case.

Pouliot suggests several interview designs that helps the researcher reconstruct background knowledge and practical intelligibility. The researcher can ask interviewees to recount daily practices, meetings, document drafting etc. to gain an insight what practitioners actually do. Researchers can also ask the interviewees to describe other practitioners’ actions or he/she can also devise an abstract scenario to ascertain how the practitioner would act in such a situation. The point is to minimize personal bias and potential misleading by the interviewee, meanwhile gaining an insider’s point of view of ‘how things are done’ (Pouliot 2013 p. 49). Further impediments may arise during the interview process since international negotiations are often highly sensitive which can inhibit information sharing.

Although performing a practice-theoretical interview method features certain unique characteristics (especially during the interpretation phase – see below), the principal rules of conducting qualitative interviews apply nonetheless. These guidelines concern issues such as drafting well-formulated script, utilizing open-ended broad questions (Jacob and Furgerson 2012 pp. 3-4), careful selection of interviewees, maintaining the flow of the conversation, careful transcription and organization of the data, the proper

interpretation of the information (Rowley 2012) and triangulation (Diefenbach 2009 p. 882, Hopmann 2002 p. 76, Pouliot 2010 p. 71).

When it comes to textual analysis, the researcher needs to acquire material that complements interviews and provides account of practices. Several textual genres suffice for this purpose including, *inter alia*, diaries, memoirs, reports, meeting minutes, proposals, court cases, manuals, recordings, diplomatic cables or correspondence (Pouliot 2013 p. 49, 2014 p. 249).

The second stage, interpretation, will follow practice theory's core commitments, but it will also integrate a two-level game perspective. Pouliot's framework concentrates on discourse and practice analysis reconstruct intersubjective contexts (Pouliot 2010 p. 72). Instead of practice analysis, interpretation will be achieved by 1) locating the proper negotiation practices based on the two-level game model and by 2) reinterpreting negotiation concepts such as ratification, win-set sizes, and preference manipulation using the core concepts of practice theory. This process will inform intersubjectivity underlying the subjective interpretations of interviewees and placing the textual material accordingly.

The two-level game model informs the interpretative stage by applying its expository levels of analysis. Furthermore, it also pinpoints how the contents of textual material and government documents should be understood from a negotiations point of view. At the same time, interpretation will also focus on practical intelligibility, discursivity, patterns and processes, social relevance, and contexts – i.e. the core concepts of a practice. Interpretation will thus integrate the theoretical concepts of both fields.

The third stage aims to further objectivize interpretation by reaching general assumptions. Instead of integrating practice-tracing, generalization will be attained by testing the hypotheses of Putnam's two-level game theory based practice-based interpretation. This process will inform how the results may be used in future research and re-conceptualize the main assumptions of the two-level game model with the use of negotiation practices. Ultimately, this methodology will allow us to draw conclusions on the validity of the cross-fertilization between practice and negotiation theories.

3.3 Research Strategy and Design

At the outset, the proper level of aggregation is crucial in determining the right research strategy. It is not naturally given to explain extensive social phenomena by studying something as small as practice (Bueger and Gadinger 2014 p. 65). Methodologically, it is also important to ask what is included in a practice and what is outside of its borders. Without it, we could just look at “what everyone ‘does’ and call it ‘practice’” (Karp 2012 p. 970). The level of aggregation, i.e. the scope of the hierarchy of practices we take, really depends on the research object one investigates.

With the research objectives in mind, the international negotiation of the PDCA is the primary practice of investigation and as such, the level of aggregation as well. As

the process of international negotiations is conceptualized as practice, it possesses a context in which the various constellations of practices interact and coexist promoting process, change and stability. In this thesis, the various practices within this field will be mapped out and demarcated using the two-level game model as guidelines.

The theoretical and methodological commitments of practice theory warrants a single-case research design, despite the various criticism regarding its validity and problem of equifinality (George and Bennett 2005 p. 54). Nevertheless, given the heuristic purpose of practice theory and the inclusion of a complex interpretation, a single-case study can promote a targeted analysis. This strategy thus aims to uncover the systems of meaning, causal mechanisms, and how practices cluster together form a socially recognized process.

3.4 Case selection

Since the research objectives focus on the role of the EEAS in negotiations, this puts a temporal constraint on the available cases. In fact, since the establishment of the EEAS, not many negotiations were launched having had a conclusion as well. The Political Dialogue and Cooperation Agreement (PDCA) between The Republic of Cuba and the European Union fulfills these criteria. In fact, the EEAS together with the Commission ran point during negotiations from its beginning in 2014 till the conclusion in 2016. It is a case of bilateral negotiations featuring multiple issues which – in accordance with two-level game theory – also involves the practices of multiple interest groups with varying preferences and degrees of influence on the process of international negotiations. These qualities make it a good empirical case to explore how the EEAS managed inter-institutional coordination, international bargaining and EU-level interest group manipulation. The findings may also provide a good basis for future comparative studies investigating how the practices of the EEAS changed the negotiation process compared to previous cooperation agreements negotiated with other countries by the Commission. Lastly, as mentioned above, EU-Cuban relations are somewhat under-researched which provides further validity for the findings.

3.5 Material acquisition

Analyzing negotiation practices is a challenging task since the availability of primary sources is severely limited; in addition, practice theory relies on the use of a combination of methods which necessitates material to be acquired from multiple sources. This thesis, as per above, relies on qualitative interviews and various forms of textual analysis to answer the research questions.

Overall five semi-structured qualitative interviews were conducted representing some of the most important stakeholders of the negotiations (see Appendix). Although triangulation was only partially attained because of the low level of availability of interviewees, the most important EU negotiators were reached. The design of the interviews followed in line with Pouliot's recommendations. Many of the questions

were referring to daily activities and actual practices during negotiations. Furthermore, the interview script followed the logic of the two-level game model, i.e. questions were asked regarding activities at Level I negotiations with Cuba as well as Level II interinstitutional processes. Since the primary research objective of the thesis is to describe the EEAS' practices in the EU-Cuba negotiation process, the interviews were conducted with EEAS and EU Commission officials who were directly involved in the process as negotiators. For financial and logistical reasons interviews were conducted over the phone between November and December 2017.

The textual material was gathered mainly from primary sources (policy drafts, official reports and reviews, press statements, interim agreements, final agreements and other official documents) as well as relevant secondary sources (academic articles, books, presentations, media news, and other reports). These sources were utilized along with the interview data to inductively interpret the process based on the concepts of practice and two-level game theories.

4 EU-Cuba PDCA Negotiations

The Political Dialogue and Cooperation Agreement is the first bilateral agreement between the European Union and the Republic of Cuba that covers a multiplicity of issues ranging from political cooperation, trade and investment, and human rights all the way to agriculture and sustainable development (European Union and Republic of Cuba 2016).

This section describes the background of EU-Cuba relations since the negotiation process was strongly influenced by various historical practices. Then international bargaining at Level I will be presented followed by discussions on each Level II stakeholder group in the EU. The data will be interpreted in Section 5.

4.1 Background: the status quo of the 1996 Common Position

The European Union, after failure of political rapprochement with Cuba, adopted a Council Common Position (CP) in 1996 which set the tone for the bilateral relations for the next almost two decades. The Common Position states that the “objective of the European Union in its relations with Cuba is to encourage a process of transition to pluralist democracy and respect for human rights and fundamental freedoms” and that the EU would consider full cooperation with Cuba once it showed meaningful progress in these areas (Council 1996). The CP has often been described in various discourses on the same terms as the American embargo (Dominguez 2015 p. 178, Buck 2010 p. 4). Bilateral relations were characterized by limited cooperation and slow progress due to the ‘mutual irrelevancy’ (Roy 2007 p. 10), i.e. neither side depended upon the collaboration.

As outlined in the CP, human rights issues in Cuba were at the core of the bilateral relations in the years leading up to the negotiations. This was exemplified by the so-called Black Spring in 2003; a social protest which ended with the imprisonment of 75 people and the execution of 3 hijackers. In response, the European Council issued a strong-worded declaration limiting the scope of bilateral relations with Cuba (Presidency of the Council of the European Union 2003). This was also accompanied by a European Parliament resolution condemning the actions of the Cuban government (European Parliament 2003). The human rights practices of the EU sparked the issuance of threats and other negative feedback from the Cuba (Buck 2010). The retaliation even led to the scrapping of 22 aid projects from the Commission alone (European Parliament 2003, EEAS official 1 2017, Roy 2003).

Real rapprochement took place in 2008 (Dominguez 2015 p. 147) when the Political Dialogue officially re-started between the parties (EEAS official 1 2017). This process was facilitated by Cuban actions such as the release of political prisoners imprisoned in 2003 (Franks 2011) or the implementation of political reforms. The EU also enacted positive changes in its discourse toward Cuba (see for example European Commission

2013) striving for a “constructive engagement” (Roy 2007 p. 11). Cuban officials also downplayed the rhetoric, e.g. calling the EU as the “lacayo” of the US (Buck 2010 p. 11).

In summary, bilateral relations between the EU and Cuba were characterized by a strong ‘tit for tat’ strategy. Axelrod’s terminology refers to a bilateral situation where one party only cooperates if the other one cooperates as well; however, if one party ‘defects’ then the other one will defect as well (Axelrod 1980). At the center of this relationship was the practice of the 1996 CP and the human rights practices of the EU, tying bilateral relations to the political situation in Cuba. Any criticism from the EU’s side regarding Cuba’s human rights affairs resulted in retaliation and negative discursive practices from Cuba. Furthermore, the tit-for-tat relationship was cemented by the mutual irrelevancy between the EU and Cuba (Buck 2010 p. 14, EEAS official 2 2017b). The status quo changed once Cuba’s worsening economic relations convinced its leadership that they cannot “put all their eggs in one basket” and the country needs to diversify its global partnerships (EEAS official 2 2017b).

4.2 Pre-negotiations and the Practices of the EEAS

The ameliorating relations from 2008 onwards led to the reconsideration of EU-Cuba relations. HR/VP Ashton was asked to explore the possibilities to move forward the relations between EU and Cuba at the 2010 Foreign Affairs Council (FAC) meeting. Nearly 2 years later, at the 2012 FAC meeting the HR/VP informed the Council that she would instruct the EEAS to draft negotiating directives for the PDCA (European Commission 2013). Curiously, it was the HR/VP and the EEAS that took the initiative despite that the “Council did not explicitly give its approval”, rather they simply “took [...] note of the intention of HR Ashton/EEAS” (Council of the European Union 2013a, b). As per the account of an EEAS official, HR/VP Ashton led the discussions in the Council on how to shape the bilateral relations between the EU and Cuba (EEAS official 2 2017b).

The Commission’s recommendation to the Council in 2013 (European Commission 2013) was followed by intense negotiations within the Council Working Group for Latin America and the Caribbean (COLAC). The pre-negotiations at the COLAC led to the issuance of the negotiating directives which represented a compromise between diverging Member State (MS) interests (EEAS official 2 2017b, Roy 2007). It was primarily Spain, France, and Italy that were supportive of a new policy change, while the Czech Republic, Poland, Sweden, and Germany wanted to see a harder stance on Cuba concerned about human rights issues. The primary goal for the EEAS was to convince the representatives of MSs that the Common Position was ineffective of reaching the EU’s objectives towards Cuba and in fact the European Community had no influence over what happened in the island (EEAS official 2 2017b). The Commission’s 2013 Recommendation to the Council to authorize the negotiations

referred to ‘coherence’ the PDCA would bring (European Commission 2013)². The EEAS and the MSs reached the compromise that the Common Position would remain in force throughout the negotiations in addition to the “red lines” to be met (EEAS official 2 2017b). In sum, the EU’s human rights practices and the status quo dominated the internal EU-level discussions on opening the negotiations.

As for the Cuban side, its top priority was the elimination of the CP. The Cuban government was at first unwilling to enter negotiations with the CP in force (EEAS official 2 2017b). This demand was incompatible with the Council’s demands and the compromise brokered by the EEAS, however, the Cuban side eventually “swallowed” and gave up its demand. It seems that PDCA agreement was more important for Cuba’s practices of diversification (EEAS official 2 2017b, Tvevad 2017, Treto 2014).

4.3 Level I negotiations

The PDCA negotiations comprised of seven rounds altogether, the first of which took place in Havana on April 29-30, 2014 (European External Action Service 2014). The negotiations were concluded within two years on March 11, 2016 which – despite aims to finish in 2015 (BBC News 2015) – was hailed as a success. The completion of the process within seven rounds was described as the “magic number” (EU Commission official 2 2017) and “quick [...] compared to other [negotiations]” (EEAS official 2 2017b).

The negotiations concerned primarily three main areas: political dialogue, cooperation and sector policy-dialogue, and trade cooperation (European Union and Republic of Cuba 2016). The PDCA is a comprehensive agreement with numerous issues, including human rights and democracy, migration, social cohesion, development cooperation, trade, or investment. The complexity of the agreement necessitated large negotiating teams and the involvement of many Level II stakeholders with differing interests. The bargaining practices aimed at finding the right “language” of the actual articles in accordance with the preferences of the domestic constituencies.

The negotiation process progressed at a slow pace in the beginning (Tvevad 2015 p. 22). The parties needed to clarify basic concepts (EEAS official 2 2017b, EU Commission official 2 2017) and agree on general modalities (European External Action Service 2014). While the time-consuming initial efforts of getting on the same page would not strike anyone as a surprise, the Cuban negotiators were nonetheless acutely aware of what the EU’s general expectations were both in terms of essential content and legal requirements (EEAS official 2 2017b, EU Commission official 2 2017). This contradiction can be explained by the initially inadequate level of trust and professional unfamiliarity between the negotiators. The development of trust and interpersonal relations were a central element of the negotiations at Level I, the effects

² With some inconsistency, this number was reported to be 18, 20, and 22 according to other sources, see Lecartes (2014), Treto (2014), European Parliament (2017e)

of which correlated strongly with the faster pace of negotiations from the third round onwards (Tvevad 2017 p. 12).

The practice of trust building was enacted through various official and informal activities. First, the negotiation rounds followed an official script which included social events and informal sessions as well. A round consisted of two days, each comprising of a morning session, business lunch, afternoon session, and a joint press point at end. This pattern gave ample opportunities for the negotiators to build rapport in the context of informal lunches, dinners, and other ad-hoc meetings. Second, the negotiating teams remained stable and relatively unchanged during the process which enabled trust building to stay uninterrupted (EEAS official 2 2017b). This was especially true for the representatives of the Cuban Ministry for Trade and Cooperation (MINCEX) and the EU Commission Directorate General for Development Cooperation (DG DEVCO) who had known each other prior to the negotiations thanks to the EU development aid projects carried out in Cuba since 2008 (EU Commission official 2 2017). One EEAS official also described the professional relations with the colleagues of the Embassy of Cuba in Brussels to be especially good, having the liberty to call the ambassador “any time” (EEAS official 1 2017).

The EEAS had “sort of a leading role” during Level I bargaining on the EU’s side (EEAS official 2 2017b) which was represented by various activities. The chief negotiator was a senior EEAS official, Mr. Christian Leffler, Managing Director for the Americas. The EEAS presented the proposals for the Cubans and finalized the texts in coordination with the associated DGs. The EEAS was also responsible for taking notes during negotiations and including them in the subsequent proposals. The EEAS produced the EU’s press points at the end of every round in parallel to the Cuban ministry. The contents of both were agreed beforehand so that “there wouldn’t be any surprises” (*ibid.*). The EEAS was the primary contact for the Cuban side in between rounds as well. Simultaneously, the Commission DGs were responsible for drafting the texts of the articles which primarily involved highly technical work.

The most contentious issues were related to human rights and democracy, civil groups, private business cooperation, and the non-proliferation of weapons of mass destruction. Some issues were easier to conclude than others. The inclusion of the unilateral suspension clause in case of human rights breaches was unproblematic because Cuba was aware of this EU requirement. However, the establishment of a human rights dialogue with Cuba proved to be a “trickier issue” (EEAS official 2 2017b). The dialogue was nevertheless launched in 2015 in parallel to the negotiations (Tvevad 2017) which gave the EEAS (and indirectly Cuba as well) further leverage to be exerted at the Council in favor of ratification. The clause on disarmament and non-proliferation of weapons of mass destruction was another issue of time-consuming process since Cuba’s commitment in this regard was stricter than the EU’s, especially as an official signatory of the CELAC’s peace zone proclamation (CELAC 2014). Furthermore, EU agreements normally include the establishment of specific civil society committees which is not featured in the PDCA. The reasoning was that in case the EU followed through with this demand, it would have resulted in the Cuban

appointment of government sponsored NGOs, so called CONGOs, and it would have been counter-productive in terms of the successful conclusion of the negotiations. So the EEAS rather chose to “try to live with the situation” (EEAS official 2 2017b). Finally, Cuba requested the inclusion of a specific reference to the US embargo on Cuba. The EEAS’s interest manipulation within COLAC promoted compromise at both Levels (EEAS official 2 2017b). The EU finally accepted to “exchange views on coercive measures of unilateral character with extraterritorial effect” (2016 p. 20). The negotiators also leaned on existing international declarations of multilateral organizations to find mutually acceptable solutions in contentious areas. These challenges are underscored by the discourse of the EEAS’ press points. The parties identified “elements of divergence” during the third round (European External Action Service 2015d), the “positions were further developed and clarified” in the fourth round (European External Action Service 2015b), and the parties “reduced the remaining gaps” and “made substantial progress” in the fifth and sixth rounds (European External Action Service 2015a, c).

There were also issues where the preferences of the parties overlapped. For example, the PDCA agreement was fundamental for both DEVCO and Cuba since it codified the already existing bilateral relationship in the field of development assistance. The EU resumed the support of Cuban development projects in 2008; therefore, the daily work relating to this practice informed the preferences of DEVCO regarding the PDCA. The EU has made available more than EUR 140m to support projects in Cuba in the areas of, *inter alia*, food security, sustainable agriculture, economic modernization, and climate change (European Commission 2016b). Also, the worsening economic situation of Cuba’s key allies, such as Venezuela and Brazil, exacerbated difficulties and increased Cuban dependence on EU development aid. Funds for development assistance are allocated within the framework of a Multiannual Indicative Program (MIP) for a 6 years period and implemented each year as part of an Annual Action Plan (European Commission 2016a). The Commission’s decision to allocate EUR 80m for the 2014-2020 MIP for Cuba was taken ahead of the start of the negotiations. While officially the two matters were not conditional upon one another, the Commission’s development cooperation practices asserted a positive effect on Level I bargaining (EU Commission official 2 2017). Consequently, the parties did not seek gain maximization, but rather integrated each other’s needs concerning future joint projects.

Trade issues were perhaps even less problematic to negotiate at Level I than development cooperation. Cuba is not a signatory of the Cotonou Agreement, therefore it is not eligible to sign an Economic and Partnership Agreement with the EU which would allow for substantial tariff and quota reductions³. Due to its middle-income country status, Cuba is no longer eligible to benefit from the Generalized Scheme of Preferences (GSP)⁴ either since 2014. This only leaves the EU the Most Favored Nation

³ The Cotonou Agreement serves as an umbrella for African, Caribbean and Pacific (ACP) countries within which they are allowed to negotiate separate EPAs with the EU.

⁴ The GSP allows for substantial duty reduction for economically vulnerable countries within bilateral trade relations with the EU. See: European Commission. 2017. *Generalised Scheme of*

(MFN) clause to be applied in its trade relations with Cuba in accordance with World Trade Organization (WTO) regulations. EU-Cuba trade relations are thus extensively regulated by WTO rules. As such, the bargaining of trade articles was relatively unproblematic and prompt; within three rounds the parties agreed on “virtually all elements” of the trade chapter (EU Commission official 1 2017, European External Action Service 2015d, b, a).

The EU’s negotiating directives laid down numerous red lines which rendered the EU’s win-set rigid in sensitive matters. However, EU negotiators often turned this into a bargaining strategy to refuse concessions. During these “contextualized debates”, EU negotiators would lament domestic interest group concerns to increase gains: “[EU stakeholders] have to see their points somehow reflected, so if we have an agreement without reference to this [...], then this won’t fly.” (EEAS official 2 2017b). This strategy was only used concerning issues of primary importance for the EU. In other cases, it was utilized only to a limited degree (EU Commission official 2 2017), or not at all (EU Commission official 1 2017).

4.4 Level II processes

4.4.1 EEAS

As per the EU jargon, the EEAS had the mandate to lead the negotiation process, while DG DEVCO and DG Trade were “associated” (EU Commission official 2 2017). This hierarchy was highlighted several times during the various interviews. The EEAS coordinated the technical work of the various DGs and departments in the background who drafted written proposals and contra proposals of articles. Much of the work was done within an intra-service working group where the relevant stakeholders met on a regular basis to discuss operative matters. Furthermore, the EEAS regularly attended COLAC meetings and expert meetings at the European Parliament to report on the progress of negotiations (EEAS official 2 2017a, EU Commission official 1 2017, Council of the European Union 2015a). Approximately twelve colleagues were involved in the work related to the PDCA negotiations at the EEAS, many of them in the field of human rights; however, only one person was responsible full-time for the process.

The EEAS faced challenges during coordination with the Commission. There was a degree of confusion about which departments should be responsible for certain tasks. A comprehensive agreement, such as the PDCA, involves a myriad of different technical details to be agreed upon which fall under the responsibilities of various DGs. EEAS officials put considerable efforts in achieving common understandings with their Commission colleagues regarding these tasks.

The practices of the EEAS showed asymmetry in terms preferences among Level II EU stakeholders. While EEAS handled the PDCA negotiations as a priority, the same

was not true for other EU departments. The decreased “sense of priority and [...] urgency” of some key actors rendered the interinstitutional coordination challenging. Referring to the overall asymmetry between the EU and Cuba, one EEAS official aptly notes: “the EU can well do without Cuba, but can Cuba do well without the EU, that is a different question.” (EEAS official 2 2017b). This general sentiment was reflected in the difficulty of getting key stakeholders invested in the process and obtaining results as per the expectations of the EEAS. Consequently, the EEAS focused on generating momentum with regards to reluctant departments. This was, for example, apparent in the area of migration, where DG Home was hesitant to invest resources in the PDCA agreement while they had to deal with the “waves of immigrants flooding into Europe” (EEAS official 1 2017). Trade was another field where EEAS had to generate momentum due to the low issue salience of trade matters in the PDCA agreement (EEAS official 1 2017, EEAS official 2 2017b), as well as for Cuba (EU Commission official 1 2017).

In order to generate momentum, officials from the EEAS explained the importance of the agreement to other EU actors, the advantages of EU-Cuba bilateral cooperation, and the realistic workload the involved departments should expect from its implementation. Apart from attempting to achieve a shared understanding among key players, EEAS officials occasionally made specific references to the hierarchy as well, i.e. to the mandate and authority of the HR/VP. In cases of more reluctant departments, officials involved higher-level decision makers to generate momentum, although acquiescence was largely achieved at an operative level (EU Commission official 2 2017).

4.4.2 Council (COLAC)

The Council of the European Union was another key player at Level II during negotiations due to the explicit rules governing the negotiation of international agreements, especially in the field of CFSP. In cases of international agreements with non-EU countries featuring shared competencies, the official rules of ratification in the EU dictate that the Council approves the final agreement based on common accord after which it is consented by the EP (Council of the European Union 2017c). The Council was thus the most important actor in terms of ratifying the agreement negotiated at Level I with Cuba.

The EU’s negotiating team had to continuously ensure that the interests of MSs were met within COLAC which is a specialized working party set up by the COREPER and chaired by the representative of the HR/VP (Council of the European Union 2017a). EEAS officials attended all Council meetings (unlike DG DEVCO or Trade) which took place once before and after every negotiation round. The activities within COLAC focused on finding compromises among the more critical MSs, i.e. the Czech Republic, Poland, Germany, and Sweden. The EEAS also communicated the demands of Cuba and reported on the progress achieved at Level I bargaining. The EEAS managed to influence hardliner MS representatives thanks to the human rights dialogue launched in parallel to the negotiations led by the EU Special Representative for Human Rights

(Tvevad 2015, EEAS official 2 2017b). Within the framework of the human rights dialogue, additional Council meetings were held before and after each session (EEAS official 2 2017b). Virtually all matters of substance were agreed within COLAC: the debates never actually reached ministerial, or even Committee of Permanent Representatives (COREPER) level (EEAS official 2 2017a). Only occasional reports were sent to the Political and Security Committee (PSC) (EEAS official 2 2017a) (Council of the European Union 2017b).

The effectiveness of the interinstitutional coordination at working party level was primarily enabled by two main factors. First, the EEAS and the EU negotiating team achieved the most important mandates of the negotiating directives at Level I (EEAS official 2 2017b) which, as noted above, depended strongly on the willingness of Cuba to compromise. The negotiation directives provided strict instructions which facilitated the preemption of roadblocks at Council. Second, COLAC is a working party which meets at the level of capital representatives, usually at Director level, as well as decision-makers from the Brussels Permanent Representation. Consequently, it possesses high level of political authority to make decisions (EEAS official 2 2017a). As a result, the decision on the conclusion of the PDCA was effectively passed without discussion on all levels: as “I-point” within COREPER (EEAS official 2 2017a) and as an item “A” during the 3506th meeting of the Economic and Financial Committee (Council of the European Union 2016a, e). The 1996 Common Position was simultaneously repealed by the Council (Council of the European Union 2016d). This decision had signaled commitment toward Cuba considering that the PDCA only entered into force (provisionally) months later after the EP’s consent.

In accordance with the decision of the Council, the President of the European Council (PEC) designates the signatory of the agreement (Council of the European Union 2016c). The HR/VP was appointed on behalf of the EU to sign the agreement. The agreement was concluded and initialed in Havana in the presence the Commissioner for DG DEVCO on March 11, 2016 (European Commission and EEAS 2016). Following the Council’s decision on the conclusion and provisional application of the PDCA (Council of the European Union 2016b), the agreement was officially signed in Brussels on December 12, 2016 by the HR/VP and the foreign ministers of the EU 28 MSs on behalf of the EU. The event was scheduled right before the last FAC meeting of the year (Council of the European Union 2016f). While these factors may signal the commitment of the HR/VP with regards to the PDCA negotiations; the issue’s salience was nonetheless cast in a contrasting light by the fact neither the ceremonial signing of the PDCA nor EU-Cuba relations were mentioned during the press conference following the FAC meeting (European External Action Service 2016).

4.4.3 Commission

The European Commission was a key stakeholder at both Levels. Officially DG DEVCO and DG Trade were associated and both delegated representatives to the EU negotiating team. These officials were responsible for conducting the bilateral negotiations on chapters and articles that pertained to their respective fields.

Interestingly, DG DEVCO did not have a clear strategy ahead of the negotiations despite its strong preferences. The objective was simply to conclude the agreement to ensure the ongoing development and cooperation projects in Cuba. The majority of the work within DEVCO was overwhelmingly technical (EU Commission official 2 2017). Although this area was of primary importance for both the Commission as well as Cuba, it nevertheless had relatively low political salience which did not require elaborate strategies to pursue.

The work of DG Trade was similar to DEVCO. Only one person was responsible for negotiating the trade chapters at Level I and for coordinating the technical work of fifteen colleagues within the DG Trade. The trade chapters of the PDCA did not result in any market opening, therefore, the negotiations had low strategic importance for DG Trade. This explains the efforts of the EEAS to generate momentum (EU Commission official 1 2017, European External Action Service 2015d, b, a) and why DG Trade took the initiative to recommend texts ahead of negotiations. Level II ratification on trade-related issues of the PDCA were handled without considerable roadblocks both at the COLAC and at the EP (EU Commission official 1 2017).

As mentioned above, one of the main challenges of the work with the Commission was to clear up the confusion on the responsibilities of the various DGs during negotiations. The range of technical issues needed the involvement of numerous departments and since Cuba is not a strategic country for most fields, there was a degree of resistance from these constituencies to prioritize related tasks. The EEAS thus needed to assign responsibility, advocate the matter, and secure the active involvement of the departments.

4.4.4 Civil Groups

Perhaps one of the most unique Level II interest groups were civil societies possessing strong preferences in the fields of human rights and democracy. For decades, the central point of EU-Cuba relations were human rights issues and the situation of Cuban political opponents and dissidents, it is no wonder then why the most socially recognizable aspects of the PDCA negotiations were human rights, democracy and the rule of law.

The EEAS faced impediments in coordinating and influencing civil societies. There were two main groups: one vehemently opposed any agreement between the EU and Cuba until certain fundamental reforms were put in place in the Cuban political system; the other was relatively supportive of the process. However, the practices of these two groups showed asymmetry. Civil societies critical of the PDCA – the “hardline kind” – were considerably more active during negotiations, especially in their lobby efforts towards the EP (EEAS official 1 2017). Prominent Cuban opposition members – including Guillermo Farinas, the Ladies in White, and the Cuban Committee for Human Rights and National Reconciliation – argue that the Cuban government and its oppression of political opposition and fundamental democratic rights is legitimized by the PDCA (Tvevad 2017 pp. 20-21). Furthermore, it is argued from a civil rights perspective that the Cuban government will not abide by the articles of the PDCA

referring to the increase in political repression right after the conclusion of the agreement (Civil Rights Defenders 2016). These lines of arguments were in opposition with the preferences of the EEAS and MSs to assert positive influence on Cuba though the PDCA.

The EEAS kept an open line of communication with the most important civil groups, both critical and supportive. Nevertheless, these practices on the EEAS' part could not enter a more institutionalized platform during negotiations as it would have hurt the Cuban government's preferences and willingness to negotiate. Due to this and the opposing interests between the EEAS and hardliner civil groups, virtually no overlap was found in their approaches (EEAS official 1 2017). On the other hand, interaction with these groups provided EEAS with an alternate source of information to red flag problems and bring certain issues on-board with the Cubans.

The representatives of 37 civil rights groups wrote an open letter to Federica Mogherini asking the EU to condition the agreement's ratification upon certain steps, including "the exercise by Cuba's citizens of their right to choose a democratic and pluralistic system of government and to hold free elections." (Cuban democratic opposition groups 2016). Many critical human rights advocates and civil society groups were regular invitees in the EP for conferences and meetings which granted critical perspective a higher political and social visibility. On occasion, however, EEAS officials did manage to convince representatives of critical democratic groups of the PDCA's advantages, especially during conversations about the situation of trade unionists. Nonetheless, real rapprochement of opinions did not occur between the EEAS and critical civil society groups (EEAS official 1 2017).

4.4.5 European Parliament

Even though the CFSP is a field of shared competence between the EU and MSs and international agreements are decided upon by the EU Council as well as the representatives of governments based on common accord⁵, the European Parliament nevertheless played a crucial part in the ratification process of the PDCA. First, MEPs regularly submitted so-called Written Questions to the Council regarding the state of affairs between the EU and Cuba with special regards to human rights and democracy. Second, the EU's Chief Negotiator and other EEAS senior officials regularly updated the EP's Committee on Foreign Affairs (AFET) regarding outstanding issues (Council of the European Union 2015a p. 283). Third, the EP has awarded its Sakharov Prize for Freedom of Thought to Cuban opposition figures on three separate occasions: to Oswaldo José Payá in 2002, to the Ladies in White in 2005, and to Guillermo Farinas in 2010. Finally, the EP needed to approve the agreement in accordance with the consent procedure (Council of the European Union 2017d) which made the provisional

⁵ Although officially the 'common accord' does not constitute an official voting rule according to the TFEU, it nevertheless governs decision making in cases of international agreements of shared competence. See for more details: General Secretariat of the Council, 2016. *Comments on the Council's Rules of Procedure, European Council's and Council's Rules of Procedure* Luxembourg: Doc. no.: QC-04-15-692-EN-N

application of the agreement conditional upon consent as well (Council of the European Union 2016c, European Parliament 2017d p. 17). The EP approved the PDCA on July 5, 2017 and provisional application subsequently commenced on November 1 (European External Action Service 2017, European Parliament 2017a). The full implementation of the PDCA requires the ratification of national parliaments of the MSs as well.

In rare cases, the EP issues a non-legislative resolution to communicate a political opinion as part of ratification. After debates at the EP intensified, it became clear that a non-legislative resolution will be adopted. The EEAS put in “a lot of legwork” at various EP committees to influence the outcome of the vote and the wording of the resolution. Even though only a small group of MEPs were actively interested in the PDCA, they nevertheless exerted strong influence in committee meetings. The group’s invested interests translated into an increased influence throughout the process.

The officials of the EEAS, DG Trade, and DG DEVCO had regular meetings with various EP committees to work out the necessary compromises in cooperation with the rapporteur, Elena Valenciano. The senior colleagues from the EEAS undertook the role of first reader at AFET, while DEVCO was first reader at committee meetings concerning the development cooperation matters. Along with civil societies, the Cuban government also heavily lobbied EP stakeholders to influence the outcome. The colleagues of the EEAS were in daily contact with the Cuban Embassy in Brussels to cooperate during this process (EEAS official 1 2017). A compromise resolution was adopted at AFET (European Parliament 2017c) after intense negotiations stretching into the night. However, in an unusual turn of events, some parts of the resolution were changed in the last minute during the plenary session on July 5, 2017. This signals the active manipulation of core stakeholders within the EP in the last two weeks leading up to the final vote (European Parliament 2017b, EEAS official 2 2017b). The final resolution contained several crucial modifications that strengthened the critical tone of the document. For example, it eliminated point ‘X’ from the draft referring to the positive role Cuba played in the FARC peace process in Colombia (European Parliament 2017d) and toned down the explicit references to the negative effects of the US embargo and the extraterritorial effects of the Helms-Burton Act (European Parliament 2017b). Additional extensions of the final version refer to, *inter alia*, the “arbitrary politically motivated detentions in Cuba” and to the “more and more crackdowns”.

5 Widening the Scope: Practices and Two-Level Games

In accordance with the methodological framework, this section provides interpretation and generalization of the findings based on the concepts of practice and two-level game theories. The negotiation of the PDCA is a shared practice which is best described through the interpretation of the constellation of practices within its context at both levels.

The first sub-section will demarcate the most important practices according to whether they are performed at Level I or at Level II. Each of these practices fulfill the core concepts of practice theory: they are intersubjective, processive, discursive, socially relevant, and contextual. The second sub-section provides further interpretation and generalization from a two-level game perspective.

5.1 Demarcating Practices

5.1.1 Practices at Level I

Bargaining was the most important observable practice at Level I comprising various activities including, *inter alia*, the identification of issues, communication of preferences, exchanges of texts, finding the right ‘language’, using various bargaining strategies, holding press conferences, or making concessions. This practice features all core practice concepts. It was patterned over rounds, it was clearly discursive in multiple ways, it comprised of a constellation of other practices, and its social relevance was paramount as well. However, from a theoretical perspective, the bargaining practice was most fundamentally influenced by its shared practical intelligibility. The Cuban negotiators were highly familiar with the mandatory EU processes and legal requirements. They were consequently willing to make concessions and find the necessary overlaps facilitating the conclusion of the negotiations within two years. The EU negotiators also had intersubjective knowledge of the Cuban political system, the government’s expectations in more sensitive matters and what would be productive or counter-productive in terms of bargaining strategies. The parties were, to a high extent, on the same page as to what can be expected from the negotiations and what both side’s expectations were from the very beginning. The shared background knowledge of the parties, *i.e.* their intersubjectivity, contributed to a strong sense of practical intelligibility on both sides. The shared political, social, and cultural meanings permitted the negotiators to act in a way that made sense and geared negotiations toward a mutually acceptable agreement rather than towards a breakdown.

Trust building was another important practice facilitating bargaining at Level I. Both parties effectuated the practice through informal meetings, lunches, dinners, receptions etc., although the EEAS can be considered as a primary initiator, especially in Brussels. The practice of trust building was crucial both because of its patterned nature as well

as its social relevance. Recall that practices are socially recognizable and as processes, their recognition and impact influences the evolution of practices over time, i.e. practices possess a t+1 value. Historically, EU-Cuba relations were characterized by strong fluctuation, tit-for-tat strategies, and underlying all that, mistrust. While the official communiqués and rhetorics may not have translated themselves into informal discursive practices with the same ferocity, the tit-for-tat practices of Cuba and the EU certainly did not promote an atmosphere where parties could initiate the PDCA negotiations having an ideal level of professional and interpersonal trust (which demonstrates the effects of this practice on the PDCA negotiations through social recognition). The trust-building practices of the EEAS were therefore essential, especially in the beginning. As a process, it induced change over time and promoted the more effective execution of bargaining practices.

The third observable practice at Level I was the practice of a human rights dialogue; albeit it is rather specific to the PDCA negotiations. While strictly speaking the human rights dialogue was exogenous to the negotiations, it was nevertheless crucial for the successful conclusion of the negotiations, especially in terms of context of the ratification and the interest manipulation practices within the EU (e.g. the EP specifically welcomes and mentions this practice in its non-legislative resolution). The social recognition and relevance of this practice derived from historical EU-Cuba relations. The human rights issues have always been at the center of EU policies toward Cuba which are socially recognized to a high degree; therefore, it was crucial for the EU to ensure coherence in this matter. The practice of the human rights dialogue communicates these preferences and adds to the social relevance and recognition of the PDCA negotiation as well.

5.1.2 Practices at Level II

The practice of ratification, i.e. the approval of the agreement either formally or informally at Level II, was patterned over time and should be considered as a dynamic process. Practices induce change during negotiations, even if it is as swiftly concluded as the PDCA. As one EEAS official put it referring to the objectives outlined in the negotiating directives: “we didn’t get everything we wanted”. Consequently, the regular meetings at COLAC not only kept all stakeholders informed but also many of the concessions negotiated at this forum resulted in the constant adjustment of the EU’s win-set and what would be ratifiable at the end. The patterned and processive elements of the ratification practice thus explain why the agreement was passed as an ‘A’ item at Council level (i.e. without discussion): every detail of the PDCA had already been agreed upon within COLAC. Second, the practice of ratification also features strong contextuality. Ratification constantly informed the practices of the negotiators at Level I and vice-versa, the practices at Level I influenced the ratification process and the concessions given within its context at Level II. In addition, the practice of ratification also governed the implementation of other Level II practices. The coordination and interest group manipulation practices of the EEAS were constantly informed by ratification. The intersubjective understanding of ratification ensured the practical

intelligibility of these practices. Finally, the social recognition of ratification was also apparent during the PDCA negotiation. The adoption of the non-legislative resolution adopted with unforeseen last-minute modifications carried a real risk of constraining the agreement's implementation and the cooperation with Cuba. That is because such a political message carries social relevance and recognition which is why substantial preference manipulation practices took place at the EP.

Many elements of the practice of interest group manipulation were observable during the PDCA negotiations. According to Putnam, the statesmen at Level II aim to manipulate stakeholder preferences in order to facilitate the arrangement of win-sets and the ratification practice. The PDCA negotiations showed for example that the EEAS concentrated its manipulation practice on the most crucial interest groups, i.e. the COLAC, the associate DGs, the EP, and civil society groups. The EEAS aimed at expanding intersubjectivity between groups to promote their practical intelligibility in favor of its own interests. This was demonstrated by various EEAS activities such as convincing MSs representatives of the advantages of starting negotiations with Cuba. The EEAS also sought to generate momentum at reluctant DGs by explaining to Commission constituencies what gains might be expected from better bilateral relations with Cuba, e.g. its highly sophisticated medical sector. The EEAS and the associated DGs (Trade and DEVCO) exerted efforts at the EP to manipulate preferences so that the ratification of the PDCA would be practically intelligible for all decision-makers. Furthermore, manipulation practices were patterned over time and space which is crucial in terms of effectuating changes in intersubjective preferences of stakeholders.

The high variety of issues covered by the PDCA necessitated the constant interinstitutional coordination by the EEAS throughout the course of the negotiations. This practice was a key factor in achieving progress and commitment within the EU which highlights the importance of contextuality as a core concept. Recall that practices happen in a constellation of other practices, rules, and various artifacts through which they coexist. The regular preparatory meetings with the members of the negotiating team, the COLAC meetings held before and after each negotiating round, or the committee briefings and other forms of communication with the members of the EP all constituted elements of the coordination practice. In addition, inter-institutional coordination was governed by explicit rules, such as the appointment of the HR/VP to lead the negotiations providing the EEAS with the authority to coordinate. The coordination practice was part of a larger context of closely intertwined practices at both levels, including interest group manipulation and Level I bargaining. The momentum generation at the Commission is a good example of the overlapping contexts of practices, namely interest manipulation and interinstitutional coordination.

5.1.3 Context-relevant Practices

The practice of international negotiation also happens in a context in which the causal effects of other practices and external events should not be excluded. Without accounting for these practices, the practice of international negotiation would be taken out of context and it would render the underlying practical intelligibility

incomprehensible. There were several exogenous practices which were essential elements in the context of the PDCA negotiations, many of those described in detail in the sub-section 4.1 on the background of the negotiations.

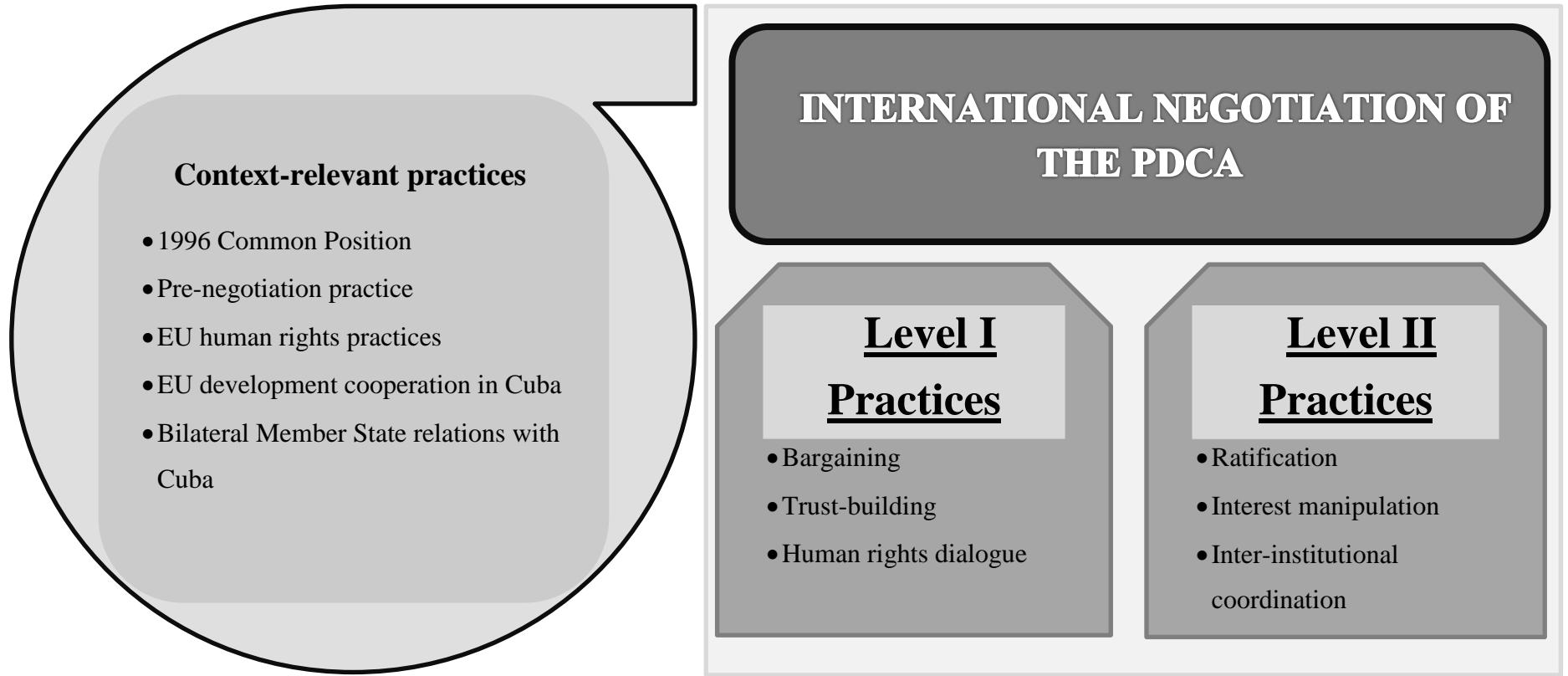
The 1996 Common Position that defined the bilateral relations between Cuba and the EU was probably the most considerable causal element in the context of the PDCA negotiations. The CP should be understood as a practice insofar that 1) it was patterned as it influenced the external affairs of both Cuba and the EU for many years, it was also annually evaluated; 2) it defined practical intelligibility shared among the MSs of the EU in their policies vis-à-vis Cuba; 3) it possessed discursive elements resulting in common usage of the language of the CP in subsequent activities and instigated recognizable discursive practices from Cuba (referencing to the CP as a “sanction” similar to the US embargo); 4) it had considerable social relevance especially in light of the situation of the political opposition and human rights affairs in Cuba; 5) and finally it also determined the context of EU external practices toward the Island as well as the status quo leading up to the PDCA negotiations. This status-quo practice and especially its context induced, *inter alia*, the tit-for-tat relationship between the parties with the EU’s human rights practices at its center.

Reference was made to the EU’s human rights practice in its relations with Cuba. Again, this practice was patterned over time including regular actions such as the issuance of the 2003 Presidency declaration condemning the Cuban government with regards to the Black Spring, the interaction of the EU delegation with civil society groups in Cuba, or the EU’s annual human rights reports evaluating Cuban human rights situation among other countries (see for example Council of the European Union 2013c, 2014, 2015b). The human rights practices are of course highly discursive as well, the usage of certain terminology often possesses sensitivity and a few words can greatly alter the evolution of bilateral relations.⁶ These practices were highly relevant in the context of launching the human rights dialogue as well as the bargaining of the political dialogue articles of the PDCA at Level I.

Additionally, the EU’s practice of development cooperation in Cuba was also an important factor for the PDCA negotiations. As described above in detail, the development aid resumed in 2008 as part of the rapprochement between the EU and Cuba. These projects provided considerable financial support for the Cuban economy and society which generated not only social recognition but also contributed to a shared practical intelligibility between the EU (especially DG DEVCO as a core interest group) and Cuba. This practice thus rendered the decision to codify this relationship both sensible and significant. The decision on the allocation of EUR 80m of development aid to Cuba for the 2014-2020 MIP also mattered in the context of the negotiation of the development and cooperation articles since both parties knew that the various elements of the agreement would be funded for the foreseeable future.

⁶ Let us just think about the discursive elements of the 2003 Presidency Declaration on the Black Spring which resulted in the freezing of bilateral relations for 5 years. A rather astonishing feat resulting from a 1 page document!

Finally, individual MS bilateral practices vis-à-vis Cuba should be mentioned, especially since many scholars adjust the multi-level game theory to three levels in EU negotiations research. Although a three-level model would have proved redundant in case of this analysis (MSs level coordination, i.e. Level III, took place to a high degree within COLAC), MSs practices should nevertheless be accounted for, especially in terms of trade and investment. While the practice of the CP made EU-Cuba relations conditional upon human rights issues, it did not prohibit most MSs from forming bilateral relations with Cuba primarily to regulate trade and investment relations. Therefore, the external relations and practices of MSs running parallel to the EU negotiations are important contextual elements of practice of international negotiation, with Spain-Cuba relations being the most obvious example.



SIMPLISTIC DIAGRAM ON THE CONSTELLATION OF PRACTICES OF THE PDCA NEGOTIATIONS

5.2 Interpretation through the Two-level Game Model

After having located and elaborated the various practices of the PDCA negotiations, the question arises: how can we interpret the practice-based findings in relation to the game level model? The following sub-sections aim to complement the previous theoretical discussions on the intersection of practice theory and the two-level game model both in terms of testing assumptions of the latter as well as providing new insights based on the former. Recall that according to Putnam's argument win-set is determined by three factors: Level I strategies, Level II institutions and Level II preferences and coalitions. Before discussing each point, I will also touch upon the basic distinction of levels from a practice perspective.

5.2.1 Expository levels and practices

It was noted before that the levels of the two-level game model provide an expository tool to analyze negotiations. The dynamic interaction between levels during the PDCA negotiations was enacted by the performance of practices. The coordination practices of the EEAS, for example, allowed for the constant adjustment of interest group preferences at Level II as well as bargaining strategies at Level I. Moreover, the practices of the EEAS, as chief negotiator, strengthened the shared intersubjectivity among Level II stakeholders as well as at Level I with regards to Cuba. This is demonstrated by, *inter alia*, the bargaining practices at Level I with the purpose of clarifying preferences and explaining the EU's core positions. These practices, therefore, helped to share the subjective perspectives behind EU interests. At the same time, the EEAS also communicated and represented Cuban interests at COLAC by transferring the intersubjectivity acquired through negotiations. Only by understanding the positions of the Cuban side was it practically intelligible to make concessions and approach the Cuban win-sets. These examples demonstrate that practices happen consecutively and simultaneously through and across levels.

While the levels provide a good expository tool to analyze negotiations, it nevertheless limits the scope of relevant practices. A practice-based approach highlights the importance of contextuality and the interrelation of practices. The analysis of the PDCA negotiations would lack coherence if the various contextual factors or historical background were excluded from consideration. This includes exogenous events as well as independent practices that influence the negotiation process. An obvious example for the latter would be the practice of embargo by the US towards Cuba. Two-level game theory should, therefore, include historical background and focus on the processive and contextual qualities of practices. In addition, in the EU's case, the pre-negotiation of negotiating directives is an important phase which is difficult to fit into the current distinction of Levels. Level I and II practices are difficult to grasp unless one has a clear understanding of the t+1 effects of the pre-negotiation practice and how it influences practitioners' intelligibility. Taking another example, the

EU's human rights practices toward Cuba constituted an influencing factor regarding Level II EU practices as well as Level I bargaining strategies.

5.2.2 Level I strategies and practices

According to Putnam, the first determinant of win-sets is Level I strategies. Two-level game theory hypothesizes that parties seek gain maximization at Level I and that the domestic win-set size determines the gains achieved. This approach consequently presumes the abundance of confrontational or distributive style negotiations. However, a practice approach underlined that many of the practices aimed at reaching solutions that would benefit both parties while adhering to the necessary red lines. Practical intelligibility is key here. EU negotiators knew that "talking tough and leaving the table" would have had counterproductive results with the Cubans (EEAS official 2 2017b). This intersubjective knowledge informed the practical intelligibility of the bargaining practice at Level I to emphasize cooperation and joint problem-solving of outstanding matters. On the other hand, certain activities underscored two-level game's zero-sum supposition. Parties utilized confrontational bargaining strategies in issues of political sensitivity. Negotiators indeed refused certain concessions referring to the complex stakeholder interests which also highlights the discursive elements of the bargaining practice.

Following the above logic, two-level game theory argues that the asymmetric sizes of the parties' win-sets provide negotiating advantage at Level I. Constrained win-set provides negotiating advantage while a large win-set will force negotiators to make more concessions. An asymmetric balance between the parties' win-sets was certainly observable in the case of the PDCA negotiations in favor of the EU. However, does this asymmetric power balance promote uneven distribution of gains and use of confrontational bargaining at Level I? A practice approach suggests that many elements can influence Level I and asymmetry might not always manifest itself during negotiations. Bargaining is influenced by a constellation of other practices, social relevance, and discourses which all formulate practical intelligibility. In the case of the PDCA, the asymmetry between the parties was visible only to a limited degree because it did not make sense for the EU to constantly pursue gain maximization. The social relevance of failed negotiations with Cuba would have been simply worse.

Trust building was a crucial element in the context of the PDCA negotiation practice which is most likely an important element during any international negotiation process. Its relevance might be increased when the EU negotiates agreements with third parties with which bilateral relations have been plagued by conflicts and normative differences. The effectiveness of trust building practices might also be influenced by the cost of no-agreement, the power balance (i.e. symmetrical or asymmetrical negotiations) as well as the state of the status quo (i.e. the possibility for hurting stalemate) between the parties. The discursive and patterned nature of trust building practices can inherently influence the negotiation process.

5.2.3 Level II preferences and practices

Level II preferences constitute the second main determinant of win-set sizes. Two-level game theory bases its rational choice calculations on the cost of no-agreement. In terms of the PDCA negotiations, the fundamental choice was between maintaining the status quo determined by the practice of the 1996 CP or negotiating an agreement. Therefore, the cost of no-agreement was especially relevant since no other alternatives were on the table for either side. In this regard as well, the EU's was arguably in a better position than Cuba. Consequently, the CP and the status quo between EU and Cuba was a safety net for the EU. On the other hand, Cuba's preferences both before and during the negotiations primarily were the withdrawal of the CP. The cost of no-agreement should be understood in light of the contexts and changes induced by practices. The effects of exogenous practices, for example, can influence the practical intelligibility of the negotiations. In the case of the PDCA, the changing economic practices between Cuba and its allies changed the intersubjectivity of the PDCA with the EU and facilitated the launch of negotiations.

Two-level game theory assumes that interests differ between the principal and agent, i.e. the chief negotiator and domestic constituencies. The practices of the EEAS during PDCA negotiations only underscores this assumption to a very limited degree. The EEAS was highly interested in concluding the negotiations and performed its practices accordingly at Level II. However, looking through the lens of practice theory, it was also clear that this dichotomy might not do justice in cases of complex multi-issue negotiations. The interest group manipulation practices of the EEAS incorporated the interests of all stakeholders to various degrees without jeopardizing the negotiation. Moreover, many of the interests communicated through practices were not in conflict with other stakeholders, even at Level I, as two-level game theory would primarily assume.

The practices at Level II demonstrated clearly the challenges of heterogeneous interests among interest groups and reinforces the assumptions of two-level game theory. First, stakeholders who have special interest in the agreement (or no-agreement) exert special influence on the negotiation process (Putnam 1988 p. 445). This was clearly underscored by the activity of highly concerned civil society groups or certain MEPs with special interests in EU-Cuba relations. On the other hand, the coordination practices of the EEAS also demonstrated that the lack of interest of certain essential groups, such as various DGs, may also constitute a challenge and affect win-set size as well as Level I bargaining. The practical intelligibility explains the connection between the level of influence and interest. Groups who have nothing to gain from an agreement, it won't make sense for them to perform certain practices. Interest groups who have much to lose from the agreement, however, will aim to exert influence via practices because it is intelligible for them to do so. Therefore, Level II preferences and their influence on win-set sizes could be better understood through practices since they carry meaning and social recognition.

Furthermore, since Level II preferences are represented through practices, the interrelation between the activities of the stakeholder renders win-set formulation a dynamic concept. Issue salience and the correlating levels of interest can fluctuate temporally which would be reflected by practices and the cost-benefit calculations of actors at any given time. The importance of certain matters would remain relatively constant over time for some stakeholders, while other issues may become less or more salient relative to matters of importance to a given stakeholder. It is not difficult to understand why DG Home would not devote human resources to the EU-Cuba negotiations when other exogenous events, i.e. the refugee crisis in the EU, require more immediate attention. From a practice point of view, issue salience and level of interest is represented via practices in which the concept of practical intelligibility is crucial. It simply did not make sense for DG Home to make the EU-Cuba negotiations a matter of priority. Furthermore, exogenous practices stemming from the negotiations may also serve as a factor in changing domestic stakeholder group interests. A clear example was the human rights dialogue launched jointly by the EU and Cuba as a direct result of the negotiations.

The practices of Level II interest groups also shed light on the multiplicity of win-sets. Two-level game theory generally conceives win-set as an aggregate concept for each party. However, win-sets may be considered as simultaneously multiple for each party, especially in the case of comprehensive multi-issue agreements. The practices of the various stakeholders during the PDCA negotiations, such as DG DEVCO, Trade, or the EEAS, illustrated that each issue had its own win-set correlating with the involved interest group's level of influence. The extant practices of DG DEVCO in Cuba, for example, made the negotiations of the development and cooperation chapters relatively unproblematic, i.e. the win-sets of the parties were clearly overlapping in this issue. At the same time, the political and human rights chapters negotiated by the EEAS proved to be considerably more difficult to agree on due to the issue's high salience and the involvement of multiple interest groups. In sum, practices differ depending on the context and the issue salience which results in having multiple win-sets during the negotiation of multi-issue agreements. In-depth analysis of practices can contribute to a better understanding on the effects of issue salience and the interrelation between issues (e.g. side deals across issues).

Practices are capable of limiting the fluctuation of win-sets. From the EU's point of view, the issuance of negotiating directives does set a rigid framework for the ratification process even if it does not set preferences in stone. Even during the pre-negotiations phase of the PDCA, the EEAS exerted efforts into shaping the formulation of directives which would allow for overlapping win-sets with Cuba. However, interest manipulation practices diverged from the guidelines of the directives due to the context of Level I bargaining. After the first few rounds of the negotiations, the Cuban side put forward unexpected demands regarding issues which required divergence from the established preferences. The practices of the other negotiating party at Level I can, therefore, induce change and serve as a context for the chief negotiator's interest manipulation practices of its own domestic constituencies at Level II. This would

indeed highlight an alternative approach to the analysis of Level II preferences and correlating win-set sizes.

5.2.4 Level II institutions and practices

Finally, two-level game theory argues that win-set size is determined by the ratification at Level II, especially the explicit voting rules required for approval. The more complicated the process of approval and the more autonomy the various institutions possess the more constrained will be the win-set of that party. Conversely, if a state is highly autonomous where institutions only have limited influence in the final approval of the agreement will have an increased win-set since it won't be able to refer to domestic constraints of ratification during Level I negotiations.

Again, the practices of EU and Cuba in the PDCA negotiations show some discrepancies to these assumptions. On the one hand, EU negotiators did not see any risk for the agreement not to be ratified by Cuba. While this would mean that Cuba's win-set was inflated, I would argue that this correlation is problematic to underscore because institutional autonomy is also difficult to measure, not to mention win-sets. Practices, however, are based on shared intelligibility which means that bargaining practices at Level I would communicate issues of interest and the boundaries of win-sets. Even though ratification by a parliament with limited authority would most likely go through because of the government's influence in the political system. Nonetheless, that country would still have its interests and red lines determining the issue-related win-sets.

In case of the EU, the above assumption is easier to underscore. It is often argued that the EU is a tough negotiating partner because the time-consuming process of issuing the negotiating directives which often represents the lowest common denominator, i.e. the viewpoint of the most reluctant MSs at the Council of the issue at hand (Elgström and Strömvik 2005, Elgström 2005, Larsén 2007). The EU negotiation directives, the anonymous voting rules in Council, the EP's consent and the lobby power of various stakeholders throughout the process makes the practice of ratification a more difficult issue in the complex institutional system of the EU. This was also reflected in Level I bargaining in the case of the PDCA. However, the practice analysis of ratification also showed that construing it as a continuous process involves also the consideration of contexts, discourses, and social relevance in understanding the fluctuating interests behind approval. The practices of the EEAS, for example, made the ratification process of the PDCA more predictable and less constraining on the EU's win-set.

Furthermore, I argue that the pre-negotiations phase of the PDCA, i.e. the process leading up to the issuance of negotiation directives should in fact be considered as part of the ratification practice and therefore of the two-level game model as well. The core concept of processivity dictates ratification represents evolving preferences influenced by a context of other practices, such as pre-negotiations. These practices result in the EU negotiating directives which provided the frame for Level I bargaining and limit the manipulation practices at Council.

6 Conclusions

The research objectives of this thesis were formulated in a threefold manner. First, the basic aim was to describe the practices of the EEAS in international negotiations. It can be concluded that in case of the PDCA negotiation, the EEAS promoted the performance of crucial practices within the context of the negotiation both domestically with other EU stakeholders, as well as with Cuba at the international level. The findings show that despite the young age of the institution, the EEAS possessed both the expertise as well as the authority to lead the negotiations. Its interest group manipulation practices were crucial in influencing preferences of core stakeholders in favor of the PDCA agreement. This was apparent vis-à-vis the Council since the constant manipulation of preferences facilitated the ratification process. The EEAS was also the main coordinator of the activities relating to the background work of Commission departments. Coordination practices were crucial in generating momentum with regards to stakeholders without strong vested interests in the negotiation. The EEAS oversaw the bargaining of the most sensitive issues as well, including political dialogue and human rights. It effectively used a mix of confrontational and cooperative strategies to achieve mutually ratifiable results. It is important to bear in mind that these practices pertained to the negotiation of a bilateral cooperation agreement with multiple issues and relatively low stakes. These criteria should be taken into account before implementing these findings in another case.

Second, what conclusions may be drawn on EU international negotiations in general? Arguments are often made that the issuance of negotiating directives within the EU considerably constricts the EU's negotiating position. This restriction stems from the fact that negotiating directives often represent the "lowest common denominator" since MSs decide upon the directives based on unanimity (Elgström and Strömvik 2005). In order secure all Member States' agreement, the compromise thus tends to reflect the demands of the least motivated MS; otherwise it could simply veto the decision on the directives. However, the analysis of the PDCA agreement shows that the constellation of practices during negotiations renders stakeholder preferences more flexible than the rigidity of the directives would suggest. Understanding the directives as rules informing the practical intelligibility of the practice of ratification suggests that the dynamics of preference manipulation and formulation can influence the outcome of negotiations. This may also shed light on which practices promote more divergence from explicit formulations of the directives.

The EU's complex system of preferences may also serve as a catalyst for the practice of international negotiation. First, rigid positions signal strong commitment from the EU. Once the MSs and other EU stakeholders agree on the negotiating directives, they will most likely ratify the agreement if results are found within the overlap of win-sets. This makes the EU's practice of ratification reliable and renders voluntary or involuntary defection virtually impossible in normal circumstances. Second, rigid domestic preferences constitute a tool in the hands of EU negotiators to maximize gains

and minimize concessions. Although the ‘take it or leave it’ approach has its risks of obstructing compromise-finding practices, it can effectively support distributive strategies. The case of the PDCA underlines these observations. Further research could target the causal link between reaching compromises at Level I and interest group manipulation at Level II.

The third objective of the thesis was to investigate the validity of combining a practice approach with two-level game theory. First, two-level game theory facilitated the application of a practice approach. Even though practices do not necessarily conform the expository levels of the model, retaining these categories facilitated the identification and demarcation of practices. Second, construing international negotiation as a practice provides causal explanations on the dynamics between the levels of Putnam’s model. The contextuality of interrelated practices and their performance can shed light on how Level II practices of interest group manipulation and ratification influences the bargaining practice at Level I, and vice-versa.

The combined use of practice and two-level game theories enables certain conclusions. First, a practice approach highlights the need to include pre-negotiations phase into the two-level game structure. Construing it as a practice enables the understanding of practical intelligibility and contexts behind the practices of international negotiations. Second, practice analysis underlined the importance of intersubjectivity behind bargaining strategies. Overall, more confrontational bargaining tactics were utilized in areas of high political salience, whereas more technical areas with low political salience, such as certain cooperation development articles, were more cooperative. Based on the findings, I argue that the utilization of practice theory promises valuable cross-avenues for the interpretation of the two-level game model.

The analysis of the PDCA negotiations highlights a possible research avenue for future practice-theoretical studies. The practices of the EEAS vis-á-vis the Commission showed confusion regarding the assignment of tasks. One of the main tenets of practice theory is that practices are guided by practical intelligibility based on intersubjectivity and shared understandings. The findings would suggest that this was not always the case during the practice of interinstitutional coordination. It could be argued that the coordination practice was suboptimal because practitioners did not share the same understanding on how they made sense to perform. A question thus arises: how can be the core concepts of practice operationalized to measure the effectiveness of practices? One argument could be that the more impaired certain concepts of practices are, the more likely they would become less effective. However, this question necessitates further research.

Finally, a few thoughts on methodology and equifinality. The application of practice theory poses serious impediments in the study of the closed circles of diplomacy and negotiations. The basic tenets of practice theory dictate that practices should be observed, studied, and even performed. A thorough ‘by-the-book’ methodology is almost impossible to fully carry out, an outside researcher simply does not possess the necessary resources and security clearances to attend international negotiation sessions. Interviews, therefore, provide the next best alternative. However, a practice approach

requires a well-constructed interview script to reconstruct larger phenomena from daily activities. Ironically, many interviewees will be baffled facing a question like “what do you do on a daily basis”. One should not be surprised to get a reply along the lines of “I write emails, make phone calls, attend meetings, and I also write reports”. My conclusion is that in practice-based research, considerable rapport-building is required during interviews to have comfortable discussions on how practices are performed. In my opinion, however, this means that phone-based interviews are less than satisfactory. The personal presence and intercultural connection are crucial to understand the interviewee’s point of view and, perhaps more importantly, to have the interviewee understand the practice researcher’s rationale behind some of the more odd-sounding questions.

Because of the methodological impediments, elimination of equifinality may also be challenging. In other words, if a practice research is not sustained by the prerequisite methods, can we argue that the same results would not have been attainable by other means? In the case of this thesis, I am not convinced that similar results could not have been achieved based on a different approach. The lack of accessible methods simply did not allow full immersion in practices. However, I do argue that the conclusions demonstrate the validity of a practice approach in two-level game research and highlight unique results. For example, the causal links between trust building and bargaining practices at Level I would not have been identified without the consideration of the core practice concepts. In conclusion, I believe that my findings may encourage further research in this area and transferring results to other cases.

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Appendix

Interview Script

**EU-Cuba relations and PDCA negotiations
Interview with EEAS official
November 15, 2017**

1. INITIAL INFORMATION

- a. Research background, objective
- b. Practice theory – daily practices
- c. EEAS negotiations and Cuba under-researched
- d. Confidentiality and anonymous

2. What is your role as a desk officer for Cuba and as a principal administrator?

- a. Where are you based? (Brussels? In MD-Americas under E. Hrda?)
- b. Which EU institutions/departments are you in contact most frequently?
- c. How many colleagues do you have at the Latin-America Dpt.?
- d. What is your relationship with Cuban officials?

3. Could you briefly describe EU-Cuba relations?

- a. The role of US
- b. How important is EU-Cuba relations for the EEAS and other EU institutions?
- c. How politicized is this issue?

4. In the framework of the PDCA matter, what were your general and daily tasks (especially leading up to the EP ratification)?

- a. How frequently are you in contact with Cuban counterparts?
- b. How closely did you work with Commission? (especially DGs DEVCO, TRADE, HOME)
- c. What about Member States? Only through Council, or directly as well?
- d. What about third party lobby groups, interested outside groups? (e.g. Ladies in White)

- 5. Since February 2017, which EU institution was the most heavily involved in the interinstitutional processes regarding the EU-Cuba agreement? (optional depending on questions above - leave it if necessary)**
- 6. Can you walk me through the process leading up to the EP ratification?**
 - a. How difficult was the ratification process at the EU Parliament?
- 7. What is the general opinion within the EU institutions on the PDCA?**
 - a. What is your view on the human rights concerns? What do your colleagues think about it?
- 8. What do you expect at Member State level ratification processes?**

Academic interview Script

EU-Cuba relations and PDCA negotiations
Interview with EEAS official
December 5, 2017

9. What was your role during the EU-Cuba PDCA negotiations?

- a. General and daily tasks

10. Could you please describe the negotiation process for me?

- a. 7 rounds of negotiations
- b. work done in between rounds
- c. EU interests
- d. Cuban interests

11. How would you characterize the negotiations with the Cuban negotiating party?

- a. Which were the most difficult rounds/topics and how did you resolve them?
- b. Which were the easiest rounds/topics and why?
- c. Human rights issues?

12. Please describe the internal (EU level) bargaining process underlying the negotiation process.

- a. Core stakeholders and interests
- b. Which institution/department had the strongest (i.e. most difficult to influence) position on PDCA and why?
- c. The role of EEAS in bringing the interests closer

13. What is the general opinion within the EU institutions on the PDCA?

- a. What is your view on the human rights concerns? What do your colleagues think about it?

14. What do you expect at Member State level ratification processes?

Academic interview Script

EU-Cuba relations and PDCA negotiations
Interview with European Commission official
December 7, 2017

- 1. What was your role during the EU-Cuba PDCA negotiations?**
 - a. General and daily tasks
 - b. What other tasks, projects did you have?
 - c. How many colleagues worked on the PDCA negotiations?
 - d. Article formulation?
- 2. Could you please describe the negotiation process for me?**
 - a. 7 rounds of negotiations
 - b. work done in between rounds
 - c. European Commission and DG Trade interests
 - d. EEAS interests – any conflict?
 - e. Cuban interests
- 3. How would you characterize the negotiations with the Cuban negotiating party?**
 - a. Which were the most difficult rounds/topics and how did you resolve them?
 - b. Which were the easiest rounds/topics and why?
- 4. Please describe the internal (EU level) bargaining process underlying the negotiation process.**
 - a. Core stakeholders and interests
 - b. Platform to discuss this issue?
 - c. Role of DG Trade and the EEAS
 - d. Which institution/department had the strongest position on PDCA and why?
 - e. How were the stakeholder interests harmonized within the EU?
 - f. Member State influence
- 5. What will be your tasks regarding the implementation of the PDCA agreement?**
- 6. What is the general opinion within the EU institutions on the PDCA?**

7. What do you expect at Member State level ratification processes?

Academic interview Script

EU-Cuba relations and PDCA negotiations
Interview with European Commission official
December 8, 2017

- 1. What was your role during the EU-Cuba PDCA negotiations?**
 - a. General and daily tasks
- 2. Could you please describe the negotiation process for me?**
 - a. 7 rounds of negotiations
 - b. Work done in between rounds
 - c. European Commission and DG DEVCO interests
 - d. Cuban interests
- 3. How would you characterize the negotiations with the Cuban negotiating party?**
 - a. Which were the most difficult rounds/topics and how did you resolve them?
 - b. Which were the easiest rounds/topics and why?
- 4. Please describe the internal (EU level) bargaining process underlying the negotiation process.**
 - a. Core stakeholders and interests
 - b. Role of DG DEVCO and the EEAS
 - c. Which institution/department had the strongest position on PDCA and why?
 - d. How were the stakeholder interests harmonized within the EU?
 - e. Member State influence
- 5. In terms of the workload, how involved will be your DG with PDCA?**
- 6. What is the general opinion within the EU institutions on the PDCA?**
- 7. What do you expect at Member State level ratification processes?**

Interview questions

Follow-up email correspondence with EEAS official
December 19, 2017

1. Is it customary for the HR/VP to sign cooperation agreements with third parties? (it is the President who appoints the signatory on behalf of the EU)
2. Am I correct to understand that the COLAC was the primary official forum where the negotiating directives were negotiated between the MSs and the EEAS? Did it ever make it to COREPER level in issues where the working party could not decide on?
3. According to the EU Council's decision authorizing the Commission to open negotiations, the negotiations had to be conducted in "close consultation" with the COLAC. You mentioned that there were COLAC meetings once before and after every rounds as well as additional visits by the HR/VP. Did the process of finding the necessary compromises between the MSs and Cuba ever involve consultations at the COREPER level or require the 'intervention' of the HR/VP?