



Striving for Influence

The European Parliament
in EU Foreign Policy

Guri Rosén

ARENA Report No 2/15

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ISBN (print) 978-82-93137-48-1
ISBN (online) 978-82-93137-98-6
ARENA Report Series (print) | ISSN 0807-3139
ARENA Report Series (online) | ISSN 1504-8152

Printed at ARENA
Centre for European Studies
University of Oslo
P.O. Box 1143, Blindern
N-0318 Oslo, Norway
Tel: + 47 22 85 87 00
Fax: + 47 22 85 87 10
E-mail: arena@arena.uio.no
<http://www.arena.uio.no>

Oslo, June 2015

Abstract

Two main topics provide the background for this report. First, the fact that the conduct of foreign and security policy largely remains sheltered from standard democratic procedures. Historically, it was considered to be a matter for kings, but although the role of royalty has waned, foreign policy is still regarded to be the domain of the executive. This is also visible at the EU-level, where the European Parliament's claim for more powers in EU foreign policy has been opposed with the argument that national parliaments are equally powerless. Secondly, the report addresses the dynamics of European integration. EU foreign policy, and particularly its Common Foreign and Security Policy (CFSP), is often regarded as an exclusive domain for the member states. In my report, however, I study cases where the European Parliament has made an advance into the field of EU foreign policy. Thus, the main research question of my report is: How can we explain the increase in the EP's influence in EU foreign policy? Why would member states, in such a sensitive area, be willing to share their powers with MEPs over whom they have little, if no control?

Three cases form the backbone of the report: one aiming to explain how the Parliament got access to sensitive documents in the area of security and defence, then its increasing participation in the CFSP budgetary process, and finally its new powers in the area of EU external trade policy. The analyses demonstrate how two mechanisms are key to understand the increase in the EP's influence. First, I argue that the Council's increasing recognition of EP's role in EU foreign policy can be explained by the Parliament's appeal to democratic principles. Its claims for more influence in foreign policy have mainly been justified with the need to introduce more democratic legitimacy to the area. These arguments have gradually been accepted as valid by the Council, which has led to a change in its interaction with the Parliament. Secondly, in order to arrive at concrete agreements, the Parliament has pursued a bargaining strategy. Compared to the legislative area where the Parliament and the Council are co-legislators, the Parliament has fewer bargaining instruments but linking concessions to areas where it does have formal powers has proven successful. An important exception is the case of trade where the joint efforts of the Parliament and the Commission during the Convention on the future of Europe explain the decision to extend the Parliament's powers. By referring to

general principles of parliamentary representation and the need for institutional coherency, they managed to convince the members of the Convention that extending the European Parliament's trade powers was the only right thing to do.

These findings corroborate the observation that the EP's role in EU foreign policy is taken increasingly seriously. In order to explain the EP's increasing influence in EU foreign policy, however, there is a need for more than one explanatory approach. Whereas previous studies have conveyed a change in the Council's behaviour and attitude towards the EP's influence in the CFSP, this report also adds a plausible explanation of this development.

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Preface

Two main topics provide the background for this thesis. First, the fact that the conduct of foreign and security policy largely remains sheltered from standard democratic procedures. Historically, it was considered to be a matter for kings, but although the role of royalty has waned, foreign policy is still regarded to be the domain of the executive. This is also visible at the EU-level, where the European Parliament's claim for more powers in EU foreign policy has been opposed with the argument that national parliaments are equally powerless. Secondly, this thesis addresses questions of European integration. EU foreign policy, and particularly its Common Foreign and Security Policy, is often regarded as an exclusive domain for the member states. In this thesis, however, I study three cases where the European Parliament has made an advance into the field of EU foreign policy, which begs the question: How can we explain the increase in the EP's influence in EU foreign policy? The thesis consists of three stand-alone articles that all try to answer this:

- EU Confidential: The European Parliament's Involvement in EU Security and Defence Policy
- In for a penny, in for a pound? Explaining the European Parliament's Advance into the Common Foreign and Security Policy
- Habit or principle? Explaining the European Parliament's Increasing Powers in EU External Trade Policy

A great many thanks are due: First, I would like to thank the Ministry of Defence that has funded my research. Then, throughout the process of writing this thesis, I have had the great fortune and pleasure of working with some fantastic people, particularly at ARENA Centre for European Studies at the University of Oslo, where I have spent my PhD-years. Great many at ARENA deserve thanks: First and foremost, my supervisor Helene Sjursen. She has encouraged my project since day one, and has always tried to push me a bit further until I myself became convinced that I could go that extra mile. She has never allowed me to lose faith in my work, especially at those crucial moments when it was time to see whether I would be able to convince anyone else of my argument. She has been my number one supporter and a constructive critic. Her analytical

skills and systematic thinking will never stop being an inspiration to me.

ARENA is truly an excellent place to be for a young researcher. Being surrounded by people who work on the same topic, and who are all head over heels in love with their job, has been an enormous encouragement. At the Tuesday seminar I have been able to meet and discuss with accomplished professors and young promising scholars from all over Europe. These seminars have been a training ground where I have been pushed to improve my critical thinking and many times to think differently about my own research.

Among all my colleagues at ARENA several deserve thanks both for being fun and caring friends and for invaluable input and advice throughout my project. Some are still at ARENA: Cathrine Holst, Espen Hagen Olsen and Mai'a Davis Cross, while others are pursuing their careers elsewhere: Anne Elizabeth Stie, Christer Guldbrandsen, Daniel Gaus, Kolja Raube, Maria Martens and Pieter de Wilde. ARENA's group of PhD-students are some of the kindest and cleverest people I have ever had the pleasure of working with: Helena Seibicke, Johanna Strikwerda, Johanne Døhlie Saltnes, Tine E. Johnsen Brøgger, Silje H. Tørnblad, and especially Nina M. Vestlund. A special thanks goes to a special person: My friend and colleague, Marianne Riddervold. Her creative thinking and drive never ceases to amaze me. Neither does her care and compassion for the people around her, her quirky humour and constantly motivating attitude. But the foundation for this thesis was laid a long time ago. My mother and father taught me to choose my goals wisely and to pursue them with determination. The continuous love and support from my family and friends has helped me enjoy and finish this project. My dear friends who have managed to convince me that they care (almost) as much for the European Parliament and EU foreign policy as I do: Christiane Jordheim Larsen, Marte Nilsen and Åslaug Middal. You are the greatest. And a very special thanks to the best of friends, Therese Sundell, who is witty and wise, and always has my back.

Then finally, but most importantly: My two tiny superheroes, Hilmar and Edvard, who remind me that there is actually a life outside the EU. And to my husband, PG. You make life worth living.

Introduction

The European Union (EU) is the only international organization to date that has developed an autonomous foreign policy. Ranging from trade and aid to security and defence, the scope of the EU's foreign policy activities is considerable. It has conducted a large number of military and civilian operations, it speaks with a single voice in international trade negotiations, and it manages the world's largest development budget.¹ However, in many regards foreign policy deviates from other EU policy areas. The institutional structure and decision-making procedures of the Common Foreign and Security Policy (CFSP) are for instance markedly different. The Council, which represents the Member States' interests, initiates policy together with the High Representative (HR), instead of the Commission.² Moreover, rather than Qualified Majority Voting, the main principle of decision-making is unanimity, giving each Member State a chance to veto policies that it does not approve of. Accordingly, EU foreign policy is frequently described as an intergovernmental policy area (Hoffman

¹ In this thesis, I employ a wide definition of foreign policy meaning "the sum of official external relations conducted by an independent actor (...) in international relations" (Hill 2003: 3). If the development aid of the Member States is taken into account, the EU is the largest donor in the world (Orbie and Versluys 2008).

² With the Lisbon Treaty, the HR took over the Commission's previous right of initiative in the Common Foreign and Security Policy (CFSP). Thus, one could argue while the Commission used to be fully associated with the CFSP, this has been "replaced by the HR's involvement who in CFSP does act outside the Commission's ambit control" (Thym 2011:15).

2000, Hyde-Price 2007).³ The “limited roles” played by supranational institutions is held to be a further sign of “the dominance of member state governments” (Giegerich and Wallace 2010: 442).⁴

At the same time, there is a growing body of evidence demonstrating that while the CFSP has not been supranationalised, it is “equally problematic to claim that it remains intergovernmental” (Sjursen 2011c: 1089). Starting with the European Political Community (EPC) in the 1970s, cooperation between the Member States on foreign policy increased and “ultimately changed the way EU states defined and pursued their national interests” (Smith 2004: 89). Moreover, it has been argued that processes of ‘brusselisation’ (Allen 1998) have made the institutions operating under the authority of the Council more autonomous and thus able to make decisions independent of the Member States (see for instance Cross 2013, Duke and Vanhoonacker 2006, Juncos and Pomorska 2011, Müller-Brandeck Bocquet 2002).

A potential shift in authority from national capitals to Brussels is not only significant from the perspective of European integration; it also has important democratic implications. Few national parliaments have substantial powers in the area of foreign policy. Historically, it was considered to be a matter for kings, and although the role of royalty has waned, foreign policy is still regarded to be an executive prerogative. The exclusion of parliaments is “no longer justified by reference to the rights reserved to the monarch but by the need for efficiency and consistency in foreign policy decision-making” (Bieber 1990: 152). Due to these special characteristics, foreign policy has often been exempted from the same democratic procedures as domestic policies (Hill 2003). Delegating foreign policy-making to the EU-level adds an additional democratic challenge. “[I]f foreign policy functions are simply ‘uploaded’ to the EU level without democratic control, the result would be a multi-level process of self-reinforcing executive dominance” (Sjursen 2011b: 1071). Democracy requires that citizens authorise decisions, but if Member States’ control over

³ Although the Lisbon Treaty abolished the pillar structure, “specific rules and procedures” still applies to the CFSP (Article 24, TEU).

⁴ Although the Commission plays a central role in EU external trade policy, and policy is decided with Qualified Majority Voting, the European Parliament (EP) was effectively excluded from policy-making until the entry into force of the Lisbon Treaty (Niemann 2006).

foreign policy is weakened, it dilutes the democratic link between citizens and decision-making. Moreover, it creates a problem of accountability: Who are to be held accountable, and who are supposed to perform the task of holding decision-makers to account?

Research has shown that Member State parliaments are rarely able and often not willing to influence or scrutinize EU foreign policy (Anghel et al. 2008, Bono 2005, Gourlay 2004, Peters et al. 2010). The role of the European Parliament (EP), which is directly elected by EU citizens, has been, and still is, contested. Whether parliamentarians at the EU-level should be the ones responsible for guarding the preferences of EU citizens and holding decision-makers to account is a matter of continued debate. Following the view that EU foreign policy should be intergovernmental, many also hold that democratic legitimacy in the area should derive from national parliaments, and not the EP. Furthermore, the EP is often written off as insignificant to EU foreign policy because it has very few formal powers (see for instance Cameron 2007, Eeckhout 2012, Gegout 2010, Hyde-Price 2002, Juncos and Pomorska 2008, Stetter 2004, Tonra 2000, White 2001).⁵ The EP's role, it is claimed, is largely confined to deliberation (Peters et al. 2010: 12). Thus, some have argued that the EU's foreign policy suffers from a "double democratic deficit" because neither national nor EU level parliamentarians are capable of exerting adequate control (Born and Hängii 2004).

However, there are indications of changes in the EP's involvement in EU foreign policy. In 2007, the former HR, Javier Solana, appointed a Special Representative for parliamentary affairs, supposedly to "underscore the importance he attaches to [the] relations [with the European Parliament and national parliaments]" (ESDP Newsletter 2007: 7). In the EP's report on the CFSP from 2008 (for the year 2006), the EP stated that it "recognises that considerable progress has been achieved in relations between the Council and Parliament" and that it "welcomes the growing recognition that the legitimacy and coherence of the CFSP/ESDP⁶ depend to a great degree on the growing willingness of the High Representative and his services to

⁵ This was also the case for EU external trade policy, prior to the Lisbon Treaty (Niemann 2006, Woolcock 2012).

⁶ The European Security and Defence Policy (ESDP) was renamed the Common Security and Defence (CSDP) Policy in the Lisbon Treaty.

cooperate with Parliament, as well as the Council Presidency's readiness to engage with Parliament" (European Parliament 2008).

Moreover, although the EP disposes of few formal powers, its activities related to democratisation and human rights, as well as its role as both interlocutor and agenda-setter, have led several authors to argue that the EP's influence in EU foreign policy cannot be ignored (Barbé 2004, Barbé and Herranz 2005, Bono 2006, Bretherton and Vogler 2006, Diedrichs 2004, Fischer et al. 2007, Greco 2005, Grunert 1997, Maurer et al. 2005, Raube 2014, Reiderman 2006, Thym 2006, Viola 2000, Wisniewski 2013). The EP has for instance been described as a norm entrepreneur in the EU's human rights policy (Balfour 2012, Smith 1998). It has also been held out that the EP was able to influence the establishment of the European External Action Service (EEAS) beyond the intention of the Treaties (Raube 2012). One of the changes brought about by the EP was to strengthen its own role vis-à-vis the EEAS (Wisniewski 2013: 100). In the area of EU external trade policy, some have put forward that the most important change in the Lisbon Treaty was the granting of new powers to the EP (Woolcock 2008: 1).

Against this background, this thesis studies why the EP has achieved more influence in EU foreign policy. Such a development is puzzling, given the conflict surrounding the EP's role, the intergovernmental character of the policy area and the EP's apparent lack of leverage vis-à-vis other EU actors. Why have Member States, in such a sensitive area as foreign policy, been willing to share their powers with the EP over whom they have little, if no control? *How can we explain the increase in the EP's influence in EU foreign policy?*

The main reason for investigating why the EP's influence in EU foreign policy has increased is that although the EP's advances may be limited and several of its demands have yet to be fulfilled, there is an observed growth in parliamentary influence that requires explanation. Its impact on the EU's human rights policy and on the establishment of the EEAS has already been mentioned. In addition, the EP's influence through the CFSP budget (Maurer et al. 2005, Thym 2006) and its recent advances in trade policy (Niemann 2011) have been described as significant. Furthermore, studies have claimed that the EP's role and competence in EU foreign policy is gradually taken more seriously (Diedrichs 2004, Gourlay 2004, Lalone

2005). I am not claiming that the EP has achieved considerable decision-making capacity, except in the area of external trade. There is no doubt that the EP's influence in EU foreign policy is limited compared to policy areas where it holds legislative powers.⁷ At the same time, there is little legislation in the area of foreign policy, and employing a too restricted understanding of influence will likely not capture the EP's role. In the words of Joseph Weiler (1980: 181): "[h]ad a narrow construction of the term 'power' been adopted, including an actual capacity to sanction decisively the formulation and execution of foreign relations, it would become clear, as expected, that Parliament has a marginal role in the process". Thus, in this thesis influence is broadly conceived as ranging from changing and defining policy to shaping procedures and exercising scrutiny that may in turn affect the decision-making process as well as the content of policies (cf. Lindsay 1994).

The analytical approach

In order to answer this question, this thesis analyses three cases from three areas within foreign policy where the EP's influence has increased. Article one traces how and why the EP gained access to sensitive documents, which enabled it to scrutinize the Council's activities in the Common Security and Defence Policy (CSDP). Article two studies the development of the EP's participation in the CFSP budgetary process, which has led to an expansion of the practice of informing and consulting the EP, as well as to a redefinition of the EP's role in CFSP in general. Article three looks at how and why the EP's powers in the EU's external trade policy have grown considerably in and after the Lisbon Treaty, giving the EP both legislative powers, as well as the power to veto international trade agreements. In all the three cases, there has been a change in the Council's behaviour towards the EP and in its opinion on the EP's role in EU foreign policy. Thus, a common goal of all three articles is to uncover the key mechanisms that have produced a change in the EP's influence in EU foreign policy.

The analytical framework of the thesis builds on the existing literature on the EP's influence and empowerment and seeks to take this a step further. A dominant strand within this literature is

⁷ Note that the EP only has legislative powers in EU external trade policy after the entry into force of the Lisbon Treaty.

composed of studies that see the outcome of interinstitutional negotiations as a result of relative powers, formal decision-making rules and the distribution of preferences. Investigations emphasise the importance of the support from, or at least non-opposition on the part of, Member States in order for the EP to gain influence (Benedetto and Hix 2007, Hix 2002, König 2008, Moury 2007). Other studies also accentuate how the EP has developed a certain skill in taking advantage of vagueness in the treaties to gain influence beyond its formal rights (Farrell and Héritier 2003, 2007, Hix 2002, Moury 2007, Rittberger 2000, Stacey 2003). Still, bargaining approaches have had trouble explaining why Member States empower the EP, as it is not clear why handing over powers to the EP would further their national interest (Rittberger 2005).

Therefore, it has been suggested that there has to be more to the story than an aggregation of national interests. In the words of Pollack (1999: 10), “the member states were clearly motivated primarily by democratic ideology in their decision to delegate new powers to the Parliament” both at the Maastricht and Amsterdam intergovernmental conferences (IGCs). Delegating national powers to the EU-level challenges some fundamental principles of democratic decision-making. Furthermore, the public criticism of the EU’s democratic shortcomings has grown steadily since the early 1990s. Thus, several authors have argued that the empowerment of the EP has to be understood against the background of the problems of democratic legitimacy triggered by the transfer of national authority to the EU (Christiansen 2002, Eriksen 2009b, Eriksen and Fossum 2012, Goetze and Rittberger 2010, Rittberger 2005, 2012, Rittberger and Schimmelfennig 2006).

Similar observations have been made regarding the EP’s increasing influence in EU foreign policy. Smith (2004: 174) has for instance argued that “member states have realised that their “collective foreign policy activities must show some sensitivity to democratic legitimacy (...) to be compatible with other principles of European integration”. Considering that the EP is the only directly elected body at the EU level, it seems rather intuitive that when integration in the field grows, legitimacy consideration would be a key motivation for extending its influence in EU foreign policy. However, in order to capture and explain the potential impact of normative considerations on the EP’s increasing influence in EU foreign policy, a theoretical

perspective is needed that can account for the impact of norms on decision-making. This thesis suggests that a communicative approach provides a set of tools that are useful to explain the EP's increasing influence. Firstly, because it holds decisions based on norms to be rational (Deitelhoff 2009, Eriksen and Weigård 2003, Risse 2000). This opens up to the possibility that EU actors may adhere to normative considerations with regard to the EP's role in EU foreign policy and act accordingly. Secondly, by proposing that the force the better argument may change preferences, a communicative approach provides a potential account of why actors choose to act on norms (Eriksen 2009b, Sjursen 2002, Ulbert and Risse 2005a). Hence, if a claim for increased parliamentary influence in EU foreign policy is justified by valid reasons, EU actors may be convinced to change their behaviour. Finally, the communicative perspective suggests that when there is disagreement over norms, the ones that are assessed and accepted as more relevant and valid will prevail (Eriksen 1999, Risse 2004). Thus, although the EP's role is contested, its influence in EU foreign policy may still increase if the supporting arguments are held to be better than the opposing ones.

The remainder of this chapter is structured in the following way: The subsequent section presents the ways in which this thesis seeks to contribute to the existing literature. Next, a brief empirical background is provided, describing the development of the EU's foreign policy as well as the powers of the EP in the field. The second section presents the analytical framework of the thesis. The third section elaborates on the methodology and data employed, while the fourth section describes the contribution of the individual articles. Then, the three articles are given in full, before some empirical and theoretical conclusions are suggested in the fifth and final chapter of this report.

Value added

Primarily, this thesis aims to contribute to a better understanding of the EP's role in EU foreign policy. Furthermore, it aims to add both to the literature dealing with the EP's empowerment and influence in general as well as the literature on EU foreign policy and the "democratic deficit".

Bretherton and Vogler (2006: 9) observed that one of the central changes between the first and second edition of their book on the EU

as a global actor, was that interviewees reported “a perception that the European Parliament had become more important to external relations”. In consequence, many third country diplomats considered that it had become necessary to develop contacts with MEPs in addition to the other EU institutions. It has also been argued that the EP exercises parliamentary diplomacy through interacting with the EU’s international partners. Dealing with third countries and international organisations may in turn strengthen its interinstitutional influence (Redei 2013). However, few of the studies that claim to observe the EP’s increasing influence, or greater role, in EU foreign policy, make an attempt to explain this development. Apart from some notable exceptions (Barbé and Surrallés 2008, Crum 2006, Maurer et al. 2005, Niemann 2006, Thym 2006, Wisniewski 2013), the question of how and why the EP has managed to increase its influence is not systematically addressed. Thus, the main aim of this thesis is to fill this gap both empirically and theoretically by investigating, and offering an explanation for, why the EP has managed to increase its influence in EU foreign policy.

Some studies have claimed that the EP is gradually seen as a “serious actor and interlocutor in CFSP” (Diedrichs 2004: 36), and that the obligation to consult the EP on CFSP-matters is taken “increasingly seriously” (Gourlay 2004: 188). Moreover, several authors have pointed to the EP’s legitimising potential as a reason for its influence in foreign policy (Barbé and Surrallés 2008, Niemann 2011, Smith 2004, Wisniewski 2013). However, because these claims are rarely systematically investigated, they appear close to post-rationalisations: The EP is democratically elected, therefore, whenever its powers are increased, it must be due to concerns for legitimacy. Instead, thorough empirical investigation is needed to find out why the EP’s influence in foreign policy has increased and whether or not this development is connected to a perceived need to alleviate the legitimacy deficit in the area. A goal of this thesis is to examine this potential explanation as well as to offer a possible theoretical account for how and why normative considerations may have contributed to the EP’s increasing influence in EU foreign policy.

This exercise may also shed light on how the EP exerts influence in general, and particularly on how it seeks to create and change institutional procedures that could add to its own authority. Studies of the EP’s empowerment have emphasised how concerns for

legitimacy have led to extensions of the EP's powers at successive IGCs (Eriksen 2009b, Rittberger 2005, Rittberger and Schimmelfennig 2006). However, in the existing literature on the EP's influence on EU decision-making in-between treaty changes, the potential impact of norms tends to be ignored (cf. Hix 2002, Moury 2007). The vast majority of studies that analyse the EP's influence hold its formal decision-making powers to be the main source of influence. This is the case both for studies of the EP's impact on policy-making (cf. Kreppel 1999, Selck and Steunenberg 2004, Tsebelis et al. 2001) and on the development of institutional procedures such as the codecision and the EP's control over the Commission (Farrell and Héritier 2003, Hix 2002, Moury 2007). Having decision-making power gives the EP the opportunity to obstruct and delay political processes, putting pressure on the Council and the Commission to concede to its demands. In the field of foreign policy, the EP's lack of formal powers is presented as the main reason why it does not have greater influence. This thesis studies the EP's efforts to build a basis for influence in an area where it has little decision-making power. Thus, its aim is to add to the existing literature on the EP's influence by investigating why other EU actors may nevertheless take into account the views of an actor with little leverage.

Furthermore, while research on the EP's historical empowerment has increasingly acknowledged the impact of norms, much of this literature tends to emphasise how normative considerations only become salient "during episodes of constitutional formation" (Rittberger 2005: 65). Except for external trade policy, no Intergovernmental Conference (IGC) to date has extended the EP's formal powers in EU foreign policy. Thus, this thesis contributes to the existing literature by examining the extent to which normative considerations have an impact on decision-making in EU foreign policy in-between so-called 'constitutional moments' (cf. Rittberger and Schimmelfennig 2006). Doing so will enhance our knowledge not only of the EP's sources of influence in foreign policy, but potentially also in other policy areas. In addition, by exploring if and how normative considerations have an effect on the development of procedures for decision-making, the thesis may improve our understanding of how democracy in the EU works.

Based on the provisions of the treaties, EU foreign policy is often depicted as an intergovernmental activity. When the CFSP was

established in the Maastricht Treaty, it constituted a separate pillar subject to particular policy-making procedures. This move was intended to “restrict definitively, through qualitative institutional breaks, the Commission and Parliament’s prerogatives” (Moravcsik 1998b: 450).⁸ Along these lines, the CSFP is conceived of as “distinctive in terms of its decision-making structures, its forms of accountability and the sources of its legitimacy” (Hyde-Price 2002: 41). Following an intergovernmental logic, it would primarily be the task of national parliaments to control their governments’ foreign policy activities, also at the European level. If EU foreign policy is built on the principle of national sovereignty, it would not require scrutiny by a supranational parliament (Sjursen 2011a). The actual development of the EP’s influence and involvement in EU foreign policy seems to challenge the intergovernmental perspective.

Bieber (2002: 106) has noted that there is a fundamental paradox at the core of modern external relations. While national, and indeed the EU’s, foreign policy is increasingly preoccupied with democracy promotion, “the limited democratic foundation of foreign policy can be observed throughout Europe, both on the level of individual states and on the level of the European Union”. Traditionally, foreign policy has been regarded as a governmental prerogative. Compared to domestic issues, foreign policy is said to require a more speedy, and above all, secret decision-making (Wagner 2007). Thus, while the EU’s democratic deficit has been subject to widespread debate both politically and in the academic community, EU foreign policy is often exempted from similar scrutiny and criticism. In recent years, however, the potential democratic dilemmas resulting from uploading foreign policy-making to the EU-level have received more attention (Bátora 2010, Lord 2011, Peters et al. 2010, Sjursen 2011a, 2011b, Stie 2010, Wagner 2006b).

The EP’s involvement in EU foreign policy could potentially increase the transparency of the decision-making processes and ensure a degree of democratic oversight. At the same time, even if one holds

⁸ The ‘pillar structure’ was “a conventional way of referring to the different sets of arrangements allocating powers between the institutions, and between the Union and the Member States, for the purposes, respectively, of the Communities, of the CFSP and of the [Justice and Home Affairs]. The differentiation means, in crude terms, that the pooling of Member States’ sovereignty goes less far under the second and third pillars than under the first” (Dashwood 2002: 22).

that foreign policy should not be exempt from democratic scrutiny, it is not self-evident that the EP is the appropriate body to fill that function (Bátora 2010, Lord 2011, Sjursen 2011a). The debates taking place during the Convention preparing what became the Lisbon Treaty illustrate how unsettled this issue is. Some speakers argued for more involvement by the EP, whereas others contended that “democratic legitimacy came from national parliaments” and that oversight particularly in the area of security and defence, is a job for national parliamentarians (European Convention 2002). By investigating the reasons for the EP’s increasing influence in EU foreign policy this thesis will shed additional light on how democratic challenges of delegating foreign policy functions to the EU level are confronted in practice.

Background: EU foreign policy and the EP’s role

Because the creation of an internal market demanded a common stance vis-à-vis outside trade partners, external trade policy became the EU’s first foreign policy. The development of the EU’s foreign, security and defence policy has been slower and more cumbersome. Today, however, the EU is not only acknowledged as a sizeable power in trade, but also as an important diplomatic actor that conducts civil and military operations.

An external actor in perpetual development

Since the end of the Cold War, the EU’s engagement in external affairs has expanded and intensified. The EU is the world’s largest trading bloc and a “formidable trade power” (Meunier and Nicolaïdis 2006).⁹ The external trade policy¹⁰ has been a part of the supranational portfolio since the Rome Treaty, as a consequence of the process of integrating the internal market (Nicolaïdis and Meunier 2005). It is the area of EU external relations where the member states are most integrated, having delegated the responsibility for negotiating agreements with third countries to the Commission (Elsig 2002, Meunier and Nicolaïdis 2011, Niemann

⁹ The EU also provides humanitarian assistance and development aid. If one only considers the EU’s bilateral aid, it is among the top givers globally, according to data from the OEDC. If the aid of the Member States is taken into account, the EU is the largest donor in the world (Orbie and Versluys 2008).

¹⁰ In the EU treaties, EU external trade policy is termed the Common Commercial Policy, but in this thesis, because it is in more general use (Woolcock 2008), the term EU external trade policy is used throughout.

2006, Woolcock 2012). Precisely because the EU's resources, e.g. the size of its economy and market, are so impressive, its achievements in terms of creating foreign policy output have frequently been criticised for being weak, incoherent and indecisive. In other words, there is a perception that "[t]he EU's economic weight demands that it play a commensurate role in world affairs" (Regelsberger et al. 1997: 3).

Despite rather humble beginnings, the CFSP now includes common activities ranging from diplomatic declarations and sanctions to civilian missions and military operations. Since the CFSP was established in 1993, member states have agreed on "more than thousand legally-binding common strategies, common policies and joint actions" (Thomas 2011: 11). Member states cooperate and coordinate their positions in international organizations, such the United Nations (UN) and UN-organisations (Kissack 2010, Laatikainen and Smith 2006, Riddervold 2010) and the World Trade Organisation (WTO) (de Bièvre 2006, Meunier 2007, Young and Peterson 2006). The EU has established a standing military force, the EU Battlegroups that can be rapidly deployed in case of emerging crises.¹¹ Under the CSDP the EU has launched over 20 missions. Initially EU missions were focused on the immediate European neighbourhood, but they have increasingly acquired a more global orientation (Bickerton et al. 2011, Howorth 2007).¹²

Thus, EU foreign policy has developed rapidly and extensively since the beginning of the 1990s, not least with regard to the establishment of common institutions in Brussels. Processes of 'brusselisation' have challenged the intergovernmental format by a continuous shift of political competence from member states to Brussels (Allen 1998). Brussels-based institutions enjoy extensive autonomy from the member states, which allows them to shape and influence EU foreign policy-making (Cross 2013, Duke and Vanhoonacker 2006, Juncos and Pomorska 2011, Müller-Brandeck Bocquet 2002). In the words of Spence and Spence (1998: 47-48): "It is no longer true that national foreign ministries decide policy in terms of a strictly defined national

¹¹ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/esdp/91624.pdf, last accessed on the 17th of July 2014.

¹² For an overview of the EU's past and current missions, see: http://eeas.europa.eu/csdp/missions-and-operations/index_en.htm last accessed on the 17th of July 2014.

interest. There is a growing European reflex buttressed by countless meetings in Brussels of officials at all levels and their political masters". According to the Treaties, EU foreign policy is supposed to retain the initiative and control of member state capitals, but in practice it has moved beyond this through a "voluntary surrendering of power to a larger entity" (Sjursen 2011c: 1092).

This does not mean, however, that the debate about the nature of EU foreign policy is settled. During a recent discussion in the EP, the French and Spanish foreign ministers were adamant in expressing their view that foreign policy is a field belonging to the nation state (European Parliament 2010). Similarly, the role of the EP in EU foreign policy is contested. In the Convention that prepared what became the Lisbon Treaty, supporters of extending the influence of the EP were met with opposition from conventioners who held democracy in foreign policy to be a matter between national parliaments and their governments (European Convention 2002). What role then, does the EP play in EU foreign policy?

The role of the European Parliament in EU foreign policy

In most policy areas where national powers have been uploaded to the EU-level, the EP's involvement in the decision-making structure has grown concurrently. When the EU expands its competence at the cost of national sovereignty, the EP's powers are similarly enhanced. However, despite increased coordination and cooperation between the Member States on foreign policy at the EU-level, accompanied by several treaty changes, the formal powers of the EP in EU foreign policy have not changed since the Maastricht Treaty was established.

In the Maastricht Treaty, the EP was given the right to be consulted on the main aspects and basic choices of the CFSP (Article 21 TEU).¹³ The Presidency was to ensure that the views of the EP were duly taken into consideration, and together with the Commission, it was to inform the EP of the development of the CFSP. In addition, the EP could ask questions to the Council and make recommendations to it. Once a year, the EP was to hold a debate on the progress in implementing the CFSP.¹⁴ According to Norman (2003), during the

¹³ Consultation in the area of CFSP is not a legislative procedure.

¹⁴ These provisions continued the arrangement from the predecessor of CFSP, the European Political Cooperation, where the EP was informed of foreign policy issues

Convention preparing what became the Lisbon Treaty, any suggestions to increase the role of the EP in CFSP and CSDP were met with firm opposition from most member states. Thus, the provisions on the EP's role in CFSP in the Lisbon Treaty represent a "modified status quo" (Diedrichs 2004: 44). Apart from the fact that it is now the High Representative's (HR) task to regularly consult the EP on the CFSP as well as the CSDP, that Special Representatives may brief the EP, and that a foreign policy debate shall be held twice a year, there are no substantive changes (Article 36 TEU).¹⁵

In addition, there are two formal powers that the EP can use to influence EU foreign policy. The first is its power of consent, which is now required when the EU enters into "virtually any international agreement (...) of any significance" (Corbett 2012: 249).¹⁶ The EP's right to be consulted on certain international agreements was written into the Rome Treaty and since the Single European Act (SEA), the EP's consent has been required for association agreements as well.¹⁷ The EP has for instance refused consent to agreements with Syria and Morocco on grounds of human rights concerns (Corbett et al. 2005, Rack and Lausegger 1999). In the Maastricht Treaty, the EP's power of consent was extended to also include international agreements with legislative, budgetary or institutional implications (Article 228 TEC).¹⁸

Until the Lisbon Treaty, international trade agreements were excluded from the general provisions described above.¹⁹ However, following the entry into force of the Lisbon Treaty, the EP's powers over EU external trade changed considerably. Under the Nice Treaty,

and the Presidency was tasked with giving due consideration to the Parliament's views (Denza 2002).

¹⁵ In addition, a declaration (nr. 14) was also added to the Lisbon Treaty specifying that the provisions concerning the CFSP do not increase the role of the European Parliament.

¹⁶ However, Article 218a of the Lisbon treaty makes it explicit that the EP's consent is sought "except where agreements relate exclusively to the CFSP".

¹⁷ As well as the accession of new member states. Trade agreements (concluded under Article 113) were excluded from consultation.

¹⁸ It is claimed that Member states felt so protective over foreign policy that they chose to extend the EP's powers of consent over international agreements, rather than to give it powers over CFSP (Bieber 1990).

¹⁹ Except for those with legislative, (important) budgetary or institutional implications, e.g. WTO agreements (Former Article 300 (3)).

Article 133 Treaty of the European Community (TEC) did not provide for any involvement of the EP in the external trade policy. By contrast, the paragraphs governing trade policy had a “decidedly executive orientation” (Thym 2008: 229). Against this background, the changes in the Lisbon Treaty represent a substantial transformation by bringing an end to the general exclusion rule. Because external trade policy is now to be implemented through European laws, it will also be subjected to the codecision procedure (Cremona 2003). Moreover, the EP will also have to be consulted whenever the EU concludes a trade agreement (Krajewski 2005).²⁰

Finally, another power at the EP’s disposal is its budgetary power. Because expenses on the CFSP (except for military operations) are regarded as non-compulsory it allows the EP the right to allocate and increase expenditure (Corbett et al. 2005: 251).²¹ This gives the EP a certain amount of influence over how the Community spends its funds on foreign policy issues. Thus, most observers classify the EP’s budgetary power as its most potent power as well as a chief instrument for the EP to influence the CFSP (Crum 2006, Diedrichs 2004, Keukeleire and MacNaughtan 2008, Maurer et al. 2005, Miskimmon 2012, Monar 1997, Thym 2006).

The EP’s right to ask questions to the Council is part of its general repertoire of supervisory powers (Corbett et al. 2005). However, there are other practices and arenas that are also important for the EP’s exercise of control. Its ability to scrutinise the activities of the High Representative has for instance been described as “the most important inroad the EP has on the CFSP” (Crum 2006: 387). The activity report for the EP’s Committee on Foreign Affairs (AFET) between 2004-2009, lists 10 visits by the HR to the committee (plus three visits by members of the HR-staff) (European Parliament 2009). The Presidency and EU Special Representatives also frequently brief the EP. In addition, foreign visitors give speeches in the EP, along with the Commission and the Presidency. The abovementioned report showed that during the 6th parliamentary period, AFET alone received close to 400 visits from external actors and EU-actors.

²⁰ Thirdly, the Commission is now required to report regularly to the EP about developments of international trade negotiations, not only in the ratification phase .

²¹ Military operations are financed by the Member States, outside of the Community budget (Article 41).

Among the studies that have dealt concretely with the EP's role in EU foreign policy, one group has addressed the general involvement and influence of the EP in EU foreign policy, focusing on the current state of affairs or the historical development of the EP's involvement in foreign policy (Barbé and Surrallés 2008, Cutler and Von Lingen 2003, Diedrichs 2004, Grunert 1997, Lord 2008, Maurer et al. 2005, Thym 2006). Another group of studies have addressed the EP's role in EU foreign policy from a normative starting point, trying to assess to what extent its involvement measures up to democratic standards (Barbé and Herranz 2005, Bono 2006, Gourlay 2004, Lord 2011, Peters et al. 2010, Sjursen 2011a, 2011c, Stie 2010). Furthermore, the EP sends delegations all over the world and participates in a range of interparliamentary assemblies. Thus, a number of authors have taken an interest in the EP's own external activities, studying the EP as a diplomatic actor (Cofelice and Stavridis 2014, Costa et al. 2013, Redei 2013).

Finally, there are a few case studies that have gone some way into exploring the influence of the EP in EU foreign policy. Maurer et al. (2005) have analysed the EP's budgetary influence, Crum (2006) has looked at the EP's interaction with the High Representative, while Wiesnewski (2013) and Raube (2012) have studied the EP's impact on the establishment of the European External Action Service (EEAS). Fischer et al. (2007) have analysed the EP's human rights policies, Grip (2013) has looked at the EP's involvement in the EU's policy on Weapons of Mass Destruction, and Lalone (2005), Woolcock (2008) and Kleimann (2011) have addressed the EP's influence on EU trade policy. As described above, several of these have also identified an increasing influence, albeit limited, on the part of the EP in EU foreign policy. However, apart from some notable exceptions (Barbé and Surrallés 2008, Crum 2006, Maurer et al. 2005, Niemann 2006, Thym 2006, Wisniewski 2013), few have attempted to explain the EP's increasing influence. The aim of this thesis is to contribute to fill this gap. In the following section, I present the analytical framework that suggests how this question may be answered.

Analytical framework: How to explain the EP's increasing influence in EU foreign policy

Turning to more general studies of the EP, there is however a large body of research on which to build. In the existing literature on the EP's influence, a dominant strand is based on the premise that bargaining power equals impact. Thus, studies have focused on the EP's potential bargaining leverage to account for how the EP may affect EU decision-making. On the one hand, formal modelling has been used to uncover the conditions under which the position of the three main EU institutions – the EP, the Council and the Commission – becomes victorious. In these contributions, the EP's bargaining leverage is a derivative of the decision-making rules and the preferences of the Commission and the Member States.²² More recent studies have been less preoccupied with the EP's influence across procedures and more with the relative influence of the various EU actors (Rasmussen 2012). They have dealt more with the factors that shape interinstitutional negotiations due to “imbalances in the distribution of power that may emerge during bargaining” (Costello and Thomson 2013: 1027). Factors such as access to information, voting rules, internal unity and partisan alignments are shown to have an impact on the EP's relative leverage (see for instance Høyland 2006, König 2008, Kreppel 2001).

These studies have been valuable in elucidating the conditions under which the EP is able to influence EU policies. However, dominant theories of European integration relying on bargaining as a key driver have had trouble accounting for the formidable growth in the EP's legislative, budgetary and control powers over the last 20 years. Based on a liberal intergovernmentalist scheme for instance, it is not evident why Member States that aim to forward and protect their national interests would surrender power to a supranational parliament.²³ Furthermore, the EP's powers have grown far beyond what one would expect from an intergovernmental deal. In several

²² This strand of research did for instance produce a lengthy debate about whether or not the introduction of the codecision procedure was an advantage to the EP, or if the cooperation procedure was preferable.

²³ Moreover, according to Pollack (1999: 2), “the functionalist model fails to account for the ideological concern for democratic legitimacy that has led member governments to assign increasingly significant powers to the Parliament in successive Treaty amendments”.

instances, extending the EP's powers has had "decision-making efficiency-reducing effects and has also led to a redistribution of powers between the Community institutions" (Rittberger 2005: 21). Several authors have therefore argued that in order to understand the empowerment of the EP, one has to look at the role of norms (Eriksen 2009b, Eriksen and Fossum 2012, Goetze and Rittberger 2010, Rittberger 2003, 2005, 2012, Rittberger and Schimmelfennig 2006, Roederer-Rynning and Schimmelfennig 2013). When national sovereignty is pooled and delegated to the supranational level, this can trigger concerns among the Member States about a legitimacy deficit resulting from further removing the decision-making process from the electorate (Rittberger 2005). Thus, studies have attempted to show how normative considerations have led to a series of decisions to enhance the powers of the EP (Eriksen and Fossum 2012, Rittberger 2003, 2005). This development is said to amount to a process of constitutionalisation, where the principle of representative parliamentary democracy has become "embedded in the EU's legal order" (Rittberger and Schimmelfennig 2006: 1149).

In the study of the EP's role in EU foreign policy, there is a similar divide in the literature. Many have pointed out how the EP's budgetary power is its most important inroad to influence in the CFSP because it gives leverage vis-à-vis the Council (Keukeleire and MacNaughtan 2008, Maurer et al. 2005, Monar 1997). Some have emphasised how the EP may play a role in policy-making when issues cut across pillars, enabling it to use some of its harder powers under the Community method (Cutler and Von Lingen 2003). However, studies also present findings that are harder to account for using a bargaining approach. Wiesniewski (2013) has for instance shown that the EP's influence over the establishment of the EEAS went beyond the intention of the Treaty. She argues that the Council could have, but did not reject several of the EP's demands, which means that the agreement between them has to be understood as something more than a bargaining deal. Other contributions have highlighted how the EP is gradually seen as a "serious actor and interlocutor in CFSP" (Diedrichs 2004: 36), and that the obligation to consult the EP on CFSP-matters is taken "increasingly seriously" (Gourlay 2004: 188). Smith (2004: 174) has claimed that Member States display a "grudging acceptance" of the EP's influence in EU foreign policy.

Similar observations are made in this thesis. There was no evidence of bargaining during the Convention, where the EP's new trade powers were established. In the case of the EP's participation in the CFSP budgetary process, the findings indicate that the EP's influence in the CFSP has developed beyond what one would expect from the agreements established between the EP and the Council. With regard to the Interinstitutional Agreement on access to sensitive documents, some have argued that it represents "an acknowledgement of the EP's rights to be seriously engaged in political dialogue in foreign and security policies" (Barbé and Surrallés 2008: 80-81).

That the EP gains new powers without there being any sign of an exchange of threats or a package deal indicates that something other than a bargaining perspective is needed to explain the development. Similarly, the more fundamental changes with regard to the EP's position in EU foreign policy and that the EP gains influence beyond the intention of treaties or contractual obligations are difficult to explain using a bargaining approach. Because the bargaining perspective aims at explaining concrete agreements, it is less equipped to capture the "non-contractual element of the contract" (Durkheim in Eriksen and Weigård 1997: 225). Thus, several authors have held out how legitimacy considerations have contributed to extending the EP's role in EU foreign policy (Barbé and Surrallés 2008, Niemann 2011, Smith 2004, Wisniewski 2013). It has for instance been claimed that "member states have realised that their "collective foreign policy activities must show some sensitivity to democratic legitimacy (...) to be compatible with other principles of European integration" (Smith 2004: 174). With regard to the EP's new powers in external trade, Niemann (2011) has contended that the Laeken Declaration's emphasis on legitimacy strengthened the EP's bid for more influence.

Among those applying bargaining approaches, there is relative agreement that cost-/benefit-calculations determine decision-making outcomes. However, while an increasing number of studies agree on the need for norm-based explanations to account for the empowerment of the EP they suggest different driving forces. Three main accounts are offered: First, that the extension of the EP's powers is a habitual response to the legitimacy deficit caused by the delegation of national competences to the EU-level (Goetze and Rittberger 2010, Rittberger 2012). Secondly, that Member States agree

to empower the EP because they become ‘rhetorically entrapped’. They do not want to advocate a position that may be perceived as illegitimate because it does not abide by the EU’s identity and norms (Rittberger and Schimmelfennig 2006). Thirdly, the EP’s empowerment is depicted as a process of contestation and politicization as well as one of “accepting – sometimes overtly and at other times more tacitly – democratic arrangements” (Eriksen and Fossum 2012: 332).

For the purposes of this thesis, I argue that it is most suitable to build on the third account. The role of the EP in EU foreign policy has been, and still is, contested. The Reflection Group preparing the Amsterdam IGC in 1996 stated clearly that the EP did not have a legitimate claim to more powers over foreign policy “since national parliaments do not use the same mechanisms of participation in framing and monitoring foreign policy as in their legislative work or in domestic control” (Council 1995). Over 15 years later, Declaration 14 annexed to the Lisbon Treaty underlined that the new provisions covering the CFSP do not increase the role of the EP. In the field of trade, the opposition among Member States towards increasing the EP’s powers has also been considerable. After the Amsterdam IGC, the MEP responsible for trade stated that the EP had been ‘disappointed to the point of humiliation’ because all its demands for more trade powers had been ignored (MEP Kittelman, EP-plenary, 19.11.1997). At the Nice IGC a few years later, not one Member State delegation supported an increase of the EP’s trade powers (Krenzler and Pitschas 2001: 312). The contested nature of the EP’s role in EU foreign policy arguably reduces the likelihood that its increasing influence in the field would be a result of habit.²⁴ Moreover, it is reasonable to assume that it becomes more difficult to use norms strategically, as the “rhetorical entrapment”-hypothesis suggests, when actors disagree on the appropriateness of involving the EP in EU foreign policy.

Although the two former theoretical perspectives may provide valuable insight into how normative surroundings can constrain the choice of action, they cannot explain how norms are established or why a particular norm is adhered to and others not (Sjursen 2002:

²⁴ This possibility is explored in the article on the EP’s expanding powers in EU trade policy.

500). When norms are contested, getting at the explanatory force of norms requires a closer look at what takes place inside collective interaction processes, taking into account not only how actors *react* to a certain normative context but also how they *interact* and thus shape their own surroundings (cf. Eriksen 2009a). A communicative approach gives emphasis to the constitution and development of norms, acknowledging that normative frames are not constant and may change over time and as the result of normative pressure (Bächtiger et al. 2010, Deitelhoff 2009, Eriksen 2003, Eriksen and Fossum 2012, Müller 2004, Risse 2000, Sjursen 2002, Thompson 2008, Ulbert and Risse 2005a). As a result, a communicative approach offers a plausible explanation of why normative considerations might have contributed to an increase in parliamentary influence in EU foreign policy.

In the two following sections the bargaining and communicative approaches are delineated. The subsequent section elaborates further on why a communicative approach to the impact of norms is preferred in this thesis.

A bargaining approach to the EP's influence in EU foreign policy

A bargaining perspective

Some hold bargaining to be an ever-present trait of social interaction, suggesting one explanation of how a set of actors arrive at collective agreement (Warntjen 2011: 1). Attributes of bargaining processes are the use of threats and promises whereby actors try to make opponents comply with their demands by warning them of the consequences of refusal or by referring to the potential benefits of cooperation. In reaching a compromise, the bargaining strength of the different parties involved is the decisive factor, determined by an actor's ability to present a credible threat, or to withstand the threats of others (Elster 2007). In the words of Schelling (1956: 293): "the threat is ineffectual unless the threatener can rearrange or display his own incentives so as to demonstrate that he would, *ex post*, have an incentive to carry it out". Implicit in this perspective are a number of assumptions common to theories based on rational choice thinking.

First of all, it is assumed that an actor will choose the action that serves his or her preferences. In other words, "the action must be the best means of satisfying the agent's desires, given his beliefs about

the available options and their consequences” (Elster 2007: 193). This entails that an action is conceived of as a means to an end, but not an end in itself (Risse 2000). Thus, actors choose their actions based on a ‘logic of consequences’ where alternatives are assessed according to expected utility (March and Olsen 1989). Secondly, preference formation is seen as exogenous to processes of interaction, meaning that the preferences actors bring to the negotiating table are preset and fixed (Eriksen and Weigård 1997). Actors may try to reach a collective agreement, but although their behaviour might change during negotiations, their interests remain the same throughout. This also entails that social interaction is conceived of as a social exchange relationship where actors choose actions based on cost-benefit calculations. An actor will concede to an agreement if the benefit of complying outweighs the costs of not doing so. This is regarded as the central causal mechanism explaining the outcome of bargaining processes (Checkel 2001). Thus, it has been argued that keeping preferences constant can be seen as a methodological requirement, otherwise a change in behaviour can be explained “simply by a change of preference” (Jachtenfuchs 1996: 7).

Bargaining strength is based on situational and institutional factors (Schelling 1956). They include access to information, which gives more or less room for misrepresentation, the importance an actor attaches to an issue, issue salience, time horizon and the relative patience of actors involved in negotiations, voting and institutional power or bargaining skills (see for instance Bailer 2010, Costello and Thomson 2013, Häge and Kaeding 2008, Rittberger 2000, Warntjen 2010). Thus, rational institutionalists emphasise how the distribution of power shapes both how actors behave as well as the outcome of processes of interaction (Hall and Taylor 1996). On the one hand, institutions “affect the calculus used by rational actors to assess their potential strategies and to select their rational choice of action” (Knight 1992: 17). On the other hand, through bargaining, actors compete over institutional alternatives that suit their individual goals (Stacey and Rittberger 2003).

Bargaining approaches and the study of the EP

A large portion of the EP literature on influence has been based on formal modelling or quantitative data, several of which were referred to above. In addition, there are other studies that are more process-oriented and that have tried to account for how the EP is able to

informally increase its powers in-between treaty reforms. The EP has developed a certain skill in taking advantage of vagueness in the treaties to gain influence beyond its formal rights (Eiselt et al. 2007, Hix 2002, Kietz and Maurer 2007, Stacey 2003). In this literature, the treaties are held to be 'incomplete contracts' and the development of informal institutional changes depends on whose treaty interpretation that ends up victorious (Farrell and Héritier 2003, Hix 2002). The decisive element with regards to influence is the credibility of the EP's threats.

According to Farrell and Héritier (2003, 2007), the EP's ability to block and delay EU policies, its lower sensitivity to time and failure, and the possibility of conferring matters to the European Court of Justice (ECJ) are essential factors for the EP to be able to present a credible threat. They increase the EP's bargaining powers and determine whether its treaty interpretation ends up victorious. While threats point to the potential costs of disregarding the EP's wishes, there may also be potential benefits in conceding to the EP's demands. Hix (2002: 271) points out that the Council will only yield to the EP's demands if they entail "collective *efficiency gains*". Thus, one must also take into account the strategies of other actors involved, and the distribution of preferences in order to be able to explain the EP's influence. One important factor that has been identified by the literature is the unity of actors. If the EP or the Council do not stand united, they are more easily susceptible to outside influence or will be less likely to succeed in pushing their own demands through (Farrell and Héritier 2007, Kreppel 2001).

In order for informal changes to be formalised, however, authors have highlighted the importance of support by big Member States (Moury 2007). Hix (2002: 272) contends that Member States will accept turning informal changes into treaty changes if they entail an increase in efficiency and "zero redistributive change in the balance of power between the EP and the Council". With regard to the EP's influence on treaty changes, Christiansen (2002: 45) has highlighted how the EP has been given a kind of indirect veto in treaty-making process through Member States that attach their ratification to the EP's approval. Others have argued that although the EP might function as an informal agenda-setter prior to IGCs, the success of its claims is dependent upon the support of member states (Benedetto and Hix 2007, König and Slapin 2004). Thus, the literature is

somewhat divided in the weight it places on the EP's ability to take matters into its own hands and make changes, and the Member States relative ability to withstand this pressure. What unites these studies, however, is their reliance on bargaining power to explain actors' impact in decision-making.

Because bargaining approaches tend to dominate the study of EP's influence, there is an ample literature suggesting how one could go about studying how bargaining between EU actors may have had an effect on the EP's increasing influence in EU foreign policy. If the EP uses a bargaining tactic, one would expect it to try to delay or obstruct decision-making and exploit potential lack of unity in the Council. It could also promise not to cause any problems provided that its demands were conceded to. One could for instance expect to see the EP using its budgetary powers as a bargaining tool. Or it could attempt to appeal to the Court to put pressure on the other EU actors, even if the ECJ does not have jurisdiction over the CFSP. Moreover, if the EP's bargaining strategy were successful, one would expect to see other EU actors changing their positions and conceding to the EP's demands after having been presented with the EP's threats and/or promises. If the disunity in the Council were important, the EP would likely have entered into alliance with certain important Member States to alter the distribution of positions in the Council to its favour.

However, as described above, the existing literature and the findings of this thesis also suggest that a bargaining approach is not able to give a full explanation of the EP's increasing influence in EU foreign policy. The EP's new trade powers and the development of its influence beyond the intention of the Treaty and of agreements with the Council, signal something more than an aggregation of interests, which is what one would expect from a bargaining process. Moreover, several authors have indicated that the attitude towards the EP's position in EU foreign policy has undergone a change. The reasons for this change are hard to capture using a bargaining approach. Thus, studies have also pointed to democratic legitimacy in attempting to explain the EP's influence in foreign policy (Barbé and Surrallés 2008, Niemann 2011, Smith 2004, Wisniewski 2013). In order to gauge the potential effect of legitimacy considerations, this thesis relies on a communicative approach because it offers a theory that *“both* takes the putative normative dimension to political

processes seriously *and* considers norms to have a rational basis” (Sjursen 2006: 174). In the following section, I elaborate on the theoretical basis of the communicative approach, describe how it is employed in my study, and present a set of arguments for why a communicative approach may contribute to further enhance our understanding of the EP’s increasing influence in EU foreign policy.

A communicative approach to EP’s influence in EU foreign policy

A communicative perspective

Communicative theory is based on a set of particular assumptions that makes it well equipped to account for the impact of norms on decision-making processes (Eriksen and Weigård 2003). First of all, a communicatively rational actor is defined as someone who is able to justify and explain his or her own opinion or position (Deitelhoff 2009, Eriksen 2005, Risse 2000, Sjursen 2002). Following Habermas (1999), rationality entails an implicit readiness to give reasons for what one claims to be true or right. Based on “the unifying force of speech oriented toward reaching understanding” (1999: 315), rationality is internally connected with the possible arguments that may be provided for a given position because this is the only way of thematizing and testing the implicit validity claims inherent in all speech acts (1999: 316).

The communicative conceptualisation of rationality extends beyond instrumentality, and also includes the rational formation and transformation of political preferences (Landwehr 2009). Thus, to be convinced by a good argument and act accordingly, is equally rational as basing one’s behaviour on a comparison of costs and benefits. Furthermore, normative behaviour is also rational, as convincing arguments may refer to both factual statements about the truth and normative assertions about rightness. This means that normative arguments are not reduced to “cheap talk” (Austen-Smith 1990), nor are they considered to be interests in disguise as proponents of a rhetorical action approach would argue (cf. Schimmelfennig 2003). From a communicative perspective, norms carry their own potential for influence, dependent on whether or not they are perceived as valid. This means that EU actors may adhere to the EP’s claims for more influence in EU foreign policy if these claims are supported by valid normative justifications.

Secondly, based on a communicative understanding of rationality, preference building is assumed to be endogenous, meaning that preferences can be influenced by and shaped through interaction (Eriksen and Weigård 1997). Social interaction is seen as a process by which actors seek to reach mutual understanding through arguing, and where preferences are open to change through an argumentative process. The Habermasian assumption that seeking mutual understanding is an inherent part of all communication might be contested as the ultimate goal of democratic processes (see Bächtiger et al. 2010, Eriksen 2007, Friberg-Fernros and Schaffer 2014). However, with regard to political processes, it should be less controversial to assume that the goal of arguing is to reach a decision (Thompson 2008). Participants in political decision-making processes necessarily require a method of coordinating positions (Landwehr 2010). Furthermore, central to the communicative approach is the claim that actors may change their preferences when they are convinced by the validity of an argument (Bächtiger et al. 2010, Deitelhoff 2009, Habermas 1996, Landwehr 2009, Müller 2004, Risse 2004, Sjursen 2003, Thompson 2008, Ulbert and Risse 2005a). In short, decision-making is viewed as a process where “the validity of the argument rather than instructions, rules, votes, force, manipulations, tradition, etc. governs the choices” (Eriksen and Weigård 1997: 227). Ultimately, the only way to vindicate a validity claim is through the force of the better argument (Habermas 1975: 108).

Communicative theory has been met with criticism from authors who contend that its assumptions are utopian and empirically improbable (see for instance Johnson 1998, Shapiro 1999). One way to meet this criticism is to spell out more clearly what is implied by a change of preferences (Landwehr 2009). According to Holzinger (2004: 201), arguing may first of all change factual and normative beliefs, as long as the addressee is convinced by the validity of the arguments presented.²⁵ Preferences are harder to change than beliefs because they are based both on cognitive beliefs and on subjective will, that is,

²⁵ That arguments can change behaviour is not in itself opposed to an instrumental conception of rationality. Grobe (2010) maintains, for instance, that introduction of new causal knowledge in a negotiation will change the process from bargaining to functional persuasion, which eventually might end up altering the initial bargaining game accordingly. This rationalist account of the effect of arguments holds that new knowledge is influential only to the extent that it corrects cognitive limitations. Preferences, however, remain unchanged.

norms, values and interests that also *should* be more stable than beliefs in order for preference formation to be conceived of as rational (Landwehr and Holzinger 2010). However, if the formation of preferences is conceived of as being based on rational assessment of both cognitive and volitive elements, a change of preferences is possible through interaction that challenges the premises of both elements (Landwehr 2009). While a change in cognitive beliefs takes place through an assessment of empirical and normative evidence, the transformation of preferences is “most likely to be caused by a new weighting and aggregation of competing reasons (i.e. conflicting goals, norms and values) (Landwehr and Holzinger 2010: 376). If during negotiations the EP’s claims for more influence in EU foreign policy are justified by valid reasons, and reasons that are held to be more relevant and valid than others, EU actors may be convinced to change their behaviour. Thus, change in preference is key to understand why the outcome of a negotiation may go beyond what one would expect “on the basis of the interests represented at the bargaining table” (Risse and Kleine 2010: 709).

Yet, change in preference is difficult to measure because it is near impossible to measure individual motivation (Bächtiger and Steiner 2005: 162). In this thesis I apply a pragmatic approach by concentrating on behaviour rather than motivation. There are at least two good reasons for doing so when applying the communicative perspective to empirical research. First of all, the main point of most political decision-making processes is not to “track truth (...) but to come to a collective decision” (Landwehr 2010: 110). Thus, when the role of the EP in EU foreign policy is being considered, it may be less important whether the various actors taking part in the negotiation actually mean what they say or whether their preferences change as long as there is evidence of an argumentative effect on their choice of action.

Secondly, Chambers (1996: 249) has argued that: “deliberation may only touch aspects of an actor’s worldview, without affecting the fundamentals of this view”. In the same vein, Fung and Wright (2003: 17) contend that the “important feature of genuine deliberation is that participants find reasons that they can accept in collective actions, not necessarily ones that they completely endorse or find maximally advantageous”. Consequently, in order for arguments to have an affect on actors’ choice of action, arguments have to be mutually

acceptable, but actors need not completely alter their set of preferences. For instance, although a Member State may acknowledge that EU foreign policy should be subject to some degree of parliamentary control, this does not mean that it accepts that the EP should be given extensive decision-making powers in the field. So while assuming that communicative interaction may change both beliefs and preferences, this thesis concentrates on tracing the potential impact of arguments on political behaviour.

Communicative approaches and the study of the EP

Following “the deliberative turn” in political science, several EU studies have documented the prevalence of arguing in the Union’s political processes (Neyer 2006, Risse and Kleine 2010). Different variants of the communicative approach have been used to explain integration (see for instance Eriksen and Fossum 2000, Fossum and Menéndez 2011, Jacobsson and Vifell 2005, Joerges and Neyer 1997, Joerges and Vos 1999, Riddervold 2011, Risse and Kleine 2010, Sjursen 2002) as well as the development of normative standards pertaining to the EU (Eriksen 2009b, Eriksen and Fossum 2012, Rittberger 2005).²⁶ In studies of the EP, the so-called Discourse Quality Index (DQI), developed to analyse the deliberative quality of parliamentary proceedings (Steenbergen et al. 2003), has been applied both to debates in the EP-plenary and its committees (Lord and Tamvaki 2013, Roger and Schaal 2013). Others have assessed the Ordinary Legislative Procedure (codecision) according to standards of deliberative democracy (Lord 2013, Stie 2012).

With regard to the EP’s empowerment, Eriksen (2009b: 216ff) has argued that it has been driven by the “normative force of the parliamentary principle”. Eriksen and Fossum (2012: 332) have portrayed the development of the EP’s powers as a process of contestation and politicization as well as one of “accepting – sometimes overtly and at other times more tacitly – democratic arrangements”. Finally, Rittberger (2005: 105) has found that argumentative processes were the reason for the initial creation of the Parliamentary Assembly, the precursor to the EP. Through a process of reason-giving, Member States were able to agree on the

²⁶ Note that the contributions mentioned here mainly rely on communicative theory for explanatory purposes. The list would obviously be considerably longer if it were also to include studies that use communicative theory to understand and evaluate aspects of European integration and the EU’s political system.

appropriate accountability mechanism for the High Authority.²⁷ Apart from these notable exceptions, however, communicative approaches have rarely been systematically applied in empirical studies of the development of the EP's powers and influence. This is even more so with regard to the EP's influence in EU foreign policy.

Previous studies have shown how "arguing can contribute to learning in that actors acquire new information and are introduced to new ways of thinking about a problem and its possible solutions" (Ulbert and Risse 2005a: 40). Arguing is conceptualized as a "micromechanism for learning" (Ulbert et al. 2004: 15). However, learning does not only entail thought processes, but also implies a change taking place both in the position taken by an actor, as well as in his or her reason for holding that particular position (Eriksen 2003, Eriksen and Fossum 2000, 2012). "When actors have learned and agreement has been achieved, justified claims are adopted" (Eriksen 2013: 18). Thus, "argument-based learning" denotes how an actor accepts the validity of an argument and subsequently acts upon it (Riddervold 2011: 564-565).

Argument-based learning can be differentiated based on the content of the argument put forward as justification of a given claim (Eriksen 2013, Riddervold and Sjørnsen 2012, Ulbert and Risse 2005a). In order for arguments about facts to be perceived as valid, they will need to be supported by empirical evidence. Normative arguments have to be justified according to impartial standards to be recognized as valid. In practice, this will mean "a norm or a common interest that commands the consent of all" (Eriksen 2003: 192). The EP has been consistent in justifying its claims for more influence in EU foreign policy with reference to parliamentary democracy and that "only the EP's participation supplies European foreign policy with sufficient democratic legitimization" (Maurer et al. 2005: 190). To the extent that

²⁷ After the Parliamentary Assembly was established, however, Rittberger (2005) finds that other mechanisms such as bargaining and rhetorical entrapment became more important. However, Rittberger's definition of arguing is also a demanding one. His communicative action hypothesis states that decision-making is characterised by a "truth-seeking discourse" and that Member States reach a "reasoned consensus" about the appropriate role of the EP (2005: 59). By contrast, this thesis does not require actors to have a particular motivation in order for how they interact to qualify as communicative. Nor does a reasoned consensus need to be the outcome in order to say that arguments have had an effect. It suffices that actors behave in accordance with arguments they hold to be mutually acceptable.

other EU actors have accepted the EP's line of argumentation as valid, it may have led them to change their positions accordingly and agree to increase the EP's influence in EU foreign policy.

If this type of normative learning process has set in motion an increase in the EP's influence in EU foreign policy, one would expect to see the following: First, that the EP, or other actors advocating increased parliamentary influence, argued according to generalized standards. Such arguments could for instance refer to the need for more democratic legitimacy in the field. Moreover, actors could try to make analogies to other policy areas where the EP has influence to demonstrate a logical breach, or try to activate norms important to the EU such as the principle of parliamentary democracy. Secondly, if these arguments were accepted as valid, one would expect actors to change their position and adhere to claims for more parliamentary influence in EU foreign policy because they became convinced that this was the right thing to do. Thus, they would have to refer to these arguments when agreeing to increase parliamentary influence and in justifying a change in their own position. Finally, verbal commitments and subsequent behaviour have to be consistent: If actors adhere to an argument in one setting, and then denounce it in another immediately afterwards, it is unlikely that they are convinced.

The communicative perspective does not offer the only possible account of why norms may matter to decision-making. However, I argue that for empirical and theoretical reasons, it is still the most relevant approach in order to gauge the potential effect of legitimacy consideration on the increasing influence of the EP in EU foreign policy. Thus, before moving on to describe the methodology employed, I will elaborate on the reasons for basing the analytical framework on the communicative perspective, as opposed to other norm-based approaches.

Alternative norm-based approaches

Sociological institutionalism

Two key studies of empowerment of the EP have built on sociological institutionalism (Goetze and Rittberger 2010, Rittberger 2012). Sociological institutionalism defines institutions as "practices and rules defining appropriate behaviour for specific groups of actors in specific situations. Such practices and rules are embedded in

structures of meaning and schemes of interpretation that explain and legitimize particular identities and the practices and rules associated with them" (March and Olsen 1998: 948). By this definition the conceptual divide between 'institutions' and 'culture' is broken down (Hall and Taylor 1996: 947). Cultural beliefs shape "individual thought through schematic cognition", thus, rules are seen as "self-enforcing because actors have internalized the belief that some actions are appropriate, natural and legitimate" (Olsen 2009: 10). Following from this perspective, the empowerment of the EP is depicted as a habitual response, "reflecting actors' conceptions of the appropriate or 'natural way' of supplementing political authority with popular sovereignty" (Goetze and Rittberger 2010: 41).

However, two key characteristics of EU foreign policy reduce the likelihood that habit might explain how or why the EP's influence in the field increased. Sociological institutionalism assumes that there is a "stable normative environment in which standards of legitimacy already exist" (Rittberger 2012: 23). The parliamentary principle is both "embedded in the EU's legal order" (Rittberger and Schimmelfennig 2006: 1149) and situated in a context of national representative democracies (Eriksen and Fossum 2012). Yet, foreign policy is often regarded as an executive prerogative that requires different procedures compared to other areas of public policy. There is no principled reason why it should be exempt from a similar type of democratic scrutiny (Stie 2010). Still, the executive dominance generates uncertainty about which democratic procedures foreign policy should be subjected to. Moreover, as described above, there is an ongoing debate about whether the European Parliament or the national parliaments are the legitimate authority of EU's foreign policy. In other words, the normative context that surrounds EU foreign policy is to a large extent unresolved.

Thus, there are two reasons why I expect the sociological institutionalist perspective not to be able to explain the EP's increasing influence in EU foreign policy. First, sociological institutionalism does not provide an explicit mechanism for how norms are constituted and acquire legitimacy, or how norms may change. For instance, it is argued that gaps between "high institutional ideals and actual practices" can induce change through the attempt to close these gaps. Moreover, the development of the EP is used as an example for how institutional ideals can be "deliberately

mobilized for change” (Olsen 2009: 15).²⁸ Based on the notion that actors ultimately are rule-followers, however, it is difficult to explain why actors act in a certain way when it is less clear which rules they should follow. Or put another way, what then guides the choice of rules – should they be based on ideals or on practice? Thus, the question remains, what explains change? It is difficult to see how the mechanisms supposed to account for change can themselves be institutional. Instead one could argue that the institutional context within which change takes place is important, but that it still needs to be activated in order to have an impact on decision-making (Eriksen and Fossum 2012, Ulbert and Risse 2005a). And this requires a greater focus on agency.

Secondly, sociological institutionalism relies on mechanisms of norm internalization and socialization to explain why actors act according to norms.²⁹ But by assuming such a ‘regulative rationality’ (Risse 2000) and perceiving actors mainly as rule-followers, it is difficult to see how actors can also “have the ability to take purposeful action based on rule interpretation, including the ability to develop and modify normative criteria and identities through collective processes” (Olsen 2009: 10). This activity seems to require actors that are also capable of “criticising the norms that they are socialised under, and [of] choos[ing] different modes of action from what they are expected to and used to” (Eriksen 1999: 226). When sociological institutionalism attempts to incorporate change that is not a result of exogenous pressure, the question arises: how are we to understand the process of rule interpretation? When there is disagreement over how to understand, or how to apply norms, there is also less certainty about which norms to follow and why. As a consequence, it could be argued that actors would have to enter into a “conscious process” in order to “figure out the situation in which they act, apply the appropriate norms, or choose among conflicting rules” (Risse 2000: 6).

²⁸ On the other hand, sociological institutionalism provides insight into how institutional structures may accommodate change, e.g. “by the institutionalization of critical reflection and debate, legitimate opposition, and the rights for citizens to speak, publish and organize, including civil disobedience” (Olsen 2009: 13).

²⁹ These mechanisms also suffer from ambiguity because it is unclear whether they are in fact mechanisms, or rather processes or outcomes (Beyers 2010).

For these reasons, and although I use a sociological institutionalist approach in the third article on the EP's new powers in external trade, I suggest that this approach is not likely to explain why the EP's influence in EU foreign policy has increased. Another alternative explanation that I also have chosen not to pursue is based on a rhetorical action perspective. Building on rational choice assumptions, this approach suggests a way of accounting for the impact of norms, but without attributing independent explanatory power to the norms themselves. Studies using this approach argue that references to normative principles during negotiations are rhetorical utterances motivated by strategic aims. "Norms are used, not followed" (cf. Schimmelfennig 2003). Thus, norms become epiphenomenal to interests.

Rhetorical action

Some have argued that Member States extend the powers of the EP when the delegation and pooling of powers at the European level create a legitimacy deficit, which can be exploited through rhetorical action (Rittberger 2005, Rittberger and Schimmelfennig 2006). Their main proposition is that the EU's identity and norms are "a source of support and constraint that imposes costs on illegitimate actions" (Rittberger and Schimmelfennig 2006: 1159). One of the assumptions underlying this perspective is that actors are forced to "justify their preferences on the basis of the community ethos" (Rittberger and Schimmelfennig 2006: 1158). As a consequence, the context within which a policy is made can shape the ensuing outcome because any Member States arguing against their own norms would be perceived as illegitimate (Schimmelfennig 2003). Thus, normative argumentation is a rhetorical tool, which testifies to the basic assumption of strategic rationality. In the words of Elster (1992: 18): "In argumentative situations, one *has* to phrase one's argument in impartial terms, as if one were arguing for the public good and not for one's own self-interest".

While there is little doubt that arguments are used in politics to manipulate both opponents and the public at large, the rhetorical understanding of the impact of norms raises some theoretical and analytical problems. A first one echoes the above discussion on sociological institutionalism. Why do norms matter in the first place? Plenty of empirical possibilities can be thought of that demonstrate how actors are motivated by interests while presenting a normative

defence, or who say one thing whilst doing another. The point, however, is that one still needs to theoretically account for why norms would matter at all. Why is it even necessary for actors to be able to enter into a debate justifying their positions and actions with reference to some common factor, something more general than their own interests? For shaming to have the desired effect, actors will have to agree that “the principles and norms at stake exist and are valid”, which means that some norms are “accepted in and by themselves” (Sjursen 2002: 500).

Secondly, advocates of the rhetorical action approach have argued that certain conditions are more conducive to the success of a rhetorical strategy. One such condition is coherence – either in terms of internal institutional precedence or the existence of an international norm set, which constitutes legitimacy (Schimmelfennig 2003, Schimmelfennig et al. 2006). However, it seems contradictory not to award norms with any independent impact, and still argue that legitimacy is one of the factors likely to make normative argumentation more effective. Moreover, in the same way as sociological institutionalism, the rhetorical action approach seems to assume that a ‘community ethos’ is a constant source of strategic potential. By contrast, it could be argued that norms are often challenged by other norms that have a different or alternative normative basis (Eriksen 1999). What will determine the outcome if rhetorical strategies clash? When there is no consensus about a norm set, which is the case for the EP’s role in EU foreign policy, it is reasonable to assume that it would become more difficult for actors to use norms strategically. Finally, it could also be argued that in this thesis it is not really relevant whether actors use norms rhetorically or not. If normative considerations had an impact on decisions to increase EP’s influence in EU foreign policy, the question raised here is why this is so, not whether or not the arguments were sincere in the first place.³⁰

³⁰ Risse and Kleine (2010: 711) make a similar argument, although they claim that one should study scope conditions for arguing, rather than mechanisms.

Methodology

Research design

This thesis is a case study of the EP's influence on EU foreign policy. It consists of three independent studies that covers different areas of EU foreign policy. Their common goal is to explain the increase in the EP's influence in the field using much of the same analytical framework. Taken together they shed light on the overarching case. Thus, the thesis is designed as an embedded case study where attention is given to sub-cases, which enable "significant opportunities for extensive analysis enhancing the insights into the single case" (Yin 2009: 52-53). Moreover, the three analyses provide in-depth investigations of the processes that led to an increase in the EP's influence over EU foreign policy. The existing literature on the EP's role in EU foreign policy lacks a systematic attention to explanation. Therefore, this thesis uses process-tracing to focus on the causal mechanisms that may have led to an increase in the EP's influence in EU foreign policy. Identifying mechanisms is one of the main ambitions of process tracing (Beach and Brun Pedersen 2013: 1). Moreover, the benefits of employing process tracing is that it accommodates the possibility of equifinality, i.e. that there are several causal paths leading to the same result (George and Bennett 2005: 161). This is in line with the aim of the thesis, which is to explore the increased influence of the EP in EU foreign policy by looking at more than one potential explanations.

The goal of this thesis is to explain why the EP has increased its influence in EU foreign policy, not to establish whether it has. Observing an overlap between the content of the EP's claim (for more influence in foreign policy) and the outcome (more influence to the EP in foreign policy) may demonstrate causality but does not explain why the relationship between claim and outcome exists. Focusing on mechanisms provides "deeper, more direct and fine-grained explanations" and "increases the understanding of why we observe what we observe" (Hedström and Swedberg 1998: 8-9). A mechanistic explanation places the focus not on *whether* X causes Y, but on *how* X contributes in causing Y (Beach and Brun Pedersen 2013, Hedström and Swedberg 1998). Mechanisms provide the "cogs and wheels" that bring the relationship between X and Y into existence (Elster 1989: 3). In other words, studying mechanisms enables the researcher to look inside the black box of causality and

identify how outcomes are generated – created, changed, altered or conditioned (Gerring 2007: 3).

As opposed to a variable approach – did bargaining or deliberation increase the EP's influence in EU foreign policy – a mechanistic approach asks how bargaining or deliberation increased the EP's influence in EU foreign policy. Such an approach is claimed to be particularly lacking among studies that have used the communicative approach for empirical purposes (Schneiderhan and Khan 2008). Furthermore, parts of the literature that employ a communicative approach, advocate the identification of conditions for when arguments have an effect on decision-making, and recommend this as the leading research question (Deitelhoff and Müller 2005, Risse and Kleine 2010). However, in order to find out whether a process of reason giving had an impact on the ensuing behaviour of the actors involved, one also has to study the mechanisms linking argument to outcome. Firstly, one can never just assume that even the best of arguments is effective without establishing the connection (Eriksen and Fossum 2012, Sjørnsen 2002, 2004). Secondly, it is necessary to make certain that the actual mechanism that links arguments to outcomes is one that can be inferred from communicative theory (cf. Bächtiger et al. 2010).

In the analytical framework described, the action coordinating mechanisms of the bargaining and communicative approaches were delineated as cost-/benefit-analysis and learning, based on the assumptions of their theoretical bases. Bargaining and arguing are analytically distinct modes of social interaction, while in reality they will be present interchangeably (Risse 2000). Thus, “they are neither semantic opposites, nor do they as communication processes form empirically disjunct classes” (Holzinger 2004: 195). Therefore, a key task for the methodological approach of the thesis is to enable a clear differentiation between speech acts and behaviour that sort under either bargaining or arguing.

Some argue that to limit bargaining to a zero-sum game is misleading because bargaining also includes integrative strategies that are more oriented towards cooperation and problem-solving (see for instance Odell 2010). However, keeping bargaining and arguing analytically distinct is not to say that there are not large variations within the two “camps”. As modes of communication, arguing and bargaining can

be depicted as ideal types – typified by certain characteristics. Both are ways of reaching collective decisions through the use of communication (Elster 1998).³¹ Thus, there are certain key features that separate bargaining, including the integrative version, from arguing as described above. In the words of Kratochwil (1989: 181): “Appeals to norms, precedents, “salience”, etc., naturally can be – and usually are – part of the conventional bargaining process. What gives “bargaining” its peculiar characteristics, however, is the latent presence of coercion.” Integrative bargaining relies, if not exclusively, on coercion. For instance, when Odell (2010: 622) describes how actors may change the preferences of their opponents by reducing the available options to agreement, it has a clear coercive element. However, if the Council changed its judgement of the EP’s involvement in the CFSP due to normative considerations it is less likely that this happened through a bargaining process where “[t]ransferable reasons that could motivate other participants simply do not play a role” (Landwehr 2010: 114). One cannot bargain about what is right (Eriksen 2003).

At the same time, the bargaining and arguing approaches described above are not treated as competing alternatives; the goal is rather to give a comprehensive account of the empirical outcome by drawing on different theoretical perspectives. The main aim is to account for the increasing influence of the EP on EU foreign policy. Although the thesis makes no attempt at comparing the three sub-cases, they employ much of the same analytical framework, which makes it possible to draw conclusions about the causal processes that lead to an increase in the EP’s influence. Even if they are not representative, which they are not meant to be, for the purpose of analytical generalization they will be useful to improve analytical precision and theory development on processes of interinstitutional dynamics (see Burns 2005: 494).

Case-selection

All three cases – that is the three sub-units – in this thesis are chosen on the dependent variable. They are selected because they are instance of the EP’s success. In the first case, the EP gained access to sensitive documents in the area of security and defence, the second

³¹ A third variant of decision-making, according to Elster, is voting, which does not rely on communication.

case focuses on how it has increased its influence in the CFSP through the budgetary procedure, while the third case studies how it achieved legislative and consent powers over EU external trade policy in the Lisbon Treaty. Furthermore, these cases are selected because they represent a change to the status quo and not only because they are instances of the EP's influence. Because a main goal of the thesis is to understand why the EP's influence has increased, it makes sense to choose cases where there has actually been a development over a given period of time. The case-selection follows from the process-tracing approach, focusing on mechanisms and their presence or absence, rather than studying variation. In order to study how X contributes to produce Y through mechanisms, cases are selected where both X and Y are present (Beach and Brun Pedersen 2012).³²

In choosing cases I have used a broad understanding of foreign policy as a point of departure rather than limiting it to mean diplomatic interaction between states. This means that I employ an understanding of foreign policy that incorporates "the sum of official external relations conducted by an independent actor (usually a state) in international relations" (Hill 2003: 3). Globalization has led to a foreign policy field where the borders between internal and external policy have become fuzzy and where actors other than states – transnational companies, non-governmental organisations and international organisations such as the EU – have become key actors. Thus, in addition to cases from the CFSP, I also look at EU external trade policy. Although they may seem very different because the EP has acquired legislative and consent powers in external trade policy, the point of departure for all three cases is similar. The reasons Member States gave for excluding the EP from external trade prior to the Lisbon Treaty were the same as the ones they have used to justify the exclusion of the EP from the CFSP and CSDP (Lalone 2005, Woolcock 2008).

³² By contrast, if the goal were to see whether X produces a difference in Y, one would have to have variation in the outcome (Beach and Brun Pedersen 2012: 2).

Data

The data in this report mostly consists of primary data from official documents and interviews. I have conducted a total of 37 semi-structured interviews with open-ended questions.³³ In order to piece together the various elements of the decision-making processes that led to the increase in the EP's influence in EU foreign policy, it was necessary to draw on different sources of data. This is also important to make sure that a biased view does not dominate. Obtaining the data from different sources allowed for a crosscheck and elaboration of the information found in the written documentation as well as a comparison between the accounts of sources with different institutional affiliations. Table 1.1 gives an overview of the data used in the three articles.

Table 1.1: Overview of data

Document data	Interview data
EP documents: Minutes, draft reports, reports, studies, plenary debates	National delegations
Commission documents: Communications	Council officials
Council documents: Minutes from Council meetings and conciliation meetings	Members of the European Parliament
Convention documents	EP officials
IGC documents	Commission officials
	EU External Action Service officials

The official documents used were mainly collected from the registers of the different EU institutions, although some have also been made available through Statewatch, an organisation that has been particularly engaged in how the EU manages access to documents. On several occasions, the documents had to be requested either from the EP's Register of Documents or the Council's Public Register.

For the first article on access to sensitive documents, which investigates negotiations that took place over 10 years ago, a particularly valuable source of documents was the minutes from the meetings in the Conference of Presidents. The Conference of Presidents consists of the EP President and the chairpersons from all

³³ The interviews were conducted between July 2010 and February 2014. Some interviews were conducted over the telephone to be able to follow up on contacts I got during interview rounds in Brussels. The interview guides are annexed at the end of the thesis.

EP party groups. It is responsible for “matters concerning relations with the other institutions and bodies of the European Union” (EP Rules of Procedure, rules 24-25).³⁴ The Conference of Presidents mandated the team that negotiated with the Council about an IIA and this team reported back to it on a regular basis. For the third article on the EP’s new powers in EU external trade policy, an important source was the documentation of the proceedings of the Convention that prepared what eventually became the Lisbon Treaty. In addition to the Convention’s online register, verbatim records of the plenary sessions are available through the EP’s website.³⁵

However, in order to disclose aspects of the decision-making processes that could not be read from the official documents, I conducted a series of interviews for each of the articles (see Lilleker 2003). According to Tansey (2007: 767), “[e]lite interviews can shed light on the hidden elements of political action that are not clear from an analysis of political outcomes or other primary sources”. The interviewees that were selected were either participants in negotiations leading to the outcomes of interest or were close observers of the decision-making processes. They were never intended to be representative of a population, but were chosen based on their potential ability to reveal the key characteristics of the political processes that were being investigated. Furthermore, the interviewees were approached according to the snowball sampling method, where an initial set of interviewees supply the names of other potential interviewees (Tansey 2007). A few interviewees turned out to be key in this respect. Allowing me to mention their names in requesting new interviews, it seemed to both quicken and ease the process of being granted access to respondents’ time. Some were also kind enough to contact other respondents on my behalf.

The problem with this approach is obviously the risk of selection bias. Thus, “when using process tracing, the most important issues to consider when drawing the sample are that the most important and influential actors are included in the sample, and that testimony concerning the key process is collected from the central players

³⁴ The EP Rules of Procedure currently in force can be found at: <http://www.europarl.europa.eu/aboutparliament/en/00a4c9dab6/Rules-of-procedure.html>.

³⁵ For verbatim records, see: http://www.europarl.europa.eu/Europe2004/index_en.htm.

involved” (Tansey 2007: 769). By choosing actors with different experiences of the decision-making processes, this is what I have attempted to achieve in this thesis. Table 1.2 gives an overview of the 37 interviewees divided according to the articles to which they function as sources.³⁶

Table 1.2: Overview of interviews

	European Parliament		Commission	EEAS	Council		Total
	MEPs	EP officials			National delegations	Council officials	
Art. 1	2	4	2	2	3		13
Art. 2	4	3	1	1	2	2	13
Art. 3	2	3	4		2	3	14
	8	8*	7	2**	7	5	37

* One EP official that was interviewed twice appears in all three articles.

** One EEAS official appears in two articles.

The interviews were designed as semi-structured with open-ended questions. In each of the cases an interview guide was drafted and respondents were largely asked the same questions – with exactly the same wording – but not always in the same order.³⁷ Apart from the case on the EP’s budgetary powers, few of the decision-making processes that I aimed to trace in the thesis have been studied previously. Thus, open-ended questions allow for a more exploratory approach (Aberbach and Rockman 2002). Detailed probes were used in the interviews conducted later in the data collection process. Moreover, it is argued that open-ended questions “maximize response validity” because it provides a “greater opportunity for respondents to organize their answers within their own frameworks” (Aberbach and Rockman 2002: 674). Especially elite interviewees seem to prefer to “articulate their views, explaining why they think what they think” (Aberbach and Rockman 2002: 674).

³⁶ Only two interviewees feature in more than one article.

³⁷ As some of the cases in the thesis have a long time span, all interviewees do not necessarily possess equally detailed knowledge about the full period under study. Thus, some questions were specifically asked to particular interviewees (Lilleker 2003).

Method

In attempting to identify the mechanisms that led to an increase in the EP's influence in EU foreign policy, the method used throughout the thesis is process-tracing. As described above, one of the main ambitions of the process tracing approach is to search for and locate mechanisms (Beach and Brun Pedersen 2013: 1). In each of the three cases I have traced the decision-making processes using the analytical approaches sketched out in the previous section, trying to uncover the mechanisms through which the EU institutions have agreed to increase the EP's influence in EU foreign policy. The articles reconstruct the actions, positions and arguments of the actors involved in the decision-making processes. Focusing on the interaction between the actors involved, I regard the reasons people give for their actions or positions as indicative of what is causing them to act in a given way. Following Weber, in order to understand and explain social action one has to look at both the behaviour of social actors as well as the account they themselves give for their actions (Adler 1997: 326). Thus, to have explained an action means "to have made intelligible the goals for which it was undertaken" (Kratochwil 1989: 24).

Building on the principle of methodological individualism, Hedström and Swedberg (1998: 14) have argued that action constitutes the link between input and outcome. According to Elster (2007: 36), it follows that "psychology and perhaps biology must have a fundamental importance in explaining social phenomena". However, while actors are important causal agents, it is more difficult to determine their true motivations for acting a certain way. It is for instance hard, if not impossible, to determine empirically whether an action is a result of "true deliberative" or strategic action (Bächtiger and Steiner 2005: 162). In addition, because the focus in this thesis is on interaction and thus on how actors receive the arguments presented by other actors in a decision-making process, whether they actually mean what they say is less important. "Actual arguments are what matter, not motives" (Thompson 2008: 6).

Furthermore, I also wanted to leave open the possibility that interaction may actually change people's preferences. For instance, it is argued that because "actors are embedded in normative contexts they do no control", "orders may come into force, which do not harmonize with the actual preferences and interests of the actors"

(Eriksen 2009b: 225). If one assumes that preferences are exogenous to interaction, it is hard to explain why divergent preferences and normative beliefs still result in agreement. Thus, due to the impossibility of looking into people's head and the focus on social interaction and the need to consider the context of interaction, I have combined the interpretative approach described above with treating arguments as analytical units (Riddervold 2011). The point of departure is that whether negotiations are characterised by bargaining or deliberation, the effect of both these modes of communication on a decision-making outcome depends on how actors perceive of the credibility of a threat or promise, or the validity of a justified argument.

Based on the theoretical perspectives described in earlier sections, hypotheses were derived from each of the approaches, expectations built and the data ordered accordingly. The data was first perused and statements by actors categorised as either acts of bargaining or deliberation. Following an interpretative approach, the modes of communication were identified based on how they were perceived by the interviewees themselves. I did not count the number of threats, promises or justified arguments. Corresponding to the interpretative approach, the relative importance that the actors themselves attributed to the different reasons for the outcome was seen as most important.

In line with the overall research question of the thesis, all three cases start out with a change. They are all examples of areas or issues where the EP has had little or no influence in EU foreign policy, but have gained more. In other words, in all three cases there is a need to explain how the actors came to agree on increasing the EP's influence in EU foreign policy. Many studies using a communicative approach have been preoccupied with demonstrating the presence of bargaining and arguing. Several of these have also concluded that both modes of communication overlap in real life (Deitelhoff and Müller 2005, Holzinger 2004, Risse 2000). Identifying the mode of communication, however, does not give evidence of the effect of either bargaining or arguing. In trying to identify what led to the change in position that in turn can explain the increase in the EP's powers in EU foreign policy, I looked at how the actors involved in the decision-making processes received the threats, promises and arguments, and subsequently on how they impacted on the

behaviour and position of the actors.³⁸ Furthermore, the accounts given by the various actors were checked against each other to control for the possibility that one actor gave a different set of reasons for agreement than others.

In the following section, the findings of the individual articles are described in order to indicate how each of them contribute in answering the main question of thesis and how they add to the existing body of research.

Contributions of the individual articles

EU confidential: The European Parliament's involvement in EU security and defence policy

The first article looks at the EP's involvement in the Common Security and Defence Policy (CSDP). In 2002, the EP and the Council concluded an Interinstitutional Agreement (IIA) that gave the EP privileged access to sensitive documents in the area of security and defence. This IIA marks the EP's involvement in a new policy area. It extended the scope of transparency and accountability to also include the CSDP, which is noteworthy, given the delicate nature of security and defence policy. Originally, the Member States tried to prevent the EP's involvement by defining access to sensitive documents as an area beyond parliamentary reach. Thus, the article asks: How did the EP, through the IIA, become involved in such a sensitive area? This is particularly puzzling as the EP lacks formal powers over the CSDP and initially faced considerable opposition from the Council.

Based on 14 interviews and an extensive document analysis, the article traces the negotiations between the EP and the Council until the conclusion of the IIA in November 2002. Two hypotheses are explored: First, that the EP managed to convince the Council that an IIA was needed in order to uphold its right to be informed and have access to documents. And secondly, that the EP's bargaining strategy – threats to obstruct the decision-making process, attempts to link the IIA to other policy areas where it had greater powers, and/ or appeals to the ECJ – forced the Council to concede to its demands for an IIA. The main findings are first of all that the EP's arguments referring to its right to scrutinize and control the EU's security and

³⁸ Particularly because it is near impossible to measure individual motivation, change in behaviour is a reasonable proxy for change in preference as long as the research design also includes alternative explanations.

defence policies resonated with those of the Council. Thus, at the early stages of the negotiation, the two parties were able to establish a basic consensus on the need for an arrangement that would secure parliamentary involvement. This finding substantiates the first hypothesis. Furthermore, building on this mutual understanding, the concrete procedures pinned down in the IIA as well as the process of finalizing the deal was a result of the EP's bargaining strategy. The EP created a link between the IIA and the parallel negotiations on the Regulation on public access to EU documents, the latter being subject to codecision, which put pressure on the Council to agree to an IIA. Moreover, by launching an appeal to the European Court of Justice, the EP was successful in pressing the Council to conclude the agreement.

In the existing literature on the EP's role in EU foreign policy, several have suggested that the obligation to consult the EP on foreign and security policy is taken "increasingly seriously" (Gourlay 2004: 188), and that the Member States' acceptance of the EP's influence in foreign policy is connected to concerns for legitimacy (Smith 2004: 174). Moreover, some authors have described the IIA on access to sensitive documents as an "acknowledgement of the EP's rights to be seriously engaged in political dialogue in foreign and security policies" (Barbé and Surrallés 2008: 80-81). However, few contributions have systematically investigated the empirical validity of these claims. Nor have they provided a theoretical account of why legitimacy considerations might have had an impact on the EP's influence. By demonstrating the impact of the EP's normative arguments on the negotiations on the IIA, this article gives new empirical evidence substantiating claims in the existing literature about the putative impact of legitimacy considerations on the development of the EP's role. It also contributes to a more nuanced understanding of the EP's role in EU foreign policy by exploring different explanatory approaches.

Moreover, building on a communicative perspective the article suggests a theoretical explanation for how the EP was able to change the position of the Council by referring to democratic standards. It argues that EU security and defence policy cannot be isolated from democratic principles. Despite the EP's marginal powers in the area and the traditional conception of this policy as an executive prerogative, which many Member States appear to cling to, the EP's

claims for access to information were accepted as legitimate. Finally, the article challenges the view that justification of foreign policy at the EU level is an exercise that takes place between and among executives (Sjursen 2011c). Instead, this article shows that the IIA established an accountability mechanism, albeit at the elite-level only, whereby the practice of justification has been extended to include the EP.³⁹

In for a penny, in for a pound? Explaining the European Parliament's advance into the common foreign and security policy

The second article studies the EP's participation in the CFSP budgetary process. Based on observations of the EP's growing influence in EU foreign policy, it raises the question of why Member States, in such a sensitive area, would be willing to share their powers with MEPs over whom they have little, if no control. The article contributes to answer this question by focusing on the allegedly most potent power the EP has in the area of CFSP: its budgetary power. It asks how the EP has gained more influence in the CFSP through the budgetary process, and if so, how this can be explained.

The article studies the development of the EP's involvement in the CFSP budgetary procedure over a period of almost 15 years, from the entry into force of the Maastricht Treaty in 1993 until 2007 one year after the conclusion of the last Interinstitutional Agreement on the budget. By comparing the EP's treaty based powers with the rules, norms, procedures and practices that have developed in the context of the budgetary process, the article shows how the EP has gained more influence in the CFSP. First, the EP has shaped the rules and procedures that regulate the budgetary process through Interinstitutional Agreements (IIAs) concretising its rights to information and consultation. Secondly, the article demonstrates how the EP's influence has also grown beyond the terms of these agreements. The article argues that there has been a fundamental change in the Council's perception of the EP's role in the CFSP and that the mode of interaction between the Council and the EP has

³⁹ I have investigated the practice and consequences of this special committee in another paper: "Secrecy versus Accountability: Parliamentary Scrutiny of EU Security and Defence Policy", ARENA Working Paper 1/14.

changed accordingly. Today, consulting the EP is taken more seriously and MEPs have regular, political debates with ambassadors from the Political Security Committee about the past, present and future activities of the CFSP. This, according to the interviewees, was unimaginable only 10 years ago.

Two potential explanations are suggested for the observed growth in influence: First, that the EP has been successful in using its budgetary authority to force concessions from the Council, for instance through package deals that make increasing funding conditional on extended consultation procedures. The second hypothesis is that the Council has changed its perception of the EP's role in EU foreign policy because it has accepted the EP's argumentation for why it ought to be more involved in the CFSP. One of the EP's arguments was that as the body responsible for taxpayers' money, it could not only sign a blank check. The EP has made significant advances by striking deals with the Council on IIAs, a tactic that has been bolstered by the growing importance of the CFSP. However, the fact that it has become involved beyond the terms of these agreements is puzzling from a bargaining perspective. It is not obvious why it would be in the Council's interest to grant the EP concessions that it is not contractually obligated to.

The article finds that the change in the Council's perception of the EP's influence in the CFSP was due to a process of constitutive learning. Changes in the Council's behaviour and the emerging consensus on the principles underlying the EP's new rights in the CFSP may be traced back to the arguments presented by the EP. This also explains why the Council has agreed to go beyond the intention of its agreements with the EP. The EP has consistently argued for more information and influence. It has justified its claims with reference to principles of parliamentary democracy, arguments that the Council has come to accept. Over time, the EP's argumentation has fundamentally altered the institutional context of the CFSP. The article suggests that although Member States may dominate the CFSP, it cannot be portrayed as entirely intergovernmental. One would expect intergovernmental policies to be held accountable by national parliaments (Sjursen 2011a). However, the Council's acknowledgement of the EP's legitimate right to influence the CFSP testifies to a policy that has moved beyond intergovernmentalism. Similarly, the impact of principled arguments on the Council's

position towards the EP's role indicates that not even the Member States themselves regard the CFSP as an entirely intergovernmental policy area.

Habit or principle? Explaining the European Parliament's increasing powers in EU external trade policy

The third article investigates the EP's increasing powers in EU external trade policy. In the Lisbon Treaty, the EP went from a situation of no powers to achieving both legislative and veto powers in trade. After the entry into force of the Treaty, however, the EP had to fight to get the Council to acknowledge its new rights because the Council appeared fundamentally unwilling to accept the new provisions. Thus, the article asks how the increase in the EP's trade powers can be explained.

The article traces the development of the EP's trade powers from 2002 to 2012. It covers the period from the Convention preparing what became the Lisbon Treaty, until three years after the Treaty entered into force. Three potential explanations are investigated. First, that the increase in the EP's trade powers was a result of a bargain struck between the Member States and/or between the Member States and the EP. Secondly, that the EP's powers were extended out of habit because the Treaty delegated more competences to the EU-level. The taken-for-granted response would then be to introduce codecision. Thirdly, that the increase was a result of a learning process triggered by the EP's appeal to the principle of parliamentary representation. There were no signs of bargaining over the EP's role in trade in the Convention, or in the subsequent IGCs. There was also little evidence to support the hypothesis that the increase of the EP's trade powers was a habitual response to the extension of the EU's trade competences. The Council's reluctance to recognise the EP's new rights after the Lisbon Treaty entered into force further suggests that habit was not driving the extension. Instead, I found that the increase in the EP's trade powers was due to the EP and the Commission's success in convincing the other members of the Convention, and subsequently the Council, that extending the EP's trade powers was the only right thing to do.

In the Convention, a key goal was to streamline decision-making procedures. In that context, the principle of parliamentary representation was established as one of the foundational norms of

the constitutional process. Advocates of an increase in the EP's powers appealed to general principles to support their claims, which embedded the question of the EP's role in trade in this wider debate. This line of argumentation was accepted as valid by the majority of the Convention, and subsequently led to an increase in the EP's powers. After the entry into force of the Lisbon Treaty, the EP has made frequent use of its new powers to bargain with the Council. However, conflicts were also settled through the use of legal arguments. In particular the Commission's interpretation of the new provisions convinced Member States not to challenge the EP's new powers, which substantiates the third hypothesis.

The article argues that the case of trade demonstrates the limitations of analysing the EP's empowerment as a habitual development. Although the principle of parliamentary representation is one of the EU's central values, it is not automatically applied in decision-making. Following a communicative approach, fundamental principles will also need to be interpreted and become recognized as valid to affect behaviour in a given situation (Eriksen and Fossum 2012: 331). This offers a more accurate explanation of the processes in the Convention. During plenary sessions, the extension of the EP's legislative powers was challenged with references to different concerns that in the end were found lacking in validity compared to the principle of parliamentary representation.

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Article 1

EU confidential: The European Parliament's involvement in EU security and defence policy

Abstract

In 2002, the European Parliament (EP) and the Council concluded an Interinstitutional Agreement that gave the EP privileged access to sensitive documents in the area of security and defence. It is argued that the Council let the EP become involved in this sensitive policy area because it accepted the legislature's argument for its right to access. In addition, the EP's bargaining strategy concretized the procedures and contributed to finalizing the deal after two years of negotiation. It is shown in this article that despite the EP's marginal powers in the area of security and defence and the traditional conception of this policy as an executive prerogative, it cannot be isolated from democratic principles. This article provides new evidence for previous claims that the EP's involvement in EU foreign policy is increasing due to legitimacy concerns. It also offers a theoretical account for why this is so.

Introduction

European Union (EU) foreign policy, and particularly the Common Security and Defence Policy (CSDP), is dominated by member states governments, while community institutions such as the Commission, the European Court of Justice (ECJ) and the European Parliament (EP) play a marginal role. Thus, when the EP in 2000 demanded

* Published in 2015 in *Journal of Common Market Studies*, 53(2): 383–398.

access to sensitive documents in the area of security and defence; conflict was a predictable result. Several member states refused to let the EP examine documents they were not prepared to share with their own parliaments. Nevertheless, the Council and the EP managed to come to an agreement after two years of negotiations. The result was an Interinstitutional Agreement (IIA) that established an EP committee with privileged access to sensitive documents.

Whereas the CSDP previously had been excluded from parliamentary participation, the IIA marked the involvement of the EP in a whole new area. Getting access to sensitive documents meant that, for the first time, the EP could engage with the Council on classified matters. A new arena was established where the EP could scrutinize the Council's activities in security and defence, extending the scope of transparency and accountability to include the CSDP. How can one explain this development? The institutional structure of the foreign policy pillar was designed to "restrict definitively" the prerogatives of the Commission and Parliament (Moravcsik 1998a: 450) and member states have remained particularly protective of the CSDP (Wagner 2006a). How can one explain that the EP, through the IIA, became involved in an area as sensitive as security and defence policy despite the EP's lack of formal powers over the CSDP and within the context of considerable initial opposition in the Council?

Barbé and Surrallés (2008: 80-81) have put forward that the IIA represents an "acknowledgement of the EP's rights to be seriously engaged in political dialogue in foreign and security policies". This corroborates more general observations that the obligation to consult the EP on foreign and security policy is taken "increasingly seriously" (Born and Hängii 2004: 188). Similarly, others have argued that the member states' acceptance of the EP's influence in foreign policy is connected to concerns for legitimacy (Smith 2004: 174). However, none of these studies have made a systematic attempt at explaining how or why legitimacy considerations have led to increased involvement of the EP in EU foreign and security policy.

Moreover, although there could be several normative reasons why the EP ought to have some kind of role in the CSDP, this does not rule out alternative explanations. A conventional explanation of how the European Parliament is able to influence EU policies centres on actors' relative bargaining powers. In other words, the success of the

EP's demands is determined by how much bargaining leverage it can mobilize vis-à-vis other EU actors. Within the second pillar, the EP has very few formal powers, but although its leverage is probably strongest when its demands can be backed by legislative or budgetary powers, it can also be strengthened by other factors such as issue linkage (Farrell and Héritier 2003). The negotiations on the IIA were also part of a process of agreeing a regulation on public access to EU documents, which might suggest that the IIA was part of a comprehensive bargaining process.

By studying the process leading up to the establishment of the IIA, this article shows that legitimacy considerations are indeed part of the explanation of how the EP became involved in EU security and defence policy. It is argued that the outcome of the negotiations would have been different, had the Council not accepted EP scrutiny of EU security and defence policy as legitimate. Thus, the article substantiates previous claims that the EP's involvement in EU foreign policy is increasing due to legitimacy concerns. Moreover, it fills a gap in the existing literature by offering a theoretical account for how and why this is so. Secondly, it complements the research on the empowerment of the EP by showing how legitimacy concerns impact on the interaction between the EP and the Council in everyday political processes and how this induces informal institutional changes. Finally, it sheds new light on the debate about democracy and EU security and defence policy, by demonstrating the EP's ability to hold the executive to account, which has previously been underestimated.

In what follows, I give a brief overview of the Interinstitutional Agreement. The third part of the article presents the theoretical framework employed in part four to analyse the process leading up to the IIA. The final section offers some concluding remarks.

The Interinstitutional Agreement

The IIA concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy (European Parliament and Council 2002) was the result of two years of negotiation, from 2000-2002, during which it also became entangled in the negotiations on the Regulation on public access to EU documents, decided in May 2001 (European Parliament and Council 2001). Although the treatment of sensitive documents had

not been part of the Commission's initial proposal, the issue was catapulted onto the scene when the Council unilaterally decided to exclude top secret, secret and confidential documents from the scope of the yet to be decided Regulation (Council 2000a). Subsequently, it became one of the most difficult problems to resolve in the negotiations on the Regulation (Bjurulf 2002). At the same time, the IIA was also very much a separate issue. The question at stake for the Regulation was public access to documents, whereas the question for the IIA was parliamentary access. In the end, the EP and the Council were not able to resolve their differences and did not establish an IIA until one year after the Regulation had been agreed.

The IIA established an arrangement whereby a special committee from the EP gains privileged access to documents that the Council deems necessary to withhold from the public. The committee consists of five MEPs and is led by the Chairman of the Foreign Affairs Committee. It is supposed to meet the High Representative, or his/her representative, every six weeks to discuss confidential information (Brok and Gresch 2004). When consulting sensitive documents, the special committee convenes in camera, at the Council's premises, and is not allowed to record or share any of the information.

Article 21 TEU (currently article 36) states that the EP is to be informed of how the CFSP/ CSDP evolves. However, the IIA took the EP into "uncharted territory" enabling "a means of extending parliamentary scrutiny to [the area of military secrets] (Elmar Brok MEP, EP plenary, 22.10.02). It also says that the agreement "should provide the European Parliament with treatment inspired by best practices in Member States" (European Parliament and Council 2002). There are indeed provisions in the IIA that retain the member states' upper hand, such as the Council's right to choose not to disclose certain documents to the EP (Reichard 2006). Thus, one should not overestimate the importance of the IIA. Nevertheless, the IIA is described as the first step in the direction of EP involvement in the CSDP (EP6). Others claim that the IIA "has been a substantial step forward compared to the current provision of Article 21 in terms of timing, scope and quality of information" (Mittag 2006: 15). Before the IIA there was no opportunity to engage with the Council on classified matters. Moreover, practice has shown that when consulting documents, MEPs use this as an opportunity to discuss the

EU's security and defence activities. On a regular basis, the High Representative gives the EP oral briefings and answers its questions (EP6).

As part of a democratic process, it is expected that decision-makers explain and defend their decisions (Habermas 1996). Although the domain of security and defence policy requires a certain degree of secrecy, without openness, there is no way of knowing whether that policy is made to serve the interests of the citizens, or rather particular interests and values (Sjursen 2011a: 1072). Thus, access to information and the principle of openness is "a precondition for the establishment and maintenance of realistic accountability mechanisms" (Stie 2013: 44). Without access to information, the EP has no basis of assessing the Council's activities. By creating an arena for parliamentary scrutiny of the CSDP, the IIA introduces an element of checks and balances to the field of security and defence policy. Although it primarily provides for a type of elite accountability, it enables a check of the Council's positions and actions, thus balancing the executive supremacy of the policy field.

Theoretical framework

A communicative approach.

If it is the case that the IIA represents an "acknowledgement of the EP's rights to be seriously engaged in political dialogue in foreign and security policies" (Barbé and Surrallés 2008: 80-81), this suggests that the Council changed its position because it accepted the EP's scrutiny of the CSDP as legitimate. In order to account for this putative shift, I build on communicative theory because it is particularly useful to capture and make sense of the potential impact of norms on decision-making processes. Other perspectives offering insight into how norms may influence decision-making, e.g. sociological institutionalism, are less applicable in this case because they focus on how the institutional context shape action rather than on the actors inducing change. For instance, the pact of the democratic culture embedded in the EU context, could probably be an important contributing factor, but this context still needs to be "activated" in order to have an impact on decision-making, at least in the case studied here where the involvement of the EP is a contested issue. By contrast, communicative rationality speaks more to the constitutive force of norms, rather than their regulative role, which

can be said to be the locus of sociological institutionalism (Risse 2000).

A central idea in communicative theory is that actors can change their preferences if and when they are presented with the better argument (Habermas 1996). This rests on the assumptions that arguments can have coordinating effects, and that it is equally rational to be convinced by an argument, as it is to act according to one's interests. A rational actor is able to justify and explain his or her own opinion or position (Risse 2000). In terms of action coordination, the determining factor is the extent to which the actors perceive of the arguments presented as valid (Eriksen and Weigård 1997). The validity of claims about causality or facts hinges on empirical proof, while the validity of normative arguments is connected to its appeal to norms that can display universal legitimacy and impartiality (Ulbert and Risse 2005b). In practice, this will mean "a norm or a common interest that commands the consent of all" (Eriksen 2003: 192).

A process of arguing can generate learning by which "actors acquire new information, evaluate their interests in light of new empirical and moral knowledge, and - most importantly - can reflexively and collectively assess the validity claims of norms and standards of appropriate behaviour" (Risse 2004: 288). In other words, learning provides a putative link between argument and action, meaning that an actor accepts an argument so that s(he) acts upon it (Riddervold 2011: 564). Following from this perspective, the article sets out to explore the hypothesis that the Council gave the EP access to CSDP documents, and thus allowed parliamentary scrutiny of one of the most sensitive policy areas at the EU level, because it accepted the normative arguments as valid, and changed its position accordingly.

The empirical indicators of such a process taking place would be (this builds on the following studies: Deitelhoff 2009, Riddervold 2011, Sjursen 2004, Ulbert and Risse 2005b): First, normative argumentation is signified by actors arguing according to generalized standards. Thus, one would expect the decision-making process to show attempts to activate norms, by referring to already existing standards, making analogies to similar cases, or attempts to reframe issues making such analogies possible. For example, the EP could make references to the standards under the (former) first pillar as a relevant

analogy to the arrangements under the second pillar (Smith 2004). Secondly, indicators that the Council accepted any of these arguments as valid would be that a change in the Council positions and/ or actions was justified in accordance with the EP's arguments. Thirdly, there has to be a consistency between these justifications and actual behaviour, meaning that the Council did not go back on its word as soon as it got the chance.

However, even if legitimacy considerations did contribute to open up to parliamentary scrutiny of the CSDP, this potential finding does not rule out other alternative explanations. The conventional explanation of how the European Parliament is able to influence EU policies centres on actors relative bargaining powers. Moreover, the negotiations on the IIA were also part of a process of agreeing on the Regulation on public access to EU documents, which evokes an explanatory approach relying on the impact of bargaining tactics.

A bargaining approach

A bargaining process is characterized by the exchange of threats and promises where the outcome hinges on the extent to which threats and promises are perceived as credible, meaning that the actor posing the threat is ready and able to carry it out if its demands are not complied with. This view of social interaction is founded on the assumption that actors are strategic and put maximization of own interests first (Elster 2007: 417-423). In other words, the outcome of social exchange is governed by a logic of cost-/benefit-calculations. EU foreign policy is not an area where the EP has enjoyed much formal power that can be translated into bargaining leverage (Thym 2006).¹ However, bargaining power is not only a product of formal decision-making rules. In a dense policy-making setting such as the European Union, the EP has the opportunity to trade different policies against one another, to link policies to institutional issues and to push for package deals (Farrell and Héritier 2003). Maurer, Kietz and Völkel (2005) have for instance shown how the EP has used its budgetary leverage to increase its power in the area of foreign policy. Following the issue linkage hypothesis one would expect the Council

¹ One noteworthy exception is budgetary authority over the CFSP budget, which the EP shares with the Council. Furthermore, the Parliament has also been able to increase its role in the wider field of external relations using its treaty powers regarding international agreements, development policy and humanitarian aid.

to change its position and allow the EP access to sensitive documents following threats from the EP to disrupt the negotiations on other policies unless its demands for access to sensitive documents were complied with. Or, it could be that the Council changed its position because the EP promised to consent to the Council's wishes with regard to another issue such as the Regulation on public access to EU documents.

In addition, studies have pointed out that the EP is less time-sensitive than the Council, and therefore willing to forfeit in the short-term to obtain potentially larger victories later. A similar aspect is sensitivity to failure, i.e. an actor's dependence on reaching an agreement. Both can constitute a bargaining leverage when the EP also has the power to block or delay policies because it increases the credibility of the EP's threats to obstruct the process (Farrell and Héritier 2007). One indicator that would substantiate the hypothesis about the EP exploiting a lower sensitivity to time and/or failure is that threats by the EP to delay or disrupt the negotiations on the IIA, or the Regulation on public access to EU documents, alternatively promises of a smooth decision-making process, changed the Council's position.

Furthermore, Farrell and Héritier (2007) have argued that the "justiciability of the matter" can increase an actor's bargaining power. While the role of the ECJ is severely restricted in the case of the CSDP, the ability to call upon the Court could nevertheless increase the bargaining power of the EP depending on how the Council reacts, and/or the Court's ruling. The indication of the effect of a court appeal would be that the Council changed its behaviour as a result of the EP launching a court case, a threat to appeal to the Court or a promise not to appeal to the Court. Finally, the constellation of actor preferences is also likely to have an impact on the success of the EP's bargaining strategy. If they can lean on the support from member states, it is likely to strengthen their case (König 2008). If support from member states were important to the outcome, one would expect to see a shift in the pattern of alliances, with the EP acquiring an increasing number of member states by its side.

How did the Parliament get access to sensitive documents?

The data in this article consist of official documents, i.e. European Parliament reports, parliamentary debates, minutes from the Conference of Presidents (CoP)², the EP body in charge of the negotiations of the IIA, as well as Council working documents and drafts. All accessible documents mentioning the issue of access to sensitive documents, in the period between 1st of January 2000 to 31st of December 2002, were collected.³ In addition, I have conducted 14 interviews with politicians and officials from the European Parliament, the Commission, the European External Action Service and representatives from the Member States.⁴ The majority of the interviewees took part in the negotiations.

I have sought to recreate the process whereby the EP gained access to sensitive documents, using the analytical approaches drawn up in the previous section, looking for the observable implications of the different hypotheses listed above and ordering the data accordingly. The data material was first perused, and statements by actors categorized as threats and promises, or demands justified by normative arguments. I then looked at how these threats, promises and arguments were received, and subsequently how they impacted on the behaviour of, the actors involved in the decision-making process leading up to the IIA.

An acknowledgement of the EP's legitimate role in CSDP?

In the Council decision on public access to documents from 1993, there were no references to sensitive documents (Council 1993). But as part of the emergent cooperation between NATO and the EU, NATO wanted reassurances that any intelligence sent to the EU would be properly protected (Reichard 2006). In August 2000, based on a decision by High Representative Javier Solana, the Council

² The Conference of Presidents consists of the EP's presidents and the chairmen of the political groups.

³ The documents were retrieved from the EP website, and the Register of documents. Furthermore, the organisation Statewatch made available several document concerning the negotiations on the Regulation on public access to EU documents and the IIA at www.statewatch.org/secret/observatory.htm.

⁴ For further details, see appendix.

launched a set of Security Regulations adjusting to the 'NATO-model', also known as the "Solana-decision". The "Solana-decision" excluded Top Secret, Secret and Confidential documents from the scope of the yet to be decided Regulation on public access to EU documents (Council 2000a) and kickstarted the negotiations on an Interinstitutional Agreement (IIA) on access to sensitive documents.

Although the upcoming Regulation on access to EU documents dealt with public access, the issue of parliamentary access to sensitive documents became critical as a result of the "Solana-decision", because it meant that the Members of the European Parliament (MEPs) would have no guarantee of access to sensitive documents, and thus cut off from important information (COM2). In 1999, the Court of First Instance (CFI) ruled in favour of MEP Heidi Hautala's demand to gain access to documents dealing with export of conventional weapons (ECJ 1999).⁵ The Council had refused access, but the CFI ruled that the Council had to obey by the principle of transparency, regardless of the policy field. The case highlighted a legal vacuum surrounding the issue of whether and how the EP should be able to access sensitive information beyond that of the public in general, unlike in most member states (Bosse-Platière 2010).

While the concrete negotiations on an Interinstitutional Agreement did not take off after the "Solana-decision", under the French presidency (2nd half of 2000), the EP had already been discussing the possibility of privileged parliamentary access to sensitive documents during the Portuguese presidency (1st half of 2000) (MEP Watson, CoP minutes, 07.09.00). Initially, the Council opposed granting the EP access to sensitive documents (Dinan 2001). And from the very beginning, the issue of the EP's access to sensitive documents "raised the more general question of Parliament's involvement in an intergovernmental security policy" (MEP Hautala, CoP minutes, 07.09.00). According to one interviewee, the "nub of the problem" was that the Council did not want to end up "giving Parliament information which member states were not prepared to share with their own parliaments" (EP1). Thus, the first step in the process towards giving the EP access to sensitive documents was building a consensus of opinion "that there had to be some kind of mechanism"

⁵ The ruling was appealed, but subsequently dismissed by the Court in December 2001 (ECJ 2001).

for parliamentary access. Moreover, it is claimed that this consensus was connected to the “need for democratic oversight and control” (EP1). Does this mean that the Council accepted the EP’s normative arguments and changed its position accordingly?

Throughout the entire process leading to the conclusion of the IIA, the EP presented a coherent set of arguments for its demands for an IIA: to defend “democracy and transparency within the European Union” (MEP Baron Crespo, CoP minutes, 07.09.00). In addressing the French presidency a few weeks after the “Solana-decision”, MEP Brok stated, we must “guarantee the same level of transparency and control that the public expects from national governments and national parliaments” (EP plenary, 05.09.00). One interviewee refers to how the Council “could not just say no, you don’t have the right” (EP2). Because the Parliament according to Article 21 (TEU) was “entitled to be informed, it was also part of the game that if we were to be informed, then that was an obligation from the Council to inform us, to create a mechanism that would enable members to have the confidential documents” (EP2). This indicates that the EP was able to activate the norm of parliamentary scrutiny.

The impact of the EP’s justifications can be traced in the official documents, where changes in the Council’s position coincide with it adopting the arguments of the EP. The second Council draft of the IIA from December 2000 states that: “A mechanism should be introduced to ensure that these principles are implemented in [the field of security and defence]” (Council 2002b). Furthermore, it says that the EP shall be informed “where it is required for the exercise of the powers on the European Parliament by the Treaty”, exactly the same as in the EP’s earlier draft from late November (European Parliament 2000b). This demonstrates the Council’s acceptance of a logical connection between respecting Article 21 and creating a mechanism for parliamentary access to sensitive documents. Moreover, the reference to the EP’s need for access to sensitive documents in order for it to do its job signifies a change in the normative premises of the negotiations, in accordance with the EP’s argumentation.

Secondly, one of the EP’s key demands was that the EP’s access to sensitive documents should compare to “the most favourable treatment accorded by a government of a Member State to its national

parliament" (European Parliament 2000b). In its second draft of an agreement, the French presidency did make reference to practice in the member states, but not to "best practice" (Council 2000b). However, in the draft agreed under the Swedish presidency in the first half of 2001, a reference to "treatment inspired by best practices in Member States" was introduced (Council 2001). Without exaggerating its practical impact, the fact that the Council eventually accepted that national parliaments could serve as models for the EP's role in the CSDP, confirms the acknowledgement of the EP's right of scrutiny. Finally, the fact of established precedents in the member states contributed to the arrangements in the IIA where "entrusted parliamentarians" get privileged access (NAT1).⁶ [S]o you have a mechanism for democratic oversight, but only among people you feel you can trust" (EP1). By accepting that national models could set a precedent for a European arrangement, there was also an acceptance that the EP was entitled to be involved even in an area as sensitive as security and defence policy.

The Council's acceptance of the validity of the EP's arguments is also corroborated by the interviews. Most member states agreed that sensitive documents should be exempt from the Regulation on public access to EU documents, at the same time some also perceived of the EP's arguments as sound (NAT1). The EP agreed that there would have to be special procedures protecting the "confidentiality of documents which if they are leaked might endanger the internal or external security of the Union or its Member States" (European Parliament 2000a). On the other hand, the Council also accepted the EP's argument that Parliament's right to be informed required privileged access to sensitive documents (NAT1). This principled agreement is also illustrated by the Spanish foreign minister, who stated that the problems during the negotiations were procedural, not substantial (CoP meeting, 11.06.02). Ten years after the IIA was concluded the EP's right to information is taken for granted (EEAS1). There is a broad acceptance that the Parliament needs specific access (COM2). Furthermore, practice shows that despite the Council having the opportunity to deny the EP access to documents, it has not done so (EP6) contrary to what one would expect if the Council did

⁶ It should be added here that although practices in member states vary, special arrangements for parliamentary access to classified documents are the rule rather than the exception.

not accept that the EP was entitled to such information. Thus, the findings lend support to the claim that the IIA represents an acknowledgement of the EP's legitimate right to scrutinise security and defence policy.

At the same time, although norms undoubtedly had an impact on the Council's decision to allow the EP access to sensitive documents, the data show that the negotiations on the Interinstitutional Agreement between the Council and the EP were also characterized by exchanges of threats and promises. Consequently, a principled explanation may not give a full account of how the EP, through the IIA, became involved in the CSDP. Thus, the question is to what extent and how a bargaining approach contributes to a better understanding of the EP's access to sensitive documents?

An IIA as a result of successful bargaining?

The "Solana-decision" was not only met with massive criticism, the Netherlands also took the Council to the Court over the decision in October 2000 (ECJ 2000a), supported by Sweden and Finland. The EP was considering a similar action, followed by a draft for an IIA from the French presidency in the middle of October 2000. However, the EP was dissatisfied with the proposal, and having waited in vain for a further conciliatory response by the Council, the EP also decided to appeal to the Court for an annulment of the "Solana-decision" in late October (ECJ 2000b). At the time, it was reported that the Council's conviction to stand firm "may have been reinforced by the fact that even the Parliament's own legal advisors believe the case (...) is, at best, shaky" (European Voice 2000). Moreover, even though the draft from the French presidency could be regarded as a response to the EP's court action, it is important to keep in mind that the idea of privileged parliamentary access was being discussed prior to the "Solana-decision" (Driessen 2008). As was shown above, a mutual understanding of the need to create a special arrangement for parliamentary access was established early on, and the EP decided on the court action only after it had been presented with a draft IIA by the French presidency. Hence, the EP's court action was less important to reach agreement on the principle for parliamentary access; it was largely an instance of the Parliament positioning itself for the negotiations over the specific arrangement – the devil was in the details.

Because the “Solana-decision” excluded sensitive documents from public access, had the EP accepted the draft at that stage, it “would have had to share with the Council responsibility for withholding information from EU citizens” (Dinan 2001: 35). Thus, the negotiations on the IIA also became entwined with the negotiations on the Regulation on public access to EU documents. According to Article 255 of the Amsterdam Treaty, the Regulation had to be agreed through co-decision within two years after the treaty entering into force, i.e. by May 2001. Partly as a result of the “Solana-decision” in the summer of 2000, the treatment of sensitive documents became one of the main conflict issues (Bjurulf 2002). During the first half of 2001, the Swedish presidency traded with both the EP and those member states of the Council that were unwilling to make concessions, and it used the EP’s demands to push reluctant Council members to support greater transparency initiatives (NAT1, NAT2). Furthermore, the EP wanted to make sure that a deal on the Regulation was reached during the Swedish Presidency because it doubted that the successors would be as committed to transparency (EP1). As a result, the EP agreed to the inclusion of Article 9, which deals with the treatment of sensitive documents (EP1, EP5). Article 9 was a political compromise (COM2). In the words of one MEP: “[t]hey had to give the secrecy advocates something in order to save the general principles” (quoted in Tallberg 2006: 154). The content of this article replicated the content of the infamous “Solana-decision”. In addition, it also included the provision that “The Commission and the Council shall inform the EP regarding sensitive documents in accordance with arrangements agreed between the institutions”.

However, the Council continued to act solo, and in March 2001 it adopted a new set of security regulations before the parties had come to a final agreement on the Regulation. Furthermore, with regards to the IIA, the Parliament was in for an unpleasant surprise. Despite the fact that the EP agreed to the Council’s demands, one member state decided that it still could not accept the draft agreement, and the negotiations went into limbo (CoP minutes, 28.06.01). Simultaneously, the EP was considering taking the Council’s new security regulations to Court as well, because “bringing another action could help in negotiations” and “it was always possible to withdraw it” (MEP Palacio Vallersundi, CoP minutes, 28.06.01). After having decided to take action in June 2001, the EP’s appeal was at the centre of the subsequent negotiations. During an exchange of views

with the Belgian Presidency some months later, the EP president said that “there was a strong possibility that the Parliament would withdraw the legal action it had taken against the Council (...) provided the negotiations on an agreement on information to Parliament on external policy and security matters was reached speedily” (CoP minutes, 29.11.01).

The Council on its part emphasized that it was ready to conclude the negotiations with the EP, but that the EP should “re-examine its position on its application to annul the Council security regulation” (EP plenary, 12.12.01). In the end, the withdrawal of the court action became part of the deal negotiated during the Spanish Presidency, in the first half of 2002. Thus, the court appeal is part of the explanation of how the two parties concluded the negotiations on the IIA. Another prerequisite was that the EP adopted its own security regulations for handling sensitive documents comparable to the other institutions (CoP minutes, 13.03.02), which was subsequently annexed to the IIA (European Parliament 2002). This was a crucial addition for the military powers among the member states. At the time of the negotiations, there was a “genuine worry” that the EP would leak documents more easily, and that they would not follow the proper procedures for the treatment of confidential material (NAT1). This fear was alleviated by the EP’s security regulations. Otherwise, the agreement was no different from the draft negotiated under the Swedish Presidency. In the words of the Spanish Foreign Minister, Josep Piqué i Camps, the problem was of a “procedural rather than of a substantive nature” (CoP meeting, 11.06.02).

The Parliament’s bargaining strategy contributed to the final deal in several respects. First, the link to the Regulation contributes to explain the chiselling out of an agreement during the Swedish presidency. Although the negotiations continued another year, the two parties negotiated the arrangement that largely became the end result. Conversely, the hypothesis about the EP being less sensitive to time and failure compared to the Council is not supported by the data. Eager to conclude a deal with the Council, one MEP argued that: “At present, Parliament had nothing, whereas the agreement established a committee comprising selected parliamentarians”. The choice was therefore “to conclude the agreement or not to have an agreement at all” (Barón Crespo, CoP minutes, 13.06.01).

Secondly, although the EP linked the IIA to the Regulation, it still wanted both to be in place by the end of the Swedish Presidency as few MEPs had high hopes for the forthcoming Belgian and Spanish presidencies (CoP minutes, 13.06.01, EP1). In short, the EP was on the demanding side, while the Council was postponing the agreement. This illustrates the importance of being able to cooperate with a Presidency that is more inclined to be supportive of the EP's case than other member states. At the same time, especially the security oriented member states were highly suspicious of the Swedes' pro-transparency stance, and the Swedish negotiators had to tread carefully in order not to alienate its colleagues in the Council (NAT2). However, although the EP had a lot to gain from the support from member states, there was no shift in patterns of alliances, which were clear from the outset of the negotiations. It is important to keep in mind that the primary goal of the Swedish Presidency, and for the Parliament and the pro-transparency camp to which it belonged, was to agree on a Regulation on public access to EU documents. In addition, despite the EP's hopes that the IIA would be concluded under the Swedish Presidency, one hesitant member state was enough to throw the agreement into limbo. Although the Swedish government may have been a negotiating partner positively disposed to the EP's access to sensitive documents, in the end the matter was not important enough to make the Presidency throw its full weight behind reaching a solution.

Another issue was the unity of the EP. Several MEPs, particularly from the Green Party, criticized the EP negotiators for being too subservient to the wishes of the Council. When negotiating the IIA, the European Parliament itself was split on how far it should take its demands (EP1). According to one interviewee, since the beginning of the negotiations on the Regulation and the IIA, the EP realised that "by combining the two issues, it [could] also gain something as an institution" (EP4). Some MEPs saw this as a considerable democratic problem (CoP minutes, 06.06.02, EP plenary, 16.11.00), whereas others held that: "we must not (...) go too far at the outset, because this is a very sensitive area and at stake are the security interests of the Member States of the European Union and all of our fellow citizens" (Elmar Brok MEP, EP plenary, 22.10.02). According to one interviewee, the reason the IIA did not "go further" was because "the pro-openness MEPs did not manage to convince the rest of the EP (EP5). This divide within the EP meant that the Parliament was not

prepared to go to any great length to force further concessions from the Council on access to sensitive documents for the public at large. In fact, the EP majority was relatively pragmatist and seemed satisfied with acquiring privileged parliamentary access.

Thirdly, at least the EP's second appeal to the ECJ seems to have increased the Parliament's leverage, particularly with regard to the final stages of the negotiations. The EP's appeal demanded an annulment of the Council's Security Regulations arguing that the Council had not followed the appropriate procedure in adopting the Security Regulations because the Regulation on public access to EU documents had yet to be decided. Additionally, the EP argued that the Council had "thwarted the prerogative power" of the EP by not involving it in the process of establishing the Security Regulations (ECJ 2001). Although an interim agreement between the EU and NATO had been in place since July 2000, at the point where the EP made its appeal, the permanent security of information agreement was yet to be concluded. Consequently, "neither the Council nor any of the member states (...) wanted to create the impression with NATO that introduction of the latter's security rules would in any way run up against the problems of constitutional nature within the EU" (Reichard 2006: 339).

Conclusion

By establishing a special EP committee with privileged access to sensitive documents, the IIA marks the involvement of the EP in a new area, the Common Security and Defence Policy. In this article, I have found that the Council changed its position and allowed for parliamentary scrutiny of the CSDP due to legitimacy considerations *and* the bargaining strategy of the EP. The data show that the Council accepted the EP's argumentation referring to Parliament's legitimate right to access. Moreover, the inclusion of the reference to "best practice" in national parliaments underlines the Council's acceptance of the EP's claims. The principle of parliamentary access was established at an early stage in the negotiation process and formed the basis for the subsequent negotiations that mainly dealt with the IIA's procedural details. At the same time, threats of issue linkage in the context of the Regulation on public access to EU documents concretized the negotiations. In addition, the threat of the second court appeal contributed to seal the deal.

What is the relevance of these findings? First of all, the article fills a gap in the existing literature on the development of the EP's role in EU foreign policy. Earlier studies have claimed that legitimacy concerns have led the Council to change its attitude towards the EP's involvement in EU foreign policy, but without examining it systematically (e.g. Smith 2004, Wisniewski 2013). By showing how the normative arguments of the EP affected the Council's decision to open the CSDP up to parliamentary scrutiny, this article provides new evidence that supports and substantiates previous observations. Without the communicative perspective the formation of an initial consensus on the need for accommodating the EP's access to sensitive documents would have been ignored because the influence of normative arguments would have been situated outside the scope of the investigation.

However, the observation that one of the weakest actors in EU foreign policy, the EP, can change the position of the Council by referring to norms, often considered to be the weakest argument in this particular area, also requires an explanation. Thus, the article also offers a theoretical account of why legitimacy considerations might lead to increased involvement of the EP in EU foreign and security policy, which has not been systematically elaborated in earlier studies (see however Crum 2006).⁷ Communicative theory presupposes that it is equally rational to act according to convincing arguments as to act on material interests. This theoretical assumption is not only what enables the findings in this article; it also takes what has previously been more or less an "intuitive postulation" and gives it a theoretical underpinning. Using a communicative approach, it shows that actors even within the field of security and defence policy can be convinced by factors other than self-interests, provided that the arguments put forward are recognised as valid. Consequently, it provides new insight into how we are to understand the advance of the EP in EU foreign policy, i.e. as a result of a mix between material and normative mechanisms. Whether these suggested explanations are applicable in other cases need to be studied further, but a comparative approach is at least facilitated by making the theoretical assumptions explicit.

⁷ For studies analysing the impact of legitimacy considerations on the empowerment of the EP in general, see Rittberger, Rittberger and Schimmelfennig and Eriksen (2009).

Secondly, the findings in the article also complement the literature on the EP's empowerment. Studies dealing with the development of the EP's interinstitutional powers have mainly focused on treaty changes or on the success of the EP's bargaining strategy inbetween treaty changes. Furthermore, studies in the latter category have relied on material explanatory factors. What this article shows, is that one has also to take into consideration the "normative force of the parliamentary principle" (Eriksen 2009b: 216) when attempting to understand the interinstitutional dynamics between the EP and the Council, as well as in explaining informal institutional development. This is particularly surprising in the area of EU security and defence policy, because it is an area that traditionally is held to be dominated by executives and national interests.

In addition, the findings demonstrate how normative considerations are not only triggered at 'constitutional moments' (cf. Rittberger and Schimmelfennig 2006), but also have a discernable impact on the everyday political processes in Brussels. Actors are "embedded in normative contexts they do not control" (Eriksen 2009b: 225), but if and how such contexts contribute in shaping decision-making processes is determined by the extent to which they are activated and accepted as valid. This article has shown how employing a communicative approach enhances our understanding of which principles make an impact on decision-making and why. Particularly in situations where norms are contested, the extent to which they can be justified in a convincing manner determines which norms that prevail. Applying a communicative approach to other cases could also provide an explanation for the large variations with regard to the role of parliaments in foreign and security policy at both the national and international level.

Finally, the article challenges the literature on democracy in EU foreign and security policy. While previous research has argued that justification of foreign policy at the EU level is an exercise that takes place between and among executives (Sjursen 2011b), this article shows that the IIA established an accountability mechanism whereby the practice of justification has been extended to include the EP. One could perhaps argue that creating a special committee comprised of only five MEPs represents as much of a democratic problem as a democratic breakthrough. Still, over the last years, practice has shown that the IIA did establish a new standard for the scrutiny of

sensitive documents in the area of EU foreign, security and defence policy, which represents a democratic advance. In her Declaration on Political Accountability, the High Representative foresees a review of the IIA, as well as changes to the procedure, which takes the 2002-agreement one step further by accepting that MEPs could gain access to sensitive documents on a need-to-know-basis (European Parliament 2010).

The above analysis has demonstrated that even an area as sensitive as the field of EU security and defence policy cannot be isolated from democratic principles. Still, one could argue that a democracy requires that decision-makers at some point render account to the citizens *in public*. Thus, while the IIA provides for a certain degree of openness and accountability, the special committee operates behind closed doors. A democratic foreign, security and defence policy, on the other hand, depends on the existence and quality of public fora.

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Appendix

Interviews

COM1: Commission-official, 10.12.2012

COM2: Commission-official, 08.02.2013

EP1: MEP, 01.09.2010

EP2: EP-official, 25.05.2011

EP3: EP-official, 25.05.2011

EP4: MEP, 31.05.2011

EP5: EP-official, 30.06.2011

EP6: EP-official, 24.10.2011

EEAS1: Official, 25.05.2011

EEAS2: Official, 31.05.2011

NAT1: National representative – Sweden, 01.06.2011

NAT2: National representative – Sweden, 23.06.2011

NAT3: National representative – Finland, 14.10.2011

Article 2

In for a penny, in for a pound? Explaining the European Parliament's advance into the common foreign and security policy¹

Abstract

Based on observations of the EP's growing influence in EU foreign policy, this chapter raises the question of why Member States would be willing to share their powers with MEPs over whom they have little, if no control. It contributes to answer this question by focusing on the allegedly most potent power the EP has in the area of CFSP: its budgetary power. It asks how the EP has gained more influence in the CFSP through the budgetary process and how this can be explained. It is shown how the EP has managed to expand its rights to be informed and consulted on CFSP-matters in a series of agreements with the Council. However, the EP has become involved in the CFSP beyond what would be expected from these agreements. Moreover, there has been a fundamental change in the Council's perception of the EP's role in the CFSP and that the mode of

* Forthcoming in Sjursen, H. (ed.) *A Humanitarian Power in the Making? Developing a Common European Foreign and Security Policy*.

¹ The author would like to thank Mai'a Davis Cross, Tine Johnsen Brøgger, Marianne Riddervold, Johanne Døhlie Saltnes, Johanna Strikwerda, and in particular Helene Sjursen for valuable feedback and inputs. Alfredo de Feo deserves a special thanks for being so helpful upon my first visit to the European Parliament, allowing me to benefit from his experience and network. This article has also been published as an ARENA working paper, 9/2014. It has also been presented at the Festival d'Europa, 2013, at the panel, "The European Parliament as an International Actor".

interaction between the Council and the EP has changed accordingly. The article argues that while the concrete agreements are mainly a result of the EP's bargaining tactics, the change in the Council's perception of the EP's influence in the CFSP was due to a process of constitutive learning. Changes in the Council's behaviour and an emerging consensus on the principles underlying the EP's new rights in the CFSP may be traced back to the arguments presented by the EP. This also explains why the Council has agreed to go beyond the intention of its agreements with the EP.

Introduction

When the Common Foreign and Security Policy (CFSP) was established at Maastricht as a separate pillar, one reason was to avoid meddling from supranational institutions, among them the European Parliament (EP) (Moravcsik 1998b). Since then, the EP has consistently requested more influence over the CFSP, but member states have been equally consistent in refusing to increase its powers. Thus, the treaty provisions have not changed since 1993; the rights of the EP are still limited to consultation and information on the main aspects and basic choices of the CFSP (Article 36 TEU). Nevertheless, several authors argue that the EP has managed to enhance its position in the CFSP, by pursuing a proactive strategy (Barbé 2004, Barbé and Surrallés 2008, Diedrichs 2004, Fischer et al. 2007, Grunert 1997, Maurer et al. 2005, Raube 2012, Thym 2006, Viola 2000, Wisniewski 2013).

Seen against the commonly held perception that the CFSP is governed by intergovernmental principles, this is an unexpected development. Why would member states, in such a sensitive area as foreign policy, be willing to share their powers with Members of the European Parliament (MEPs) over whom they have little, if no control? In order to answer this question, this chapter studies the CFSP-budget, which is the one area within CFSP where the Council is obliged to share its authority with the EP (Miskimmon 2012). The EP's power over the CFSP budget is described as its most potent power as well as one of the most important inroads to influence in the area of CFSP available to the EP (Keukeleire and MacNaughtan 2008, Maurer et al. 2005, Monar 1997, Thym 2006). Still, the effect of the EP's budgetary rights, depends on how these are put into practice and on the room for manoeuvre other actors have. For instance, in the field of security and defence, Member States have chosen to finance

operations outside of the EU-budget to avoid involving the EP (Thym 2008). Thus, looking at the budget provides an opportunity to investigate how the EP's formal powers give it influence in the CFSP. By studying the CFSP budgetary process over a 15-year period, the specific aims of this chapter are to answer how the EP, through the budgetary procedure, has gained more influence in the CFSP? And how this development can be explained?

Most studies addressing the EP's role in the CFSP have focused on how the EP's budgetary powers are used as a bargaining tool to force concessions from the Council (Crum 2006, Diedrichs 2004, Keukeleire and MacNaughtan 2008, Maurer et al. 2005, Monar 1997, Thym 2006). As a result, the EP's rights to access information and the reporting requirements in the area of CFSP have been expanded through Interinstitutional Agreements (IIAs) between the EP and the Council. However, the findings in this chapter also indicate that the EP's influence in the CFSP has developed beyond what one would expect from these agreements. This cannot be accounted for by the EP's strategic use of its budgetary powers. Because bargaining approaches aim to explain concrete agreements, they are less equipped to capture the "non-contractual element of the contract" (Durkheim in Eriksen and Weigård 1997: 225).

In the course of the 15 years analysed in this chapter, the development of norms and practices in the context of the CFSP budgetary process appears to have significantly altered the EP's involvement in the CFSP. The EP receives more substantial information, participates in more real discussion and more political debate about the past, present and future prospects of the CFSP. This suggests a fundamental change in the relationship between the EP and the Council, corroborating earlier studies that claim to observe a "grudging acceptance" among member states of the EP's influence in foreign policy (Smith 2004: 174). Building on the analytical framework described in chapter 1, this chapter investigates this development as an instance of 'constitutive learning': A long-term learning process where the EP's presentation of compelling arguments for why it ought to have more influence in the CFSP have been accepted as valid by the Council, leading it to accommodate the EP's claims.

In the following section, the EP's powers in the CFSP are discussed in comparison to those of national parliaments, with a focus on budgetary powers. Then, the extent to which the EP has increased its influence in the CFSP is analysed, while the fourth section explores different explanations for the development of the EP's influence. Finally, in the concluding section some empirical and theoretical implications of the findings are suggested.

Parliamentary involvement in foreign policy

Foreign policy has traditionally been a governmental prerogative, because of the conviction that it, compared to other types of policies, requires a higher degree of secrecy and flexibility. This is one reason why the role of parliaments in foreign policy-making is less influential than in other policy areas (Eriksen 2011, Hill 2003, Lord 2008, Wagner 2006b). Another reason is that parliaments are legislative institutions, but in foreign policy there is little legislation (Lindsay 1994). Although there are national variations, "[p]arliamentary accountability of foreign and security policy tends to be weak in most political systems" (Hängii 2004: 15). However, parliaments still have some formal instruments to influence foreign policy. First is the right of many parliaments to ratify international treaties (Hill 2003). Second is the 'power of the purse', which traditionally is "one of the hallmarks of effective parliamentary supervision" (Weiler 1980: 175), particularly in the case of the defence budget, as shown by studies of the US Congress (Lindsay 1994). Both of these are somewhat 'nuclear' options, but could still contribute to parliamentary influence over foreign policy decision-making.

During the last two decades, each treaty reform has extended the EP's powers. The codecision procedure, which was renamed the Ordinary Legislative Procedure by the Lisbon Treaty, has made the EP and the Council equals in terms of legislative powers. Thus, there is a general pattern of increasing the EP's powers whenever decision-making authority is delegated to the EU-level (Rittberger 2005). Not so for the area of foreign policy. One reason why the CFSP has remained a separate pillar is to avoid interference from supranational institutions such as the EP (Moravcsik 1998b). The conception that the EP's influence on the CFSP is marginal, builds on the weakness of its treaty-based powers (Cameron 2007, Eeckhout 2012, Juncos and Pomorska 2008, Tonra 2000). (Dashwood 2002: 32) calls the EP's role "unexceptional" as there is no "general practice in Member States of

requiring the legislature to be consulted in advance when action is contemplated at national level in the policy areas covered by the CFSP". However, the EP's marginal powers could also be seen as reflecting the perception of the CFSP as distinct "in terms of its decision-making structures, its forms of accountability and the sources of its legitimacy" (Hyde-Price 2002: 41).

During the Convention preparing what became the Lisbon Treaty, suggestions to increase the role of the EP in CFSP and CSDP was met with firm opposition from Member States (Norman 2003). Thus, the Lisbon Treaty represents a "modified status quo" with regard to the EP's role in CFSP (Diedrichs 2004). According to Article 36 (TEU), the EP has the right to be regularly consulted and informed by the High Representative (HR) on the "main aspects and basic choices" of the CFSP and CSDP. S(he) is also to ensure that the views of the EP are duly taken into consideration. The EP can ask questions to the Council and make recommendations to it. Twice a year, the EP is to hold a debate on the progress of implementing the CFSP. There are other arenas and procedures that are equally important for the exercise of control as well. The EP's ability to scrutinize the activities of the HR has for instance been described as essential (Crum 2006). Moreover, the presidencies and special representatives brief the EP on a regular basis.

In addition, the EP has two indirect powers at its disposal. First, there is the power of consent, which is needed when the EU enters into "virtually any international agreement (...) of any significance" (Corbett 2012: 249). One exception is, however, agreements that relate exclusively to the CFSP (Article 218a, TEU). Secondly, there are the EP's budgetary powers. Because CFSP-expenditure is classified as non-compulsory, the EP makes up part of the budgetary authority together with the Council (article 40 article 28 TEU). Nevertheless, the capacity to act does not equal actual performance (Arter 2006). In other words, the influence that results from the EP having budgetary powers, depends on how these are put into practice and on the room for manoeuvre other actors have. Thus, the next section analyses the extent to which the EP, through the budgetary procedure, has gained more influence in the CFSP.

Has the EP's influence in CFSP increased?²

Article 41 (TEU) regulating the CFSP budgetary process gives the EP a treaty-based claim to be involved in the CFSP because it has to approve the CFSP budget. Yet, comparisons between formal powers and actual influence often show considerable discrepancies (see for instance Auel 2007, Bono 2006). That is why this chapter applies a definition of influence that is broader than formal powers. Influence encompasses the ability to affect the decision-making process, e.g. through veto or legislative powers, but also the possibility of exerting influence through agenda setting and control. Some argue that because much of the exercise of power in this area is not subjected to judicial review by the European Court of Justice, political oversight of EU foreign policy is even more important (Corbett et al. 2005: 274). There is very little legislation in the area of foreign policy, and as mentioned most parliaments only have crude powers at their disposal, such as the right to veto international agreements. This makes the development of alternative channels of influence crucial. The following sections analyzes to what extent the EP's participation in the budgetary process has given it more influence in the CFSP. This is done by comparing the treaty provisions that deal with the EP's role in CFSP – Article 28 (TEU) on CFSP expenditure and Article 21 (TEU) on the EP's role in CFSP – to the rules, norms, procedures and practices that have developed in the context of the budgetary procedure.³

The Interinstitutional Agreements (IIAs)

In 1993, when the CFSP was established, it was agreed that while administrative expenditures were to be charged from the EC Community budget, the member states could decide whether they wanted operational expenditures to be charged from the EC budget

² The data consists of written documentation from 1993-2007, mainly EP, Council and Commission documents concerning the CFSP-budgetary procedure obtained from official registers. Furthermore, it comprises secondary sources, such as existing studies and media reporting. I have also conducted 13 interviews with actors on several sides of the table: three MEPs, four EP-officials, one official from the Commission, two officials from the Council, one from the European External Action Service (EEAS) as well as two representatives from different presidencies (see appendix 1 for further information).

³ Because the analysis looks at the budgetary process prior to the entry into force of the Lisbon Treaty, the "old" articles are used throughout, that is Article 28 instead of 41, and Article 21 instead of 36.

or finance it themselves (Article J.11 TEU).⁴ The Council quickly realised that relying on Member State funding got in the way of running CFSP-actions efficiently and thus turned to the EU budget. This constituted a source of bargaining power for the Parliament that made appropriations conditional on information on how the funds were going to be used. Consequently, conflict over the foreign policy spending became a regular feature of the budgetary process (Maurer et al. 2005, Miskimmon 2012, Missiroli 2003b, Monar 1997).

After Maastricht, the EP's main source of bargaining power was the ability to place parts of the CFSP-funds in reserve, which would then require parliamentary approval to be spent (Monar 1997). In this way, the process of financing joint actions was delayed, causing considerable problems for the Council. The source of funds was obstructed, and the Council risked not being able to fund policies it had committed itself to. But although the Council complied with the demands of the EP in several Joint Actions, it refused to discuss the possibility of an Interinstitutional Agreement (IIA) on the financing and implementation of the CFSP, that would strengthen the EP's rights to information and consultation within the CFSP (Monar 1997). Finally in 1997, concurrent with the conclusion of the Amsterdam treaty, the European Parliament and the Council struck a deal on provisions regarding the financing of the CFSP, establishing an IIA (Nuttall 2000).

However, the first drafts of the Amsterdam treaty did not bode well for the EP, because these categorised CFSP-spending as compulsory expenditure. The Council saw the EP's practice of putting funds in reserve as an unacceptable interference, and was also worried that parliamentary involvement could lead to a loss of efficiency (EP4). By making spending compulsory the EP could be circumvented, thus the EP stood the risk of losing its influence over the CFSP-budget. In the end, CFSP-spending remained non-compulsory and the two parties agreed on an IIA, but in order to reach a deal, the EP had to give up its right to place amounts in reserve. This was a clear ultimatum from the Council (EP2). As pointed out by the Dutch presidency, the rights

⁴ With the Amsterdam treaty in 1997, operational expenditures were incorporated into the Community budget, except for expenses pertaining to operations with military or defence implications, subjected to the ordinary budget procedure (Article J.18 TEU).

granted Parliament in the 1997 IIA was “less than before, but far more than the Council originally had any intention of giving you” (EP-plenary, 11.06.97). In return, the EP got an IIA establishing rules on the supply of information regarding CFSP-activity as well as on the consultation of the Parliament (MEP3, EP2, EP4).

From the day that the CFSP was established, the EP’s demanded rights to information and consultation in return for budgetary concessions. The 1997 IIA made explicit the procedures for how the Commission and the Council must provide the EP with estimated costs of CFSP activities as well as information about their implementation. Moreover, the EP gained the right to be informed on individual CFSP measures, even if only after they have taken place (Thym 2006). However, the EP quickly became dissatisfied with the Council’s negligence of these obligations. Instead of putting funds in reserve, which was no longer an option, the EP gradually started using changes in the total amount of the CFSP-budget as a lever in order to gain influence (EP2). It took a few years before the EP used this strategy to full extent, but since 2001, it has consistently cut the funding for the CFSP each year. This has usually been accompanied by demands for more and better information (Saarilahti 2008).

In 2002, tensions arose around the funding of the EU’s police mission to Bosnia-Herzegovina (EUPM). EUPM was the first mission launched by the European Union under the European Security and Defence Policy, and as such, held considerable prestige. The Council decided to launch the mission, backed by the UN, and signed an agreement with the authorities in Bosnia-Herzegovina before the Parliament had given its first reading of the budget (Missiroli 2003a). So when the Council sought to increase the CFSP-budget by 10 million Euros in order to finance the operation, the EP expected something in return. After two rounds of conciliation, the EP agreed to increase the budget in exchange for a Joint Declaration specifying the 1997 IIA’s provisions on information and consultation on CFSP-actions with financial implications (Council 2002b, Grossir 2003).

The following year, the EP threatened to withhold funding for another police mission to Macedonia (Proxima), because the Council failed to provide adequate information and for not consulting the Parliament in accordance with the 2002 Joint Declaration (European Parliament 2003). Hence, the IIA was explicated once more in an

exchange of letters, whereby the Council agreed to hold at least five joint consultation meetings per year (Thym 2006). Then in 2005, the Parliament reduced the CFSP-funds again due to lack of proper dialogue and the low level of representation of the Council in the joint consultation meetings (European Parliament 2005a). Yet again, the conflict was solved by a Joint Declaration where the two parties agreed that the meetings with the Parliament would be attended by ambassadors from the Political Security Committee (PSC) and not civil servants (European Parliament 2005b). Similarly, in 2006 the EP cut the CFSP-budget in half to make the Council commit to the provisions on the CFSP in the 2006 IIA. The dispute resulted in an exchange of letters where it was made sure that the parties' interpretations of the IIA corresponded (Saarilahti 2008: 162-164).

In sum, the EP has consistently demanded to be informed and consulted in return for its approval of the CFSP budget. These demands have produced rules and procedures regulating its relationship with the Council through a series of incremental agreements. The Council has not conceded willingly. Several of the agreements are specifications of earlier agreements that the Council has neglected. Nevertheless, the EP's influence in the CFSP has increased beyond the provisions of the treaty, i.e. Articles 21 and 28 (TEU). The provision of information has become more regular, the procedures surrounding the consultations have been clarified and the level of representation on the side of the Council has risen from Council bureaucrats to PSC-ambassadors, which means that the MEPs sit opposite actors who are closer to the political level. However, findings also indicate that the EP has become even more involved in the CFSP than one would expect from these new rights established in the IIAs.

A change beyond negotiated rights?

Before the work on the Amsterdam Treaty began, the Reflection Group preparing the agenda for the negotiations reported that the EP's overall role in the policy-making process in the CFSP-area as well as its appropriate budgetary function was a contested issue among the Member States (Council 1995). The Commission's report to the Reflection Group echoed this view, adding that there was an atmosphere of "mutual distrust" between the EP and the Council (Commission 1995). The Council did not want the EP to interfere with the CFSP. They held parliamentary influence to be an intrusion,

because it went beyond the intentions of the treaty, and because they considered the CFSP to be a policy field belonging to the Member States (EP4). In addition, many governments were not “acquainted with parliamentary involvement in foreign policy” (EP3).

By contrast, a clear majority of the interviewees described the current relationship between the EP and the Council, in the context of the CFSP-budget, as one of mutual recognition. The Council has grown to take the EP “more seriously” and the meetings between the Council and the EP are characterised by “more real information, real discussion” (EP2) and a more political debate (COM1). In addition, the procedures that have been developed are now also followed to a greater degree than the first years following the IIA of 1997, when the rules were routinely broken (European Parliament 1998). Now, the Council provides the necessary documents, they explain their policies, and elaborate on them upon parliamentary request if weaknesses are pointed out. In other words, “they come, [and] they explain things that ten years ago you could not imagine” (EP5).

Thus, the EP’s influence has increased beyond that ensured through the provisions of the IIAs. This development has to do with substance rather than procedure, as well as the way the EP’s role in the CFSP is perceived by the Council. First of all, the EP has succeeded in getting the Council to engage in political debate, as opposed to a mere technical, budgetary account. The first IIA and the declarations and exchanges of letters that followed concerned the procedural aspects of providing the EP with information, e.g. its timing and frequency. However, in 2005 when the Council agreed to be represented by ambassadors from the PSC in its meetings with the Parliament, the information became more political. In the words of one interviewee: “the PSC (...), they don’t really understand the budgetary procedures, they are only talking about the political issues, about operations etc” (COU2), which is precisely what the EP requested.

This shift is also reflected by the fact that the PSC ambassadors engage more in a discussion with the MEPs during the joint consultation meetings. It differs from the situation in the early 2000s, where the Council treated the CFSP budget “like [it was] a compulsory expenditure” (EP5). The Council representatives who came to these meetings did not say much, referring to their lack of mandate (EP5). Moreover, because technical, budgetary details no

longer dominate the debates, the Commission's input has been reduced, leaving more room for political debate (COM1). Thus, the joint consultation meetings are more a pretext to discuss political matters, such as the general orientation of the CFSP (EEAS1). On occasion, issues that are not even related to the CFSP budget are discussed, such as military operations. This is somewhat of a red line for the Council, but the EP is eager to debate it in the joint consultation meetings (COM1, COU2). Consequently, although the IIAs only provide for a consultation on budgetary issues, the joint meetings have been transformed into an arena where a discussion on the substance of the CFSP takes place.

Secondly, during the last 15 years there is a growing consensus between the EP and the Council on the principles underlying the EP's negotiated rights, an aspect that is accompanied by an increasing tendency for the Council to actually respect the IIA. There is now "genuine interest" on the part of the Council in a political dialogue with the Parliament on CFSP (COM1, EP6). The 1997 IIA established rules of cooperation that worked in theory, but not in practice (EP2). However, over time, the procedures organizing the relations between the EP and the Council have been further specified. There are detailed instructions on the calendar and agenda of meetings, who are to take part in the meetings and where they are to take place. This has made it easier for both the EP and the Council to prepare for meetings, enabling the EP to actually make a contribution, and the Council to discuss beforehand what it is prepared to share with the EP (EP2, COM1) Step by step, the EP and Council have reconciled their ways of approaching the CFSP in the context of the budget, balancing the more restrictive attitude of the Council with the EP's bid for more involvement. Both parties now respect the rules and procedures that have been established. A corollary is that the former controversy surrounding CFSP-financing has been more or less absent since 2006 (COU1, COU2, COM1, EP3, EP5).⁵

Taken together, this testifies to a fundamental change in the Council's perception of the EP's role in the CFSP. The IIAs have provided a formal platform where the Council and EP meet. However, an

⁵ One interviewee also claimed that due to the working method that has developed on CFSP-budgeting, it was easier to reach agreement on the structural foundation for the funding of the European External Action Service (EP3).

agreement to meet is no guarantee that the meeting will amount to anything. The quantity of information shared or the quality of the discussion is still reliant on the will of the participants. The Council has not only decided to meet with the EP, it has also chosen to engage with the EP in a political debate about the CFSP. Thus, the analysis shows how the budgetary procedure has been established as one of the main building blocs in the relationship between the EP and the Council in the area of CFSP. In other words, it “complements the EP’s information rights under Article 21 TEU” (Thym 2006: 115). The IIA from 2006 demonstrates this clearly in stating that: “The Presidency will keep the European Parliament informed by holding joint consultation meetings at least five times a year, *in the framework of the regular political dialogue on the CFSP*” (author’s emphasis). Thus, the joint consultation meetings that were intended to convey information on the financial implications of CFSP activities has become part of the ‘political dialogue’ with the EP, confirming the transformation of the interaction between the EP and the Council.

To sum up, the analysis shows that the EP, through the budgetary procedure, has gained more influence in the CFSP. During the last 15 years, a new set of rules, norms, procedures and practices has been established in the context of the budgetary procedure, which ensures the EP rights of information and consultation, amounting to a degree of influence that cannot be read from the treaties. This has expanded the provisions on financing of the CFSP (Article 28 TEU), but also the article denoting the role of the EP in the CFSP (Article 21 TEU). Not only has the EP gained more influence in the sense that it has shaped the procedural rules that manage its own involvement in the CFSP. The requirement to report regularly to the EP about CFSP activity with financial implications as well as the political discussions that take place in the joint consultation meetings also give the EP a potential for exerting substantive influence by placing demands on the agenda of the CFSP (cf. Lindsay 1994). These findings echo how the EP has manoeuvred to develop its influence over international agreements. Here as well, the EP took the right to be informed and succeeded in turning it into a right to be involved (Ripoll Servent 2014: 580). Thus, the EP’s increased influence in the CFSP, in the context of the budgetary procedure amounts to a process of gradual, albeit limited, parliamentarisation of the CFSP, undermining the impression of the CFSP as an intergovernmental structure. Given the common perception that the CFSP is intergovernmental, and the

known resistance of the Council to increase the involvement of the EP, this raises the question how this development can be accounted for?

Why has the EP gained more influence in the CFSP?

Most studies addressing the EP's increasing involvement in the CFSP have focused on how the EP's budgetary powers have been used as a bargaining tool (Keukeleire and MacNaughtan 2008, Maurer et al. 2005, Monar 1997, Thym 2006). In order for the EP to present a credible threat to the Council's policy interests, it will put to use the full range of actions available to it that allows for blocking or delaying policies. The Parliament is held to be less time-sensitive, less impatient and less sensitive to failure than other EU-actors, and can therefore be expected to delay and obstruct issues as a means to drive through its own positions (Farrell and Héritier 2003, 2007). While threats point to the potential costs of disregarding the EP's wishes, there may also be potential benefits in conceding to the EP's demands. Hix (2002: 271) argues that the Council will only yield to the EP's demands if they entail "collective *efficiency gains*".

Another key factor is the degree of unity in the Council. IIAs, for instance, are agreed on by unanimity, which puts the EP at a disadvantage as a single member state may block agreement. Consequently, to forge alliances with member states in the Council that can speak for the Parliament is essential. Especially the big member states might tip the scale if they put their full weight behind a demand (Moury 2007). Internal disagreements in the Parliament can also be exploited by its adversaries. Thus, the degree to which the EP stands united behind its demands vis-à-vis the Council may have an impact on its bargaining strength (Kreppel 2001). Existing studies have described how the EP's strategic use of its bargaining powers is key to the establishment of the two IIAs described in section 3.1.

However, the analysis in section 3.2 also pointed towards a change in the Council's behaviour towards the EP beyond what is proscribed by the negotiated IIAs. In order to account for this change, a bargaining perspective does not suffice because it builds on the assumption that changes in behaviour follow from cost-/benefit-calculations. Although one could argue that it was in the Council's

interests to agree to the IIAs, it is less clear why the Council would involve the EP beyond the terms of the agreements they negotiated. The findings of this paper seem to be more in line with observations that the EP has come to be seen as a “serious actor and interlocutor in CFSP” (Diedrichs 2004: 36), that the obligation to consult the EP on CFSP-matters is taken “increasingly seriously” (Gourlay 2004: 188) and that member states display a “grudging acceptance” of the EP’s influence in foreign policy (Smith 2004: 174). How can such a change in the Council’s position be explained?

Building on the theoretical perspective described in chapter 1, this chapter investigates whether the increase in the EP’s influence beyond the terms negotiated in the IIAs is a result of constitutive learning. In other words that the arguments presented by the EP for increasing parliamentary influence were accepted as valid by the Council, leading it to change its position towards the EP’s role in the CFSP. Central to the communicative approach are the assumptions of communicative rationality and that social interaction does not equal social exchange, but is signified by a process where actors seek to reach mutual understanding through arguing, i.e. a process of reason-giving supported by justified arguments. Another central claim of communicative theory is that actors may change their preferences when they are convinced by the validity of the arguments they are presented with.

Previous studies have shown how “arguing can contribute to learning in that actors acquire new information and are introduced to new ways of thinking about a problem and its possible solutions” (Ulbert and Risse 2005b: 40). Thus, arguing is conceptualized as a “micromechanism for learning” (Ulbert et al. 2004: 15). However, learning does not only entail thought processes, but also implies a change taking place both in the position taken by an actor, as well as in his or her reason for holding that particular position (Eriksen 2013, Eriksen and Fossum 2000, 2012). “When actors have learned and agreement has been achieved, justified claims are adopted” (Eriksen 2013: 18). Thus, “argument-based learning” denotes how an actor accepts the validity of an argument and subsequently acts upon it (Riddervold 2011: 564-565).

This paper suggests that the development of the EP’s role in CFSP beyond negotiated agreements might be understood as a form of

argument-based learning, which could be termed ‘constitutive learning’. The point of departure is the “need to see institutional mechanisms as being embedded in social processes of sense-making and reason-giving” (Eriksen and Fossum 2012: 331). ‘Constitutive learning’, then, offers a way of conceptualising what is described as the “link between justification and organizational principles” (Eriksen and Fossum 2012: 331). It entails a learning process where the principles that constitute the institutional context of a given policy area, and thus that guide behaviour within it, change in accordance with arguments accepted as valid. Thus, with regards to the EP’s role in the CFSP, ‘constitutive learning’ would mean that the Council has come to accept the arguments put forward by the EP, which has gradually changed the institutional context of the CFSP to one that allows for more parliamentary influence.

Analysing the increasing influence of the EP in the CFSP as an instance of ‘constitutive learning’ could shed light on the development of its involvement beyond the terms of the IIAs. Moreover, it could also explain the growing respect for the rules and procedures that have been established by the EP and the Council to manage their interaction in the CFSP budgetary process.

In cases of complete value consensus, a claim does not even have to be justified in order to be accepted (Eriksen 2013). However, there was no value consensus about the EP’s role in CFSP, which is illustrated by the resistance among member states to extend the EP’s role during the Convention (Norman 2003). Thus, the EP’s claims for more involvement have had to rely on justified arguments. What would be the indicators of constitutive learning taking place? Looking at how this process unfolded, one would expect the actors involved to present generalised arguments supporting their claims. In this case, because the Council’s resistance to the EP’s influence in the CFSP has traditionally been of a principled kind, one would expect the EP (or other actors supporting the EP’s case) to attempt to activate norms “by referring to already existing standards, making analogies to similar cases, or attempting to reframe issues making such analogies possible” (Ulbert and Risse 2005b: 357). Thus, arguments would likely refer to the principle of parliamentary representation, the need for a more democratic legitimate CFSP, and the EP’s entitlements as a part of the budgetary authority.

When actors accept an argument as valid, one would expect them to acknowledge the substance of these arguments either in their own justifications for a position or opinion or in giving reasons for the outcome (Eriksen 2013, Risse 2004, Risse and Kleine 2010). Empirical indicators of the Council accepting the EP's arguments as valid would be that the former adopted the justifications of the latter in giving reasons for its opinions and actions with regard to the EP's role in the CFSP. Moreover, one would expect them to act accordingly by agreeing to increase the influence of the EP in the CFSP. Finally, 'constitutive learning' depicts a process that takes place over time. Thus, a change in institutional context will likely have stemmed from a range of smaller changes. As a result one would expect to see a gradual change towards an acknowledgement of organizational principles – principles underpinning the rules, norms, procedures and practices that guide behaviour in the CFSP – that correspond to the arguments put forward by the EP to justify more parliamentary influence.

To identify the mechanisms that have led to the increase in the EP's influence in CFSP, I have traced the CFSP budgetary process over a period of 15 years using the bargaining and communicative approaches, sketched out above. This entails looking for the indicators of the different hypotheses derived and ordering the data accordingly. The material was first perused, and statements by actors categorised as acts of bargaining or justified arguments. I then looked at how these actions were received by, and subsequently how they impacted on the behaviour of, the other actors involved in the budgetary processes. Obtaining the data from different sources allowed for a crosscheck and elaboration of the information found in the written documentation as well as a comparison between the accounts of sources with different institutional affiliations.

From adversarial bargaining to mutual recognition

There is an inherent source of inconsistency in the CFSP-budget, resulting from the tension between the CFSP being a second pillar policy with decision-making procedures that largely exclude supranational actors, and the EP's status as a budgetary authority. Although the Council has been responsible for the CFSP from its inception, a majority of member states have preferred financing it from the EU-budget (Miskimmon 2012). This gave the cue to the EP, who wanted to "know what the money of the European taxpayers

was spent on" (EP1). The discrepancy between the responsibility for the CFSP-policy and the CFSP-budget has also been at the core of the Parliament's argumentation for more influence in the budgetary process. The EP found it difficult to accept that they were just asked to sign a check, no questions asked (EP5).

From the beginning, the EP evoked principles of parliamentary responsibility to hold the executive accountable, as justifications for their claims for more influence in CFSP. In this vein, it argued that an IIA on financing the CFSP and how to implement the EP's right to be informed and consulted was necessary in order for the CFSP to be conducted in a "more democratic and more transparent way, in keeping with the respective powers of each Institution" (European Parliament 1995). The main message is that "only the EP's participation supplies European foreign policy with sufficient democratic legitimization" (Maurer et al. 2005: 190). In the words of one MEP: "it is not reasonable to just accept everything that the Council says in a part of the budget that gets bigger and bigger, more and more controversial. (...) So we felt it was absolutely necessary to find a solution to our need for information, more information, and also, a specification of the budgetary matters (EP3). Thus, the EP's justifications for its claims for more influence in the CFSP have centred on two main arguments: the EP's responsibility vis-à-vis its constituents, and the democratic legitimacy of the CFSP, which only the EP can provide.

The EP has also been willing and able to put power behind its claims. Consequently, it has used every opportunity to block and obstruct the budgetary process in order to achieve rights to information and consultation. This strategy proved successful, except during the negotiations on the Amsterdam Treaty where the EP was on the "demanding side" (EP4). Here, the member states did not have to make a deal with the EP because it was not a full participant with the means to block or delay initiatives. Furthermore, interviewees emphasised that the Council's efficiency consideration, its lack of consistent unity as well as the EP's efforts to unite has contributed to its bargaining strength. Thus, the Council, or at least some of the Presidencies, have come to see the advantage of keeping the EP up to speed on the CFSP, because political support means an easier budgetary process (EP6, COU1, EP5).

On the other hand, interviewees also underlined that the EP's strategy to take the CFSP-budget hostage has led to frustration among the Member States, and some more than others (COU2, COM1). Consequently, many also emphasised that support from Member States, sympathetic not only to the EP's influence but also the idea of a common foreign and security policy, has been important: "If all the Member States would have the position of the British and Swedish, it would have been very difficult" (EP3). But the EP is not the only actor to take advantage of internal disagreement. Presidencies have been known to try to create conflict between the EP's foreign affairs (AFET) and budget committees (BUDG), which have not always seen eye to eye on the financing of the CFSP (EP2, EP5). However, in case of conflict between the two committees, meetings were always set up so as to be able to present a common front in conciliation with the Council. Furthermore, while most committees would not agree to big cuts in "their own funds", AFET has demonstrated its willingness to follow the strategy of the BUDG in order to have some leverage vis-à-vis the Council (EP2).

However, the main factor accounting for the success of the EP's use of budgetary powers to threaten the Council into submission is the Council's higher sensitivity to time and failure, which has grown during the period studied in this chapter. When the Council agreed to the Joint Declaration in 2002, the stakes were higher than in previous years. The police mission in Bosnia-Herzegovina was important to the image of the EU's as a global actor, and since the Council had already committed to the mission, the EP's threat to block funding presented a considerable difficulty. Similarly, in 2003, when the Council agreed to hold five yearly joint consultation meetings it was because the EP threatened to block another police mission (Proxima in Macedonia). And in 2005, when the two parties agreed the declaration on Council representation at the ambassadorial level during the meetings, this was the EP's demand in return for the use of the flexibility instrument to fund the Union's activities in Iraq and Afghanistan (PRES2). Consequently, although the EP lost its right to put funds in reserve in 1997, manipulating the total amount of the CFSP-budget became an even more efficient bargaining tool due to expanding CFSP-activity.

Starting with the IIA of 1997, the ensuing joint declarations established and gave structure to meeting places between the Council

and the EP. Thus, they have supplied building blocks on which the EP could add elaborations and specifications of rules, norms, procedures and practices. Although there is no doubt that many of the procedural advances were achieved through the successful use of bargaining strategies, the formal structure also became a platform for more substantive changes. According to one interviewee, the EP's consistent argumentation for "more transparency, more information and political dialogue" within the new rules and procedures instigated a step-wise process where the Council came to Parliament, explained, was invited, had to come, said a few words, and agreed with the EP on the agenda (EP5). As described in section 3.2, these changes are key to understand the EP's increased influence in CFSP, however, it is difficult to see them as the result of a bargaining process.

For a long time after the Amsterdam treaty, there was not much interaction between the EP and the Council. The EP would claim that the Council ignored the EP's views on CFSP during conciliation (MEP Wynn and MEP Ferber, EP-plenary, 02.07.02), whereas the Council and Commission would claim that the EP refused the Council's budget proposals on CFSP without saying why (EP-plenary, 23.10.01). The Council's main concerns with involving the EP in the CFSP have traditionally been efficiency and secrecy (EP 1997⁶, EP3, EP4, EP6, COU2, COM1). In addition, there is the political aspect. The CFSP is nationally sensitive and largely decided by unanimity, so the Council "felt that it would change the character of the EU and the CFSP if the Parliament would be too much involved in CFSP matters" (EP3). Nevertheless, the Council have come to understand and accept the EP's justifications for more influence in the CFSP. Firstly, it has accepted the argument that the EP needs information in order to make decisions regarding the budget and to fulfil its role as a budgetary authority (COU1, COU2, COM1). In the words of one interviewee: "[t]he EP has a right to information, it has of course, but I think they should not try to go beyond, and to look for a role of consultation" (COU2). This rests on the increasing "understanding in the Council (...) on the need to have a dialogue with the Parliament" (COM1). In light of the EP's struggle to make

⁶ http://www.europarl.europa.eu/topics/treaty/report/part3_en.htm. Accessed, 13.09.2013.

the Council fulfil the conditions in the IIAs, the acknowledgement that the EP has a right to information is hardly self-evident.

According to another interviewee, the reason why the Council during the negotiations on the 2004-budget, agreed to hold five yearly consultation meetings was that the “Council finally realised that the Parliament, as budgetary and discharge authority could not, and would not, continue to agree on the annual financing of CFSP without information and involvement on the policy itself” (EP7). In other words, the Council has come to accept the validity of the argument that the EP cannot hand out blank checks, reflecting a growing acceptance of the principle of parliamentary influence, albeit constrained, in the CFSP. The EP wanted to go even further, e.g. it wanted a right to request information on each individual mission. Although the Council, did not agree to this it did acknowledge the EP’s need for information. “We have the responsibility for European tax payers money, and it is not reasonable to take decisions on rather big amounts and ever increasing amounts without actually knowing what we are deciding on. They understood the reasoning for that” (EP3). Considering the Council’s track record in breaking its obligations to inform and consult the EP, it could easily have done so again. The fact that it complies with the consultation exercise as defined by the EP – giving information, explaining, responding to questions – can be taken as a further indication of its acceptance of the EP’s legitimate influence in the CFSP.

Furthermore, the EP has consistently wanted to get the Council to engage in political debate, as opposed to being given a mere technical report on budgetary issues. In 2005 when the Council agreed to be represented by ambassadors from the PSC in its meetings with the Parliament, it also knew that this meant more political debates. The EP argued for a higher level of representation in order to get a more political discussion, and this was understood and accepted by the Council (COM1). Moreover, the substantive changes to the joint consultation meetings that were described in section 3.2 underlines this observation. The main result of the change in level of representation is that when the MEPs started meeting with the PSC-chair, the discussions took on the form of political scrutiny and control (EEAS1). The turn from technical description to political discussion is also connected to the timing of information received. Council representatives meeting with the EP could not provide the

“forward-looking dialogue” that the EP wanted, “all they did was referring to past actions” (EP6). And although several member states are adamant that the EP does not have a role to play before the instigation of missions or operations (COU2, COM1), it is now also commonplace to discuss these, and other, activities a priori before a decision is made in the Council (EEAS1). In the words of one interviewee, “there is a much greater acceptance that, you know, we are not just discussing simply what has been decided and what has been carried out, but we also look at the future” (EP6). Thus, what started out as adversarial bargaining over the timing and frequency of information about CFSP activities with financial implications, turned into a process where the EP and the Council interact on the basis of a mutual recognition of each other’s respective roles.

A gradual development

During the last 15 years, the EP’s persistent claims for more influence in the CFSP, in the context of the budgetary procedure, has led to a change in the frame of reference in which the debate about appropriate rules, norms, procedures and practices is embedded. In other words, the EP has contributed to changing the normative framing of the debate about its own influence in the CFSP. Initially, the Council did not want the EP to interfere with the CFSP, and although member states are still sceptical of parliamentary influence in the formal decision-making process, the Council acknowledges the need to consult the EP on the CFSP and its right to information about CFSP-activities. Not only because this is necessary for the MEPs to fulfil their obligations as elected representatives, but also because “they have a legitimate right to be part of the agreement on the CFSP budget” (COU1). In the words of one interviewee, the EP’s “core protection” was that “a foreign policy must somehow have a democratic dimension” (EP5). Moreover, PSC ambassadors meeting with the EP have expressed that they value the cooperation with the EP also because it provides greater democratic support to what they do (EP6).

This development has also been a matter of balancing principles. Rules have been built based on principles that are important to the EP and to the Council. In addition, it has meant drawing the boundaries of the application of these rules. The Council has accepted the EP’s need for information and its request for more political dialogue, “provided that certain fundamentals are clear” (EP6). And the EP on

its part seems to have accepted that the budgetary process should not be used as an instrument to enhance the EP's role in the decision-making process, which is one of the Council's red lines (EP6, COM1, COU2). In other words, the EP's bid for more influence has been balanced against the Council's fear of security breaches and resistance to let the EP into the decision-making process (COM1, EEAS1, EP4). Subsequently, the role of practical experience may shape the deliberations between the Council and the EP in that every claim does not have to be justified "all the way down" (Eriksen 2013). The Council has come to see the EP as a supporter of the CFSP budget, who "if there is a reasonable wish (...) is willing to consider requests to increase the budget" (COM1). The elaborations of the IIAs make up the steps in this development, albeit accompanied by a gradual acceptance of the EP's influence in the CFSP.

However, the EP's basic argumentation did not change much since the mid 1990s. Its justifications for more influence in the CFSP have consistently referred to the need for the EP to be responsible to its voters and the ability to hold the Council to account for the sake of democratic legitimacy. Because this study covers 15 years, there may be factors that could have contributed to strengthening (or weakening) the EP's arguments for more involvement in CFSP. It has already been pointed out that the bargaining strategy of the EP became particularly successful because of the increasing activity in the field of foreign and security policy at the EU level. The Council is closely attached to the CFSP and makes it a priority, and it does not want to risk the situation of not being able to fund its own initiatives (COU1). Despite differences between the Member States with regard to the desired scope and depth of the CFSP, they fall back on funding over the EU-budget (Missiroli 2003a: 15). Member states could in principle finance the entire CFSP with "fresh" money over the national budgets, but that would mean running the risk of domestic opposition (COU2). Seen in the light of the argument that member states have uploaded foreign policy to the EU level to avoid exactly that (Koenig-Archibugi 2004), the most convenient choice is to use EU money. "It is easier for them to justify the spending on the CFSP-budget, or the budget that is already agreed" (COU2).

Thus, as the CFSP has matured, the acceptance of the increasing influence of the EP in the CFSP has strengthened as well. Years of informing and consulting the EP have not led to big leaks, or to any

huge scandals, and this may have helped to win over the Council (EP3). Furthermore, the Council has realised that the EP does not always want to cut the budget, and that it is possible to work with the EP, instead of against it (COM1). The EP on its part has also matured, and does not want to “argue on CFSP with the Council, it wants to avoid an interinstitutional war” (EP5). In the words of one interviewee, ten years ago “everybody was still fighting for territory”, now “it should be more or less clear” (COU2). Part of this picture is a growing awareness of the complementary role the EP can play in foreign policy. EP-delegations travel frequently and widely, and because MEPs are not equally constrained as diplomats, they can convey messages to third countries that the latter cannot as well as have access to civil society actors that diplomats cannot reach (EP6), for instance on issues of human rights (COU2). Consequently, it is argued that to provide the EP with sufficient information also becomes important in order to reinforce EU foreign policy (EP6).

To sum up, the EP’s arguments for more influence are not new but their effect have become gradually more evident as rules and procedures have not only been elaborated but also implemented. Over time, the involvement of the EP has become institutionalised through the establishment of meeting places with the Council as well as the building consensus on the principles underpinning the rules, norms, procedures and practices that constitute those meeting places. In addition, the development of the CFSP, which has led to a greater reliance on the CFSP budget, seems to have strengthened the effect of EP’s arguments as well. The funding situation of the CFSP has become more settled, which has accentuated the need to cooperate with the EP as the other part of the budgetary authority.

At the same time, in order to confirm the connection between the change in the institutional context and the change in the effects of the EP’s argument, more detailed data is required. Thus, the above analysis only gives an indication of how and why the EP’s arguments have been gradually accepted. It is almost impossible to retrieve the amount of data needed to identify exactly *when* the number of Member States that became convinced of the validity of the EP’s arguments reached the level that tipped the scale towards change. Or *when* the number of incremental changes reached a point where their cumulative effect generated a change to the organizational principle underpinning the interinstitutional relationship between the EP and

the Council in CFSP. Still, if the small changes add up to a greater whole that coincides with a manifest change in the institutional context, and both are justified by mutually acceptable arguments, it can be seen as a sign of 'constitutive learning'.

Conclusion

This chapter has shown how the EP has increased its influence in the CFSP through participating in the budgetary process. The development amounts to a parliamentarisation of the CFSP. It has not only led to new parliamentary rights, but also to a profound change in the Council's behaviour towards the EP and its influence in the CFSP. Through the budgetary process, the interaction between the EP and the Council has become a regular feature of the CFSP policy-making process, strengthening the provision of information and practice of consultation, but also enabling the EP to exert influence on agenda setting and control. Thus, the current norms and practices go far beyond the treaty in allowing the EP to be involved and potentially influence the policy-making process. In that sense, the budgetary process has transformed the CFSP from a Member State stronghold to a policy area more open to parliamentary scrutiny and input.

Moreover, the findings point to a level of involvement that exceeds the terms of what the EP and Council have agreed upon in negotiations. The two parties have moved from a situation of mutual distrust to one of mutual recognition, where substantial information is shared and real, political debate takes place. Secondly, a growing consensus on the principles underlying the EP's new rights in the CFSP has developed, accompanied by an increasing tendency on the part of the Council to respect these rights. Using a communicative approach, this paper showed that it is possible to trace the change in the Council's behaviour and the growing consensus on the principles underlying the EP's new rights in the CFSP, back to the arguments presented by the EP. The EP has consistently argued for more information and influence with reference to principles of parliamentary democracy, arguments that the Council has come to accept.

The findings of this chapter are puzzling given the traditional view of the CFSP being an intergovernmental policy field. Following an intergovernmental logic, it would primarily be the task of national

parliaments to control their governments' foreign policy activities, also at the European level. An area such as foreign policy, embodying the principle of national sovereignty, would not require scrutiny by a supranational parliament (Sjursen 2011a). However, this chapter has demonstrated that although CFSP is a domain that Member States like to keep under control, it must nevertheless adhere to democratic principles. Furthermore, the CFSP may be dominated by member states, but it cannot be depicted as entirely intergovernmental. The acknowledgement that the EP has a legitimate right to be involved in and influence the CFSP testifies to a policy that has moved beyond intergovernmentalism.

Moreover, the fact that the Council has acted on arguments pertaining to principles of democratic legitimacy supports this conclusion and suggests that even the Member States themselves do not regard the CFSP as completely intergovernmental. The EP's argumentation has clearly contributed to redefine the institutional context of the EU's foreign policy. In other words, the foundation of the EP's involvement in the CFSP has changed in accordance with the "normative force of the parliamentary principle" (see Eriksen 2009b: 216), suggesting that a process of constitutive learning has taken place. Thus, based on the analysis of this chapter, one can conclude that the EP has advanced its role in the CFSP beyond designated treaty powers. Still, further investigation is needed to get a better sense of if and how the EP is able to bargain in CFSP when it cannot rely on budgetary powers. Similarly, more research is required to see how different justifications regarding the role of the EP are weighed against each other. This could shed light not only on the possibilities and constraints with regard to the EP's role in CFSP, but also more generally on the parameters of democratic influence in foreign policy.

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Appendix

Interviews

EP1: MEP, 22.07.2010

EP2: EP-official, 30.08.2010

EP3: MEP, 01.09.2010

EP4: EP-official, 02.09.2010

EP5: EP-official, 02.09.2010

EP6: EP-official, 02.09.2010

EP7: MEP, 30.09.2010

PRES1: Representative of the Danish Presidency, 2002, 24.05.2011

PRES2: Representative of the UK Presidency, 2005, 10.06.2011

COM1: Commission-official, 31.05.2011

COU1: Council-official, 23.05.2011

COU2: Council-official, 25.05.2011

EEAS1: EEAS-official, 31.05.2011

Article 3

Habit or principle? Explaining the European Parliament's increasing powers in EU external trade policy¹

Abstract

The Lisbon Treaty gave the European Parliament (EP) considerable new powers in the field of external trade policy. Up to this point, any formal role for the EP in trade had been firmly rejected. Starting from the assumption that the empowerment of the EP is driven by normative considerations, the paper uses two norm-based explanations to account for the increase in the EP's trade powers. It argues that the EP's appeal to the principle of parliamentary representation during the Convention explains its empowerment in trade. However, the EP still had to fight for its new rights after the entry into force of the Lisbon Treaty. The analysis shows that the treaty-changes bolstered the EP's bargaining powers. Moreover, they also created a legal context that, by being activated in a justificatory process, shaped the outcome of interinstitutional interaction.

Introduction

In July 2012, the European Parliament (EP) rejected the Anti-Counterfeiting Trade Agreement (ACTA). This was the first time the EP vetoed an international trade agreement, a right it obtained in the

¹ I am very grateful for the invaluable advice and input I have received from Helene Sjursen during the process of writing this article. I would also like to thank Marianne Riddervold for being a constructive and encouraging reader, and for giving helpful comments.

Lisbon Treaty. Up to this point, the dominant stance in the EU seems to have been that 'external trade policy is best conducted without any parliamentary input or interference' (Krajewski 2005: 97). At the Nice IGC, an increase of the EP's trade powers was not supported by any of the Member State delegations (Krenzler and Pitschas 2001: 312). It is surprising, therefore, that only a few years later, the EP gained legislative powers over trade policy as well as consent power over international trade agreements. How can this increase in the EP's trade powers be explained?

One influential strand of the literature on the EP's empowerment has argued that the expansion of the EP's powers has become a habitual response to the delegation of authority to the EU-level (Goetze and Rittberger 2010, Rittberger 2012). A central claim is that the principle of parliamentary representation has come to be taken-for-granted. Extending the scope of EU competences raises legitimacy problems and the solution has been to increase the EP's powers. But the idea that the principle of parliamentary representation is taken-for-granted does not sit well with the fact that the Council first refused to recognize the EP's new role in trade after the Lisbon Treaty entered into force. The Council was very reluctant to accept the new provisions and the EP still had a fight on its hands to make sure that the principles of the Treaty were also put into practice.

Thus, to perceive actors mainly as rule-followers makes it difficult to explain why the EP's trade powers have increased. Another way of approaching the potential impact of norms on decision-making would be to focus on what takes place during the process of choosing between and applying different norms. From a communicative perspective one would argue that not only are norms often challenged by other norms with different or alternative bases, but actors are also capable of "criticising the norms that they are socialised under, and [of] choos[ing] different modes of action from what they are expected to and used to" (Eriksen 1999: 226). Both an institutionalist and a communicative approach would acknowledge the potential impact of norms in decision-making situations. The main difference is that the former places the emphasis on habit and how norms are part of an actor's cognitive apparatus, while the latter holds out how norms achieve validity through processes of reason-giving (Risse 2000). As national sovereignty has traditionally been one of the reasons for opposing previous moves to increase the EP's

powers in trade (Woolcock 2008), it makes sense to consider whether, rather than being taken-for-granted, the claim to increase the EP's trade powers still needed to be justified and accepted as valid to acquire support. Thus, while retaining the emphasis on the impact of norms, I explore if the final success of the EP may be seen as the outcome of a learning process in which the EP's appeal to the principle of parliamentary representation was a determining mechanism.

This paper starts out by presenting the communicative approach and discusses its similarities and differences to the institutional approach. Drawing on these approaches, section three explores different explanations for why the EP's trade powers have been increased, while the fourth section provides some empirical and theoretical conclusions.

Why do norms matter to the empowerment of the EP?

Goetze and Rittberger (2010: 38) have argued that after Maastricht, the '*principle* of involving the EP (...) in the EU's decision-making structures' has scarcely been contested. The EP's role 'in providing democratic legitimacy has become (largely) unquestioned by political elites' (Goetze and Rittberger 2010: 50) and it is taken-for-granted that whenever there is a deepening of integration through the extension of Qualified Majority Voting (QMV), codecision is also introduced (Rittberger 2012). The notion of 'taken-for-grantedness' is based on sociological institutionalist theory where action is understood as 'scripted' - shaped by culture through schematic cognition. Norms, such as the principle of parliamentary representation in the EU, that have acquired legitimacy are increasingly taken-for-granted. Legitimacy is held to be an 'inter-subjective property', located in 'individual perceptions regarding the object's conformity to the cultural beliefs of its audience' (Goetze and Rittberger 2010: 39ff).

Thus, Goetze and Rittberger (2010: 41) see the empowerment of the EP as a habitual response 'reflecting actors' conceptions of the appropriate or "natural way" of supplementing political authority with popular sovereignty'. After being instituted in the Single European Act in 1986, the link between QMV and codecision could no longer be contested because it represented the solution to the

legitimacy deficit created by the delegation of authority to the EU-level (Rittberger 2005: 181ff). Rittberger (2012: 21ff) has argued that the institutionalisation of the principle of parliamentary representation has reached a stage where institutional choice is determined by taken-for-granted assumptions, shared cultural understandings and institutional isomorphism. So whenever QMV is extended to new issue areas, an undisputed acceptance of the need to also introduce codecision is to be expected (Rittberger 2012: 31-33). As the Lisbon Treaty extended the EU's trade competences by subjecting more of the field to QMV *and* introduced codecision, one might assume that the EP's powers were increased due to the taken-for-granted status of the principle of 'no integration without representation'.

What would one expect to see empirically if a taken-for-granted status of the EP as a colegislator could explain the increase of its powers in external trade? Goetze and Rittberger (2010: 42) argue that low levels of legitimacy means that actors have to justify their behaviour. Conversely, when levels of legitimacy are high, justifications are not required. Scarcely any articulation should in fact be needed (Rittberger 2012: 32). From this, one can infer the following indicators: That the increase in EP's trade powers was not contested and that there was little need to justify decisions to empower the EP. Furthermore, with regard to the implementation of the new treaty provisions, it would be uncontested in a similar manner.

Then again one could ask whether justification is a matter of quantity or rather of quality. Another way of conceiving of the impact of norms is that actors choose to behave according to norms when they are perceived to be valid, and not solely because they are part of a common belief structure. The Council's reluctance to accept the EP's increased trade powers after the entry into force of the Lisbon Treaty suggests that there are problems with the notion that the EP was taken-for-granted as colegislator in trade. Moreover, national sovereignty has traditionally been given as a reason for keeping the EP's role in external trade a marginal one (Woolcock 2008). Therefore, it makes sense to consider whether the claim to increase the EP's powers in trade still had to be justified and accepted as valid in order to acquire support. Goetze and Rittberger (2010: 39) maintain that legitimacy is an 'inter-subjective property', but the possibility that norms may be questioned or changed as a result of interaction is not

part of their framework. Their notion of taken-for-grantedness relies on a cognitive approach, which lacks an explanatory mechanism to account for why reference to the content of the norm itself, apart from a norm's 'conformity to cultural beliefs', may have an impact on an actor's choice of action. But while the empowerment of the EP takes place within a context of shared norms, it could be argued that these norms still have to be interpreted and become recognized as relevant to affect behaviour in a given situation, particularly if there is contention over norms or institutional arrangements (Eriksen and Fossum 2012: 331). In order to explain how actors decide on which norms to follow, a theoretical perspective is needed that can account for why certain norms or principles come to carry greater weight than others and where actors are seen as capable of assessing the validity of norms (cf. Sjørnsen 2002: 500).

The communicative approach directs the focus on how norms are activated and assessed during decision-making processes. This suggests a different explanation for the increase of the EP's trade powers. Building on communicative theory, the process of empowering the EP has been depicted as one of isomorphism *but also* of communicative pressure (Eriksen and Fossum 2012). Why actors choose to act in accordance with a particular norm can have two causes (Eriksen 1999, Risse 2000). One is denoted by habitual rule-guided behaviour, where norms of appropriateness are taken-for-granted. However, when there is disagreement over how to understand, or how to apply norms, there is also less certainty about which norms to follow and why. As a consequence, actors enter into a 'conscious process' where they 'have to figure out the situation in which they act, apply the appropriate norms, or choose among conflicting rules' (Risse 2000: 6). Communicative theory is based on the assumption that actors are communicatively rational, meaning that they are able to assess and justify the reasons for their positions and actions. If convinced by a valid argument it is assumed that actors will change their behaviour accordingly (Deitelhoff 2009, Eriksen 2009b, Habermas 1996, Landwehr 2009, Risse 2004). Thus, the action coordinating mechanism is mutual acceptance, signifying a process of learning.

Argumentative impact also depends on some degree of shared understanding between the actors taking part in decision-making. They have to have a common frame of reference in order to interpret

arguments in a similar manner. In the EU, the principle of parliamentary representation has been constitutionalised in a context of national representative democracies (Eriksen and Fossum 2012: 330). However, it is argued that contextual norms must still be 'activated' in order to have a bearing on decision-making processes (Eriksen 2009b, Ulbert and Risse 2005b). Rather than being a habitual response to the extension of QMV, this leads to the hypothesis that the increase in EP's trade powers was due to a learning process, triggered by claims justified with reference to the principle of parliamentary representation.

Indicators that the increase in EP's trade powers was a result of communicative interaction would be: That actors argued according to generalized standards referring to the need for a more democratic legitimacy in the area of EU trade policy, that they made analogies to similar policy areas where the EP has influence or tried to activate values or principles important to the EU such as the principle of parliamentary representation. If these justifications were accepted as valid, decision-makers would prioritize these claims over others and act accordingly. Moreover, they would refer to these arguments when conceding to extend the EP's trade powers and in justifying a change in their own position. Finally, verbal commitments and subsequent behaviour have to be consistent. If an actor supported an extension of the EP's powers in the Convention but tried to stop it at the following IGCs or in the implementation phase, it would not be in accordance with a communicative explanation.

What role for norms in empowering the EP in trade?

Before Lisbon, Article 133 (TEC), which provided the general rule guiding the EU's external trade policy, had a 'decidedly executive orientation' and did not foresee any involvement of the EP (Thym 2008: 229). According to Corbett et al. (2005), for the EP to acquire influence over trade after Nice seemed 'an almost insuperable obstacle'. Thus, the Lisbon Treaty brought a small revolution to the area of trade. Firstly, trade policy regulations are now subject to the codecision procedure. Secondly, a corollary to the introduction of codecision is that the EP's consent to trade agreements is necessary.²

² Agreements with legislative implications require EP's consent (Article 227(7) TFEU) (Krajewski 2005).

As a result, the EP now has both legislative and veto powers in trade policy.³ After the Lisbon Treaty entered into force, however, the EP was faced with considerable opposition from the Council, which appeared fundamentally unwilling to acknowledge the EP's new role. Consequently, the EP had to fight for the principles of the Treaty to be put into practice. How can this increase in the EP's trade powers be explained?

While the EP has bargaining powers that one could expect it to use to gain leverage in trade, a bargaining approach cannot fully account for its new role in trade. The EP's bargaining strategy was important in the implementation phase after the Lisbon Treaty entered into force, but it is not the reason why the Convention decided to extend the EP's powers. This strengthens the assumption that one has to consider the role of norms to understand the EP's new powers in EU trade policy. However, the notion that the EP's role as colegislator was taken-for-granted also falls short of giving a satisfactory explanation. If the increase were the result of a habitual logic, one would not expect the EP's new powers to be contested after the entry into force of Lisbon. Thus, I also explore if the final success of the EP may be seen as the outcome of a learning process in which the EP's appeal to the principle of parliamentary representation was a determining mechanism.⁴

³ The Commission must also report regularly to the EP about international trade negotiations.

⁴ The data used in the analysis comprise documents from the EU institutions, the Convention (CONV) and the ensuing IGCs, stretching from 2001 (Laeken) to 2007 (Lisbon), 14 interviews with actors from different sides of the table: six from the EP (EP1, etc), three from the Commission (COM1, etc), three from the Council secretariat (COU1, etc.) and two national delegations (NAT1, etc.), as well as secondary literature. After the Lisbon Treaty, the time period analysed marks its entry into force (1st December, 2009) to the end of 2012, which is identified by the interviewees as well as existing studies as a point in time where most interinstitutional conflicts relating to trade issues had been settled. The EP dossiers can be accessed here: <http://www.europarl.europa.eu/oeil/search/search.do?searchTab=y>, last accessed 02.04.2014.

Intergovernmental deal or parliamentary bargaining?

Member States are often described as 'masters of the treaties' because they can veto treaty changes. While the EP might function as an informal agenda-setter prior to IGCs, the success of its demands depends on the support of Member States (König and Slapin 2004). At the same time, it is argued that the Convention setting changed the dynamics of the treaty-making process (Closa 2004, Magnette and Nicolaïdis 2004, Risse and Kleine 2010). During previous IGCs, the EP was not a formal party to the negotiations. Its potential for influencing the outcome of the Convention, however, was more substantial due to the level of MEP-representation and the fact that a strong emphasis on consensus-building made coalition-formation more important (Beach 2007). Norman (2003) has for instance described how MEPs, together with national parliamentarians, raised a series of demands in return for their concessions on other issues.

There is, however, no evidence of issue-linkage between negotiations on trade and other ongoing policy or institutional processes, neither in Brussels nor in the Convention. According to interviewees from the EP, they did not use issue-linkage as a bargaining tool in the case of trade. Some have claimed that the success of the EP's proposals during the Convention was to a large extent determined by the level of backing by Member States (Benedetto and Hix 2007). However, there is little to support that Member States made it a priority to enhance the EP's role in trade. Looking at Convention documents and plenary debates, MEPs were advocating an empowerment of the EP in trade, but Member States rarely brought up the issue.

After the entry into force of the Lisbon Treaty, the Council appeared fundamentally unwilling to accept the reality created by the new provisions on trade, to the extent that the EP became concerned about 'the Council's readiness to fully implement the Lisbon treaty' (Maurer 2011: 25). But the Treaty also gave the EP new bargaining powers. Treaties can be seen as 'incomplete contracts' that are open to some degree of interpretation, and previous studies analysing institutional changes in-between IGCs, have demonstrated how the EP's bargaining tactic has made the Council accept its interpretation of treaty provisions (Farrell and Héritier 2003, Hix 2002, Moury 2007). The EP has followed a similar strategy in trade. It has warned the Commission and the Council that, if they want the EP 'to exercise its [consent] powers responsibly', they must involve it at every stage of

the negotiations of international agreements (European Parliament 2010a). Many interviewees described how the EP is well aware of its new powers, and will not accept a rubber-stamping role without influence over content. In the case of the EU-South Korea Free Trade Agreement, for instance, the EP used the parallel negotiations on the safeguard regulation, subject to codecision, to establish the principle that provisional application of agreements will not take place before the EP has given its vote (Kleimann 2011). Moreover, the EP has used 'conditional consent' to strengthen the focus on non-trade issues such as sustainable development, environmental and labour rights (EP6).

According to Article 218(10) TFEU, the EP shall be fully informed during negotiations on international agreements. The EP has argued that it needs relevant information in order to play its designated role in trade, i.e. to 'monitor and co-advise on (...) the conduction of negotiations by the Council' (MEP Häfner, EP-plenary 13.09.12). During the negotiations on ACTA, access to information triggered a huge conflict. At one point, the EP threatened that unless it were fully informed at all stages of the negotiations it would reserve its right to bring a case before the European Court of Justice (ECJ) in order to safeguard its prerogatives (European Parliament 2010b). Farrell and Héritier (2007: 233-234) have argued that 'justiciability of the matter' is a factor that increases the EP's bargaining power, due to the possibility that a court case may set an unwanted precedent. In the case of the Framework Agreement of 2010 between the EP and the Commission, the Council also considered taking the EP to Court. Its key accusation was that the agreement's provisions on international agreements and the EP's access to classified information gave the EP powers 'not provided for in the Treaties' (Council 2010). Still, the Council decided not to go further with an appeal, and according to the interviewees neither party has presented similar threats since.

Thus, during the implementation phase the EP's bargaining efforts were instrumental in turning the principles of the Treaty into political practice as well as demonstrating to the Council the potential of its new powers. In the case of ACTA, for instance, it has been suggested that one of the reasons why the EP vetoed the agreement was to test out its new instruments (Ripoll Servent 2014). Nevertheless, the question remains why the EP was granted new powers in trade during the Convention. The final report of the Convention's Working Group (WG) on External Action stated: 'several members considered

that the involvement of the EP in commercial policy should be enhanced' (CONV 459/02). Following this recommendation, the first draft of the new article on trade stated that the implementation of trade policy was to be decided, by the EP and the Council, in accordance with the standard legislative procedure (CONV 685/03). This suggestion evokes a radically different approach to trade policy because it entails that the Council would have to share its powers with the EP. Moreover, it also reflects the greater project of creating a more democratic EU by streamlining policy-making procedures.⁵ Given that a bargaining approach cannot fully explain the increase of the EP's powers trade, it makes sense to also consider the potential impact of norms.

A taken-for-granted outcome?

In the field of trade, the Council has been 'extremely reluctant to allow the EP into its bilateral game with the Commission' (Vanhoonacker 2011: 82). Traditionally a realm of national and European technocrats, 'every movement in the direction of increased legitimacy would, supposedly, reduce the margin of manoeuvre of negotiators and impede their ability to conclude complex international agreements' (Meunier 2003: 75). However, after analysing Convention documents, plenary debates and interviews, the general impression is that the role of the EP in trade did not trigger much heated dispute. During debates in the Working Group (WG) on External Action the role of the EP was hardly raised, and in its preliminary draft report it was not even a topic (Working Group VII 2002b). According to one interviewee, Finland and Sweden were concerned that involving the EP would lead to a more protectionist trade policy, but this did not ignite further discussion (COM2). Other interviewees also reported a low level of attention to the issue during working group meetings (EP1, EP3). Similarly, the issue did not spur a wider debate in the Convention plenary when external action was on the agenda (CONV 200/02, CONV 473/02, verbatim records).⁶ These observations would corroborate with the notion that the EP was taken-for-granted as colegislator.

⁵ Out of 44 amendments, only four were tabled to revert to the old arrangement of not involving the EP (CONV 707/03).

⁶ For verbatim records, see: http://www.europarl.europa.eu/Europe2004/index_en.htm.

Still, proponents of increasing the EP's trade powers justified their positions with reference to democratic legitimacy. This is not what one would expect if the EP's role in trade were extended as a matter of habit. Instead, it suggests that this was an unsettled issue that required actors to justify their claims for change. In an intervention in the WG on External Relations, Pascal Lamy, then Commissioner for Trade, made the case that excluding the EP weakened the legitimacy of EU trade policy, and that letting the EP participate in decision-making would increase its accountability (Working Group VII 2002a). Similarly, during the debate on the WG's final report, several MEPs advocated for extending the EP's role in trade. Their claims were justified with reference to the need to reinforce democratic legitimacy in EU trade policy and the consistency of institutional arrangements (verbatim records, 20.12.02). Moreover, members of the WG on External Relations that wanted to enhance the EP's role in trade policy also referred to the conclusions of the WG on Legal Personality (CONV 459/02). In its final report, it argued that it was difficult to justify, at a political level, why the EP should be denied consultation on international agreements (CONV 305/02). Nevertheless, the EP's role in trade did not spark any extended principled debate. According to one interviewee, in the WG on External Action, the issue was resolved in one session, 'then the chair concluded that there was a consensus'. Furthermore, MEPs 'intervened in favour [of increasing the EP's role in trade] in the working groups and so on, but in my view, they would have obtained it anyway' (COM2).

Thus, there appears to have been few heated, or principled, discussions about the EP's role in trade during the Convention, but when claims for the extension of EP's powers were presented, they were explicitly justified. While the lack of overt contestation appears to corroborate with the notion that the EP was taken-for-granted as a colegislator, the justifications presented indicate otherwise. When advocating for more powers, MEPs mainly argued according to generalised principles, instead of policy-specific ones. Increasing the EP's powers was justified with reference to the need for democratic anchoring of trade policy, but also with reference to the need for institutional consistency (verbatim records). Moreover, when Convention documents addressed the EP's role in trade, they referred to higher-order principles (CONV 459/02). In the first draft of the new trade provisions, this link to the general project of democratizing and constitutionalising the EU's decision-making procedures came

clearly across: 'The European Parliament and the Council shall adopt, in accordance with the legislative procedure, the European laws and framework laws required to implement the common commercial policy' (CONV 685/03).

This implies that the decision to increase the EP's trade powers cannot be properly explained only by looking at the Convention debates on trade-specific issues. The legitimacy of the EP in trade was not unquestioned and its role as colegislator was not taken-for-granted. The struggle that faced the EP after the Lisbon Treaty entered into force also suggests a similar inference. All interviewees underlined that the Council had great difficulties coming to terms with the EP's new powers post-Lisbon. This is not what one would expect if the EP's role as colegislator in trade were taken-for-granted. Thus, habit cannot explain why the EP's trade powers were increased. Consequently, the next section explores whether the increase of the EP's powers may be seen as the outcome of a learning process in which the EP's appeal to the principle of parliamentary representation was a determining mechanism.

Or a matter of principle?

Niemann (2011: 35) cites an interviewee stating: 'External trade was the only policy area in which the European Parliament had hardly any role. Given the Laeken declaration's emphasis on legitimacy, the EP's claim became even more convincing'. This indicates why there was little concrete debate about the EP's appropriate role in trade during the Convention. The choice to increase the EP's powers was essentially part of the larger project of democratizing the EU.⁷

To simplify the EU's legal framework became a goal that united actors across the political spectrum because it represented the key to alleviate the Union's democratic deficit (Magnette and Nicolaïdis 2004). The work of the WG on Simplification gave general effect to the principle that areas subjected to QMV should also be subjected to codecision. An important rationale for this suggestion was the need to make policy-making processes more transparent and intelligible,

⁷ Roderer-Rynning and Schimmelfennig (2013: 965) make a similar argument for the case of agriculture, claiming that the introduction of codecision followed a "constitutional template for the EU polity". However, they do not elaborate on the possible mechanisms behind such a process.

and hence more democratic (CONV 424/02). At the end stages of the Convention, Peter Hain, the UK government representative stated: 'All agree that QMV and codecision should be the norm' (Norman 2003: 270). However, the recommendations from the WG on Simplification also 'transformed the debate over the group's report from the technical to the political' (Norman 2003: 102).

Although support for extending the EP's legislative powers was prevalent, there was still a discussion about how to strike the right balance between differing principles, for instance between the need for more democratic procedures at the EU-level versus concerns for national sovereignty. Members of the Convention who opposed 'an absolute connection between decisions made with QMV and codecision' (Swedish government representative, plenary, 20.01.03) took issue with the scope of codecision and which, if any, policy areas should be exempt from the general procedure. In a study of the introduction of codecision in agriculture, Roederer-Rynning and Schimmelfennig (2013: 964) have shown how several representatives argued that agricultural policy should not be subjected to codecision, and that 'vested interests fought to protect intergovernmental control in this area'. But the arguments presented by advocates of maintaining the status quo did not resonate with the majority of the Convention members. Following MEP Duff, whoever wanted exceptions from the legislative procedure were obliged to justify and specify the reasons for excluding the EP: '[S]olely to safeguard classical interests (...) is not sufficient for me to be convinced that Parliament should be excluded (verbatim records, 17.03.03)'. Thus, agriculture 'had to fall in line with the principles of legal rationalization and representative democracy that produced a general thrust towards codecision' (Roederer-Rynning and Schimmelfennig 2013: 965).

Through the advocacy of the EP and the Commission, the role of the EP in trade became linked to this wider debate. A long-term ally to the EP, the Commission had tried to push through a greater role for the EP at Nice, but lost (COM2). At the Convention, according to Lamy, "[t]he objectives were the same, but allies - notably the European Parliamentarians - were more numerous" (Lamy 2004). Both the EP and the Commission were well represented in the WG on Simplification and one interviewee described the EP's new powers in trade as a 'democratic coup d'état' conducted by the EP and the

Commission.⁸ Together, they argued for an extension of the EP's role in trade 'but always under the heading, we want to generalise procedures, we want to generalise interinstitutional relations' (EP4). Thus, their arguments referred to the need for a higher-order standard to be consistently applied, and not to policy-specific requirements. The response from the Council's Legal Service was allegedly: 'Yes, if you want to have a simplification and if you want to have this in a constitutional way - everything should be done in the same way' (EP4).

This gives a further illustration of how the EP's role in trade was embedded in the larger project of democratizing the EU through generalizing institutional procedures. It also suggests the impact of arguments referring to the principle of parliamentary representation. The EP's trade powers were not extended out of mere habit, but because its role in trade was justified with arguments that activated general principles. It was framed as a question of parliamentary representation in the EU in *general* and with reference to the institutional consistency of the EU's decision-making procedures. The appeal to these higher-order principles convinced decision-makers that extending the EP's trade powers was the right thing to do. In the words of one interviewee, there was a fundamental inconsistency in the case of trade: 'Why would you not have the Parliament and the Council on equal footing which is the rule elsewhere? Basically you should put the charge of the evidence on why you do not have that. And there was no evidence' (COM1).

The conventioners advocating for EP consent over international trade agreements were not in a majority in the working groups. Moreover, several of those supporting an extension of the EP's role in trade envisioned consultation rather than codecision (Krajewski 2005). Thus, it was never self-evident that the EP would get legislative powers in trade. In one of few interventions that explicitly addressed the EP's role in trade, the British government representative Peter Hain argued that, 'it should be possible (...) to recognise a greater role for the European Parliament without constraining the legitimate commercial activities of the Member States or undermining the efficiency of the Union' (plenary, 16.05.03). Because codecision was deemed "impractical" and too time-

⁸ It had, however, only one government representative (Norman 2003).

consuming, the British solution was to replace codecision with consultation.⁹ A similar argument was also put forward by Finnish government representatives¹⁰.

However, because the principle of parliamentary representation became accepted as a main premise in the debate about democratizing the EU, it was difficult to argue that trade should not follow the pattern of QMV and codecision. During the discussions, “the burden of proof was reversed in that the Member States had to argue against increased parliamentary scrutiny of EU trade policy” (Woolcock 2008: 2). Thus, the efficiency arguments were not deemed strong enough to deviate from the general principle of extending codecision in areas where the QMV applies. Many conventioners demanded even more influence for the EP, such as approving negotiation mandates, but no one argued against the need to increase the level of democratic input in EU trade policy (CONV 707/03). One interviewee described it as an unavoidable process because of the general wish to increase the democracy of EU policies, which meant that the EP would have to gain more powers in all essential policy areas, including trade (NAT1).

To sum up, there were few heavy discussions about the specificities of the EP’s role in trade. Instead this issue became embedded in the overarching debate about the EP’s legislative role in a more democratic EU where both the rank of norms and how they were to be applied was challenged: should the link between QMV and codecision trump all other considerations? Was there scope for exclusions, and were they supported by valid reasons? This debate took place within an already established normative context, but claims for extensions in the EP’s powers still needed to be justified and weighed relative to other normative concerns. Thus, the extension of the EP’s trade powers was not a taken-for-granted matter. By placing the analytical focus on arguments, using a communicative approach brought to the fore the reasons given for and against an extension of the EP’s trade powers. This also showed how arguments referring to the principle of parliamentary

⁹ Suggested amendment: <http://european-convention.europa.eu/docs/Treaty/pdf/866/Art%20III%20212%20Hain%20EN.pdf>.

¹⁰ Suggested amendment: <http://european-convention.europa.eu/docs/Treaty/pdf/866/Art24Tiilikainen%20EN.pdf>.

representation were difficult not to abide by. This is further reinforced when looking at the period after the entry into force of the Lisbon Treaty.

From normative to legal arguments

Few attempts were made at the following IGCs to dismantle the results with regards to trade from the Convention (CIG 37/03). Upon the entry into force of Lisbon, however, it became clear that the Council and the EP had 'diverging perceptions of some of the new provisions' (European Parliament 2011). Trade Commissioner Karel de Gucht stated that: 'The Council might take some time adjusting to the fact that the Parliament is now fully part of trade policy decision making' (de Gucht, 2010). Is this in line with a communicative explanation? Because there was little concrete debate about the EP's role in trade, few were aware of the substantial changes brought by the Lisbon Treaty. Thus, especially when different actors are involved, a process of assessing the relevance of new norms and standards is rather to be expected. However, none of the interviewees placed any weight on the impact of normative arguments in explaining the outcome, instead, legal arguments seem to have been central in reaching agreement on how the new trade provisions were to be implemented.

The process of 'adjustment' entailed lengthy quarrels over access to sensitive documents and the subjection of trade to the normal codecision-procedure including comitology. Prior to Lisbon, trade was exempt from the normal comitology procedure, with its own arrangements excluding any involvement by the EP. After Lisbon treaty, trade policy became subject to the same rules as other policy areas and the EP's role was strengthened. Thus, the implications of the new trade provisions came as a shock to many Member States who had been 'used to this carve out in trade' and wanted to retain their former privileges (COU2). According to one interviewee, consecutive presidencies were dragging their feet on concluding international agreements, trying to use the old comitology rules. More specifically, the EP and the Council were unable to agree on how to deal with delegated acts, 'because some of the larger Member States [did] not want to have this type of instrument in the area of foreign affairs' (EP4). Another interviewee from the Commission stated that because 'Member States refused to have trade policy

under the normal codecision procedure, including comitology', it threatened to derail almost all horizontal legislation (COM1).

Still, this conflict was not resolved through further confrontation. Instead, the immediate implementation phase was characterised by the recurrent use of legal argumentation. After the Lisbon treaty had entered into force, there was uncertainty in the Council about how to interpret the new provisions (NAT1). In this situation, the legal services of the Council, but particularly of the Commission, were active in explicating the new conditions for trade policy-making. In the words of an interviewee from the Council secretariat, 'the Member States are realising that some options are not possible anymore under the new treaty. And our legal service (...) are working on legal opinions to explain why things have changed and why we are not living in the good old days of [trade policy] reserved to the Council' (COU2). The Council's legal expertise was influential due to the legal complexity of the field of trade, but also because 'some Member States, or even the Council as a whole, did not properly understand the implications of the changes in Lisbon' (NAT2). All interviewees emphasised that while governments may have been aware of the changes they had agreed to in the Convention, their technical ministries were not equally well informed, nor prepared to drop their previous privileges without a fight. At the time when the decision to increase the EP's trade powers was taken, this was not discussed adequately for the acquaintance of the changes to reach beyond the politicians responsible for the EU portfolios (NAT1). Hence, with regard to its relations with the EP, the Council had to go through a process of learning 'what [was] actually in the treaty' (EP6). In the words of one interviewee from the Council: "[It was] a learning process for all of us".

Furthermore, many interviewees underlined that the Commission's legal service was especially instrumental in producing a relatively quiet resolve of conflicting positions. According to Kleimann (2011: 18), the Commission's DG Trade urged the Member States in the Trade Policy Committee, 'to face the legal and political realities of the Lisbon era'. Both the Commission's legal service and the legal specialists in DG Trade were eager to ensure that any conflicts between the EP and the Council did not escalate and worked hard to convince the Council of the accuracy of their interpretation. Ministers were confronted with the fact that Member States had signed the

treaty themselves: 'They wanted to retain a veto (...). Basically, we had to use the argument why? Why is [the trade] procedure different? It is not' (COM1). National representatives and interviewees from the Council secretariat stated that Member States ended up agreeing to the interpretations presented by the Commission's legal service, which generated a common understanding of the new rules governing trade.

The above empirical examples seem to point towards an argumentative impact that corroborates with the indicators of a communicative approach, although the arguments are based on legal instead of normative principles. Thus, a process is denoted where actors changed their position 'after having been presented with a new or different interpretation of its relation to EU law' (Riddervold and Sjursen 2012: 13). The Commission legal services, which interviewees seem to suggest carried the greater weight, explained and clarified the provisions to the Council, and its interpretation of how the EP's new role was to be understood and implemented were subsequently accepted. This suggests that 'justiciability', is not only important as a potential threat. In the case of the EP's role in trade, the Commission's law-based reasoning was regarded as valid argumentation for its position on how to implement the treaty provisions. The law entered the decision-making process not only as a bargaining chip based on the possibility of taking a matter to court, but also by being activated in a justificatory process.

Conclusion

This analysis has demonstrated that the empowerment of the EP in trade was driven largely by normative considerations. Previous studies of the Convention have emphasised how, despite a prevalence of reason-giving, agreement was reached through hard-nosed bargaining (Magnette and Nicolaïdis 2004) and that the EP was dependent on support from the Member States (Benedetto and Hix 2007). This paper shows that in the Convention, the extension of the EP's trade powers became embedded in the general discussion about its legislative role in a more democratic EU. A main premise for this debate was the importance of generalising procedures across policy areas in order to make the policy-making process more transparent and easier to understand. By activating the principle of parliamentary representation and arguing according to these higher-order goals, the EP (together with the Commission) was able to convince the other

members of the Convention that extending the EP's trade powers was the only right thing to do. Moreover, the analysis of the events taking place after the entry into force of the Lisbon Treaty also point beyond the scope of the existing literature by showing how not only bargaining but also legal arguments were important in settling the differences between the EP and the Council. The EP did not rely on normative arguments to support their interpretation of the new provisions. It threatened to veto international agreements and to appeal to the ECJ to get the Council to concede to its demands. However, reference to higher-order standards, and particularly the Commission's legal argumentation also convinced the Council not to challenge the EP's new powers.

These findings have three main theoretical implications. Firstly, the conflict following the entry into force of Lisbon shows that the normative logic at work during treaty reforms does not necessarily extend beyond these 'constitutional moments' (cf. Rittberger and Schimmelfennig 2006). Constitutional principles do not have an automatic impact on legislative development or political practice. Still, the provisions of the treaty defined new parameters for the interinstitutional interaction between the EP and the Council. Farrell and Héritier (2007) have pointed out how 'justiciability' constitutes a potential bargaining lever for the EP, who can appeal to the ECJ if they find that their prerogatives have been thwarted. In the case studied here however, legal justifications were important in reaching agreement on how to interpret the new trade provisions, and not merely as a bargaining tool. This suggests that it is also fruitful to look beyond relative bargaining powers when investigating interinstitutional negotiations in-between treaty changes.

Secondly, the findings in this paper questions the depiction of the EP's empowerment as habitual (Goetze and Rittberger 2010, Rittberger 2012). Although there was no heated debate about the specificities of the EP's role in trade during the Convention, it was not taken-for-granted that its powers were to be extended. Rather, this paper argues that its new powers was a result of the principle of parliamentary representation being appealed to, and accepted, as a main premise for an institutional reform of the EU, which strengthened the legislative powers of the EP. This would suggest that even if the principle of parliamentary representation has become fundamental to the EU, it needs to be interpreted and become

recognized as valid to affect behaviour in a given situation (Eriksen and Fossum 2012: 331). This paper argues that the communicative approach offers a plausible way of making sense of processes whereby actors come to agree on which norms to choose and how to apply them.

Finally, in the sociological institutionalist literature it is emphasised that 'institutions require continuously renewed collective confirmation and validation of their constitutive rules, meanings and resources' (Olsen 2009: 11). However, the processes through which this takes place remain largely unaccounted for. Sociological institutionalist theory lacks explanatory mechanisms that can account for the role of interpretation in choosing between and applying norms in decision-making and why the content of the norm itself may have an impact on an actor's choice of action. Using a communicative approach acknowledges the possibility that normative behaviour can have two causes: following habit or following a conscious and rational assessment of the validity of a claim (Eriksen 1999, Risse 2000). Furthermore, it also offers a potential explanation for how institutional principles may be constituted and reconstituted. In agreeing on the social norms to apply, actors appeal to general principles to convince others of the validity of their statements. The outcome of such a process may be a change in policy, but at the same time the validity of the social norm is also being tested (Eriksen 2009b). The communicative perspective offers a theoretical underpinning of the inter-subjective nature of legitimacy that goes beyond individual, cognitive perceptions. Once a norm is articulated, whether or not it will affect ensuing decisions depends on its validity, which is evaluated during interactive communicative processes.

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Conclusion

EU foreign policy is in many ways different from most domestic policy areas. It is for instance subject to different decision-making procedures where the Council maintains the functions of the Commission and every Member State has a right to veto. Nevertheless, several studies have argued that the portrayal of EU foreign policy as an intergovernmental area dominated by Member States is misleading. EU foreign policy has become something more than the sum of its parts and Brussels-based institutions are more autonomous than one would expect if Member States were in complete control. The potential reallocation of foreign policy authority to the EU-level also raises democratic challenges. If decision-making is pooled and delegated, the link between decision-makers and citizens is disrupted because decisions are no longer made at the same level at which they are authorised and held accountable. Although the debate about a democratic deficit in EU foreign policy raises a series of normative and empirical questions (Sjursen 2011a), the EP's role and influence is a key topic. While several contributions in the literature on the EP's role in EU foreign policy emphasise the marginal role played by the EP, others underline that the EP's impact has grown. Thus, the goal of this thesis has been to explain the EP's increasing influence in EU foreign policy. Based on the findings of the three articles, the following is an attempt to draw a set of overall empirical and theoretical conclusions.

Empirical implications

In the literature on the EP's role in EU foreign policy, the reasons for its marginal influence are almost always made explicit, the two most prominent being the intergovernmental structure of CFSP and the EP's lack of formal powers. Studies that claim to detect an increasing influence on the part of the EP, however, often present rather vague evidence to corroborate their observation. One reason is probably that not many analyses have dealt exclusively with the EP's role. Bretherton and Vogler (2006: 9), for instance, report a perception that the EP has become more important in external relations, but the EP is not the main topic of their book and the finding is not further pursued. Still, this does not mean that observations such as these should be ignored. On the contrary, what this thesis has tried to do is to explain why there has been an increase in the EP's influence. In doing so, it has also given a more detailed rendering of what constitutes the EP's influence.

Prior to the Lisbon Treaty, the EP's powers in external trade much resembled those it has in the area of CFSP. Seeing as the EP now has both legislative and consent powers, there is little doubt that the EP's authority in external trade has been considerably enhanced. In the first article of this thesis, the establishment of the Interinstitutional Agreement (IIA) on access to sensitive documents shows how the EP has been able to exert influence in the area of security and defence. Without the efforts of the EP, the agreement would not have been established. To what extent the IIA will place the EP in a better position to impact on or control policy-making remains to be seen. However, access to information is a requisite both for influence and for scrutiny. Similarly, in the second article on the EP's participation in the CFSP budgetary process, the agreements between the EP and the Council demonstrate the EP's impact on EU foreign policy, as does the practices of information and consultation that go beyond the terms of the IIAs. In both the latter cases, the agreements and understandings have not only established a platform for scrutiny and control of the executive, but also an opportunity for exerting influence on future policies.

Furthermore, all three articles underscore the Council's increasing recognition of EP's role in EU foreign policy. The description of the EP's role in the literature is ambiguous. It is seen as "marginal" but also increasingly as a "serious actor and interlocutor in CFSP"

(Diedrichs 2004: 36). According to Crum (2012: 361), “the EP was (and, in most respects, still is) acknowledged in the CFSP and allowed the right to express its views but not given any substantial powers”. Others have emphasised that the obligation to consult the EP on CFSP-matters is taken “increasingly seriously” (Gourlay 2004: 188). In this thesis I have found that the Council has responded positively to the EP’s claims for more involvement and influence in EU foreign policy. In the context of the CFSP budgetary process, for instance, the discussions taking place at the joint meetings between the Council and the EP were designed for budgetary reporting but have become an arena for debate about substantial, political matters.¹ This development is accompanied by a reported move from mutual distrust to mutual recognition. These findings corroborate the observation that the EP’s role in EU foreign policy is taken increasingly seriously. It also sheds additional light on this claim by showing the change in interaction between the Council and the EP, and how the Council’s behaviour towards the EP has changed.

The EP’s advances in the CFSP are nowhere near as substantial as in trade, but the increase in the EP’s influence is still puzzling. The CFSP is often depicted as an intergovernmental arena dominated by Member States and the EP has few formal powers and lacks leverage vis-à-vis the Council. On top of this, there is no agreement on the extent to which the EP even is the appropriate body to look after the interests of EU citizens and keep decision-makers in check. This was also the case for the EP’s role in trade prior to the Convention process. Apart from a handful of studies (Barbé and Surrallés 2008, Crum 2006, Maurer et al. 2005, Niemann 2006, Thym 2006, Wisniewski 2013), few have attempted to explain the EP’s influence. Thus, a main aim of this thesis has been to address this gap in the literature.

In the case of trade, the joint efforts of the EP and the Commission during the Convention explain the decision to extend the EP’s powers. By referring to general principles of parliamentary representation and the need for institutional coherency, they managed to convince the members of the Convention that this was the only right thing to do. The issue of the EP’s role in trade became embedded in the general discussion about the EP’s legislative role in

¹ A similar practice can be found in the special committee that has access to sensitive documents (Rosén 2014).

a more democratic EU, where the link between QMV and codecision was a key question. Several argued that the EP should get even more powers in trade, but very few argued against increasing the EP's powers. Although some favoured consultation instead of codecision, the argument referring to the need to generalise decision-making procedures was accepted as a main premise also in the area of trade.

Moreover, what was described above as the Council's increasing recognition of EP's role in EU foreign policy can also be explained by the EP's appeal to democratic principles. The EP's claims for more influence in the CFSP have mainly been justified with reference to the need to introduce more democratic legitimacy to the area. These arguments have been accepted as valid by the Council, which has led to a change in its interaction with the EP. In the case of the IIA on access to security and defence documents, the EP argued that it has a legitimate right to information, which required privileged parliamentary access to documents. The Council accepted this justification, which helped to establish a mutual understanding early in the negotiations on the need for an arrangement securing parliamentary access to sensitive documents. This finding substantiates previous claims that this IIA represents "an acknowledgement of the EP's rights to be seriously engaged in political dialogue in foreign and security policies" (Barbé and Surrallés 2008: 80-81). Moreover, the article also shows that the reason for the Council's acknowledgement is the EP's insistence that it has a legitimate claim to be involved.

The article investigating the EP's participation in the CFSP budgetary process demonstrated that the development in the relationship between the Council and the EP from "mutual distrust" to "mutual recognition" has been directed by normative considerations. Here as well, the Council has come to accept the EP's arguments that it has a right to information and needs to be consulted on the CFSP, albeit within the context of the budgetary procedure. In these two cases, I find that there has been a change in the Council's attitude towards the EP's position in EU foreign policy, and that this change can be traced back to the reasons presented by the EP for why it ought to have more influence. The Council's recognition of the EP's right to be involved in the CFSP has also meant that the Council has been willing to go beyond the intention of the agreements it has entered into with the EP. Thus, the Council has given the EP more substantial

information about CFSP activities than what it is contractually obliged to provide. In addition, it has responded to the EP's demands for more political discussion about CFSP activities.

In order to arrive at concrete agreements, however, the EP has also had to rely on a bargaining strategy. Compared to the legislative area where the EP and the Council are co-legislators, the EP has less bargaining instruments and therefore less opportunity to pressure the Council into conceding to its demands. Nevertheless, as the two first articles in this thesis have shown, strategies comparable to those used by the EP in the legislative area are relevant to understand its influence in foreign policy. Although the CFSP is subject to particular decision-making rules it cannot be completely sheltered from the EU's general constitutional and institutional context. The processes explicated in this thesis provide examples of how this context comes into play in the area of the foreign policy.² To achieve the IIA on access to sensitive documents in the area of security and defence, linking concessions to areas where the EP did enjoy formal rights, as well as appealing to the ECJ, compensated for the lack of formal powers and gave the EP leverage in the negotiations with the Council.

After the entry into force of the Lisbon Treaty, the Council was very reluctant to recognise the new provisions on trade, thus the EP had to fight once more for its powers to be acknowledged and implemented. The EP has largely relied on a bargaining tactic. It has made sure that the Council does not ignore the EP's new role by threatening to deny consent if its demands are not conceded to. However, the EP's bargaining strategy cannot fully explain the increase in its trade powers. Disagreements between the EP and the Council were not only solved through a give-and-take bargaining process. Instead, by using legal arguments the Commission managed to convince the Council not to challenge the EP's new powers.

Thus, the EP's bargaining approach has contributed to the establishment of agreements between the EP and the Council and the concretisation of procedures and arrangements. But in the case of trade, it was the arguments presented by the EP and the Commission

² There were informal changes in the EP's role in external trade prior to the Lisbon Treaty, however, these were not directly linked to the EP's increases in powers in Lisbon, and were therefore not analysed in the article on trade.

that secured an increase of the EP's powers. Furthermore, in order to explain the practices that have been created beyond the intention of the interinstitutional agreements as well as the fundamental change in the Council's attitude towards the EP's position in EU foreign policy one has to look at the Council's response to the EP's arguments. Had it not come to accept the EP's right to be involved in the CFSP as legitimate, the Council would have limited its interaction with the EP to what the agreements dictated, and continued to disregard the EP's role in EU foreign policy.

Choosing to focus on areas where the EP has had a certain amount of success may seem biased in the sense that it does not really test the EP's influence over EU foreign policy. However, in this thesis, the goal was not to gauge how much power the EP has in EU foreign policy; rather it is to explain how and why the EP is able to influence EU foreign policy at all. In the words of Thym (2006: 116): "These reform steps may not bring the big leap forward, which Parliament might desire, but they are building blocks for enhanced parliamentary involvement in the CFSP". Moreover, given the considerable opposition from the Council, even small steps need to be accounted for.

Theoretical implications

The empirical findings demonstrate that in order to explain the EP's increasing influence in EU foreign policy, there is a need for more than one explanatory approach. Thus, the question is, what the theoretical implications of these findings are. The bargaining approach explains concrete changes: the IIAs and the subsequent declarations in the case of the CFSP budget and in particular the conclusion of the IIA in the case of access to sensitive documents. The EP's bargaining tactics were also important in getting the Council to adhere to the EP's new trade powers after the entry into force of the Lisbon Treaty. Thus, to not have used a bargaining approach would mean that a vital piece of the explanation for the EP's increasing influence in EU foreign policy would have been missing.³ However, without a communicative approach as part of the analytical framework, the understanding of why the EP's influence in EU foreign policy has increased would also be incomplete.

³ Employing the communicative approach alone would not have captured the material side of the negotiations.

First, in the case of the EP's empowerment in external trade, it offers an explanation for the decision to increase the EP's powers, which a bargaining approach cannot account for. There were no signs of bargaining over the EP's role in trade during the Convention. Instead, the analysis showed that the decision to increase of the EP's trade powers was linked to the wider debate about democratizing the EU. To generalise procedure and to make EU decision-making more transparent and easier to understand was an important goal to the Convention. This aim triggered a debate about the link between Qualified Majority Voting and codecision. The EP and the Commission tapped into this debate by arguing that trade should be kept in line with the general principles of decision-making. Using a communicative approach was needed to show how legitimacy concerns led to the extension of the EP's powers in trade. Moreover, it brought to the fore the importance of the Commission's legal arguments in settling the differences between the EP and the Council after the entry into force of the Lisbon Treaty. By contrast, a bargaining approach cannot account for the impact of norms or standards on decision-making because "[t]ransferable reasons that could motivate other participants simply do not play a role" (Landwehr 2010: 114).

Secondly, using a communicative approach sheds light on the reasons for the change in the Council's attitude towards the EP's position in EU foreign policy. The initial consensus on the need to accommodate parliamentary access to sensitive documents would have remained ignored and unaccounted for without employing a communicative approach. The same is the case for the redefinition of the EP's role in the CFSP developing in the context of the budgetary procedure. These changes both reflect an acknowledgement of the EP's right to be involved that are significant in light of the debate about the EP's appropriate role in EU foreign policy. It indicates that, although EU foreign policy is formally an intergovernmental policy area, it cannot remain isolated from the democratic principles that are fundamental to the EU. Again, this is contrary to what one would expect from a bargaining approach where cost-/benefit-calculations are held to determine patterns of cooperation. Following a communicative perspective, however, actors who engage in justificatory processes also test the validity of the norm that should serve as basis for their interaction, which may explain why "orders

come into force, which do not harmonize with the actual preferences and interests of the actors” (Eriksen 2009: 225).

Moreover, a communicative approach suggests an explanation for why the Council has agreed to involve the EP beyond what it is contractually obliged to do. Decision-making outcomes that represent something more than “mere co-ordination on a policy outcome [are] not easily explained in bargaining terms” (Risse and Kleine 2010: 708). Instead, the move beyond the intention of the agreements can be traced back to the EP’s claims for more substantial information and more political discussion, which gradually have caught on with the Council. Thus, employing a communicative approach enables the analysis of the less concrete and non-contractual changes taking place in the area of EU foreign policy. The article on the EP’s budgetary process also suggests that the long-term development of the EP’s role in EU foreign policy may be seen as an instance of ‘constitutive learning’. This concept tries to capture the interaction between changes in the institutional context and processes of reason giving. It is argued that the EP’s continued appeal to the democratic principles and the need for more parliamentary involvement in EU foreign policy has contributed to creating a new normative basis for the organizational principles of the CFSP. In other words, ‘constitutive learning’ depicts a process where parliamentary involvement has become recognised as an, albeit limited, element of the CFSP.

Whereas previous studies have conveyed a change in the Council’s behaviour and attitude towards the EP’s influence in the CFSP, this thesis also adds a plausible explanation of this development. Although the debate about the EU’s democratic deficit comprises many different issues, the role of the EP is at the centre of it, often as one of the problems, but almost always as part of the cure. As a result, it is reasonable to assume that there could be several normative reasons why the EP ought to have some kind of role in shaping the EU’s external relations. Activities in the field of foreign, security and defence policy – as well as in external trade – are decided at the EU-level, but entail national obligations. Thus, any efforts to strengthen the role of the EP in EU external relations could be seen as an attempt to alleviate the legitimacy deficit that follows from uploading foreign policy to the EU level. Although the role of the EP is controversial, it is still the only directly elected body at the

European level and thus in a particular position to exercise democratic control of the CSDP.

What has been lacking from the existing literature, however, is not only a systematic investigation of whether legitimacy considerations have actually contributed to the increase of the EP's influence in EU foreign policy, but also a theoretical account of why this would be the case. In the articles of this thesis, I have made an attempt at setting out stringent analytical frameworks based on a communicative perspective that have then been used to trace the potential impact of normative arguments. The findings show that the communicative approach gives a plausible rendering of why legitimacy considerations have contribute to an increase of the EP's influence in EU foreign policy. The Council has to a large extent accepted the argument that the EP has a legitimate right to be involved – be it through access to information, consultation or legislative and consent powers.

Thus, concerning the literature on EU foreign policy, despite the intergovernmental configuration of the second pillar, the thesis has shown that EU foreign policy cannot be kept immune from the “normative force of the parliamentary principle” (Eriksen 2009: 216). This raises the further question of to what extent EU foreign policy can be understood as an intergovernmental policy area at all. Considering the role of the EP and the acknowledgement of legitimacy arguments as relevant to the institutional configuration of the policy-making process, the development demonstrated by the articles of this thesis testifies to a conception of the EU foreign policy as a collective enterprise. Without exaggerating the impact of the EP, its increasing influence is still indicative of a policy that is growing into something more than an aggregation of member states' interests. It is a policy underpinned by a certain set of values, which are triggered when confronted with the EP's claim of the right of influence. This suggests at least a supranational tinge to EU foreign policy as one would not expect an intergovernmental system to be “infused with interests or values of its own” (Sjursen 2011b: 1083).

The EP's increasing influence in EU foreign policy also has democratic implications. In the case of trade policy, it has made EU foreign policy more democratic. One should not make normative statements without being explicit on the standards of assessment.

However, EU external trade has gone from no parliamentary involvement to legislative powers for the EP. In the case of international trade agreements, some of these previously had to be ratified by national parliaments, but this was only the case for mixed agreements. For EU agreements, the EP had to prove that an agreement had institutional, budgetary or legislative implications in order to be given a right to consent (Article 300). An agreement could, according to the ECJ, cost more than 250 million Euros without need for parliamentary involvement (Corbett et al. 2005). With the EP's new powers, there is no room for manoeuvring.

The question of whether the increasing influence of the EP means that it has become more democratic still requires another type of analysis. Compared to external trade, the nature of the CFSP is harder to pin down. This makes it more difficult to determine which democratic standards it should be evaluated against (Sjursen 2011a). Moreover, the advances of the EP in the CFSP are less comprehensive than in external trade. The IIA on access to sensitive documents and the budgetary agreements may have added to the transparency of the CFSP, and perhaps it may have made it easier to hold decision-makers to account. These questions are beyond the remit of this thesis. Yet, by presenting a thorough investigation of the EP's involvement and influence in EU foreign policy, the thesis does provide a basis for an assessment for how far the EP is able to improve the alleged democratic deficit.

The findings of this thesis also have implications beyond the specific literature on EU foreign policy. As described above, relative powers and bargaining potential generally tend to dominate the study of the EP's influence. The notion that a democratic deficit may have an effect on decisions to empower the EP might be described as "plausible" (Hix 2002: 266), but is rarely investigated further. In studying the development of the EP's controlling powers over the Commission, Moury (2007: 389) observes that "it may be useful to introduce the notion of 'democratic legitimacy'" to explain why the Commission concedes to the EP without being obliged to do so. In the next paragraph, however, the idea is brushed off with a "hypothetical cost-benefit calculation" conferred on the Commission. However, by treating the potential impact of norms seriously, this thesis has demonstrated the importance of taking into account legitimacy considerations to explain the EP's influence.

Finally, EP studies that have shown how legitimacy considerations are among the key driving forces behind the development of the EP's powers have underlined that legitimacy becomes more of an issue at constitutional turning points (see Rittberger 2005, Rittberger and Schimmelfennig 2006). While the case on trade confirms that this is the case, the two other cases demonstrate that normative considerations may also have an impact on the influence of the EP not only during moments when institutional powers are created but also as a continuous influence on the day-to-day politics in Brussels. The findings reflect a duality to the debate about whether EU or national level parliamentarians should be the ones looking after the interests of the EU electorate and holding EU level decision-makers to account. On the one hand, there are the debates taking place at Intergovernmental Conferences where the principle of national sovereignty appears to have been dominant. It is quite clear that the EP has made very little headway at these arenas, including the Convention. Except for external trade, the provisions of the Treaty with regard to its role in EU foreign policy have remained the same since the Maastricht Treaty. On the other hand, the EP's arguments about the need for more democracy in EU foreign policy has produced more results during daily political processes, particularly with regard to the establishment of procedures for decision-making. However, whether this means that the EP will be able to add to its policy-making authority requires further research.

Areas for further research

This thesis has found that the EP has managed to establish arenas where it may monitor, scrutinize and control the Council's activities in EU foreign policy. These arenas also provide a potential for influence, and the articles have demonstrated that the EP is able to engage with the Council in discussions about policy content. To what extent this also means that the EP's views are taken into account is another matter. This is also the case for trade policy. Although the EP has acquired considerable new powers, this in itself is no guarantee that it will be able to make a difference to EU trade policy. Thus, one question raised by the findings in this thesis is whether the EP's success in establishing procedures for decision-making can be used as a basis for influencing policy.

Secondly, this thesis has argued that in order to capture the EP's influence in EU foreign policy it is necessary to start out with a broad

definition of influence. For purposes of comparison, there is a need to go more into detail on how influence should be measured. There seems to be an implicit benchmark in many studies against which the EP's influence in EU foreign policy is silently measured. Crum (2012: 361), for instance, writes that the "limited role of the EP is reflected in the fact that the great majority of its work concerning the CFSP takes place on its own initiative and has no binding effect on the other EU institutions". Furthermore, he illustrates this by referring to the EP's lack of legislative blocking power. While the lack of legislative powers is undoubtedly a factor that gives the EP less influence in foreign policy matters than in other policy areas, it also raises the question of how much and what type of powers the EP is expected to have in the first place.

This is not only a normative issue, but also one of measurement. Some changes are more significant than others and there are degrees of influence as well as different stages of the policy-cycle where it is possible to make an impact. Agenda-setting, for instance, is not only about getting an issue on the formal agenda or not. The social and political construction of the issue may be equally important "to the final determination of how the issue will be processed and decided as is the initial decision to consider it at all" (Peters 2001: 78). In a similar manner, decision-making is not only about having the formal capacity to affect the final outcome, it is also about the process of assessing alternative policies (Mezey 1979). It is clear that the difference between a narrow and a broad definition of influence will have an impact on the conclusions drawn about the importance of the EP's role in EU foreign policy. Thus, there would be a lot to gain from reconsider conceptualisations of influence and subsequently be explicit about the measures one uses.

Finally, foreign policy has long been regarded as an executive prerogative. Some have argued, however that in the last decades, there has been a change in the conception of foreign policy as a "reserved domain, protected from normal politics and with its own distinctive (a)moral ambience" (Hill 2003: 282). This thesis focused on the EP's increasing influence in EU foreign policy. The question is whether this development may also signify a broader trend towards a parliamentarisation of foreign policy. In other words, can a similar development be detected in national parliaments? If so, another question is whether similar driving forces can also be identified.

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Appendix 1

Interview guides

Interview guide: Access to sensitive documents

Background questions: career, duration of current position.

How were you involved in the process leading to the Interinstitutional Agreement (IIA) on access to sensitive documents?

Process in general:

This IIA was the result of a long struggle. How would you describe this process?

When did the EP and the Council start working on an IIA on access to sensitive documents?

How would you describe the interaction between the EP and the Council (the various presidencies) on the matter of access to sensitive documents?

**Potential probing:*

What would the alternative to an IIA have been?

Solana-decision:

How did the Solana decision come about?

Did the EU's relations to NATO play a role in this decision?

Why did the EP take the Council to Court over the Solana decision?
How did this Court action relate to the Dutch case?

How did the Council (the French Presidency) react to the Court-case?

Negotiations with under the Swedish Presidency:

The negotiations on the IIA took place alongside those on the Regulation on public access to documents. Did this affect the negotiations on the IIA? If so, how?

What was the EP's approach during the meetings with the Swedish Presidency?

In your opinion, how does the European Parliament achieve influence during negotiations such as these?

How did the Council/the Member States receive the EP's demands?

Why did the EP take the Council to Court over the Council security regulations decided on the 19th of March, 2001?

How did the Council (Presidency) react to the Court-case?

The agreement:

As far as I understand, the EP and the Swedish Presidency managed to come to an agreement on an IIA on access to sensitive documents. Then, it was blocked by one Member State in COREPER. Why?

Why was it not possible to reach an agreement until spring 2002?
Which factors were important?

Why was it finally possible to reach an agreement in spring 2002?
Which factors were important?

How would you evaluate the European Parliament's increased influence through the IIA?

To what extent would you say the European Parliament managed to attain its preferences through the IIA? (What was gained, what was lost?)

**Potential probing:*

Were the negotiations on the IIA and the Regulation on public access to EU documents intertwined? If so, how?

The EP demanded access to sensitive documents on the ground that it has a legitimate right to information. Did the Council react to this argument? If so, how?

Interview guide: CFSP budgetary procedure

Background questions: career, duration of current position.

How have you been involved in the CFSP budgetary process?

The EP's role in the CFSP budgetary process:

In general, how would you assess the Parliament's budgetary powers in the area of the CFSP?

How would you describe the relationship and interaction between the Parliament and the Commission on the issue of CFSP-financing?

How would you describe the relationship/ interaction between the European Parliament and the Council on the issue of CFSP-financing?

And during the years in which you have worked with the budget, has these relationships developed? Is so, how?

**Potential probing:*

Before the Amsterdam Treaty, the Commission described the relationship between the Parliament and the Council as one of mutual mistrust. How would you comment?

Then, if I can take you back to some of the concrete budgetary negotiations that have dealt with the CFSP:

In 2002, following budget conciliation, the Council issued a Joint Statement recognizing the "need for appropriate involvement of Parliament in respect of CFSP measures". The statement was later elaborated in a Joint Declaration with more concrete provisions for the supply of information and dialogue.

Why did the Council agree to this statement and the ensuing declaration?

Then a year later in 2003, the Council agreed to the practice of holding a least five joint consultation meetings per year.

Why did the Council agree to this?

And in 2005, the Council "committed itself to being represented at ambassador level" during the CFSP consultation process.

Why did the Council agree to this?

Then, in the wake of the new IIA, in 2006 there was a new conflict over the interpretation of the provisions in the IIA, and there was an exchange of letters where these provisions were spelled out.

Why was this exchange of letters drawn up?

If you were to use only a few words to sum up the factors that make the Parliament influential in these negotiations, what would they be?

**Potential probing:*

Have there been differences within the Council with regard to the EP's role in the CFSP budgetary process? If so, what is the effect on its interaction with the EP?

What about potential conflict within the EP, is that in any shape or form interesting from a Council point of view?

From the inception of the CFSP, the EP has argued that the CFSP has to be subjected to democratic scrutiny, and that the EP is the appropriate actor to hold it accountable. To what extent would you say that the Council has listened, or understood and accepted, this line of argumentation?

Interview guide: The EP's role in EU external trade policy

What is your experience in the field of external trade policy?

How long have you been working on trade issues?

How would you describe your job?

The EP's role in trade prior to the Lisbon Treaty

From your perspective, up until the Lisbon Treaty, how would you assess the EP's powers in the area of external trade?

The Parliament had few formal powers when it comes to external trade, how did it attempt to increase its influence? Why was it (not) successful?

How would you describe the relationship prior to the Lisbon Treaty between Parliament and the Commission?

How would you describe the relationship prior to the Lisbon treaty between Parliament and the Council?

What were the Council's main arguments for not including the Parliament?

The Lisbon Treaty, and the process prior:

In general, how would you assess the development of the EP's new trade powers?

When and how was it decided to increase the EP's powers?

How would you explain this increase in the EP's power?

What was the European Parliament's approach with regard to its role in external trade?

In your opinion, how does the European Parliament achieve influence during negotiations such as these?

How were the Parliament's demands received by the member states?
What had changed since Nice?

Thinking back to the Convention process, to what extent was the issue of the EP's role in trade dealt with at the Convention? To what extent was it a controversial issue?

If not - why?

If yes - in which setting, by whom, and what were the main challenges?

At the IGCs following the Convention, was the role of the Parliament in external trade discussed?

**Potential probing:*

Was the EP's role in trade dealt with as a separate issue?

The EP has consistently argued that it should be allowed to have greater influence on EU external trade policy because the field is in lack of democratic legitimacy. To what extent was this a line of argumentation that the EP pursued during the Convention? If it did, how did the other members of the Convention react?

After the entry into force of the Lisbon Treaty:

How would you describe the changes, and the main challenges, in the area of trade after the entry into force of the Lisbon Treaty?

After the entry into force of the Lisbon Treaty, how would you describe the relationship between Parliament and the Commission?

After the entry into force of the Lisbon Treaty, how would you describe the relationship between Parliament and the Council?

Commissioner Karel de Gucht said in a speech in 2010 that: "The Council might take some time adjusting to the fact that the Parliament is now fully part of trade policy decision making". How would you comment on this claim?

Can you give some concrete examples on the consequences of this "adjustment process"?

During negotiations with the Council (on co-decision files, international agreements or institutional matters), what is the EP's approach?

Which factors make its demands (non-)successful?

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The conduct of foreign and security policy remains largely sheltered from standard democratic procedures. The European Parliament's (EP) claim for more powers in EU foreign policy has been opposed with the argument that national parliaments are equally powerless. At the same time, EU foreign policy, and particularly its Common Foreign and Security Policy (CFSP), is often regarded as an exclusive domain for the member states.

How can we then explain the increase in the EP's influence in EU foreign policy? Why would member states, in such a sensitive area, be willing to share their powers with Members of the European Parliament, over whom they have little, if no control? Three cases form the backbone of the report: one aiming to explain how the Parliament got access to sensitive documents in the area of security and defence, then its increasing participation in the CFSP budgetary process, and finally its new powers in the area of EU external trade policy. The analyses demonstrate how two mechanisms are key to understand the EP's increased influence: the Parliament's appeal to democratic principles, and the bargaining strategy it has pursued by linking concessions to areas where it has formal powers.

Guri Rosén obtained her PhD in Political Science from the University of Oslo in 2015. She has been affiliated with ARENA during her fellowship period.

ARENA Centre for European Studies at the University of Oslo promotes theoretically oriented, empirically informed studies, analyzing the dynamics of the evolving European political order.



P.O. Box 1143, Blindern
N-0318 Oslo, Norway
Tel. (+47) 22 85 87 00
arena@arena.uio.no
www.arena.uio.no