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Interinstitutional Agreements in CFSP: Parliamentarisation through the Backdoor?

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Abstract

This paper tries to link the legal nature and political character of Interinstitutional Agreements (IIAs) to the ongoing process of parliamentarisation of the EU system. It is argued that IIAs are instruments used by the EP to strengthen its own position vis-à-vis the Council of Ministers. By tracing the negotiation process of the 1997 IIA on the financing of CFSP – which considerably strengthened the EP's information and consultation rights – the following conclusions are arrived at: Precondition for the successful conclusion of IIAs between the major EU institutions seems to be the shared perception of interinstitutional conflict. The costs of interinstitutional conflict were by both Council and EP perceived to be higher than the accommodation of conflict through the IIA. Although in total the IIA changed the balance of power between the two institutions in favour of Parliament, the agreement however did not one-sidedly benefit the EP.

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Introduction and Summary

One of the key features of the EU's constitutionalisation process has been the incremental parliamentarisation – i.e. the increased delegation of supervisory, budgetary and legislative powers to the European Parliament (EP) – of more and more policy fields since the Single European Act (SEA) in 1987. In four Intergovernmental Conferences (IGC's) – 1985/1987, 1991/1993, 1996/1999, and 2000 – the European Parliament has seen its own position strengthened.[1] The increase in power of the EP in the EU's changing constitutional framework transformed the EU's bilateral set up – Commission vs. Council and member states – into a trilateral one. There have only been few attempts to understand this process of parliamentarisation.[2]

Proponents of intergovernmentalism argue that the European Union (EU)'s constitutional order "has developed through a series of celebrated intergovernmental bargains, each of which set the agenda for an intervening period of consolidation" and that "[t]he most fundamental task facing a theoretical account of European Integration is to explain these bargains".[3] Viewed in this way, the strengthening of the EP depends solely on member states interests, which are negotiated at IGCs. However, both the underlying rationale and the theoretical preponderance of IGCs for the constitutional development have increasingly come under attack. On the one hand, it has been stressed that on the basis of a rationalist logic of action it is impossible to explain the at least partial parliamentarisation of the EU. Indeed, why should governments, which want to maximise their national interests, agree to create and empower a supranational parliament, whose powers could conflict with their own? On the other hand, it has been argued that IGCs do not act on a "tabula rasa". Instead, existing institutional arrangements and practices of co-operation predetermine the outcomes of the negotiation process. Consequently, the EU's institutional development should not simply be seen as isolated, free-standing interstate bargains but rather as continuous process of informal and formal Treaty revision, with IGCs often merely formalising existing practices.[4] Looked at this way, the process of parliamentarisation takes place through developments which take place between IGCs. But how exactly does parliamentarisation between IGCs occur?

This paper tackles the puzzle of parliamentarisation by analysing the role of Interinstitutional Agreements (IIAs). The number of IIAs concluded between the EP, the Commission and the Council, which reflects the deepening of European Governance in a system without a clear division of competencies, has sharply risen since the Maastricht Treaty.[5] Generally, IIAs are designed to facilitate interinstitutional co-operation and prevent conflicts between the institutions. However, IIAs are more than just pragmatic answers to interinstitutional co-operation problems since they tend to strengthen the EP's position in the constitutional set-up of the EU, i.e. by expanding the EP's control, information and legislative competencies, and placing it on equal footing with the Council.

We restrict our analysis of the role of IIAs in the parliamentarisation process to the field of Common Foreign and Security Policy (CFSP). Since the development of the modern state in Europe, foreign policy has generally been regarded as a prerogative of the executive. Given

1 On the EP's system development function see Wessels/Diedrich 1997, Maurer 1999, Maurer 2002, Maurer/Wessels 2003, Corbett et al. 2003.

2 Cf. Hix 2002, Rittberger 2003.

3 Moravcsik 1993, p. 473.

4 Cf. Falkner 2002.

5 Cf. Hummer 2004 for a quantitative overview.

the anarchic organisation of the international system, it could be harmful to subject the conduct of foreign policy to the procedures and standards which govern party-politicised and short-term oriented domestic policies. Therefore, national parliaments often do not possess the authority to directly influence the substance of foreign policies. Their powers are typically limited to budgetary questions and to ex-post control of decisions. The emergence of a European foreign policy could be expected to exacerbate this parliamentary deficit, since European integration tends to strengthen executive actors at the expense of the legislative branch.[6] European foreign policy enables executive actors to further reduce national parliamentary oversight. However, this effect has been at least partially offset by an increasing parliamentarisation – understood as the ongoing process of increasing parliamentary competencies – of foreign policy at the European level. Since the SEA first provided for an explicit treaty basis for European foreign policy, the EP's competencies in this field have considerably grown.[7] The Commission and the Council are obliged to consult the EP on foreign policy issues and keep it informed, the EP can amply control the financing of foreign policy action, and it can pose parliamentary questions.

It is not by chance that we chose to examine the role of IIAs for the case CFSP. The EU's intergovernmental second pillar has always provided advocates of intergovernmentalism an excellent example of the member states' dominance at the EU level as opposed to the communitarised first pillar. Following intergovernementalist reasoning, it is here that one would expect to find the least delegation of powers to the EP. As we will see, however, even in the strongly intergovernmental CFSP, the EP has gained considerable ground. By tracing the process of negotiations leading to the conclusion of the IIA on the financing of CFSP in 1997, we will show how the EP slowly, and outside the formal treaty revision procedure at IGCs, managed to increase its information and consultation rights and subject CFSP to a transparent and reliable budgetary process? This short essay neither embarks upon developing a coherent theoretical framework for analysing IIAs nor subjects its empirical findings to rigorous theoretical testing. However, we suggest that the parliamentarisation of European foreign policy did not only take place during IGCs leading to formal amendments of the Treaties. It is our main hypothesis that IIAs, which are part of the informal sphere of EU politics and are agreed upon in between IGCs, have been crucial instruments to increase more parliamentary competencies in this field.

The paper is divided into four sections. The first presents IIAs from a legal point of view, placing them one the border between politics and law and highlighting their ambiguous legal status. The second part gives a short account of different approaches to the EU's constitutional development of which the parliamentarisation process is an important feature. It then continues to explore possible roles for IIAs in this process. The third and fourth parts deal with the case study of IIAs in CFSP. First we provide for a general account of the development of parliamentary competencies in CFSP over time. We argue that the extension of the EP's competencies cannot be understood unless informal mechanisms, such as the 1997 IIA for financing CFSP, are taken into account. This overview is followed by a detailed study of the negotiation process of the 1997 IIA, the only IIA which deals exclusively with CFSP. We conclude by making some suggestions for further research on IIAs.

6 Cf. Moravcsik 1994.

7 Throughout this essay, the term "(European) foreign policy" is used in a narrow, legalistic sense encompassing the Common Foreign and Security Policy (CFSP) and its predecessor, the European Political Co-operation (EPC). This essay does therefore not look at the EP's role in other policy fields closely related to the EU's external dimension, such as Common Commercial Policy, ESDP or Development Policy. For an account of the EP's role in the Common Commercial Policy, cf. Krauß 2000, di Paola 2003.

1. The Foundations, Limitations and Legal Effects of IIAs

The Treaties do not explicitly allow or encourage the EU institutions to conclude IIAs. However, article 10 TEU, which obliges national institutions and European institutions to co-operate loyally, is commonly interpreted as an implicit legal basis for the conclusion of IIAs. This line of reasoning was made explicit in Declaration No. 3 to Article 10 TEU, the first document to officially recognise the existence of IIAs. According to this declaration, the obligation of loyal co-operation also extends to interinstitutional co-operation at the European level. The EP, the Council and the Commission are therefore competent to conclude IIAs, "when it proves necessary, in the context of that duty of sincere cooperation, to facilitate the application of the provisions of the Treaty establishing the European Community. Such agreements may not amend or supplement the provisions of the Treaty and may be concluded only with the agreement of these three institutions."

This declaration shows the limits of IIAs . First, IIAs are not allowed to alter or to complement primary law stipulations.[8] Second, IIAs cannot be concluded without the consent of all three European institutions. Whereas these limits are clear on a theoretical level, it is in practice much more difficult to determine if an IIA has altered or complemented primary law. A possible criterion for determining the limits of IIAs would be whether an IIA has altered the institutional balance of power. An IIA would be admissible as long as it does not alter the EU's institutional balance. This is, however, difficult to determine since the EU's institutional structure – and thereby its institutional balance – is continuously changing. Furthermore, given the specific items that IIAs deal with, an alteration of the institutional balance is likely to result from the combined effects of the concluded IIAs on EU governance.[9]
Finally, as IIAs are neither primary nor secondary European law,[10] their legal implications are far from clear. This issue is further complicated by the fact that IIAs have taken various forms and do not form a homogenous category. IIAs cover very diverse subjects, ranging from the budgetary procedure to fundamental rights. As a result of this categorical heterogeneity, the effects of IIAs can range from the mere expression of general principles of European law to the change of hard European Law.[11] For instance, some IIAs are published in the C-Series of the Official Journal while others appear in the L-series, suggesting a different legal character and effect. Historically speaking, IIAs first took the form of an exchange of letters between the Presidents of the institutions concerned. A second phase was marked by joint declarations, typically involving all three institutions. The term "Interinstitutional Agreements" was first used in the 1988 IIA on the improvement of the budgetary procedure and has since been established as the predominant label for such agreements.[12]
In sum, IIAs do not fit easily into standard European legal categories. Key –issues, such as

8 Cf. statement of AG Mancini: "It remains nevertheless undeniable that joint declarations and similar measures merely constitute 'droit de complément' which may not derogate from primary law on pain of invalidity" (Case 204/86 Greece vs. Council [1988] ECR 5323 at 5359), cited in Snyder 1996, p. 464.

9 Cf. Hummer 2004.

10 This is clear from the fact that IIAs are not mentioned in the catalogue of European legal instruments in art. 249 TCE.

11 For an extensive list of possible legal effects see Synder 1996, p. 463 and Monar 1994.

12 This chronology follows Snyder 1996, pp. 454-458.

their constitutional basis, their limits or their legal implications still remain unclear and disputed. However, these disputes do not necessarily reflect a theoretical shortcoming. The legal uncertainty surrounding IIAs is due to the fact that IIAs themselves are located on the border between law and politics, between a legal obligation and a political declaration.

2. Parliamentarisation as Part of the EU's Constitutional Development

The process of parliamentarisation is an important feature of the larger debate on the evolution of the arrangements of collective problem-solving and transnational governance in the EU multi-level system. Only if we realize how the EU's institutional and decision-making system changes in general, can we understand how the empowerment of the EP occurred and which role IIAs play in this parliamentarisation process. Therefore we first introduce three different approaches to the constitutional development of the EU. We will show that the intergovenmentalist approach cannot sufficiently explain the parliamentarisation process. The neo-institutionalist and the structurationist perspectives of institutional change in the EU system are better for analysing and understanding the process. The structurationist perspective, in particular, offers a good framework for understanding the role IIAs play in the increase in power of the EP across policy fields, including CFSP.

2.1 The Intergovernmentalist Perspective

The EU's dynamic political system is subject to a permanent process of institutional change. The very system is structured by process - an ongoing oscillation between para-constitutional Treaty amendments and Treaty implementation. From the intergovernmentalist point of view, the evolution of the EU system takes place through the short phases of IGCs as "big bargain decisions"[13] while the processes between IGCs deserve little attention. From this perspective, the member states' governments are the dominant actors at the EU level – in daily politics as well as in treaty reform. At IGCs they make all the decisions on the reform of the institutional system on the basis of their fixed national interests. The "Chiefs of Government are at the heart of the EC".[14] Following the rationalist logic of consequence, supranational institutions have only been established and endowed with powers in order to help maximise the governments' national advantages, e.g. to resolve collective action problems and reduce transaction costs. However, the institutions remain at all times under the control of the member states. They simply implement the member states' decisions without having an autonomous reform agenda. The clearest expression of this is the fact that neither the Commission nor the Parliament has a say in the final decision on treaty revisions at IGCs. Given this lack of formal decision-making rights in the 'big' treaty revision procedures, advocates of intergovernementalism conclude that the direct influence of the EP on the shape of the EU institutional and decision-making system is at the most indirect and dependent on the member states' willingness to transfer power to the EP. The EP would be identified as an

13 Cf. Moravcsik 1993, 1995, 1997; Hurrell/Menon 1996; Moravcsik/Nicolaidis 1999.

14 Pierson 1998, p. 27.

actor able to steer political debates, to create tension in some parts of the agenda, to make issues public, but it is not a decision maker. According to this point of view, the influence of the EP appears to be rather limited and thus it cannot explain the increase in power of the EP.

2.2 The neo-institutionalist perspective

Neo-institutionalist explanations of institutional change of the EU systems challenge the view that member states' governments are the key actors that determine the constitutional development of the EU. Neo-institutionalists assert that a plurality of actors participate in the decision-making process of the EU. They acknowledge the role of autonomously acting supranational institutions that pursue their own reform agendas, as well as a dense cluster of governmental and non-governmental actors at all levels of the EU. At the core of their arguments is the claim that the scope for action of all these actors is defined by the institutions (informal and formal rules, procedures, or norms) in which the policy-making process is embedded. Moreover, the historical institutionalist view takes the time factor into consideration. Institutional change is a process unfolding over time. Restricting the analysis of institutional change of the EU to IGCs will only yield a snapshot of constitutional development. The model of 'path-dependency' of policy preferences, institutions and procedures, policy-outcomes and policy-instruments[15] suggests that in such an institutionalised arrangement like the EC/EU, "past lines of policy [will] condition subsequent policy by encouraging societal forces to organise along some lines rather than others, to adapt particular identities or to develop interests in policies that are costly to shift". [16] Once policy decisions have been made or institutions introduced, they will be difficult to reverse. This is due to the high barriers to reform (e.g. unanimity in treaty revision), the resistance of actors that were favoured by the decision/institution, and the high costs of change once actors start to adapt to the new policies or institutions. Hence, every introduction of new rules or procedures limits the direction that future changes can follow. It constrains the decision-making options for all actors and the institutional change will develop along certain paths. Only incremental changes will be possible within the limits of these paths.

Whereas the original treaties foresaw a restricted (clear) set of rules for each policy field, subsequent treaty amendments have led to a procedural differentiation with a variety of rule opportunities. As a result, the treaty provisions do not dictate a clear nomenclature of rules to be applied to specific sectors. Instead, since the SEA, member states and supranational institutions can, in an increasing number of policy fields, select whether a given piece of secondary legislation should be decided by unanimity, simple or qualified majority in the Council; according to the consultation, co-operation or (after Maastricht) the co-decision procedure; without any participation of the European Parliament. In other words, different procedural blueprints and interinstitutional codes compete for application and raise the potential for conflict between the actors involved. This growing variation of institutional and

15 Cf. Pierson 1998.

16 Hall/Taylor 1996, p. 941.

procedural rules reflects a mixed set of opportunity structures for access and participation in the EC/EU policy cycle.
Rules for decision preparation, decision-making, implementation and control differ both across the policy fields in which they are applied and in terms of the institutions and bodies involved. Furthermore, subsequent treaty reforms introduced new bodies such as the Committee of the Regions and the European Central Bank. These developments are an expression of the growth and differentiation of European integration. As stated above, these new or revised institutional and procedural arrangements do not operate in a political vacuum but in a closely connected system and balance of power in which the architects of the treaty have positioned them. Whenever institutions gain more autonomy, they do not use it in isolation but in a framework of established rules and centres of political power.
Therefore, this approach allows us to see the EP as an autonomous supranational actor that pursues its own reform agenda independently of member states' interests. Since its creation, the EP was able to use the constraints and opportunities arising from the mass of decision-making procedures and the multitude of actors in the EU's policy making process to subject more and more policy fields to parliamentary control and legislation.

2.3. The Structiorationist View: Valleys and Summits

Structurationist approaches to the evolution of the EU system[17] come to similar conclusions. Like historical instituionalists they focus on the *procedural nature* of EU system change. They claim that instead of the member states' interests, the process of treaty reform during which these are constructed must be analysed; "Political actors and social structures are conceived as co-constituting one another, and it is the focus on the interplay between these two factors that makes the process the object of analysis".[18] The EU's constitutional development is regarded as an *unceasing process of incremental change* since the very beginning of the EC with a yet open end. Following the notion of path dependency, the reform process is structured by pre-defined demands on the IGC, the convergence of beliefs about the outcome and the constraints and opportunities established by past choices. Proponents of this approach have described treaty reform as a series of summits – the IGCs – and valleys – the periods of treaty implementation between the summits.[19] ICGs are seen as high points in a lengthy process of treaty review, reform and revision. However, the momentuous developments of EU integration occur in between the summits, namely in the valleys. In the dense and pluralistic EU decision-making process, the introduction of new procedures or actors can have unintended consequences which where not predictable at the time when they were introduced. For example the content of the SEA and the internal market programme were influenced by previous events such as the Cassis de Dijon judgement of the European Court of Justice and the Commission's white paper on the internal market which already narrowed the options for change by identifying some reform proposals as per se

17 Cf. Christiansen/Jørgensen 1999.
18 Christiansen/Jørgensen 1999, p. 1.
19 Cf. Christiansen/Jørgensen 1999.

inappropriate.[20] Treaty reforms do thus not come out of the blue as a 'deus ex machina' from some distant masters but they are reactions to prior trends, for example IIAs. The reforms try to address institutional and procedural weaknesses identified during the implementation of previous provisions or to adapt the Union to new – external and/or internal – contexts. Looked at this way, system development takes place incrementally in a valley of day-to-day politics where reform is not simply a matter of bargaining on preferences among states. Incremental change suggests that treaty reform is subject to a wide range of actors[21] and to an unceasing process of discovering political preferences and 'problem solving' in an unstable setting. Member states identify their preferences not simply as a fixed set of demands, but their preferences are shaped during the process of Treaty implementation and Treaty reform. Governments therefore do not exert firm control over supranational institutions and the constitutional development, not even over day-to-day politics. They are but single players in a cluster of actors, each of which has an impact on the constitutional process and which are constrained by previous decisions and developments.[22] The EP, too, can be identified as an important actor able to influence the rolling agenda of the very process of system development.
Following this approach, although IGCs are the highlights of treaty reform, they are not the most critical events. They often "merely codify" key institutional features "which have already occurred [...] away from the 'intergovernmental' negotiating table, in the depths of the valleys in between" such as – and with this we are back to our original subject – the gradual "empowerment of the European Parliament"[23].

2.4 IIAs: Instruments to Beat Paths for Parliamentarisation in the Valleys up to IGC Summits

Where can we place IIAs along the valleys and summits of constitutional reform? Currently, IIAs are interpreted as pragmatic answers to interinstitutional tension "because they can be arrived at through ad-hoc interinstitutional negotiation […] avoiding the cumbersome procedure of treaty amendment."[24] From this interpretation we could conclude that IIAs matter insofar as they are instrumental in containing interinstitutional conflicts. The case of IIAs in CFSP – which will be analysed in detail below – lends at least partial support to this interpretation. The successful conclusion of IIAs seems to presuppose some kind of conflict or tension between the institutions. However, there is a need to go beyond this analysis. Following the structurationist approach, IIAs can be regarded as an important element that predetermines reform options *in the valleys between IGCs*. Indeed, many treaty provisions refer to procedures formerly decided upon in interinstitutional agreements.[25] The treaty only constitutes the formal framework for the EU's institutional system. IIAs are part of the informal interstitutional activity (customs, routines etc.) taking place outside the treaty

20 Ibid.
21 Cf. Skidmore/Hudson 1993.
22 Cf. Sverdrup 2000.
23 Christiansen/Jørgensen 1999, p. 17.
24 Monar 1997, p. 69. Italics in the original.
25 For an overviews see table 6 in Maurer/Wessels 2003, p.171.

revision process. It is not possible to understand the EU's institutional dynamics by looking only at the formal treaty provisions. Even though they are informal, arrangements like IIAs institutionalize and are able to modify the real institutional balance without formally changing the treaties.[26] Even if IIAs cannot amend the Treaties[27], in practice they can go far beyond what has been agreed under the Treaties. IIAs have sown "the seeds of future Treaty amendments".[28] Based on the assumption of path dependency, IIAs can be seen as rules or procedures that, once introduced, shape the realm for further developments by narrowing the scope for possible change and by indirectly obliging member states to think only of incremental revision of existing arrangements. IIAs create facts. They start off at the micro-level by introducing informal procedures making the co-operation of the main EU institutions more concrete. However, these procedures, once agreed upon, will not be reversed at some later point based on the resistance of actors who benefit from the IIA, the adaptation of actors to the provisions of the IIA and the high costs that interinstitutional conflict negotiation would involve. Every following IIA or treaty revision is likely to build on and go beyond the provisions of the existing IIA. Hence, IIAs create constraints but also opportunities for actors to advance their interests. They can introduce procedures that can have unanticipated consequences and lead to shifts in the institutional balance of power. Often provisions introduced in IIAs institutionalise and are at a later point integrated into the formal treaty provisions.

In our view the EP has used IIAs as instruments to strengthen its own position in the EU decision-making process.[29] Since the EP has no decision-making power at IGCs, it has deliberately used IIAs – and not just in the field of CFSP – to create irreversible facts, informally increase its power and precondition future treaty reforms at IGCs. The EP constantly links the conclusion of IIAs to the unfinished process of constitutionalisation.[30] Since Maastricht, the EP has been the main initiator of IIAs.[31] In sum, the EP tends to see IIAs as a means to improve its position in the institutional order. IIAs therefore do posses political aspects.

3. The Parliamentarisation of European Foreign Policy

In the following section we will give a short summary of the parliamentarisation process in the field of CFSP. How did the EP's supervisory and budgetary powers in European foreign policy grow over time? As already mentioned, it is especially interesting to examine this process in the intergovernmental second pillar of the EU, which, for advocates of intergovernmentalism, has always served as a major example of member states' dominance at the EU level. It is striking how even in this policy field the EP gained considerable

26 Cf. Stacey 2001.

27 Cf. Monar 1994, p. 719.

28 MEP Metten in: Official Jounal of the European Union Debates, 11.3.1993, p. 251.

29 Cf. for an early statement in this direction Waelbroeck/Waelbroeck 1988, p. 85.

30 For a clear expression of this finalité politique aspect see European Parliament 1994: Willockx report on the Incorporation of the Common foreign and security policy CFSP in the EC budget.

31 Cf. Hummer 2004, p. 133.

competencies going beyond the role foreseen for it in the treaties.

3.1. Towards a European Political Co-operation

Almost since its very foundation, the EU has had an external dimension. The Treaty of Rome (1957) granted to the then European Economic Community the exclusive competence for a common commercial policy (CCP). Because CCP was an unavoidable consequence of the common market, Community competencies were firmly grounded in the Treaties. By contrast, the first attempt to develop a "real" European foreign policy, the so-called European Political Co-operation (EPC), remained outside the European legal framework until the Single European Act (SEA) was adopted in 1986. The integration of the EPC in the legal European Framework marked a step forward in the direction of more competencies of the EP in European foreign policy. But as the EPC rested on an intergovernmental structure, concrete and tangible rights for the EP remained fairly elusive. Article 30 IV SEA only obliged the member states to ensure that the European Parliament was closely associated with EPC and that its views on EPC matters were duly taken into consideration. It did not, however, specify how this was to be accomplished.

3.2. The Maastricht Treaty

The constitutional set-up of European foreign policy was revised during the Maastricht IGC from1991 to 1993. Foreign policy issues were put onto the IGC agenda at the special request of France and Germany. The resulting treaty codified the EPC and the newly created security policy, under the label of Common Foreign and Security Policy (CFSP), as the second pillar of the EU. The European Parliament obtained the right to ask questions, to put forward recommendations to the Council and to be "regularly" informed by the Council presidency. In addition, the Commission, too, had to inform Parliament about the progress made in CFSP. It was, however, how regularly the information should be provided was open to differing interpretations. Also, the European Parliament's right to be consulted was limited to the "main aspects" and "basic choices" of CFSP (ex-article J.7 TEU), with the Council presidency alone deciding on the scale, content and timing of the information provided. Despite the new competencies, progress was modest at best. The scrutiny rights of Parliament continued to be severely limited since its general participation in CFSP activities was not specified in the Treaty provisions.

Consequently, Parliament's active participation in shaping the substance of CFSP still depended entirely on the political willingness of the member states' governments. The Council's reports to the EP were not considered to be sufficient and were even characterised as "totally unsuited to serving as a basis for a foreign policy dialogue between Council and Parliament".[32] But the EP later generated its own sources of information, through e.g. the

32 European Parliament 2003: Brok report on the annual report from the Council to the EP on the main aspects and basic choices of CFSP, including the financial implications for the general budget of the European Communities – 2002, p.7, quoted in Diedrichs 2004, p.35.

meanwhile regular hearings of the High Representative for CFSP, the Commissioner for External Relations and the Presidency of the European Council in the EP and its Committee on Foreign Affairs. These are rather positive trends which show that the EP – where many debates take place in the field of CFSP - is taken seriously.[33]
Equally important, the Treaty of Maastricht opened a new battlefield by raising the issue of financing European foreign policy actions, thereby introducing, at least in principle, foreign policy issues into the core of parliamentary competencies, namely the budget. The EP's budgetary powers concerning CFSP are its "hardest" competencies in the entire foreign policy field.[34] Central to the financing of CFSP is the distinction introduced in ex-Article J.11 TEU between administrative and operational expenditures for the implementation of the CFSP. Administrative expenditures are always charged to the Community budget. Operational expenditures are charged to the Community budget and therefore subject to the normal budgetary procedure except in cases where operations have military and defence implications or where the Council decides unanimously to charge the costs directly to the member states (ex-Article J.11.II TEU). It is difficult to see where to draw the line between administrative and operational expenditures. Also, some member states also preferred a broad interpretation of the term administrative expenditure in order to avoid high national costs for CFSP operations. Moreover, although administrative expenditures are charged to the Community budget, they are not subject to the ordinary Community budgetary procedure, as is the case with operational expenditures. Some member states considered CFSP administrative expenditures to be part of the Council's own administrative expenditures over which, by virtue of a Gentlemen's Agreement between the Council and the Parliament, the European Parliament does not exercise control. In sum, the Maastricht provisions on the financing of CFSP obviously served the purpose to minimise parliamentary control over CFSP matters rather than to allow for democratic control over European foreign policy funds.
Like other treaties before and after it, the Maastricht Treaty left the EC institutions with a wide range of questions, particularly regarding their roles and powers in the European policy-making process. A number of IIAs concluded since October 1993 were a pragmatic answer to ease tension and resolve conflicts between the European Parliament on the one hand and the Council and the Commission on the other. However, the proposals of the EP (submitted in December 1993) for three additional IIAs on, inter alia, the implementation of CFSP, failed. In fact, in February 1994, the Council informed the EP that it did not wish to enter into negotiations on the EP's draft IIAs.[35]

3.3. The Treaties of Amsterdam and Nice

The Treaty revisions following the Maasricht Treaty did not expand the powers of the EP regarding CFSP.[36] This is especially striking considering the dynamic evolution of EPC/CFSP

33 Cf. Laschet 2002, p. 4.
34 Cf. Diedrichs 2004, p. 38.
35 Cf. Monar 1994, pp. 716-717; Maurer 1996; Maurer 1999.
36 Cf. Diedrichs 2004, p. 32.

during the same period, the shortcomings pointed to above, and the EP's general increase in legislative and supervisory competencies in most policy fields since 1993. However, "real" progress in the parliamentarisation of CFSP can only be correctly assessed if informal mechanisms like the IIAs on the financing of CFSP are taken into account.

3.3.1. The Amsterdam IIA in CFSP

The interinstitutional trialogue was reopened during the 1996/1997 IGC. The conclusion of Amsterdam Treaty was directly linked to the conclusion of an IIA on the financing of CFSP.

The interinstitutional agreement consists of three core features concerning budgetary rights. First, it states unmistakably that CFSP expenditures shall be treated as non-compulsory expenditures, thus granting the EP the final say over CFSP expenditures charged to the Community budget. Second, within the CFSP budget chapter, it proposes six concrete budgetary lines – observation and organisation of elections, EU envoys, conflict prevention, financial assistance to disarmament processes, contributions to international conferences, and finally urgent actions – into which expenditures resulting from CFSP action must be entered. Third, it makes clear that no operational CFSP expenditures shall be entered into a reserve, thereby excluding a parliamentary rejection of a proposed reserve transfer. However, the Commission's right to make credit transfers between articles within the CFSP chapter is reasserted. Another main achievement of the IIA is the extension of the normal concertation procedure[37] to CFSP for cases where the EP and the Council cannot immediately reach an agreement on the total amount of CFSP expenditures and on the allocation to the different budgetary items.[38]

However, the agreement goes beyond the financial competencies of Parliament. It links the budgetary issue to the EP's ex-ante-consultation and ex-post-information rights. The treaty provisions regarding informing the EP in CFSP matters are reaffirmed and new obligations for both the Council and the Commission introduced. The agreement establishes a formal consultation procedure with Parliament about the main aspects of CFSP. It requires the Council to consult with the EP yearly on the main aspects of CSFP, including the financial implications for the Communities' budget. According to the agreement, the Council shall, each time it adopts a decision in the field of CFSP entailing expenses, immediately communicate to the EP a detailed estimate of the costs envisaged in form of a "fiche financière". Finally, it requires the Commission to inform Parliament on a at least quarterly basis of the implementation of the CFSP and to provide financial forecasts for the remaining period. [39]

On the basis of the preliminary draft budget established by the Commission (which therefore keeps the right of initiative in the case of the CFSP budget), the two branches of the budgetary authority need to agree on the total amount to be spent on CFSP activities as well as the allocation of the amount among the respective sections of the CSFP budget chapter. EP powers come to the fore if the Council and EP cannot reach an agreement on the amount to be

37 Cf. IIA 1993 on budgetary discipline and improvement of the budgetary procedure.

38 Cf. IIA 1997 on provisions regarding financing of the Common Foreign and Security Policy.

39 Ibid.

spend on CFSP. If this is the case, the above mentioned concertation procedure shall be set up. If, however, a consensus can still not be found, an amount similar to the prior year's expenditures shall be fixed. The Council is thus prevented from acting alone. As with the co-decision procedure, Parliament's consent is necessary. If a budget is agreed upon but becomes insufficient during a financial year, the EP and the Council together have to find a solution – based on a proposal of the Commission. Here again the EP's consent for further financial planning is necessary. IIAs have thus proven instrumental in strengthening the EP's role in CFSP. By deciding on the total amount of the budget and on allocation within the chapter the EP substantially participates in the active and policy-making in the field of CFSP.
Overall, the 1997 IIA sensibly extends the EP's information and consultation rights in the field, confirms its budgetary powers and introduces concrete budgetary procedures that provide for planning reliability for both the EP and the Council. In light of this IIA, it is certainly correct to say that the treaty provisions give only "a very incomplete picture of the role of Parliament in contributing to budgetary policy."[40]
In May 1999 the short text of the 1997 IIA was integrated into the comprehensive new IIA on budgetary discipline and improvement of the budgetary procedure for reasons of transparency and coherence, which Parliament approved together with the text of the IIA for the financial perspective for the period 2000-2006.[41].

3.3.2. Post-Amsterdam Developments in CFSP

The recent IIA on the "mobilisation of the flexibility instrument in favour of the rehabilitation and reconstruction of Iraq" of December 2003 was another CFSP-IIA and is based on the EU's commitment to play an important role, within the framework of UN Security Council resolutions, in the international effort to reconstruct Iraq. Both the Council and the EP welcomed the communication of the Commission proposing an EU approach to the reconstruction of Iraq.
From the EP's perspective, the Draft Constitutional Treaty (DCT) does bring some preferable changes to CFSP. The new Foreign Minister, for example, will have to consult and inform the EP on the main aspects and basic choices of CFSP (as well as ESDP) and he can only be appointed with the approval of the EP. In this second matter, it should be recalled that the European Parliaments's rules of procedure do provide for the individualized appointment of all Commissioners and that it will also be applied to the new Foreign Minister in his function as Vice-president of the Commission. Besides these changes, their was not political will at the IGC on the Constitutional Treaty to endorse the process of parliamentarisation of CFSP, since the formulations used in art. I-39 § 6 and I-40 § 8 DCT are similar to the provisions of the existing treaty. [42] There is, however, one small improvement. Instead of once a year, as laid down in the treaty of Nice, the EP shall in future hold a debate twice a year on the implementation of CFSP. This qualification decreases the gap between treaty provisions and reality since the EP in daily politics is much more active with regard to CFSP.

40 Corbett et al 2003, p. 217.

41 IIA 1999 on budgetary discipline and improvement of the budgetary procedure.

42 Cf. Diedrichs 2004.

4. Interaction of Formal and Informal Arenas of Treaty Revision

The historical overview reveals a certain tension between the formal Treaty revision procedure and the informal mechanism of treaty revision. In IGCs, governments were often reluctant to increase parliamentary rights in CFSP, leaving the EP frustrated with the outcomes of Treaty negotiations. By contrast, informal mechanisms like IIAs tend to increase parliamentary competencies. This section tries to shed some light on this tension by analysing in depth the process that led to the 1997 agreement. The conclusion of the IIA on financing the CFSP offers a good example of how different arenas of treaty development can interact, since its conclusion was not only linked to the IGC but its key provisions are diametrically opposed to the first IGC drafts.

4.1 The Background: The First CFSP Actions

During the first year after the ratification of the Maastricht treaty the EP concentrated only on strengthening its consultation and information rights in CFSP. Its negotiations with the Council on an interinstitutional agreement on the implementation of CFSP – which failed in Spring 1994 – did not cover financial issues at all. The implementation of the first CFSP joint actions however brought to light the problems generated by the Maastricht treaty provisions on financing CFSP, which gave rise to considerable institutional tension between the two arms of the budgetary authority. This in turn severely decreased the efficiency of the first European actions under CSFP.[43] At first many member states were in favour of financing actions through national funds. They were reluctant to use the community budget for CFSP actions in order to prevent a "communitarization of intergovernmental action through the back door"[44] since CFSP expenditures were non-compulsory expenditures over which the EP had the final say. The first actions however showed, that most member states did not even come close to fulfilling their financial obligations due to tight national budgets which severely hampered the implementation of actions. It became clear that their was no alternative to the use of EC funds. The Council again, however, tried to circumvent Parliament by declaring huge sums – which in part were obviously operational costs – as its own administrative expenditures which is, as already mentioned above, not subject to parliamentary scrutiny. In many cases the Council also urged the Commission to transfer funds from other budget articles, a process which did not need parliamentary consent in contrast to transfers between budget chapters and titles.

The EP, which in general was in favour of developing the CFSP and spending large amounts on CFSP actions, was "outraged" about the decisions of the Council. In late 1994, its Budget Committee issued a report on CFSP financing. It highlighted the tension created by the "constitutional oddity"[45] of the treaty provisions for CFSP, namely the division of

43 Cf. for a detailed account of CFSP implementation difficulties Monar 1997.

44 Ibid., p. 57.

45 Ibid., p. 59.

competencies regarding on the one hand the definition of CFSP contents which lies with the Council and on the other hand the budgetary competence in this field which is divided between the EP and the Council.[46] The report took the view that the definition of administrative and operational expenditures had an overarching importance and that every arbitrary division was to be considered as a unilateral breach of the aforementioned Gentlemen's Agreement. It proposed to restrict administrative expenditures falling under the Gentlemen's Agreement to expenditures prior to the adoption of a joint action in the Council, whereas administrative expenditures after a Council decision should be charged to the Commission's administrative budget. In addition, operational expenditures should generally be financed out of the Commission's operational appropriations. Finally, the report proposed a reserve out of which measures agreed upon during the budgetary year should be financed: in this case, the Council would have to request a transfer of appropriations, subject to the ordinary budgetary procedure. Thus, the report attempted to enhance the Commission's role in implementing the CFSP and to strengthen parliamentary control over the use of funds.

This report was a clear signal to the Council that the EP would terminate the Gentlemen's Agreement not to interfere with the Council's administrative costs if the Council continued to finance CFSP actions through its administrative budget. It put severe pressure on the Council for more co-operation. Moreover, after negotiations on an interinstitutional agreement on the funding of CFSP actions had failed in 1995, the EP in the 1996 budget largely reduced the expenditures for CFSP actions in former Yugoslavia, but increased the funds for the Community co-operation with Yugoslavia over which is had more control.[47] Against this background and as foreseen by the 1993 IIA on the improvement of budgetary discipline, Treaty provisions concerning the budgetary procedure were reconsidered during the IGC leading to the Treaty of Amsterdam.[48]

4.2 The EP's Position at the Amsterdam IGC

In light of these interinstitutional tensions, the Parliament had critised the implementation of CFSP joint actions at several occasions in the period between the introduction of CFSP to the EU Treaty and the ICG in 1996/1997. Regarding the funding, it had complained that there was no clear structure for the costing of actions, which made an effective comparison of actions in financial terms impossible. Moreover, the Council had neither defined the objectives of joint actions in a transparent and operational way nor informed the EP about detailed costs.[49] In all EP documents, the prevailing belief is that according to "the principles of parliamentary democracy, which are amongst the most fundamental values of the EU",

46 Cf. European Parliament 1994: Willockx report on the Incorporation of the Common foreign and security policy CFSP in the EC budget; 1994a.

47 Cf. Monar 1997, p. 70.

48 Cf. IIA 1993 on budgetary discipline and improvement of the budgetary procedure.

49 Cf. European Parliament 1997.

only the EP's participation supplies European foreign policy with sufficient democratic legitimisation.[50]

In the run-up to the IGC, the EP formulated its critique in the field of CFSP first along the lines of budgetary rights and then based it on information and consultation rights. It should be mentioned, however, that these were of course only two issues out of many. While topics such as the introduction of a High Representative for CFSP dominated the majority of discussions at the IGC itself, information and budgetary rights of the EP were dealt with in informal side arenas.

The EP repeated its longstanding general demand to abolish the distinction between compulsory (CE) and non-compulsory expenditures (NCE).[51] This has remained a major demand of the EP because the EP only exercises its budgetary authority over NCE. In case of CE, defined as the expenditures directly based on treaty provisions – which is a purely political distinction – the Council has the last say on the final amounts. Concerning CFSP in particular, a more transparent and detailed way of financing joint actions was demanded.[52]

As far information rights in the second pillar are concerned, the EP demanded – as it had repeatedly done when trying to set up interinstitutional agreements with the Council that failed in 1993 and 1995 – to be both better and more quickly informed on the basis of the Maastricht provisions on the EP's consultation rights, which had not yet been implemented. It regretted especially that the Council did not issue a yearly written report on the implementation of CFSP, which the EP could have used as the basis for its annual foreign policy debate (Article J.7 TEU).[53] The EP even wanted to see its role strengthened by making parliamentary hearings mandatory before the adoption of a common position or strategy.[54]

The first yearly report of the EP's Committee on Foreign Affairs on the progress in the field of CFSP (Matutes Report) brought the two issues of financing and information rights together and proposed to settle them together in an IIA. It did however not link the demand for an IIA to the IGC.[55]

Altogether three points are evident: First, since 1993 the EP openly favoured and repeatedly demanded the conclusion of an IIA on financial, implementation and information issues related to CFSP, which was turned down by the Council several times. Second, the EP did by no means want to obstruct progress in the field of CFSP. To the contrary, it was in favour of committing larger sums of money to the implementation of CFSP action than the Council. It, however, wanted to retain its input into the financing and political scrutiny of the contents of actions in order to ensure a democratic and efficient decision-making and implementation process in CFSP.

50 European Parliament 1995, point 3. See also European Parliament 1995a.

51 Cf. European Parliament 1995a.

52 Cf. European Parliament 1995.

53 Ibid.

54 Cf. European Parliament 1995a.

55 Cf. European Parliament 1995.

4.3 The Council's and the Presidency's Positions at the IGC

Not surprisingly, the Council's Report on the functioning of the Treaty on European Union of April 1995 was more critical towards delegating more competencies, be it budgetary or information rights, to Parliament. It stated, that the "experience gained in the area of CFSP financing shows up the discrepancy between the European Parliament's powers of political control and its budgetary power as the Parliament tries to increase its involvement in CFSP by exercising its budgetary powers." Therefore most documents set forth by the presidencies declared that the member states generally wished to "maintain the existing balance between the Council and Parliament in CFSP matters".
Regarding the financing issues, a majority of member states during the negotiation phase of the IGC - with the notable exception of the UK and France – wanted to finance CFSP actions through the Community budget to avoid national costs.[56] However, member states were in favour of changing the nature of CFSP expenditures by considering it as compulsory, which would give the Council the final say. The classification of CFSP expenditures as compulsory would not only deprive the EP of its budgetary power but also runs completely contrary to the EP's long established demand to generally abolish the distinction between NCE and CE! Proposals by the Irish and Italian presidency included amendments of the then article J.11 TEU which declared that operational CFSP expenditures were directly „arising from the legislation specified in the treaty", in other words compulsory.[57] This must be interpreted against the background of the "tortuous experience" of financing the first CFSP actions as described above.[58] The declaration of CFSP expenditures as compulsory would have given the Council the final say about the funds. Hence, the funds would have been quickly available, national costs avoided, and the EP 'legally' excluded from decision-making. This rationale was clearly set out in the several documents of the Council presidencies during the IGC which set forth that because CFSP expenses were currently classified as non-compulsory, the EP has the final say in budget matters and can therefore acquire significant participation in the political decision-making.[59] Despite strong criticism by the EP, which considered the amendment as hostile to its interests and contradictory to the treaty,[60] the proposal was included in the Draft submitted by the Dutch Presidency in March 1997.[61]

4.4 The Final Deal

A communication of the EP's representatives at the IGC of May 1997 explains that the EP wanted to conclude an IIA on the financing of CFSP in order to avoid the classification of CFSP expenditure as compulsory.[62] The President of the EP, José María Gil Roble harshly

56 Cf. European Parliament 1995b.
57 Cf. Document CONF/2500/96 and 38/60/1996 IGC 1996/1997.
58 Cf. Monar 1997, p. 76.
59 Cf. Document CONF/3826/96 ICC 1996/1997.
60 Cf. European Parliament 1997.
61 Cf. Document CONF 3889/97 IGC 1996/1997.
62 Cf. Document CONF /3885/97 IGC 1996/1997.

criticised the proposals of the Council presidencies to classify CFSP expenditure as compulsory and declared at the IGC that the EP would under no circumstances accept such a rule.[63] Following this, informal negotiations started on the IIA to solve the issue of financing CFSP outside of the formal IGC arena. The EP reached an agreement with the member states that linked the non-revision of expenditure classification (NCE or CE) to the conclusion of an IIA on financing CFSP directly after the IGC. At large, the IIA represents a compromise between EP's interest not to see the classification of expenditure in the field of CFSP revised at the IGC and the member states' interest to keep the responsibility for the substance of CFSP and budgetary powers of the EP separated, in other words not to grant the EP substantial political rights that go beyond information even though the EP possesses the budgetary right.[64]

All in all, the IIA clearly strengthened the role of the EP in the field of CFSP. Why did the Council agree to an IIA this time? This question needs to be examined in detail.

First, when the Council declined the EP's previous offers for an IIA, it was still hoping to finance CFSP actions through national budgets or by circumventing the EP as set out above. The experiences with the implementation of CFSP actions however soon showed that they needed to be financed through the EC budget. Circumventing Parliament, as the Council did in the beginning, was not a permanent option either since it lead to inter-institutional conflict that extended beyond CFSP. The EP had used various ways of putting pressure on the Council via its general budgetary rights. Foreign policy actions needed to be implemented immediately once agreed upon. Any delay caused serious harm to situations such as in former Yugoslavia. Therefore the quarrel on financing between member states and between Council and Parliament needed to be kept at a minimum. The financing of actions through the regular budgetary procedure and co-operating with Parliament gave the Council the planning reliability which is especially necessary in short notice matters such as CFSP actions. It can therefore be assumed that the Council made the concessions in order to ensure planning reliability and enhance the efficient implementation of CFSP actions.

Here, the fact should not be overlooked that because of the IIA, the EP lost the right to introduce a special CFSP reserve to the budget, to which it could allocate bigger sums than to the actual CFSP budget. For each transfer out of this reserve to finance CFSP actions the Council would need the EP's approval, which would obviously create interinstitutional tension. This provision of the IIA hence constitutes a loss in influence for the EP and provides the Council with much more planning reliability. It clearly shows that the IIA did not one-sidedly advantage the EP. Furthermore, the IIA did not go beyond ex-post information rights for the EP. It does not allow for an *a priori* consultation before the decision on common strategies. This would have been completely unacceptable for member states such as the UK.

The second point is that even though the EP did not have the formal means to keep member states from declaring CFSP expenditures as compulsory at the IGC and thereby solving all

63 Cf. European Parliament 1997a.

64 Cf. European Parliament 1997: Explanatory statement of the Samland Report on the Proposal for an Interinstitutional Agreement between the European Parliament, the Council and the European Commission on provisions regarding the financing of the Common Foreign and Security Policy.

problems related to the financing, the Parliament can always put pressure onto the Council through its general budgetary rights. It can simply reduce appropriations for budgetary lines that are very important to the Council even if not related to CFSP, it can oppose the transfer between budget titles during the financial year and it can in the worst case scenario refuse to agree to the annual budget. The EP has never hesitated to use its budgetary powers to informally push for concessions. It is therefore not surprising that the issue of financing CFSP actions and information rights for the EP were dealt with outside the formal IGC arena. Of course such behaviour by the EP can severely obstruct the implementation of policies, which is by no means the goal or intention of the EP. However, as Farrell and Héritier propose, the EP's bargaining power in negotiations with the Council is enhanced for several reasons.[65] The EP is likely to use this power by threatening non-co-operation and delaying the budget or legislation in order to put pressure onto the Council and push for concessions. The EP has shown that it is "willing to lose in the short term" by e.g. obstructing legislation "in return for (constitutional) reforms that guarantee its interests in the longer term".[66] This background sheds at least some light on the motivations behind the Council's agreement to the IIA in 1997.

5. Conclusions and Suggestions for Further Research

At the beginning of this paper we outlined the major approaches that try to explain the change in the EU's institutional set-up. We showed that the intergovernmental reasoning offers only limited explanations for the parliamentarisation process which is main feature of the constitutional development. Neo-institutionalist and structurationist explanations of how the EU's institutional systems changes are better suited for this purpose. They see the EP as an autonomous supranational actor which pursues its own reform agenda and has various means of impacting the reform process, especially in the informal arena. On the basis of these approaches we can interpret parliamenarisation as an incremental long-term process. Reform takes place not so much at IGCs but in the treaty implementation periods in between the big treaty revisions. The decisions taken at IGCs often only formalise the results of processes and procedures that have been established in daily politics when the treaties are applied at the micro level. Treaty reforms hence 'mirror' developments which are often already being practised in the informal arenas or at least take practised procedures and processes as a starting point. We identified IIAs as examples of such informal rules or procedures that are established in between formal treaty reforms at the micro level and which incrementally change the institutional set up of the EU. It was our main hypothesis that the EP in particular uses IIAs as instruments to increase its powers vis-a-vis the Council and the Commission. To find evidence for this hypothesis we turned our attention to the intergovernmental field of CFSP. The case study of the parliamentarisation process in CFSP and the overview of the negotiation process for the 1997 IIA in CFSP allow us to draw some tentative conclusions

65 Farrell/Héritier 2003, p. 594. The EP e.g. has a longer time frame than the Council due to the rotating presidencies which seek to see a progress during their short periods in office and the EP not as sensitive to failure since the governments in the Council are immediately evaluated in their home countries regarding the progress in policy fields that are crucial to them.

66 Hix 2002, p. 271.

concerning the role of IIAs in the process of parliamentarisation in particular and in the constitutional development in general.

On the most general level, the example of CFSP broadly confirms the view that IIAs are instrumental in strengthening parliamentary competencies. As we predicted, the EP managed to confirm its budgetary control and push for a more transparent financing of CFSP actions through the Community budget. It increased its information and consultation rights, which were very vague in the Treaty provisions and never entirely implemented by the Council. It made them more tangible and concrete and allowed for complete implementation. With e.g. the introduction of the fiche financiere and the conciliation procedure it clearly goes beyond the treaty provisions.

In line with the argument that the EP deliberately uses IIAs as an instrument to strengthen its position, we saw that the EP clearly takes the role of an agenda setter in the negotiation of IIAs in CFSP. Parliamentary actors were at all times in favour of settling the budgetary issue by the means of an IIA. This active role contrasts with the EP's formal non-role at the IGC. The informal arena tends seemingly to offer a favourable environment for the realisation of EP demands.

The example of the 1997 IIA lends some support to the concept of rule-specification. [67] As treaty provisions result from interstate bargaining processes, their wording is often ambiguous and, hence, leaves room for different and sometimes not easily reconcilable interpretations. The hypothesis of rule-specification says that the EP is able to exploit vague treaty wording to propose interpretations that strengthen parliamentary competencies.[68] The 1997 IIA in CFSP can be interpreted as an attempt to translate the vague Treaty description of the EP's information and consultation rights in CFSP into practise in order to attain more influence on the content of CFSP actions. It is possible that at a later point the procedures agreed upon in the IIA will be included in the treaty. We already saw a careful step towards a stronger formalisation of the EP's informally extensive information rights by the provisions of the DCT which now forsees a parliamentary debate on CFSP every six months. Accordingly, it is very likely that on this basis the EP will ask the Council to deliver in future two annual progress reports instead of only one. In general terms, IIAs make parliamentary rights more tangible, often by institutionalising specific consultation or information procedures, and thus reduce discretionary powers of the Council or the Commission.

Nevertheless, it should be noted, that the EP's calls for an IIA remained unanswered for a long time. As early as 1993, the EP advocated the conclusion of an IIA and forwarded a draft IIA to the Council, but in early 1994 the Council turned down the EP's demand.[69] Quite surprisingly, the draft IIA did not refer to budgetary matters, but focused exclusively on information rights.[70] This example warns not only against generally overstating parliamentary bargaining power in the informal arena, but suggests that the successful conclusion of IIAs depends on a number of factors, most importantly the shared perception of interinstitutional

67 This mechanism was first identified by Simon Hix 2002.

68 Ibid.

69 Cf. the European Parliament 1993.: Roumeliotis report of the Committee on Institutional Affairs on the conclusion and adaptation of interinstitutional agreements.

70 Cf. Monar 1997, p. 61.

conflict. We showed that the IIA did not one-sidedly advantage the EP or that the EP threatened the Council into the agreement by using its general budgetary powers. The Council itself its own reasons for entering into the agreement such as the planning reliability for common actions.

Furthermore, we showed that in line with the notion of path dependancy, intinstitutional negotiations do not take place on an institutional or political "tabula rasa." The final 1997 IIA goes back to at least two draft IIAs that were rejected by the Council, many critical reports of the EP repeating reform proposals, and reflect the problems of implementing the first CFSP actions. The IIA was also not restricted to institutional experiences made in CFSP, e.g. it introduced the well-established conciliation procedure to CFSP. The trade-off between the in beginning diametrically opposed positions of the EP and the member states to the first IGC drafts shows how existing practises and power constellations narrowed down the options for change. Both the member states demand to classify CFSP costs as compulsory expenditures and the EPs demand for *a priori* consultation on every decision taken in CFSP were not within the range of possible options. There is a clear path towards slowly increasing parliamentary information in the sensible field of CFSP without however offering the EP the same influence as in the first pillar.

In total, we can say that the IIAs in CFSP have acknowledged and even increased the political role of the EP in the EU's policy-making process. However, parliamentarisation, understood as the ongoing process of increasing parliamentary competencies, remains an under-researched field. Taking the example of European foreign policy, this essay has tried to link the wider phenomenon of parliamentarisation to the increasing importance of IIAs. Often seen only as pragmatic answers to interinstitutional conflicts, we argued that IIAs possess non-pragmatic aspects and that further research is needed to capture their importance for the EU's constitutional development and, more specifically, for the process of parliamentarisation. The IIAs on CFSP offer a finite but sufficient amount of observable data that can be easily accessed and be used to test competing theories of parliamentarisation.

In order to reach a broad understanding of the most important aspects of IIAs the next step on the theoretical level would be to develop a more rigorous model of IIAs. Competing theories of European integration as intergovernmentalism, functionalism, or structuration theory could be used to develop more specific and competing hypotheses on IIAs that can be more easily subject to empirical testing. The present essay suggests that relevant research questions open to theoretical modelling include, inter alia, the interaction of constitutional and infra-constitutional arenas of treaty development and differences in bargaining power. More research is needed also on failed IIAs. Under what circumstances does the EP succeed in proposing and agreeing on an IIA?[71] Based on our example, the shared perception of institutional conflict seems to be a necessary condition for the successful negotiation of an IIA.

71 Methodologically speaking, it is necessary to let the dependant variable (conclusion of IIA) vary.

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