

The EU's multilevel parliamentary (battle)field: Inter-parliamentary cooperation and conflict in the area of foreign and security policy

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The EU's Multilevel Parliamentary (Battle)Field: Inter-parliamentary Cooperation and Conflict in Foreign and Security Policy

ANNA HERRANZ-SURRALLÉS

The Treaty of Lisbon has been dubbed 'the Treaty of Parliaments', as it upgraded the position of both the European Parliament and of national parliaments within the institutional system of the EU. However, the implementation of the new Treaty also brought to the surface the uneasy relationship between the European and national parliamentary spheres in a number of domains. Drawing on the notion of 'parliamentary field', this article accounts for this growing divide by highlighting the competitive dynamics that may emerge from a mismatch between formal constitutional authority and the actual parliamentary capital that parliaments enjoy. The article examines this proposition within the domain of foreign and security policy, where the process of establishing a new inter-parliamentary mechanism for scrutinising policy has placed the European Parliament and the national parliaments visibly at odds.

The Treaty of Lisbon has often been celebrated as 'the Treaty of Parliaments' (Brok and Selymar 2008), as it strengthened the parliamentary dimension of the EU by increasing the powers of both the European Parliament (EP) and national parliaments (NPs). The EP certainly experienced a significant increase in its competence under the last Treaty reform, particularly in terms of its legislative, budgetary, and treaty-making powers. The role of the NPs, in turn, also became more visible: symbolically, through the inclusion of an article on their central role within EU integration (Article 12) in the main body of the Treaty on European Union (TEU); and more practically, through the Early Warning Mechanism for the control of subsidiarity (Protocol 2). At the same time, the Treaty of Lisbon also aimed to boost cooperation among the NPs and between them and the EP (Articles 12f TEU and 9–10 of Protocol 1). These new 'parliament-friendly provisions' (Kiiver 2009) at the national, supranational, and transnational levels convey the emergence of what Crum

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and Fossum (2009) have described as a *multilevel parliamentary field*. According to this notion, the political representation of European citizens can today be conceived of as operating simultaneously at different parliamentary levels, having no clear relation of hierarchy but linked to each other by a sense of common responsibility, shared norms, and a certain density of interaction (Crum and Fossum 2009: 259ff).

However, in contrast to this idea of smooth communication and sense of common purpose across parliamentary levels, the implementation of the Treaty of Lisbon has also brought to the surface the uneasy relationship between the EP and the NPs in a number of domains. One of the most glaring examples of this dynamic is in the field of foreign and security policy, where the process of establishing a new inter-parliamentary mechanism, as mandated by the Treaty of Lisbon, has put the EP and NPs visibly at odds. As shown later in this article, inter-parliamentary relations within this policy area have evolved in a paradoxical manner over the last decade. That is, while the foreign and security policy of the EU has experienced rapid development, inter-parliamentary relations have not intensified but, on the contrary, have become less structured and more strained.

Scholars have attributed the source of growing inter-parliamentary conflict mainly to differences over the meaning of parliamentary accountability (Wouters and Raube 2012) or the delimitation of the Common Foreign and Security Policy (CFSP) (Caballero-Bourdout 2011). However, this article argues that this case embodies more fundamental issues of representation, sovereignty, and democracy, with implications beyond the CFSP. By focusing on the evolution of inter-parliamentary relations in the field of foreign and security policy from the early 2000s, the article develops concurrent theories of parliamentarisation to account for the emergence of competitive dynamics between the EP and the NPs. Specifically, it posits that imbalances between formal constitutional authority and the actual parliamentary capital that parliaments enjoy in a given field will tend to generate conflict over authority between parliamentary levels, thus disrupting inter-parliamentary cooperation.

The article presents this argument in five sections. The first describes more fully the empirical and theoretical puzzle of waning inter-parliamentary cooperation. The second presents an account of when and why we may expect patterns of competition rather than cooperation between NPs and the EP. The third and fourth sections comprise the main body of analysis, assessing the plausibility of the proposition advanced in this article. The final section concludes by summarising the findings and reflecting on the implications of the dispute over parliamentary control of the CFSP for the broader question of the role of parliaments and inter-parliamentary cooperation in the EU.

The Puzzle of Waning Inter-parliamentary Cooperation

The relevant literature often portrays inter-parliamentary cooperation as beneficial. From a rationalist point of view, inter-parliamentary cooperation is

considered one of the mechanisms at the disposal of parliaments for reinforcing their capacity to hold governments to account. Specifically, regular transnational contacts between parliamentarians may help reduce informational asymmetries vis-à-vis their respective executives, provide specialised knowledge, and facilitate their policy formulation (Neunreither 1994; Raunio 2000). From a normative perspective, one can also view inter-parliamentary cooperation as an end in itself, a way of promoting transnational instead of particularistic interests, generating mutual understanding among legislators, and fostering transnational public debate (Kraft-Kasack 2008; Wagner 2013: 196). Moreover, in the context of the EU, scholars have considered close contact between parliaments of different nationalities and levels as natural and desirable, given the composite and multi-level character of the polity, where establishing a clear-cut division of competences and lines of democratic representation is often difficult (Crum and Fossum 2009).

Inter-parliamentary cooperation is thus seen as providing added value, particularly in those areas of EU activity that retain a marked intergovernmental component, and where both the NPs and the EP are most likely to encounter difficulties in exercising their scrutiny functions. Thus, it is usual to view inter-parliamentary cooperation as one of the remedies for alleviating claims of a democratic deficit in areas such as foreign policy and security (Wouters and Raube 2012), certain aspects of justice and home affairs (European Commission 2010), economic governance (Foreign Ministers of Austria *et al.* 2012: 2), or in matters governed by the Open Method of Coordination (Tsakatika 2007). However, the potential for inter-parliamentary cooperation in these areas remains either untapped or problematic.

The CFSP is an area that nicely illustrates these difficulties. Here, inter-parliamentary cooperation has evolved in a paradoxical manner. The first unexpected evolution concerns the substantial weakening of the mechanisms of inter-parliamentary cooperation in matters of security and defence since the Parliamentary Assembly of the Western European Union (WEU) was dissolved in June 2011. Instituted by the Modified Brussels Treaty in 1954, the WEU Assembly had been endowed with relatively strong control powers vis-à-vis the WEU Council (Marschall 2008: 118–19). The Assembly was organised transnationally, not only in committees but also in political groups, and a permanent secretariat in Paris supported its functioning. Despite intense discussions from the early 2000s on how to provide an alternative inter-parliamentary mechanism in anticipation of WEU dissolution, parliamentarians only reached a compromise proposal in May 2012. The new mechanism, the Inter-parliamentary Conference on the CFSP, follows the model of the Conference of Parliamentary Committees for Union Affairs (COSAC). This means that NPs have lost a permanent *assembly* for the exchange of views and dialogue with EU officials, organised into *transnational* parliamentary groups and specialised committees, and gained a parliamentary *conference* organised into *national* delegations, with no specialised secretariat and little interaction with EU decision-makers.

This considerable decline in inter-parliamentary cooperation with respect to the CFSP appears quite puzzling, as it has proceeded in parallel with the effective deployment of the Common Security and Defence Policy (CSDP) and hence also with an increase in the challenges to the scrutiny functions of both NPs and the EP (e.g. Stie 2010; Wagner 2006; Zanon 2010). The words of the President of the Belgian Senate in 2000, when discussions on new mechanisms for inter-parliamentary cooperation had just begun, capture this counterintuitive evolution well: ‘It would be paradoxical and even ridiculous for there to be less parliamentary scrutiny in the future than there was when Europe did not possess a common security and defence policy!’ (WEU Assembly 2000: 19).

A second unexpected development is the growing conflict between the NPs and the EP over the form of inter-parliamentary cooperation. A recurrent obstacle to the creation of a new inter-parliamentary mechanism to compensate for the loss of the WEU Assembly pertained to the EP’s role within it. Political divergence over the shape of inter-parliamentary cooperation has been defined ever less by national or party-political cleavages, as most germane theorising on attitudes towards parliamentarisation of the EU would expect (Rittberger 2003; Wagner 2002), and ever more by parliamentary levels, sometimes even dividing MEPs and MPs belonging to the same country and political party. As this article will present in greater detail in the fifth section, while in the early 2000s only three national parliamentary delegations out of 13 contributing to the debate were manifestly against giving the EP a significant role in a new inter-parliamentary forum on the CFSP/CSDP, the number of delegations explicitly opposed to this idea in 2011 was 16, out of 23.

Students of the role of parliaments in EU integration have actually advised caution when assessing the potential for inter-parliamentary cooperation, especially along the *vertical axis* (i.e. involving the EP and the NPs). On the one hand, one should not exaggerate the incentives for inter-parliamentary cooperation, as national parliamentarians may have more efficient channels of information than inter-parliamentary meetings (Raunio 2009: 324). On the other hand, although some scholars view inter-parliamentary cooperation as ‘a possible source of mutual empowerment rather than competition’ (Miklin and Crum 2011: 3), others acknowledge that competitive dynamics between European and national parliamentarians may often emerge (Kiiver 2006: 127ff.; Neunreither 2005). However, the existing literature does not spell out when and why one might perceive these interactions as mutually empowering or, contrarily, as a source of disempowerment. As emphasised by Raunio (2009: 324), research on inter-parliamentary cooperation has hardly attempted to place these developments within a broader theoretical perspective. This is the question addressed in the following section.

Explaining Unsettled Inter-parliamentary Relations

Despite assuming the absence of fixed hierarchies between parliamentary levels, the heuristic framework of the multi-level parliamentary field proposed

by Crum and Fossum (2009) is not blind to the concepts of power and competition. Their use of the Bourdieu-inspired notion of *field* actually encourages the authors to call for further research on whether and when representatives at the EU and national levels operate as competitors for authority, and on other aspects that constitute *capital* in the parliamentary field, such as knowledge and expertise (Crum and Fossum 2009: 263–64). This article enters the discussion at this point and posits that competitive dynamics in the parliamentary field are likely to emerge as a result of the mismatch between formal constitutional authority and the actual *parliamentary capital* that the EP and NPs enjoy. Such a mismatch may eventually give rise to a *sovereignty surplus* (Walker 2010) or overlap of authority claims by both national and European representatives, thus disrupting inter-parliamentary cooperation.

I begin by elaborating why the notion of parliamentary capital suggested by Crum and Fossum (2009: 263–64) might be associated with patterns of inter-parliamentary cooperation or conflict. In Bourdieusian terms, *capital* stands for the material and immaterial resources that constitute an advantage for participants in a field, or, in other words, ‘the various currencies of power within a given field’ (Bourdieu, cited in Jackson 2009: 110). In the context of the parliamentary field, the relative strengths of parliaments can also be defined using Bourdieu’s basic sources of capital: economic (the material resources and number of support staff available to parliamentarians); cultural (the knowledge and expertise of parliamentarians and supporting bodies); and social (the networking abilities and close connections with relevant centres of decision-making). Although a Bourdieusian approach always presupposes some competition for valued sources of capital, their distribution in the parliamentary field should not necessarily be seen in zero-sum terms or as an impediment to inter-parliamentary cooperation. That is to say, a higher budget and greater knowledge, and expertise on the side of the EP does not entail a decrease in those resources on the side of the NPs, or vice versa. On the contrary, the primary purpose of inter-parliamentary cooperation is that parliamentarians can use each other’s strengths to increase their capital in their respective national or European political fields. However, a more zero-sum logic may emerge if the growing parliamentary capital of one level appears to challenge the political and constitutional mandate of the other. In this sense, political and legal *authority* in the parliamentary field comes close to what Bourdieu termed ‘symbolic capital’: namely, the power that comes from the recognition – often sanctioned by an official or juridical act – of the capital agents possess, thus conferring them with prestige and legitimacy (Bourdieu 1989: 21).

The next crucial question is why would parliamentary capital grow disproportionately to the formal legal structure of authority in the field? We can conceive of at least two ways in which this mismatch might occur: a strengthening of the EP’s institutional position via *informal* rules and practices¹ or a de facto reinforcement of the collective role of NPs in an area where the Treaties assign primary responsibility to the EP. Either way, an informal upgrade of the institutional position of one parliamentary level in the EU

policy-making system will typically entail an increase in its parliamentary capital. That is, it will lead to a closer connection to the relevant sources of decision-making; increased levels of support staff, knowledge, and expertise to cope with the new role; and eventually also greater prestige and legitimacy in exerting representative and oversight functions. Therefore, as some legal scholars suggest, this situation may easily generate a *sovereignty surplus*, a term which refers to ‘the excess and overlapping quality of claims to sovereignty in the EU (i.e., that ultimate authority is claimed both for the supranational centre and for the member states) and to the competition over scarce legal, political and cultural capital that arises from the simultaneous pursuit of these claims’ (Walker 2010: 5). In other words, a sovereignty surplus denotes a situation where one level of the EU polity starts claiming authority over an area which the other level has not ceased to claim as its own.

Finally, we might ask whether certain policy areas are more susceptible to the emergence of a sovereignty surplus than others. Without dismissing the possibility that such a surplus could emerge from a *de facto* reinforcement of the collective role of NPs in the EU policy-making system, the increase of the EP’s parliamentary capital beyond the letter of the Treaties has thus far been described in the literature as a more common occurrence. Institutionalist theories of parliamentarisation help identify those areas in which this may be the case. On the one hand, rationalist institutionalist studies have described how the day-to-day practice of EU policy-making offers the EP many opportunities to exploit Treaty loopholes in order to maximise its own competences through inter-institutional bargains (Hix 2002). Even in areas where the Treaties assign the EP only limited advisory powers, it may still be able to use its budgetary authority to wrest further prerogatives ‘through the back door’ (Maurer *et al.* 2005) – for example, via inter-institutional agreements (IIAs) rather than formal Treaty changes. On the other hand, sociological institutionalist approaches have also identified an increase in the EP’s powers as a common response to alleviating the *legitimacy gaps* that result from the progressive pooling or delegation of powers at the EU level (Rittberger 2006). A full ‘normative spillover’, giving the EP further constitutional powers, is only likely to happen in the case of formal transfers of sovereignty to a supranational authority, such as with the extension of Qualified Majority Voting (QMV) (Rittberger 2006; Schimmelfennig 2010). However, more inter-governmental areas, where lines of authority are commonly blurred in practice – as suggested by concepts such as ‘intensive transgovernmentalism’ (Wallace 2000), ‘new intergovernmentalism’ (Puetter 2012), ‘Brusselisation’ (Allen 1998), or ‘bureaucratisation’ (Vanhoonacker *et al.* 2010) – will also tend to generate normative pressure to empower the EP, at least informally.

In sum, established theories of parliamentarisation suggest that a sovereignty surplus in the parliamentary field is most likely to emerge in the growing number of ‘grey areas’ falling somewhere between the intergovernmental cooperation and community methods, where the EP may find bargaining tools and normative reasons for upgrading its parliamentary capital despite its limited

constitutional powers. Ironically, therefore, it is precisely in areas with a strong intergovernmental component, where both NPs and the EP experience the greatest difficulties in exerting oversight and hence where inter-parliamentary cooperation would be most apposite and mutually beneficial, that competition over authority is likely to become a recurrent theme impairing inter-parliamentary relations.

The following sections illustrate this proposition in the area of the CFSP/CSDP. The first examines the evolution of the EP's role in the CFSP, arguing that throughout the 2000s its position in this sector was reinforced via several IIAs, thereby substantially increasing its parliamentary capital. The subsequent section assesses the plausibility of the suggested link between the EP's enhanced parliamentary capital and the evolution of inter-parliamentary cooperation towards a more conflictual relationship. It does so by comparing two meetings between representatives of NPs and the EP to discuss the organisation of future inter-parliamentary cooperation, both at the initiative of the Belgian Parliament, but a decade apart (2001 and 2011). The two events entailed the discussion of several proposals by the EP and most NPs. They therefore represent ideal cases by which to compare attitudes regarding inter-parliamentary cooperation in the context of two markedly different configurations of the parliamentary field. The study draws on the parliamentary records, minutes, and position papers presented by different parliamentary delegations during these debates, as well as interviews with some of the participants in the 2011 negotiations.

Growing Parliamentarisation of the CFSP without Constitutional Change: The Seeds of a 'Sovereignty Surplus'?

Born in 1993 with the Treaty of Maastricht, the CFSP was initially designed as a distinct, intergovernmental pillar. The decision-making process envisaged no exceptions to unanimity, the European Court of Justice (ECJ) would not be competent in this domain, and the financing of CFSP actions would come mostly from the treasuries of the member states. The role of the EP, accordingly, was limited to debating, information, and loose consultation rights, set out in Article 21 TEU. However, the growing integration and hybridisation of this policy domain in practice soon led the EP to challenge its formal exclusion from 'Second Pillar' activities. This section presents an overview of the gradual institutionalisation of the EP's role in the CFSP/CSDP and how this translated into growing parliamentary capital, despite the fact that its formal Treaty powers have remained fundamentally unchanged.

The initial authority claims that the EP formulated with regard to the CFSP were a response to the Council's increasing tendency to delegate executive functions to the Commission in the financial administration of CFSP measures, without an appropriate legal basis (Monar 1997). After some years of inter-institutional conflict over what the EP regarded as a breach of its role as budgetary authority, a solution was found in an IIA adopted in 1997 and

formalised on 6 May 1999. This agreement clarified the budgetary procedure for the CFSP, including the EP's right to co-determine (with the Council) the budget ceiling for the policy, to approve further appropriations in other chapters of the Community Budget for CFSP matters, and to receive information about any envisaged CFSP activity having financial implications (Maurer *et al.* 2005: 185ff.). Yet, in the view of the EP, the IIA of 6 May 1999 was unsatisfactory, and it sought its further amendment via a political declaration in 2002 (Maurer *et al.* 2005: 187) and later through a new IIA in 2006, which further specified the obligations of the Council vis-à-vis the Parliament (see below).

The rapid expansion of CSDP structures since 1999, and the deployment of the first civilian and military operations from 2003, further boosted EP demands. Several studies have described in detail the process of centralisation with respect to CFSP institutions and how the functional needs of the CSDP have instigated a certain delegation of agenda-setting, decision-making, representation, and implementation functions to a whole set of diplomatic, military, administrative, and supporting bodies (for an overview, see Vanhoonacker *et al.* 2010). Within this context of burgeoning institutional activity and growing budgetary needs, the EP could place stronger pressure on the Council in its quest for a more substantial implementation of the information and consultation rights laid down in the Treaties. In response to the EP's demands, two new IIAs were adopted: the IIA of 20 November 2002, concerning 'access by the Parliament to sensitive information of the Council in the field of security and defence policy', and the IIA of 17 May 2006 on 'budgetary discipline and sound financial management'.

The IIA of 20 November 2002, although often criticised for its restrictions and exceptions, symbolised acknowledgement of the EP's role in scrutinising both the CFSP and CSDP through its access to some categories of secret information. In turn, the IIA of 17 May 2006 further specified the need for consultation on CFSP measures having financial implications. For instance, it limited the delay in informing the EP about any decision in the field of the CFSP with budgetary implications to five working days. Most notably, it also institutionalised Joint Consultation Meetings, a periodic gathering (five times per year) of representatives from the EU Presidency (represented by the Political and Security Committee) and the EP (represented by the Chairmen of the Foreign Affairs and Budget Committees) as a venue for political dialogue and information on CFSP initiatives and their related expenses. During the negotiation of this IIA, the EP even brandished its budgetary 'weapon', by proposing a reduction by half of the CFSP proposed by the Council (Barbé and Herranz-Surrallés 2008: 81; Thym 2006: 113).

With the development of CSDP, the EP also showed its determination to denounce the lack of parliamentary oversight over CSDP operations – particularly the funding of military missions – and repeatedly expressed its view that the EP's consultation prerogatives should also apply to the launch of CSDP missions. This demand has so far not been met by the Council. However, this has not prevented the EP from experimenting with the practice of issuing

resolutions symbolically ‘approving’ CSDP operations (Barbé and Herranz-Surrallés 2008: 91). Besides, via its budgetary powers, the EP could gain some indirect say over crisis management operations, as the deployment of civilian missions has been one of the main drivers of CFSP spending, and has obliged the Council to request the Parliament’s authorisation to increase the CFSP budget more frequently (Herranz-Surrallés 2011: 6, 20).

The EP’s growing foothold in the area of CFSP/CSDP began to be reflected in its internal structure during the Sixth parliamentary term (2004–2009). The EP created a new Subcommittee on Security and Defence (SEDE) within the Committee on Foreign Affairs (AFET) and set up a Policy Department within the EP’s Directorate-General for External Policies, a unit providing expert support for AFET and SEDE. The number of staff and items of expertise provided by the Policy Department, such as studies, briefings, or workshops, have grown significantly year on year (European Parliament 2011: 22–23). The Subcommittee has also become very active in discussing all aspects of CSDP, regularly inviting personnel from the Council, the Commission, and specialised agencies, such as the European Defence Agency, to provide information and exchange views, as well as sending ad hoc delegations of parliamentarians to CSDP operational headquarters and battlegroups (Barbé and Herranz-Surrallés 2008: 88ff). At the same time, the EP attempted to become a hub for inter-parliamentary cooperation, initiating the practice of inviting members of national Foreign Affairs and Defence parliamentary committees to take part in the sessions of the AFET and SEDE. Indeed, some studies support the view that SEDE has acquired an ‘unexpectedly prominent’ position in the EU’s security governance network (Mérand *et al.* 2011: 132).

Finally, the reforms introduced by the Lisbon Treaty further blurred the division between intergovernmental and communitarian procedures. They gave formal rights of initiative to the High Representative/Vice President of the Commission (together with the member states) and entrusted this figure with chairing the Foreign Affairs Council and the Political and Security Committee, and with the leadership of the European External Action Service (EEAS). No wonder, therefore, that the initial months after the implementation of the Lisbon Treaty were followed by further claims from the EP for oversight rights over the High Representative and the EEAS. The Parliament actively used its budgetary and legislative powers to promote its preferences on the institutional design and accountability of the EEAS. One of the results of this process was the 2010 ‘Declaration by the High Representative on Political Accountability’ (DPA). The Declaration set out Catherine Ashton’s commitment to appear regularly before the Parliament or, in her absence, to deputise politically accountable representatives from the Commission or the Foreign Affairs Council (rather than non-elected officials from the EEAS) to do so in her place. The DPA also provided the EP with the ability to call newly appointed Heads of Delegation for a briefing before being posted abroad, while extending access to classified information to a broader spectrum of MEPs (Raube 2012: 75–76).

By the end of the 2000s, therefore, the EP's parliamentary capital – in terms of connection with the relevant centres of decision-making through the information and consultation procedures established in IIAs, the knowledge and expertise acquired through SEDE, and the increase in its support staff – had markedly increased in comparison to the early 2000s. Nevertheless, the Treaty of Lisbon did not mandate significant changes in the role of the EP in the CFSP/CSDP. Despite the formal abolition of the pillar structure, this policy domain is still defined as non-legislative, to be governed by unanimity (with only limited scope for using the QMV, if decided by consensus) and falling outside the jurisdiction of the ECJ. The Treaty also included symbolic reaffirmations of member state sovereignty in the area of the CFSP, for example in Declaration 14, which states: ‘the provisions covering the Common Foreign and Security Policy do not give new powers to the Commission to initiate decisions *nor do they increase the role of the European Parliament*’.² This reconfirmation of the intergovernmental character of this policy domain once again left intact the formal chain of accountability to NPs. In sum, the parliamentary capital of the EP increased during the 2000s without matching changes in the formal structure of authority in the parliamentary field.

Debates on Inter-parliamentary Cooperation in the CFSP: From a Parliamentary Field to a Battlefield?

The 2001 Debate: Acknowledgement of Shared Parliamentary Authority

As described in the previous section, the parliamentary field in matters of foreign policy, security, and defence in the early 2000s was almost exclusively dominated by the NPs, organised in horizontal inter-parliamentary cooperation within the WEU Assembly. However, uncertainty about the actual competences and fate of the WEU and the speedy establishment of the first CSDP institutional structures in Brussels prompted concerns about whether the NPs would be able to adequately monitor this developing policy area (WEU Assembly 2001: 151). In view of these challenges, the Parliament of Belgium took the lead (during the Belgian Presidency of the EU during the second semester of 2001) and convened two special inter-parliamentary conferences on the CSDP in June and November 2001, inviting delegates from other NPs, the WEU Assembly, and the EP. These initial debates on the future of inter-parliamentary cooperation were striking because of the high receptivity of NPs to the notion of the EP playing a significant role in overseeing this emerging policy area.

The Belgian Presidency in its final proposal mentioned an ‘ad hoc inter-parliamentary conference’ that would replicate the structure and functions of the WEU Assembly but would involve the EP, whose members would occupy one-third of the total number of seats and play a significant role in its organisation. Reactions to the final proposal were not uniformly positive (see Table 1). About half of the delegations manifested some discomfort with the proposed virtual parity between the NPs and the EP in the organisation and

composition of the proposed conference. However, barely any delegations opposed granting the EP a role in the new phase of the integration of security and defence policies. For example, the Chairman of the Defence Committee of the French National Assembly, one of the parliaments traditionally most opposed to empowering the EP, stated that ‘obviously [the EP] *has to be represented*, on the one hand due to its *consultative role* within the second pillar of the EU, i.e. the CFSP, and on the other hand due to the need to coordinate civil and military crisis management activities. In fact, civilian crisis management comes under the first pillar, where the European Parliament has a *decision-making role*’ (Federal Parliament of Belgium 2001a). Only the British, Irish, and Finnish delegates referred to the proposed role of the EP in the conference as a reason to reject the Belgian initiative outright. The Finnish Parliament’s written contribution to the conference stated that the involvement of the EP would ‘*override the existing sharing of competencies* under the second pillar’ (Federal Parliament of Belgium 2001b). A member of the House of Lords stated, more bluntly, that ‘we would give the European Parliament legitimacy by allowing it to participate in that over which *we have hegemony* as national parliamentarians’ (Federal Parliament of Belgium 2001a).

At the opposite extreme, MPs from Greece, Luxembourg, and, to a lesser extent, Germany, Italy, and Spain, generally supported the Belgian proposal. For example, the vice-president of the Greek Parliament stated that the ‘ESDP should not remain forever at the inter-parliamentary level of the second pillar, but should come into the Community system as soon as possible. After we have reached that target, self-evidently, parliamentary scrutiny should be applied at European level *exclusively by the European Parliament*’ (Federal Parliament of Belgium 2001b). Along the same lines, Belgian MPs did not hide the political rationale behind their proposal, as they openly justified it in terms of ‘guaranteeing the *European Parliament its primacy* and its natural key role in the construction of Europe’ and continuing ‘to work towards the ESDP becoming a *competence of the European Parliament*’ (Federal Parliament of Belgium 2001a).

Given the absence of clear consensus and legal basis for the creation of a new inter-parliamentary mechanism while the WEU Assembly was still in existence,

TABLE I
POSITIONS OF DELEGATIONS OF NPS AND THE EP REGARDING THE BELGIAN
PROPOSAL (OCTOBER 2001)

Delegations in favour	Belgium, France, Greece, Luxembourg, EP
... <i>but inclined to wait until IGC 2004</i>	Germany, Italy, Spain
Delegations against	
... <i>mainly because of the role of the EP</i>	United Kingdom, Ireland, Finland
... <i>because it would fall short of WEU standards</i>	Austria, Netherlands
... <i>better explore existing instruments, e.g. COSAC</i>	Sweden
Delegations without a clear position	Portugal, Denmark

Source: Based on information provided in Federal Parliament of Belgium (2001a, 2001b).

the inter-parliamentary meeting of November 2001 ended without a specific agreement. The participants only approved a motion calling on the NPs, the EP, and the WEU Assembly to submit proposals on parliamentary scrutiny of the ESDP to the European Convention. But as the Dutch Minister of Foreign Affairs affirmed before the WEU parliamentarians, the discussion in 2001 marked the first recognition of the situation whereby '[n]either the WEU Assembly nor the European Parliament can claim *exclusive rights* with regard to the parliamentary dimension in the second pillar. New formulae will have to be developed to establish the *proper balance* between the obvious mandate of national parliaments and the prerogatives of the European Parliament' (WEU Assembly 2001). The discussion and proposals on how to reorganise inter-parliamentary cooperation continued during the extended period of constitutional debate spanning the European Convention and the Treaty of Lisbon.

The 2011 Debate: The Crystallisation of a Sovereignty Surplus

After a decade of debates and with the dissolution of the WEU Assembly in the offing, the Lisbon Treaty did finally address the issue of inter-parliamentary cooperation in the CSDP. However, the solution chosen by the governments was a rather ambiguous formulation. Specifically, it included (in Protocol 1 on the Role of National Parliaments) two articles that could serve as the legal basis for establishing inter-parliamentary mechanisms in the area of security and defence policy: Article 9, which gave a more central role to the EP, and Article 10, which gave the initiative to the NPs. By 2011, therefore, the discussion was formally as open as it had been since 2001, but now with the position of the EP in the CFSP much reinforced, and with the NPs already deprived of their main inter-parliamentary mechanism, the WEU Assembly, which was set to dissolve by June 2011. Once again, the Belgian parliament took the initiative in proposing a definitive solution, during Belgium's Presidency of the EU Council in the first half of 2011. However, in contrast to the discussion held 10 years earlier, the reaction of the vast majority of NPs was openly hostile to the Belgian proposal and to allowing any significant role for the EP (see Table 2). As described below, the months preceding these negotiations were already marked by a mounting reaffirmation of authority claims by both the NPs and the EP.

On the NP side, several parliaments played an active role in trying to promote an implementation of Protocol 1 that could ensure a core role for NPs. For example, the records of parliamentary debates in France and the UK indicate that MPs even coordinated with their respective governments and lobbied other parliaments to defend this position. In a letter to the Chairman of the Select Committee on the European Union of the House of Lords, the UK Minister for Europe wrote that the 'day for closing the WEU Assembly, 30 of June 2011, is fast approaching. I believe we share concerns that the *European Parliament's influence may increase* if there are no arrangements for inter-parliamentary cooperation in place by then ... Understanding that *it is for*

TABLE 2
POSITIONS OF THE DELEGATIONS OF NPS AND THE EP REGARDING THE
BELGIAN PROPOSAL (FEBRUARY 2011)

Delegations in favour	Belgium, Italy, EP
Delegations against	
<i>Not envisaging any role of the EP in the organisation of the Conference, or a representation for the EP consisting of more than six MEPs</i>	Austria, Bulgaria, Estonia, Greece, Hungary, France, Finland, Ireland, Latvia, Lithuania, Netherlands, Poland, Portugal, Romania, Sweden, United Kingdom
<i>... but considering a limited role of the EP in the organisation or the Secretariat of the conference</i>	Cyprus, Czech Republic, Spain
<i>... but considering a representation of the EP somewhat more than six MEPs</i>	Germany, Luxembourg
Delegations without a clear position	Denmark, Slovak Republic, Slovenia, Malta

Source: Put together from information in different contributions submitted to the Belgian Parliament as feedback to its proposal for the EU Speakers Conference, published in the website for inter-parliamentary exchange: <http://www.ipex.eu>, and from the records of parliamentary sessions in different parliaments, in particular: Sénat (2010), House of Commons Foreign Affairs Committee (2011), and Deutscher Bundestag (2011).

parliaments to drive this process, I am happy to consider ways I could expedite this process' (House of Commons Foreign Affairs Committee 2011: Ev.3). Along the same lines, a motion for resolution by the French Senate alluded directly to the 'risk' that 'if parliaments do not undertake an initiative today, the European Parliament will appear as the body charged with ensuring the control of this policy although the *Treaties do not give it this competence'* (Sénat 2010: 22).

Coordination among NPs was particularly intense in the very last sessions of the WEU Assembly. As stated by the Assembly's President, Rob Walter, it 'is essential that we *avoid any weakening of national parliaments' powers* of scrutiny over the CSDP. It is urgent that we take steps to implement Protocol 1, making sure that national parliaments continue to be *the main pillar'* (WEU Assembly 2010: 2). The rapporteur on inter-parliamentary cooperation, Henrik Daems, bluntly stated that he was 'getting pretty fed up with what I call the European Parliament's hunger for expansionism and political imperialism ... I am going to make sure that my party works to put an end to the European Parliament's belief that it should decide everything. The matters that we deal with are *100% within the competence of national parliaments'* (WEU Assembly 2010: 12–13). This is indeed a quite striking statement considering that Daems, a Flemish liberal MP, belongs to the same party as Guy Verhofstadt, one of the MEPs involved in the elaboration of the EP's diametrically opposed position as a member of the EP's Conference of Presidents (see below).

The EP, in its turn, insisted that the Treaties did not allow for the creation of a new autonomous inter-parliamentary body for scrutiny of the CFSP/CSDP

and that the EP and the NPs must *jointly determine* any form of inter-parliamentary cooperation in this field (as established in Article 9 of Protocol 1). In stark contrast to the emphasis of some NPs on their exclusive competence over the security and defence policy of the EU, the EP's proposal was based on the idea that the competences of the EP and NPs in the oversight of the CFSP/CSDP were equally important and complementary. In fact, the EP's draft decision even included an annex explicitly stating the exact competences of the EP and the member states, and limiting the role of NPs to the oversight of their respective governments' performance in the CFSP/CSDP, whereas the EP would scrutinise the 'EU executive' in all matters but the budget for military missions (Brok and Gualtieri 2010). The Brok/Gualtieri proposal, endorsed by the Conference of Presidents, declared that the new conference should be organised under the joint leadership of the EP (through the AFET) and the parliament of the member state holding the rotating presidency of the Council, and that the EP would provide logistical support for the meetings.

One could anticipate that, in this complex setting, any attempts to broker an agreement would be a complicated enterprise. The initial proposal presented by the Belgian Presidency hewed very close to the EP's approach, in the sense that it gave it a strong representation (one-third, or 54 MEPs, as against 108 MPs from 27 national parliaments). Further, in line with the EP's thesis, it declared that the EP should provide the Secretariat of the Conference and that it and the national parliament of the member state holding the rotating Council Presidency were to *jointly* preside over the meetings of the Conference (Conference of the Speakers of the Parliaments of the EU 2011). Not surprisingly, therefore, the response from the delegations of the NPs was almost unanimously negative, with the general position being that the EP should have the minimum role possible (see Table 2). Most delegations opposed, more or less forcefully, any role for the EP that went beyond the one it enjoyed in the COSAC: namely, the same number of delegates as other delegations (i.e. six members) and no role in the organisation of the conference other than collaboration with a troika of NPs. Suggestions from some of the NPs (most notably from the Greek parliament) even proposed not involving the EP at all.

The Belgian Parliament tried to rework the draft to bring it more into line with the bulk of the feedback received from NPs. However, the meeting at the Conference of Speakers of the EU in April 2011 only produced a new deadlock between the EP and the majority of the NPs, represented by their presidents. Even when the EP finally agreed to reduce its representation from the proposed 54 to 27 seats, and accepted a secondary role in the organisation of the meetings, no compromise could be reached, and the Conference of Speakers ended up postponing the matter (Interview, the Secretariat of the EP, April 2011). An agreement was finally reached a year later, at the next Conference of Speakers in April 2012 in Warsaw, establishing a conference organised along the lines of the COSAC, with a central role for the NPs in the Secretariat and a 'flexible' representation of 16 MEPs, with some MPs continuing to express their unease with this solution (Wouters and Raube 2012: 159).

Conclusion

Greater cooperation between the national and European parliamentary levels is often suggested as one of the remedies to the legitimacy problems of the EU, especially in those areas where competences and responsibilities are increasingly blurred and create additional challenges for parliamentary accountability. However, drawing on the expectations of established theories of parliamentarisation, this article argued that it is precisely those areas falling between inter-governmental and communitarian modes of governance that are more prone to generate competitive dynamics in the parliamentary field. This was explained by the fact that these areas tend to be characterised by a mismatch between the day-to-day practice of EU policy-making (allowing for the incremental and informal empowerment of the EP) and formal Treaty powers (which emphasise the role of the NPs), thus laying the ground for overlapping authority claims.

The CFSP is precisely one of those areas where the EP has been largely successful in enhancing its parliamentary capital despite the limited authority that the Treaties confer upon it, both through its sustained rhetorical pressure denouncing the existence of a democratic deficit and the use of its (mainly budgetary) powers in inter-institutional bargains. By comparing two crucial debates on inter-parliamentary cooperation in the area of the CFSP/CSDP with a time lapse of one decade, this study has pointed to a link between shifts in the distribution of parliamentary capital between the NPs and EP, resulting from wider dynamics of parliamentarisation, and their growing reluctance to cooperate and acknowledge complementarities and shared authority over this policy domain. Without disregarding other potential factors influencing the shifting positions of the NPs, the case provides an exemplary illustration of the sovereignty surplus problem, as both the EP and NPs have come to embrace mutually exclusive claims of authority. If, initially, there was some recognition of a shared or overlapping space emerging in the oversight and scrutiny of the CFSP/CSDP, monist understandings of sovereignty have now become prominent. A majority of the NPs do not acknowledge the role of the EP in this area because they consider this a purely intergovernmental domain where the NPs should retain full sovereignty. Conversely, the EP has assumed a kind of federalist idea that there is a neat division of competences between the NPs and the EP: the former scrutinise *only* the decisions of their respective governments, whereas the latter oversees the EU executive.

These competing 'sovereignty claims' (Glencross 2008) do not accord with the apparent evolution of the foreign and security policy of the EU, where the mixture of intergovernmental decision-making procedures and community practices seems to make it increasingly difficult to trace clear lines of accountability (see Peters *et al.* 2010). However, in the current circumstances, the concept of a *multilevel parliamentary field*, or a space of close interaction between parliaments of different levels, without fixed hierarchies and overlapping constituencies, appears to be attractive, as well as impracticable. As stated by Kiiver (2006: 153), 'a concept which accepts a stronger European

Parliament, while at the same time accepting stronger national parliaments ... as well as co-operation between the two tiers, has a certain reconciliatory appeal, but is bound to be shallow' (see also Lord 2011: 1144).

Further research on the evolution of inter-parliamentary cooperation in other areas, for example in Justice and Home Affairs or economic governance – where proposals for enhanced inter-parliamentary cooperation are also being implemented or discussed – could contribute towards determining the conditions for inter-parliamentary cooperation and conflict. Moreover, as proposed in this article, a sovereignty surplus problem is not a unidirectional process, but could also emerge from a de facto reinforcement of the collective role of the NPs in areas where the Treaties assign the main responsibility to the EP. For example, ongoing developments in the implementation of Protocol 2 on the application of the principles of subsidiarity, which some authors have envisaged as leading to a 'virtual third chamber' (Cooper 2012), could eventually increase the parliamentary capital of NPs beyond the role that Treaties grant to them. Whenever these initiatives are led with the aim of alleviating the sense of democratic deficit in the EU, as described in this article, ambiguous routes of parliamentarisation may also perpetuate a situation where competition over sovereignty becomes the defining theme of inter-parliamentary relations, thus aggravating even further the sense of disengagement between the EU and the national spheres of representation.

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Notes

1. Informal rules and practices may be defined as rules and practices that do not directly emanate from Treaty provisions and are not subject to third-party dispute resolution (Farrel and Héritier 2007: 242). Informal rules may sometimes be 'quasi-formalised', for example in inter-institutional agreements (IIAs) or political declarations specifying the obligations between institutions, although the legal status of IIAs is ambiguous – 'somewhere "in between" a political undertaking and a plain legal obligation' (Monar 1994: 699).
2. Emphases added.

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