

**Treaty Reform and the European Union's  
Policy towards the Middle East Peace Process:  
Much Ado About Nothing?**

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# Abstract

In 1993 with the entry into force of the Maastricht Treaty, the European Union, for the first time, formally institutionalized foreign policy cooperation in its Treaties. Thence, the Treaties governing the foreign policy of the Union has undergone no less than four reforms, introducing theoretically interesting institutional innovations. Despite this, academia has largely turned its attention towards the capability and capacity of the European Union of being a fully fledged foreign policy actor. Research which, with the formalization and institutionalization of the Union's foreign policy, has become irrelevant since empirical data establish that the Union, at an increasing rate, is producing foreign policies. With this in mind, research on the capacity of the Union, I argue, is rendered obsolete. Instead, this thesis place the policy in the spotlight and seek to investigate the impact the institutionalization and Treaty reforms has had on shaping and changing the course of the Union's foreign policy.

In order to materialize this ambition a small-n comparative case study design has been deployed alongside three theoretical perspectives which point towards distinct institutional mechanisms that conceivably could shape and change the direction of the Union's policies. In terms of policy, the Union's policy towards the Middle East peace process has been selected to test and investigate whether the theoretical promises congrue with empiricism.

The results demonstrate that the institutional constraints established in the Treaties de facto shaped the Union's policy towards the peace process. However, in terms of changing the course of the Union's policy there are no major empirical observations that suggests that Treaty reform has had any implications whatsoever.

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*Key words:* Treaty reform, policy, policy change, institutions, structures, CFSP, Middle East Peace Process

# **Abbreviations**

CFSP - Common Foreign and Security Policy

COREPER - Committee of Permanent Representatives

the Council - the Council of the European Union

EU - the European Union

EPC - European Political Cooperation

FAC - Foreign Affairs Council

GAC - General Affairs Council

GAERC - General Affairs and External Relations Council

HR - the High Representative for the Common Foreign and Security Policy

P-A - Principal-Agent

PSC - Political and Security Committee

# 1. Introduction & Research Question

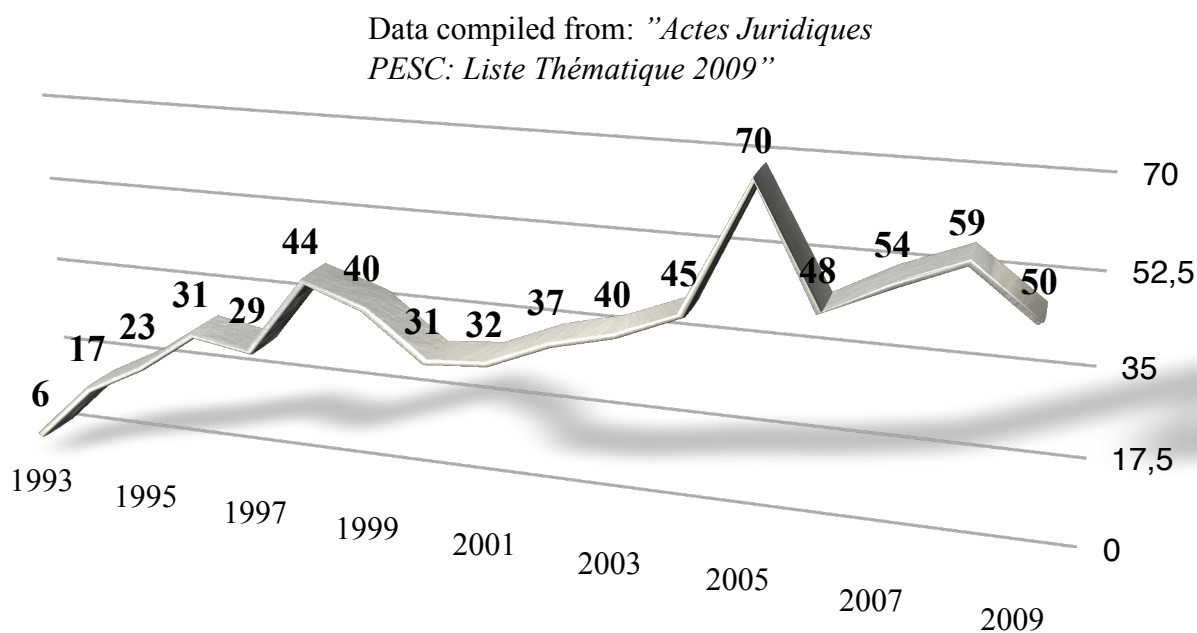
*"Europe is an economic giant, a political dwarf, and a military worm"*

*Mark Eyskens, Belgian Foreign*

*Minister, 1991*

The above quote represents Mark Eyskens perception of the European Union's (EU) role in the international political system. Perhaps Eyskens was right in judging the EU a political dwarf in 1991 since the "European Political Cooperation" (EPC), established in the 1970's, had no role for, nor involvement of, formal European institutions (Keukeleire & MacNaughtan, 2008: 45). However, in 1993 with the entry into force of the Maastricht Treaty, foreign policy was for the first time formally institutionalized and incorporated in the EU's political system (ibid: 50). Thenceforth, the institutional structure, or Treaties which governs the manner the Union's foreign policy is formulated, has been reformed four times. In 1999 the Amsterdam Treaty introduced *inter alia* the High Representative for the Common Foreign and Security Policy participating in the formulation of the Union's foreign policies. Moreover, the Nice Treaty established a new permanent body directly involved in the definition of foreign policies. Despite these structural and institutional innovations, scholarly inquiries has primarily focused on determining to which extent the European Union is capable of being a fully fledged foreign policy "actor" (See e.g. Sjöstedt, 1977; Jupille & Caporasso, 1998; Bretherton & Vogler, 2006) and the implications reforms have had on the foreign policy capacity of the Union (Bretherton & Vogler, 2006). However, the question of the Union's capability as a foreign policy actor has during the past twenty years been rendered obsolete. This argument stems from the observation that ever since the formal institutionalization of foreign policy cooperation in 1993, the Union's capacity to produce foreign policy output has dramatically increased over the years. "Graph 1", presented below, supports such a conclusion and clearly demonstrate that the question of the Union being a capable foreign policy actor is rendered obsolete.

Graph 1: Joint Actions & Common Positions Adopted 1993-2009 (excl. CSDP Acts)



Thus, rather than focusing on capacity, it would be more relevant to research the consequences the Treaties, concerning the institutionalization and reform of the foreign policy structure has had for the Union's Common Foreign and Security Policy (CFSP). This is a much more promising area of research for two reasons. First, as established above, the Union have the capacity to be a foreign policy actor since there is an output of foreign policy. Secondly, an inquiry into how structures affect policies is highly relevant since scholars argue that structures have the potential to exert an impact on individuals' behavior whom are involved in policymaking, thus potentially affecting policy (Carlsnaes 2012: 113-114; Wiener, 2006: 39). Basing my approach in line with this assumption, and as long as the European Union is based on Treaties, the Treaties must also be deemed to have the potential to impact the different policymaking actors involved in the formulation of the Union's foreign policy, thus hypothetically shaping the Union's policies.

Following the above argumentation, an essential part of this thesis will be to explain and theoretically establish how the Treaties can shape and change the Union's policy. Thus, it of essence to deploy a set of theories which can point towards which structural mechanisms that hypothetically could form and change the course of the Union's policies. Institutional theories have long been utilized to understand and explain the role of structures in assessing their impact on politics (Hall & Taylor, 1996: 936; Peters, 2012: 1-3). It is therefore institutional theories

shall inform and guide the analysis of this thesis. However, since the concept "institution" have come to mean a variety of different things to different people at different points in time (Peters, 2012: 47). In this paper I have decided to use three theoretical perspectives stemming from two distinct meta-theoretical perspectives to inform the analysis of how the Treaties and their respective reform has shaped and potentially changed the Union's policy.

To be able to move further down the "ladder of abstraction" and concretize I intend to test the theoretical claims on one of the Union's policies. Therefore, the policy towards the Middle East peace process shall be used as to portray if the Treaties have shaped or changed policy. The peace process provides an excellent case to apply the theories and make an inquiry into. This is since the conflict was among the first issues making its way onto the agenda during the 1970s when the EPC was in place and collectively debated in terms of European foreign policy (Peters, 2010: 511; Mueller, 2013: 1). Today the Middle Eastern conflict and the resolution of it is still one of the most important foreign policy priorities for the European Union and the rest of the world, thus making it an intriguing case to determine whether the Treaties have shaped the policy over the years the Union have actively pursued a policy towards the process. Furthermore, research concerning the Union's involvement in the Middle East has to a greater extent also been focused on determining to what degree the EU could be labelled a foreign policy actor (See e.g. Peters, 2010; Musu, 2010; Mueller, 2013) thus there is a need to expand the field of research for the Union's policy towards the process.

Following the argumentation above I have set for myself and this thesis to explore and answer the following research question:

*How has the Treaties and their respective reforms shaped and changed the European Union's policies towards the Middle East peace process?*

## **1.1 Research Limitation**

Considering that the research question still is broadly formulated it is necessary to delimit it further. Since the concept "institution", as argued above, can inhibit a variety of meanings to different people I have opted to delimit my research by using three theories that define what an institution is constituted of. These three theories will then be used as variables to identify and explore the dimensions of the Treaties that are capable of shaping and changing the European Union's policy towards the Middle East peace process. Hence, the research produced in this paper do not give a full account of the meaning of institution but is rather purposefully limited to the theoretical variables of interest.

Moreover, the thesis is also constrained to one of the policies, the Middle East peace process policy, of the European Union which could limit the generalizability of the findings of this thesis. However, as this thesis is primarily concerned with the Treaties, the findings of this piece of research could be valid for several other foreign policy aspects of the European Union.



## **1.2 Outline**

To be able to answer my research question in a structured and understandable manner I have divided the thesis into six chapters each with its own set of subsections. The first chapter has already introduced the area of research and the research question to be answer at the end of the thesis. Chapter two presents the methodological approach adopted and deliberates on the benefits and shortcomings of the selected method as well as motivating my choice of cases. The third chapter utilize and present the selected theories in order to deduce and build hypotheses in the quest of operationalize the theories, while chapter five analyze the Treaties and the Middle East peace process policy using the hypotheses as the base for the analysis. The last chapter, number six, summarize and presents the empirical findings in order to provide an answer to the research question.

## **2. Methodology**

The purpose of this chapter is to argue for my choice of the selected method, its benefits but also limitations. The method utilized in this work is that of the qualitative comparative case study which will, in the coming section, be more intricately introduced. Following the introduction of the qualitative case study is the presentation of the selected cases that are employed in the analysis of how the European Union's policy in the Middle-Eastern peace process has been shaped or changed with Treaty reform. The discussion on how to operationalize the selected variables of the study will be deferred to the theoretical considerations as the hypotheses need to be fully developed prior to any attempt of theoretical operationalization.

## 2.1 The Comparative Case Study

The selected method in this work is the comparative case study which "[...] examines in rich detail the context and features of two or more instances of specific phenomena" (Campbell, 2009: 175). Comparisons can be of both a quantitative and qualitative nature and the applied version in this paper shall be the qualitative. That is the attempt to understand traits, attributes and characteristics of the objects of inquiry (Landman, 2008: 22) which related to this thesis means the understanding of which attributes of institutional reform could cause policy to change, if it changes at all.

The reasons for selecting a small-n comparative case study are multiple, however, one of the most important factors when selecting a methodology for conducting a study is the relationship between the research question/research task on the one hand, and the method of choice on the other (Yin, 2009: 10). Depending on how the investigator decide to pose a research question as well as research tasks, different methodologies may be a better, or be less suitable to, fit the specific research agenda developed by the researcher (George & Bennett, 2005: 6). Further, since experimental and statistical case study models rely on a large-N sample of cases to be able to draw inferences and "the comparative model should be resorted to when the number of cases available for analysis is so small that cross-tabulating them further in order to establish credible controls is not feasible" (Lijphardt, 1971: 684) the small-n case study design seems highly suitable for the purpose of investigating how institutional reform of the CFSP structure has altered the Union's policy. This is since the Union has only seen four treaty reforms since the CFSP was incorporated, formally, into the EU's pillar structure under the Maastricht Treaty in 1993 (Keukeleire & MacNaughtan, 2008: 50). The purpose of comparing institutional reform in my case is to establish what elements of institutional reform can be said to cause change in the European Union's policy towards the Middle-Eastern peace process, if any change has taken place at all.

In this thesis I have also opted for a small-n case design which call for an exploration of such a design's limitations and benefits. First and foremost, the small-n case study design offers more robustness as the evidence collected from

multiple cases is more compelling, at least relatively compared to a single case study design (Yin, 2009: 53). However, case study researchers should also be aware that social phenomena may be subject to multiple or complex causality, consequently case studies could be capable of producing contingent generalizations than perhaps wished for (George & Bennet, 2005: 22). Though this might seem as a severe methodological shortcoming there are methods to overcome such problems, for instance, the adoption of a multi-variance congruence method, discussed below, may aid the investigator to bridge such shortcomings.

Case studies also have the potential to identify new variables or theories through the study cases. For instance "if we ask one question of individuals or documents but get an entirely different answer, we may move to develop new theories that can be tested through previously unexamined evidence (George & Bennet, 2005: 21). However, in case study research there exist one overarching issue that needs to be resolved before discussing the issues above any further.

## **2.2 Case Selection and the Congruence Method**

The issue I was referring to when summarizing the previous section that is an overarching issue related to the design of any comparative case study is the case selection process. This step is directly linked to one of the potential pitfalls in the comparative case methodology, namely selection bias (George & Bennett, 2005: 24; Seawright & Gerring, 2008: 294). The question that logically follow is: how can one avoid selection bias? At first sight the promise of random selection seems appealing as it produce unbiased samples (Seawright & Gerring, 2008: 295). However deeper scrutiny raises concerns regarding the representativeness (ibid: 295) as well as the control of comparison (George & Bennett, 2005, p 151-2) and as such seem to discard the random selection process. Instead Seawright and Gerring (2008) suggests a more purposive style of case selection. That is, the purposive selection of cases that fit with the selected research strategy and reflect a representative sample and also variation on the dimensions of theoretical interest (Seawright & Gerring, 2008: 295-6). Consequently, the method I have selected

both as a method of establishing causal relationships within my cases as well as my case selection method is part of the '*Congruence Method*'.

The fundamental characteristic of the congruence method is that the researcher begins by utilizing a single, or multiple theories, and employ these theories to deduce explanations or predictions about the outcome in a case or cases (George & Bennet, 2005: 181). Accordingly, the primary research objective for a study using the congruence method would be to find "[...] similarities in the relative strengths and duration of hypothesized causes and observed effects"(George & Bennet, 2005: 183). As it is the ambition in this research thesis to hypothesize and explore whether the treaty reform of the Common Foreign and Security Policy has caused the EU's policy to change, I have chosen to apply *institutional theories* and let these guide the selection of my cases. This is quite a logic decision considering the attempt to use theory to deduce which institutional constraints that could cause a variance in the European Union's policy. By allowing theory to point to specific causal mechanisms a representative sample which also varies in relation to theoretical interest can be achieved. Related to my thesis, this means that *each respective treaty* governing the structure of the Common Foreign and Security Policy needs to be investigated since they could embody the specific theoretical mechanisms that hypothetically could cause policy to change. Accordingly, as the Maastricht Treaty was the first to incorporate the CFSP into the formal structure of the Union this shall be the reference case and starting point of my investigation. From there, I intend to more freely let the theories guide the case selection to exclude treaties if they are of no theoretical interest. All this to achieve a purposeful selection of cases.

However, as an investigation of the treaties will not be enough to determine whether the Union's policies has changed with each treaty reform, it is essential to include the policy documents with respect to the Middle East peace process that were produced under the institutional framework of the respective treaties in force. The reason for selecting the Middle East policy for empirical analysis is closely connected with the claim in that the Lisbon Treaty would change the course of EU foreign policy. If one contrast this with the argument that the member states have throughout the years have had "[...] different traditions and interest in the Middle East [...]" (Musu, 2010: 24) makes the Middle East peace

process policy a highly interesting area for inquiry especially when linked to how structures/institutions could alter policy. In addition to analyzing the Treaties I have also added four types of supplementary types of documentation. The reason for selecting these documents and statements, is that this documentation is able to empirically test the developed hypotheses derived from the institutional theories presented below. As already mentioned, I have therefore included seven types of documents in order to determine whether the Union's policy towards the Middle East peace process changed due to treaty reform. The documents are the following;

- European Council Conclusions
- Strategies/Declarations
- Statements of the Quartet/High Representative of the Common Foreign and Security Policy
- Decisions, Joint Actions, and Common Positions of the Council of the European Union

Since the selection of the Decisions and Common Positions of the Council of the European Union documents cannot be motivated in the combined theoretical/operationalization part of the theoretical framework, which the remainder of the documents can and will be, I shall briefly explain why they constitute an essential part of the analysis in the next few sentences. The decisions are an essential part of the analysis as they can either confirm or refute whether the hypothesized institutional constraints, which with respective Treaty reform has either been created or undergone change, have caused policy to change. Consequently, the decisions represent final policy outcome and should thus be able to tell whether policy changed due to the institutional constraint. Hence, by employing this blueprint for case selection, and data collection, I should fulfill the two criterion for purposive case selection and hence end up with a rigorous strategy for further analysis.

Considering that case selection is not the only phenomena that a case study investigator may encounter, during his or her research, I shall further discuss the congruence method more intricately.

By employing the congruence the researcher first need to establish what causal mechanisms the selected theories assume cause change. Secondly, should it be so that the outcome of the case "[...] is consistent with the theory's prediction, the analyst can entertain the possibility that a causal relationship may exist" (George & Bennet, 2005: 181). However, as the congruence method begin its enquiry through the exploration of theory and deduction of variables, and the fact that social phenomena could be subject to 'equifinality' or 'multiple causation', the establishment of causal significance and thereby congruity could become a problem. The problem could occur as theories "[...] may focus on the same independent variables but point to different causal mechanisms that relate these variables to the observed outcome" (ibid: 186) and thereby the congruence method may produce inconclusive results. It is, therefore, argued that what a researcher could do is employ a '*multi-variate*' congruence method whereby the researcher includes and deduce a wider scope of potential causal factors and explain which of these are competing and complementary in relation to one another (ibid: 188). In this thesis I have, as will be further explicated in the theoretical framework, chosen two distinct sets of meta-theories, including sub-theories, focusing on both formal and informal aspects of what constitute an institution. The application of the multi-variate congruence method in this thesis should therefore be regarded as an attempt by the author to vanquish the common limitation of producing inconclusive results.

Perhaps most important in small-n designs is the question of *replication*. This is the process whereby the researcher ensures that the cases are comparable. According to Yin (2009) this can be achieved in two ways. On the one hand, replication can be achieved by selecting cases so that they predict the same results, on the other, that they predict contrasting results (ibid: 54). Since the congruence method begins with the use of theory to establish predictions and expectations about the outcome of the dependent variable, the replicability of my cases will be on a same result basis. Thus, as my theories, as we shall explore in the coming chapter, all expect policy to change as a result of institutional reform replication between the cases, and hence comparability, can be established.

### 3. Philosophy of Science - Taking off the Skin and Putting on the Sweater

Prior to the discussion of the theoretical framework a *confessional remark* regarding the framework itself is vital for the reader in order to fully understand the shortcomings present in this thesis. Since I have opted to apply two different meta-theoretical perspectives each emanating from a distinct ontological school a problem arise. This is since scholars argue that ontologies should be applied as "[...] a skin not a sweater: they cannot be put on and taken off whenever the researcher sees fit" (Marsh & Furlong, 2002: 17). The first ontological perspective the thesis employ is a rational choice perspective with its own unique ontological reflections. The rational choice ontology depart from the assumption that it is individuals and the fact that these individuals strive to maximize the attainment of their preferences and thereby are able to rank them (Ward, 2002: 68). Hence, rational choice theories take "[...] individuals' preferences, beliefs, and feasible strategies as causes of the actions they are likely to take" (ibid: 70). Related to my thesis this means, as will be further elaborated in the theoretical chapters, institutions are seen as *exogenous* to individuals preference formation. Correspondingly, rational choice ontologies and theories argue that it is not social structures but rather individualism that can explain social phenomena (ibid: 75).

However, as this is not the sole conception of how institutions affect individuals I have also opted for a *endogenous* institutional perspective. Therefore, I intend to take off the rational choice sweater and put on a constructivist sweater, an ontological move which might seem dubious. However, in normative institutional theory individual's preferences are considered to be shaped through the participation in institutional life (Peters, 2012: 27). Accordingly, institutions must therefore, from the normative institutional point of view, be considered as *endogenous* to individual preference formation. This goes in stark contrast to the approach adopted in the rational choice ontology and theory since normative institutional theory assume a more social ontology whereby "[...] social reality does not fall from heaven, but that human agents

construct and reproduce it through their daily practices” (Risse, 2009: 145). Consequently, Risse (2009) comes to the conclusion that:

*”[...] [individuals] cannot exist independently from their social environment and its collectively shared system of meanings [...] The crucial point is that constructivist insist on the mutual constitutiveness of social structures and agents. The social environment [or institutions] in which we find ourselves, defines (constitutes) who we are, our identities as social beings” (ibid: 145-6).*

Thus, it assumed from such an ontological perspective that it is the social environment, or institutions, that are constitutive as to the formation of individual preferences and accordingly is what guide individuals to specific actions.

The use of two distinct ontologies may set off an epistemological alarm since some epistemological perspectives that reject claims made by other perspectives, positivism for instance would reject that there exist a socially constructed world (Marsh & Furlong, 2002: 22). However, by adopting a comparative case study approach that rely on a multi-variance method the parsing of the comparative case study “[...] into contending ‘isms’ does not fit very well with the emphasis [...] scholars have placed on causal explanation via causal mechanisms, which often cut across these schools of thought” (George & Bennet, 2005: 128). The approach adopted in this thesis explain social phenomena using causal mechanisms, which means that the investigator looks for “[...] unobservable physical, social, or psychological processes through which agents with causal capacities operate, but only in specific context or conditions, to transfer energy, information, or matter to other entities ” (ibid:137). This is in line with a realist epistemology that assume

*”that social phenomena/structures do have causal powers, so we can make causal statements. However not all social phenomena, and the relationship between them, are directly observable. There are deep structures that cannot be observed [...]” (Marsh & Furlong, 2002: 31).*

Despite the remark that there exist structures that cannot be observed “[...] positing their existence gives us the best explanation of social action” (ibid: 31).



As such making inferences, that is the process deriving an outcome based on assumptions about reality, provides the best explanations of social phenomena (ibid: 30). Which makes realist a suitable epistemology for the research agenda in this thesis, since by using theories deductively it is my aspiration to make inferences about which institutional constraints, if changed, could cause a change in the European Union's policy.

The realist assumptions have received criticisms from other schools especially for their belief in unobservable structures. The positivist approach has long argued that by assuming this makes the claims of realists untestable and therefore also unfalsifiable (ibid: 31). However, these ontological 'shortcomings' have benefits too. First, it enables the researcher to broaden theoretical considerations as to what theoretical mechanisms that hypothetically may cause change in policy. Second, a welcome spillover effect from the extension of the theoretical framework, is that such an extension allows the investigator, to a degree, overcome the complex causation and the congruence methodology issue written of in the methodological chapter.

## 4. Theoretical Framework and Operationalization

In this chapter the theoretical foundation for the analysis will be established. By initially presenting a problem related to the primacy of cause I then go about motivating the theoretical choices made in this thesis. Following the motivation, I intend to first present the overarching features the rational-choice metatheoretical perspective and consecutive to this present two theoretical perspectives and use these to develop two hypotheses regarding what institutional constraints that could shape and trigger a change in the European Union's policy towards the Middle East peace process. Sequential to this will be an inquiry into the constructivist metatheory this in the pursuit of developing a hypothesis stemming from the a constructivist subtheory labelled normative institutionalism. Nonetheless, before giving an account of which theories I have selected and what motivational factors lie behind the selection, it is necessary to have a brief discussion concerning which out of two phenomena the researcher should consider the primacy of cause when attempting to investigate policy. This is a problem more commonly known as the '*agency-structure problem*', which;

*"[...] focuses on the empirical claim that human agents [individuals] and social structures [institutions] are fundamentally interrelated, and hence that explanations of social actions [policies] must incorporate both"* (Carlsnaes, 2012: 125)

The problem starts materializing whenever the investigator treat individuals and structures, when both are present, as separate phenomena without any interactional links. Thus, by complementing the rational choice theories on institutions with a constructivist perspective which allow for the mutual constitutiveness of both agents and structures the agency-structure problem can, more or less, be overcome. Further on this note, as will become evident in the theoretical parts I do not separate structures from individuals completely as the

rational choice theories assume that structures do affect individual action, perhaps one more intricately than the other.

The theories utilized stem from, as presented above, two meta-theoretical ontologies, rational-choice and constructivism. Rational choice institutionalism is represented by the theoretical perspectives considering institutions as rules and contractual relationships. The constructivist perspective is represented by normative institutionalism. These were not selected at random but on the premise of two main arguments. First, as we shall see in the subsequent chapters, the theories contrast each other, which makes them, from a comparative perspective, interesting. This is because of their differing ontological points of departure, pointing to different as well as several institutional constraints that could change policy of both a formal and informal nature. Second, as mentioned in the methodology, since social phenomena may be caused by more than one causal mechanism. It thus become important due to the utilization of the congruence method, to expand the theoretical framework. Accordingly, the selection of the theories should therefore be seen as an attempt to overcome the limitations of the methodology.

Each sub-chapter within the theoretical framework begins with a presentation of the fundamental metatheoretical features of each theory. The chapter then moves on, utilizing the three selected theories, to deduce and hypothesize which institutional features, according to the theories, that shapes and could change the policy of the EU.

A last note to the reader, the term individual(s) is used throughout the theoretical framework and should be understood as the different actors involved, which will be discussed in the analytical part of this thesis, in the foreign policymaking machinery of the EU.

## 4.1 Rational Choice Institutionalism

The overall goal and aim of this chapter is to define what an institution constitutes according to the rational choice literature. Furthermore, the chapter also seeks to deduce two hypotheses, from the rational school, regarding what institutional constraints that hypothetically may trigger a change in policy. This is far from a simple task as the rational choice institutional theory can be considered a meta-theory (Pollack, 2006: 32) containing a variety of different analytical levels and theoretical view-points. Therefore, I shall introduce rational choice institutionalism by presenting two ways of thinking about institutions from the rational perspective. Second, as the overall goal and aim of this thesis is to explore whether the Lisbon Treaty has changed the Common Foreign and Security Policy an exploration of the *modus operandi* of institutions according to the rational choice literature on institutions is also a must. An inquiry of the operational nature of institutions is necessary as this would further enlighten what features of an institution that can be said to regulate the interaction between individual and structure. Following the exploration of the operational nature of institutions I shall move on and examine what institutional constraints that may trigger change by employing two theoretical sub-theories inherent to the rational choice school. From these perspectives I intend to develop two hypotheses regarding what institutional constraints that may cause a change in the foreign policy of the European Union, all this to be able to test whether the Lisbon Treaty has brought about such change and to be able to test whether change in policy has taken place.

Within the rational choice school of thought two conceptions of thinking about institutions has developed over the years. These two perspectives view institutions as either *exogenous* or *endogenous* to individual's preference formation (Shepsle, 2006: 24; Weingast, 1996: 167).

The latter perspective, views institutions as a pre-given phenomena, or *exogenous*, to political action (Shepsle, 2008: 24). As institutions are pre-given to political action they are thus to be considered as "the rules of the game in a society or, more formally, [...] the humanly devised constraints that shape human interaction" (North cited in Shepsle, 1990: 3). An institution would therefore be regarded as an externally derived constraint upon individuals and their actions, as

the institution would establish the bounds of acceptability for human interactions. Hence, any study assuming that that institutions are exogenous to political action would have to concentrate the analysis on the effects and consequences these institutions have on political action (Peters, 2012: 59-60; Weingast, 1996: 167).

The second interpretation regard institutions as *endogenous*, that is "the rules of the game in this view are provided by the players themselves; they are simply the ways in which the players want to play". (Shepsle, 2006: 25). This perspective assume that the actors within the system have the capability to shape institutional design and arrangement depending on their role within the institution (ibid: 25). Consequently, the institutional arrangements become the focal point for analysis. Therefore, rather than focusing on the effects of an institution, and the effects of the rules of the game, the endogenous perspective emphasizes why institutions are formed and shaped in a particular manner (Peters, 2012: 60). This division of institutional conceptions does not necessarily pose a problem but rather emphasizes specific features of an institution that should be the subject of further research (ibid: 60) On a similar note, to be able to achieve a focused analysis that relate to my research objectives I have chosen to view institutions, in the rational segment of this thesis, as *exogenous* and as a consequence of this on the institutional effects. Thus, what needs to be explored next is the operational nature of institutions, this to be able to better understand what features, of an institution, that may cause an effect and change in policy outcome.

To some it might seem dubious to utilize a rational perspective when analyzing how structures and individuals interact. The skepticism is caused by a key assumption inherent in the rational models namely that individuals are the central actors in political activity (ibid: 51), and that these individuals have a fixed set of preferences and behave instrumentally to maximize to the acquisition of these preferences (Hall & Taylor, 1996: 945), something also known as the logic of consequentiality (Pollack, 2010: 24). However, if we place these individuals in a collective setting, e.g. the European Union, and they still seek to maximize their own utility this egoistic behavior will most likely produce collective action dilemmas. The collective action dilemmas can also be defined as "instances when individuals acting to maximize the attainment of their own preferences are likely to produce an outcome that is collectively sub-optimal" (Hall & Taylor, 1996:

945). This is since, in a collective setting, an outcome could hypothetically be found that leave one of the individuals better off without making anyone else worse off. Typical examples of collective action dilemmas include the ‘Tragedy of the Commons’ and ‘Prisoners Dilemma’. The solution to these collective action problems, it is argued, is the creation of institutions (Peters, 2012: 52). This because institutions, according to the rational perspective, have the potential to produce ‘collective rationality’. That is, in a collective setting ”[...] individuals realize that institutional rules also constrain their competitors in whatever game of maximization those competitors believe themselves to be involved in” (Weingast cited in Peters, 2012: 50). The constraints within the institution functions as to guide the individuals’ respective behavior and also sets the boundaries of acceptable behavior (Peters, 2012: 50-51). Further, by setting the boundaries of acceptability the constraints limits individual’s quest of maximizing the attainment of their preferences by:

*”[...] affecting the range and sequence of alternatives on the choice-agenda or by providing information and enforcement mechanisms that reduce uncertainty about the corresponding behavior of others and allow ‘gains from exchange’ thereby leading actors toward particular calculations and potentially better social [collective] outcomes” (Hall & Taylor, 1996: 945).*

Based on the above, rational choice theory can therefore be said to define institutions as two overarching concepts. On the one hand institutions create a set of *incentives*, e.g. predictability about others behavior and collective gains. On the other hand, institutions are defined by a set of *constraints*.

The investigation of the *modus operandi* of institutions, according to the rational choice literature, has led me to draw the following concluding remarks. Institutions are created to overcome collective action problems and have the potential to overcome these issues by creating both *incentives*, and *constraints*. Institutional action is therefore to be judged as rational since the incentives and constraints inherent in the institutions allow individuals to understand that collectively they can achieve their preferences more effectively while their own and competitors behavior is constrained.

In the context of this thesis, what is of interest for the deduction and development of hypotheses are the constraining nature of institutions, this is because adopting a focus on incentives would lead the investigator to ask a different research question(s) than that posed in this thesis. As argued above, incentives created by institutions could be seen as the bypassing of collective action dilemmas, thus a research question would concern "why" do individuals seek institutional action rather than "how" do institutions shape and change policy. Constraints are more of an interest since the constraining institution regulate the range of allowed alternatives which will ultimately come to affect the possible collective outcomes. Based on the above exploration an overarching hypothesis can be developed:

*H1: if a constraint mechanism exist, change or is created, then the 'rules' have changed. Consequently, individuals must recalculate and rationally respond to the new constraints imposed, hypothetically leading the individuals towards particular calculations shaping and/or changing the course of policy*

Despite the successful theoretical deduction and development of a hypothesis relating to what institutional features rational-choice institutionalism would be of interest, there is a dimension which needs further explication. To be able to operationalize and empirically test the above hypothesis I need to theoretically understand how a constraint can be defined in line with the above rational assumptions. Consequently, I shall dedicate the two subsequent chapters, utilizing two rational-choice institutional sub-theories, to elaborate which institutional constraints that can be accredited to shape or cause change to policy. Thus, hypothesis one should not be considered a testable hypothesis but rather an overarching guiding the development of the following two hypotheses. The two selected perspectives were not selected at random but rather purposefully to fit the greater research objective. The first perspective considers institutional constraints as *formal rules* that govern the repetitive behavior between individuals in policy situations. The second theoretical angle views institutions as *contractual relationships* and go beyond the governed relationship of individuals to also include inter-institutional relationships (Peters, 2012: 56). The reason for

including a perspective that also focuses on inter-institutional relationships is due to that CFSP policy-making does not only include member states but also, as will be further investigated in the analytical part, other institutions. Because of this, it is highly relevant to consider these contractual relationships as phenomena that could shape the Union's policy.

#### 4.1.1 Institutions as Rules

The first conceptualization on what type of constraints an institution impose on *individual* maximization recognize institutions as a set of rules. What constitute a 'rule' might seem rather straightforward, however, as this analysis progress the conclusion that can be drawn is that this is not the case. Ostrom (1986) refers to institutional rules as "[...] *prescriptions* commonly known and used by a set of participants to order repetitive interdependent relationships" (Ostrom, 1986: 5). These prescriptions are references as to what actions that are *required*, *prohibited* and *permitted* within the institutional setting (ibid: 5). By arguing for rules as prescriptions of what actions are required, prohibited, and permitted the concept of rules is quite weak. This is because other theoretical perspectives, such as normative institutionalism, refer to their institutional constraints as prescriptive references which cause similar behavior among individuals in groups too (Weiner, 2006: 42-3 see also Peters, 2012: 52-3).

Accordingly there is a need to further distinguish the rational perspective on rules. It is therefore as Ostrom (1996) further argue that rules are the implicit or explicit attempt of individuals to achieve order and reduce uncertainty of the behavior of the set of individuals part of the institutional setting (Ostrom, 1996: 5). As individuals can be accredited to the creation of rules, individuals must therefore also be able to subject the very same rules to change. As noted by Ostrom (1996) changing rules in reality might be difficult, theoretically rules can be changed. However, the prescriptive and changing nature of rules alone is not a sufficient condition for rules to function as a constraint upon individuals. For rules to operate as a constraint they also need to have *prescriptive force* or be *enforceable* (ibid: 6; Peters, 2012: 53). Formal laws may therefore not be equated with rules initially, however if there is a mechanism by which individuals can be held accountable formal laws should be considered rules (Ostrom, 1996: 6). This



is since without enforcement there is no guarantee that the rules that order the relationship between individuals are being adhered to. Without an enforcement paradigm attached to rules individuals in a collective setting would attempt, as the fundamental assumption in rational theory tell us, to be egoistic and realize the maximal attainment of their own preferences. This behavior would as a consequence cause the same collective action problems and outcomes, as presented in the previous chapter.

By utilizing Ostrom's definition of prescriptive force, or enforcement, we encounter an issue that needs resolution before proceeding to the development of a hypothesis. The issue regards whether the enforcement mechanism should be regarded as *formal*, *informal*, or perhaps, both? In their article, "*Dynamics of Institutional Change in the EU*", Stacey and Rittberger (2003) distinguish *informal* and *formal* enforcement by arguing that formal enforcement entails holding individuals *legally* accountable by a third party, e.g. the European Court of Justice (Stacey & Rittberger, 2003: 861). Informal enforcement, on the other hand, encompass only *political sanctions*, e.g. naming and shaming, carrying negligible legal force (Stacey & Rittberger, 2003: 861). Hence, informal enforcement seems to be of little value when it comes to making sure that rules are followed since it offers no direct way to correct or alter the behavior of individuals breaking the institutional rules. However, formal enforcement seems to offer better means for holding rule breaching individuals accountable as it through a third adjudicating party corrects the behavior of infringing individuals through formal means.

There is thus a formality aspect to rules, however no matter how formal a rule may be it has no constraining value unless a formal enforcement mechanism exist which is capable of holding individuals directly accountable.

So far in this chapter we have discussed the features that constitute a rule and the features that are necessary for a rule to have an impact. Despite discussing such features I have not examined and defined what type of phenomenon rules can be said to affect. Rules as I intend to treat them cannot directly affect the behavior of individuals as individuals are assumed, in the rational literature, to be maximization seekers. Instead, the point of departure in this thesis will utilize another of Ostrom's arguments, namely that rules affect the "[...] structure of a

situation in which actions are selected” (Ostrom, 1986: 6-7). Thus, by affecting the structure of an action situation, and following the definition of rules, it can be argued that rules state which actions individuals are required and prohibited to take. Logically rules then also tell the involved individuals which actions that are permitted.

To summarize, rules can be said to embrace a rationality component. This is since, rules constrain the full set of individuals in a specific institutional action situation which leads the rules to create greater predictability of the behavior on the part of the individuals because of their existence (Peters, 2012: 53). Thus, individuals will be willing to submit to the rules, despite their constraining nature, as rules also create incentives. Further, rules do not directly affect individuals behavior but rather the structure of an situation where actions are to be taken and policy produced. Another important aspects of rules is the formal enforcement. Should the results demonstrate that no formal enforcement mechanism has been established one could, hypothetically, imagine that if individuals were not to gain from following the rules then they would defect from the rules and collective action problems would occur. Based on the above exploration of institutional constraints one can deduce the following hypothesis;

*H2: Should formal rules which regulate the Common Foreign and Security Policy exist, undergo change, or new rules be created, subject to formal enforcement, the expectation would be that the prescriptions shape and change policy.*

Finally, what rules should I then empirically investigate in order to operationalize the above hypothesis? The rules, as defined above, should be of a formal nature and affect a situation where action is to be taken. Accordingly, it is regulated in the Treaties that the European Council has and still does play a central role in prescribing guidelines for the Union’s Common Foreign and Security Policy, as a consequence of this I shall argue for, in the analytical chapters, that the European Council’s guidelines plays a major role in prescribing the policy actions available when formulating policy towards the Middle East

peace process. Because of this an examination of the guidelines shall guide my analysis of institutions functioning as a set of rules.

#### **4.1.2 Principal-Agent Theory & Contractual Relationships**

The previous chapter discussed and recognized institutions as formal rules that limit individual's choices in an policy action situation. However, as shall be explored in the empirical chapters, it is not only individuals that are involved in the foreign policy process in the European Union. Therefore, it become essential to further extend the theoretical framework with a perspective that also include inter-institutional relationships and the potential consequences such relationships may induce on policy outcomes. Accordingly, the principal-agent (P-A) perspective on institutions seems as a sound theoretical alternative as the perspective employs a dual focus on both "interactions among institutions, and between individuals and institutions [...]" (Peters, 2012: 56).

The P-A perspective conceptualizes institutions as the relationship "[...] whenever one actor (*principal*) engages another actor (*agent*) to perform a task on its behalf (Tallberg, 2003: 16).

*"The principal and the agent thus enter into a contractual agreement, in which the principal chooses to delegate certain functions or decision-making authority to the agent, in the expectation that the agent will act in ways that produce outcomes desired by the principal"* (ibid,: 16).

Such a relationship in itself may not seem as problematic, however, if we add to the equation the basic behavioral premise from rational choice theory, individual preference maximization, the relationship takes on a rather problematic form. Key to understanding the P-A literature, is the assumption that simultaneous *information asymmetry* and *conflicting interests* prevail within the relationship. Information asymmetry is caused due to the simple reason that agents generally know substantially more about their own interest and goals than the principal thus creating difficulties for the principal to verify what actions the agent are taking (Eisenhardt, 1989: 58; Tallberg, 2003: 19). Conflicting interests are assumed to

exist as a principal who enters into a contractual agreement with an agent expects the agent to work to attain and produce outcomes desired by the principal. However, the agent is assumed to have interests of its own that it seeks to attain and once the delegation of functions or decision-making authority has occurred actions taken by the agent may very well be driven by logics other than that of the principal (Tallberg, 2003: 20-1). Furthermore, the delegation of functions and decision-making procedures to an existing agent is not the sole situation in which conflicting interests may take precedence in a contractual relationship. Moe (1990) argues that;

*”Once an agency is created, the political world becomes a different place. Agency bureaucrats are now political actors in their own right: they have career and institutional interests that may not be entirely congruent with their formal missions, and they have powerful resources - expertise and delegated authority - that might be employed toward these ‘selfish’ ends”* (Moe, 1990 cited in Tallberg, 2003: 21).

Thus, in line with the basic behavioral assumption of the rational choice literature, individual preference maximization, it may be that ”while the principal would prefer the agent to perform the functions it has been delegated in accordance with the principal’s preferences, the agent may have private interests at heart” (Tallberg, 2003: 19).

By assuming that information asymmetry and conflicting interests take prevalence in the relationship between the principal and agent, P-A scholars draw the conclusion that the agent is likely to *‘shirk’*. That is when the agent pursue its own preferences at the expense of the principals preferences as long as this behavior is not rendered *disadvantageous* (ibid: 19; Scully, 2006: 25; Eisenhardt, 1989: 61). Consequently, depending on the extent that agent withholds information and to the extent the agent’s interest conflict with the principal’s interests the more problematic the contractual relationship will be.

As noted above, there are ways for the principal to render shirking unfavorable for the agent. This can be achieved by deploying either of two overarching methods, *monitoring/oversight* or *incentive/sanction* mechanisms

(Tallberg, 2003: 22-3, McCubbins & Schwartz, 1984: 167). According to the principal-agent literature there are two ways the principal can monitor its agents, either by using a *police-patrol* (pro-active) or a *fire-alarm* (re-active) approach (McCubbins & Schwartz, 1984: 167). Further, the principal may also choose to reward behavior, on part of the agent, that complies with the preferences and goals of the principal or, on the other hand, sanction behavior that do not (Tallberg, 2003: 23).

Based on the above investigation of principal-agent relationships I arrive at the following hypothesis:

*H3: Should contractual relationships exist, or be created, policy should be shaped or change as a result of shirking on the part of the agent, unless it is rendered disadvantageous.*

As my concluding remarks to this chapter I intend to briefly discuss how to operationalize principal-agent relationships. Due to the assumption that information asymmetry and conflicting interest exist between the two actors, it should be sufficient to examine the goals and interest of the agent and compare these ideas to the policies produced. I am by no means arguing that all of the interest and goals of the agent will be reflected in policy, but rather some of the goals and interest of the agent may be reflected in the new policy. However, I may very well be that the theory is refuted and the agent does not attempt to shirk. Placing the principal-agent relationship into the context of the European Union, there is especially one relationship, introduced with the entry into force of the Amsterdam Treaty, that is of interest when analyzing the Treaty reform and the CFSP. That relationship is the introduction of the High Representative for the CFSP (HR), as will be elaborated in the analysis, the introduction of the HR most certainly fit the theoretical definition of a contractual relationship, thus calling for an examination of the High Representative's goals to determine whether these conflict with the contracting principal's. The question thus become how one should determine whether conflictual goals exist or not. My approach to determine this shall be to examine and compare statements and strategies issued

by the High Representative. This is since these documents represent the formal mediums through which the HR attempts to help formulate the Union's foreign policy. However, as noted by Musu (2010) in the context of the Middle East peace process, the High Representative is a part of the 'Quartet on the Middle East peace process' (ibid: 64) and as a consequence of being a part of the Quartet, few statements on the Middle East peace process are issued by the High Representative in solitude but rather jointly using the Quartet as the formal medium. Therefore, the analysis will rely on investigating 'Quartet statements' since these also represent the policy the High Representative attempts to pursue.

## **4.2 Normative Institutionalism**

The ambitions with this chapter are to first to clarify between theoretical positions inherent in the constructivist metatheory concerning institutions. Secondly, it is the ambition to explore and analyze 'normative institutionalism' and how this theoretical perspective would argue institutions could shape and cause change in policy. Lastly, the deduction of a hypothesis on the basis of the analysis of theory will end with a operationalization strategy for the hypothesis.

Rather than jumping the gun there is an aspect that needs to be brought to the attention of the reader before moving on with the analysis of normative institutional theory.

Within the constructivist institutional literature there seems to exist ambiguities concerning the usage of theoretical perspectives. My own reflection as to what might have caused these ambiguities is that these perspectives all belong to a single 'meta-theoretical' orientation, constructivism (Pollack, 2010: 24; Wiener, 2006: 41). Within this orientation there are three perspectives that are similar but also distinct from one another, these are, normative-, constructivist- and sociological-institutionalism. To be sure, normative institutionalism, as the theory is labelled by Peters, is one of them and the preferred label utilized in this thesis.

Following the ontological discussion in the 'Philosophy of Science' chapter, it should be no surprise to the reader that normative theory rejects the rationality of individuals (Peters, 2012: 29). Instead, the institutions are seen as social environments that affect the behavior of individuals through informal, *norms*,

*values, understandings, and routines* (ibid: 29-30). The logical question that follow such a vague definition of institutional constraints would be, what constitutes a norm? In this instance norms is to be considered as socially embedded values and rules which normatively impact members of an institution or institutional framework (ibid: 30; Wiener, 2006: 43). Correspondingly, individual's preferences are assumed to be shaped through the participation in institutional life, institutions are, according to the normative institutional literature, assumed to express a '*logic of appropriateness*' (Peters, 2012: 27). That is, the institutional norms, values, and understandings function as a reference point that not only send a common message about what behavior is appropriate but also have the potential to cause the same appropriate behavior among every single individual member in the institution (Wiener, 2006: 43-4; Peters, 2012: 29). Put into the context of the European Union normative institutionalism can be said to emphasize " [...]the behavioral impact of standards of appropriateness established by the Community's [EU's] normative and policy commitments" (Thomas, 2011: 14).

The conceptualization of institutions as the expression of a '*logic of appropriateness*' is far from unproblematic. This is since by assuming that institutions send the same message to individuals, normative institutional theories, also assume that it is received by all institutional members in a uniform manner. As noted by Peters (2012) this is not always the case as "we know, for example, that even in well-developed and long-standing institutions different people will read cultural signals differently and will define 'appropriate' in very different ways" (ibid: 32). Furthermore, as rules can be also be defined as norms, readers of this thesis could run the risk of confusing rules as defined by rational choice theory with rules as defined by normative institutional theory. To make it clear normative institutional theory do take rules into consideration, however, the rational choice definition of rules and the normative version of rules are distinct from one another since;

*"The rules may be imposed and enforced by direct coercion and political or organizational authority, or they may be part of a code of appropriate behavior*

*that is learned and internalized through [...] education” (March & Olsen, 1989: 22)*

Accordingly, for the institutional ‘logic of appropriateness’ to function effectively there must be some form learning mechanism, in contrast to enforcement mechanism, which ensure that no individual defect from the appropriate behavior set out by the institutional norms and values. The argument is not very different from that of the rational choice institutionalist one, however, instead of formal enforcement of rules and contractual relationships, the normative version, as demonstrated by the quote above argues for a more informal enforcement through a ‘*socialization*’ process (Peters, 2012: 38). To explicate further March and Olsen (1989) differentiate rules and enforcement from rational choice institutionalism by arguing that:

*”[...] socialization into a set of rules and acceptance of their appropriateness is ordinarily not a case of willfully entering into an explicit contract. Rules, including those of various professions, are learned as catechisms of expectations” (March & Olsen, 1989: 23).*

The conceptualization of ‘socialization’ is thus meant to be understood as a process rather than a single event causing members to immediately adhere and comply with institutional rules and norms. This ‘socialization’ process, scholars argue, has occurred because of regular and repeated contacts between foreign policy-makers (Alecu de Flers et al, 2011: 169, Smith 2004: 33 & Glarbo 1999). For instance, Glarbo (1999) elaborates on this socialization process by arguing that through *regularized social interaction* shared social realities are produced and stored within individuals (Glarbo, 1999: 639, see also Smith, 2000, Chekel, 2003: 210). Thus, it is the social interactions, per sé, that cause alterations to individuals’ social realities and can therefore also be said to be the causing factor when social realities become integrated (ibid: 639), or in other words, when individuals adhere to the ‘logic of appropriateness’. Through regular interactions, Glarbo argues, individuals are expected to ”[...] establish meaning recursively [by self-reference] on the basis of their engagement in a mutual exchange [...]” (ibid:



640) with other individuals and thereby keep track of his or her own behavior in accordance with the reactions of the other individuals within that social world or institution (ibid: 641). Consequently, the more regular the interaction patterns the more adherence to institutional norms and values one would expect as the individual would learn what behavior that is socially acceptable and thus act in accordance with the 'logic of appropriateness'. In sum, 'socialization' should be seen as a process whereby members begin to learn the institutional norms and values during the participation in the institution (Juncos & Pomorska, 2006: 3; Lewis, 2005: 939).

Following this, one would also have to assume that the 'socialization' argument would also be valid if norms, values are created or changed from a round of Treaty reform. In the case of creating and establishing new norms or values, it is my argument that, each and every individual within the specific institutional framework in which the new norms or values are being established has to be considered as a novice member in relation to the new normative framework. Thus leading individuals participating in the Common Foreign and Security Policy institutional setting to adopt policy that reflect and adhere to the established norms and values within the CFSP institutional framework.

A further important characteristic of normative institutional theory concern the degree of institutionalization. Within the normative institutional school of thought the norms and values have the potential of becoming ordinary and *mundane* (Peters, 2012: 31) to such a degree that individuals unconsciously comply with the normative framework. Such *routinization* and *habitualization* of institutions, it is assumed, could produce an effect on policy outcomes since:

*"[...] conscious commitment and conscious decision making are minimized. Individuals [thus] continue to respond in the ways expected, and needed, by the institution because they have become accustomed to doing so, and the various normative stance, as myths and stories associated with the institution, help reinforce that routinization"* (Peters, 2012: 42 see also March & Olsen, 1989: 22).

Merging this perception of routinization to that of both Peter's and Glarbo's (1999) amongst others, routines are phenomena that occurs on a day-to-day basis,

will help in order to operationalize the concept. This is since one would hypothetically think that if interactions in the form of meetings of foreign policy-makers were to increase self-references of the individual's behavior, compared to the other individuals present in the institution, would increase thereby leading towards greater adherence to appropriate behavior. As such, it becomes my task to investigate whether the each respective Treaty reform has changed interaction patterns since if summits or meetings between CFSP policymakers become more frequent then we could expect greater norm diffusion in the Council of the European Union and other key CFSP institutions and policy should therefore to a greater extent reflect normative values. On the other hand, if they become less frequent then policy would change as to reflect less normative values. Thus we can deduce the following hypotheses from the normative strand of institutional theory:

*H4: If regular interaction patterns exist, or are created, policy would be shaped by socially embedded norms.*

*H5: If socially embedded values are created or changed, policy-makers act in accordance with these norms thus allowing these norms to shape or change policy.*

To conclude the chapter on normative institutionalism a discussion on the operationalization of the perspective would seem suitable. As the criticism directed to normative institutional theory argued the 'logic of appropriateness' is far from a tangible concept thus making it difficult, but not impossible, to operationalize. Should the individuals involved in the foreign policy process in the European Union practice in accordance with the appropriate norms and values present within the Union. Accordingly, the policies produced as an outcome of the institutional practices should reflect the very same values. Thus to operationalize, what needs to be analyzed are threefold. First, as member states have expressed, in the Treaties, their values (Thomas, 2011:14-5) an investigation of the Treaties is necessary since this would establish which the norms and values are and whether

they have changed with each respective Treaty reform. Secondly, an inquiry into the interaction patterns of the policy-making institutions is an integral part of the analysis. Such an inquiry is important as it would determine whether one would see the potential for policy to change or not. Imagine the following scenario, if interaction patterns are low in frequency (or infrequent), norms and values would not be reflected in policy, as individuals would not be able to recursively reflect upon their behavior, in relation to that of the other individuals, and therefore not act in accordance with the 'logic of appropriateness'. On the other hand, if interaction patterns increase with treaty reforms we would expect policy to a greater extent reflect the norms and values of the EU, since individuals would act on the basis of the reactions of the other individuals, in accordance with the 'logic of appropriateness'. Further, should interaction patterns increase the argument is that routinization would increase and thereby minimizing conscious decision-making which cause individuals to follow the 'logic of appropriateness' and cause policy to reflect the socially embedded values. Furthermore, it is important to realize that since the foreign policymaking of the involves plenty of actors and socially embedded values may very have been socialized and used to shape and inform e.g. the objectives pursued by an agent. Finally, an empirical investigation of the actual policy is elementary, as this would either prove or dis-prove the claims made by the normative institutional theory.

## 5. Analysis

The following chapters are in place to fulfill three purposes. First, the chapters aim to give the reader an understanding of the most important institutions related to the formulation of the Union's policy towards the Middle East peace process. By using the Maastricht Treaty as the starting point for such an investigation, I intend to use the successive treaties to build upon the model developed using the Maastricht Treaty. Secondly, the chapter also aims at exploring and identifying the institutional constraints provided by the Treaties that theoretically and hypothetically could shape and change the direction of the Union's peace process policy. Third, as I, by arguing that institutional change should alter policy, assume that the Middle Eastern policy has been shaped and changed with successive Treaty reforms, an inquiry into the actual policy documents shall also form a part of this chapter.

### 5.1 The Maastricht Treaty

The Maastricht Treaty, which entered into force in 1993, explicitly stated that "A common foreign and security policy is hereby established [...]" (Art. J, 1992, Treaty on European Union). The Treaty thereby became the first, in the Union's history to incorporate provisions on a European foreign policy (Keukeleire & Macnaughtan, 2008: 50; Giegerich & Wallace, 2011: 435; Peterson, 2012: 216). Remaining in force till 1999, when the Treaty of Amsterdam replaced and amended Maastricht the entry into force of the Maastricht Treaty brought about several institutional changes.

Because of the amalgamation of the Common Foreign and Security Policy into the formal structure of the Union, it fell on *the European Council* to "[...] define the principles of and general guidelines for the Common Foreign and Security Policy" (Art. J.8, 1992, Treaty on European Union). Thence, the European Council plays a "[...] pivotal role in the strategic direction, scope and main decisions of the Union's foreign policy (Keukeleire & MacNaughtan, 2008: 68).

Second, the Maastricht transformed the former foreign policy institution 'European Political Cooperation' established in 1970 after the Hague Summit, to make CFSP a prerogative of the *Council of the European Union* (the Council) (Hix, & Høyland, 2011: 311-2; Keukeleire & MacNaughtan, 2008: 50). Under the Council formation 'General Affairs Council' member states' foreign ministers were to decide on foreign and security policy action and adopt *common positions* and *joint-actions* (Arts. J.2 §2, J.1 §3 respectively, 1992, Treaty on European Union; see also Hix & Høyland, 2011: 312), thus allowing the Council to have the final say in foreign policy issues. Due to the internal composition of the General Affairs Council, the Common Foreign and Security Policy was deemed as largely intergovernmental. Furthermore, the Council's common positions required that member states implemented respective national policies in accordance with the defined EU position, although no formal sanctions for failing to comply existed (Hix & Høyland, 2011: 312). Joint actions, on the other hand, address a specific situation and set out the objectives, means and conditions for its implementation in the member states (Art. J.3 §2, Treaty on European Union), and are more extensive relative to the common position.

Furthermore, as a consequence of introducing the foreign and security policy as a Council formation, the Council's supporting institutional framework was also brought into the equation of shaping the foreign policy of the European Union. An important development related to this was the role granted to the *Committee of Permanent Representatives* (COREPER). COREPER II is composed of all member states' permanent representatives dealing with foreign policy related issues (Keukeleire & MacNaughtan, 2008: 74). As established in the Council's Rules of Procedure COREPER was tasked with the following:

*"all items on the agenda for a Council meeting shall be examined in advance by COREPER unless the Council decides otherwise. COREPER shall endeavor to reach agreement at its level to be submitted to the Council for adoption"* (Art. 19 §1, Council Decision 93/662/EC).

When dealing with the Council agenda, COREPER usually split it into two sections. The first section, A-points, are items already agreed by the COREPER

and requires adoption by the Council (Hayes-Renshaw & Wallace, 2006: 52). The second are B-points which need further discussion and debate among ministers in the Council before formal adoption (ibid:52).

As demonstrated by the quote above, COREPER thus came to play, and still is playing, an integral part of the formulation and decision-making of European foreign and security policy.

Though it can be argued that the *European Commission* could have played a role in the formulation of EU foreign and security by submitting proposals (Art. J. 8 §3, 1992, Treaty on European Union) and *European Parliament* through its budgetary powers (Keukeleire & MacNaughtan, 2008: 93), I have made the decision to exclude these from the analysis. This is since they could not, during the period the Maastricht Treaty was in force, be seen as directly involved in the formulation and decision-making of the Union's foreign and security policy. Letting this be my final note as to the exploration of the key institutions in CFSP policy-making, there are a number of interesting theoretical observations that can be made. These observations will be developed below.

Realizing that, I have decided not to include a prior Treaty, as a comparison point, the purpose of this chapter is to outline which formal rules, norms, values and policy that were in place under the Maastricht Treaty. This to enable me, in the coming chapters, to compare the different institutional innovations of each Treaty and whether they did have any effect on policy. Though, for now, I aspire to divide the analysis of the Maastricht Treaty into two separate parts. The first focuses on norms and values while the second place an emphasis on what can be argued to be formal rules.

### **5.1.1 Normative Institutions and Socialization through Interaction**

The first interesting observation is that the Maastricht Treaty not only ingrained a set of *values* and *norms* but also established *regular patterns for interaction* that could have lead to *socialization*. The Maastricht Treaty established several values that the Union was to pursue when dealing with foreign policy issues. The Treaty makes it clear what socially shared norms and values the Union's work and policies are to be framed around. The preamble in the Treaty state

*”Confirming their [the member states’] attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and the rule of law” (Preamble, 1992 ,Treaty on European Union)*

These values are reaffirmed and consolidated and placed into a foreign policy context under the provisions on a common foreign and security policy. Article J.1 §2 determine that;

*”The objectives of the common foreign and security policy shall be to [...] preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter; to promote international cooperation; to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms” (Article J.1 §2, 1992, Treaty on European Union).*

Though the above quotes provide a satisfactory answer as to what socially embedded values that are established in the Treaty, there is a need to further clarify what the concept ”fundamental freedoms” actually inhibit in the context of the peace process. If one reference the United Nations Charter, one can determine that the concept ”fundamental freedoms” is comprised of several rights. However, for analytical purposes, one of these rights are more important than the others. Consequently, I have limited the concept of ”fundamental freedoms” to solely comprised of the right of self-determination (Art. 1, Charter of the United Nations). As will be presented in the analysis of policy, the right of self-determination is key in the Union’s policy towards the peace process.

Thus, one can confidently establish that the Maastricht Treaty inhibit several socially embedded values such as democracy, the rule of law, respect for human rights and fundamental freedoms and the respect for international law. Still the mere existence of norms and values is, per definition, not a satisfactory condition for the adherence and socialization of these norms to occur. To satisfy all of

theoretical conditions for socialization to occur one must consider whether regular patterns of interaction exist within the policy-making institutions, or not.

Several notable regular interaction patterns exist within key foreign and security policy-making institutions. A closer examination of the European Council summits show that during the Maastricht years, 1993-1998, the European Council met formally at the very least twice per annum (European Council Website, European Council Conclusions Since 1975-1992 & 1993-2002). Thus, regular patterns of interaction in the European Council had already been established and consequently one would expect that the conclusions, published following each summit, to reflect the embedded norms in the Maastricht Treaty. Further the General Affairs Council during Maastricht met roughly once per month (Hayes-Renshaw, 2002: 50) or as data from 1994 suggest, 16 times *per annum* including domestic affairs (Hayes-Renshaw & Wallace, 1997: 30). Hence making the Council an arena susceptible to socialization. However, the involvement of COREPER II in the policy-making process does also have implications for socialization. As Lewis (2005) notes, "no other site of everyday EU decision-making approximates the intensity of weekly COREPER negotiations" (Lewis, 2005: 946). Following the logic, as presented by normative institutional theory, COREPER must be argued to be an arena where it is extremely likely that socialization occur, especially when one consider that COREPER should endeavor to reach agreement at their level. However, it would be naïve to assume that all common foreign and security policy decisions are taken at COREPER. However, empirical studies have shown that most of the decisions on the Council's agenda, are resolved at the level of COREPER. Hayes-Renshaw & Wallace (1997), for instance, argue that evidence from Council insiders points to around 85-90 per cent of the agenda items was transacted to the Council as A-points (ibid: 52) On the other hand, Häge (2008) estimate that circa 35 per cent of legal acts are voted on by the ministers in the Council and approximately 48 per cent are discussed by ministers (Häge, 2008 cited in Hix & Høyland, 2011: 63). Another noteworthy point related to socialization and the Council regard the involvement of permanent representatives in actual Council sessions in which the representatives, according to Lewis (2005) brief and offers tactical suggestions to the ministers (Lewis, 2005:



946), it is likely these norms are, whenever decisions are de facto taken in the Council of the European Union, reflected in the policy produced.

In sum, through the embodiment of foreign and security policy under the Treaty framework, common foreign and security policies should, at least theoretically, reflect the norms and values presented above. However, as theory, sometimes, is far fetched from reality, I shall after a discussion on formal rules investigate whether these norms and values are reflected in policy produced under the Maastricht Treaty.

### **5.1.2 Formal Rules and Prescriptions under Maastricht**

Although not formally recognized as an institution of the European Union, the European Council has played an important part in setting the strategic and general guidelines for foreign policy action.

Written in the Treaty, "The Council shall decide, on the basis of general guidelines from the European Council, that a matter should be the subject of joint action" (Art. J.3 §3, Treaty on European Union), the Article makes it clear on just how integral the role of the European Council is in the formulation and prescription of foreign and security policy action. As understood by Keukeleire & MacNaughtan, "[...] it is its [the European Council's] role as an "*organe d'impulsion*" rather than as a decision-making actor that is most important" (Keukeleire & Macnaughtan, 2008: 68).

Related to hypothesis two's theoretical discussion it is my argument that these *general guidelines* in fact prescribe what actions in a policy situation that are required, prohibited and permitted. These 'guidelines' or rules, as they are being theoretically referred to, provide the basis of defining and prescribing the decisions taken by the Council of the European Union (Article J.8 §2, Treaty on European Union). The guidelines should, if Ostrom's arguments are consistent with the empiricism presented in the policy chapter, constrain the Council as to which options on their policy choice agenda are required, prohibited and permitted leading to an impact on the final policy output. It thus become mandatory to further scrutinize the guidelines to determine whether these are reflected in policy or not.

However, also important to recognize is that the Treaty include no provisions regarding formal enforcement of the European Council's guidelines. Thus, one would expect that the Council also attempt to pursue its own objectives and preferences when defining policy, perhaps rendering the European Council's prescriptions obsolete.

The first European Council, to offer some substance on the Middle East peace process policy, after the entry into force of the Maastricht Treaty, was the 1993 Brussels summit conclusions. The conclusions from that meeting offered an extensive "framework for joint action" (European Council Conclusions, 1993, Brussels). Identified in this document are several prescriptions concerning what decisions the Council are to take and implement as the Union's official line of policy.

*"strengthening the democratic process, including through assistance, if requested, with the preparation and monitoring of the elections to be held in the autonomous Palestinian Territories"* (European Council Conclusions, 1993, Brussels)

*"consolidating peace through building regional co-operation [...] with a view to contributing to economic development and security in the Middle East."* (ibid)

*"supporting the Palestinian Interim Self-Government authority to be established [...] through the rapid, efficient and transparent implementation of European Union aid programmes for the development of the Occupied Territories, in close consultation with the Palestinians."* (ibid)

The above quotes advance interesting theoretical links to contemplate on further. First, it seems as if the socially embedded values in the Treaties have been socialized as they are reflected in the European Council's conclusions. Because of this I argue that the European Council's prescriptions, or guidelines, at the very least attempts to crystallize the socially embedded values by more specifically prescribe what types of decisions the Council is to take. A telling example of this would be the socially embedded norm of support of democracy, which the European Council prescribe should be pursued through the monitoring of the

elections and through establishing aid programmes for the establishment of a democratic government. Second, the aforementioned quotes provides the Council with specific prescriptions on which actions the European Council conclude are, at the very least, required for the Union to take in order to contribute to the Middle East peace process.

At subsequent summits the European Council further consolidated their approach adopted at Brussels. For instance in Essen 1994 the European Council by further extending its aid programmes.

*”The European Council agreed that, as the largest international donor, the European Union should continue to make a significant economic and political contribution in support of the Middle East peace process, in particular in the reconstruction of the Palestinian areas.”* (European Council Conclusions, 1994, Essen)

The European Council’s conclusions did not only consider process elements which prescribed the range of policy action available to the Council towards the Middle East conflict. At the Florence summit in 1996 the European Council defined, for the first time since the Maastricht Treaty entered into force, the Union’s position on how to accomplish a lasting peace. The European Council recalled the essential principles on which the conclusion of a final peace agreement should be based on the principles of ”[...] self-determination for the Palestinians, with all that implies, and land for peace - are essential to the achievement of a just, comprehensive and durable peace.” (European Council Conclusions, Florence, 1996). The emphasis placed on the right of self-determination of the Palestinians as a key principle of the European Council’s guidelines for policy towards the Middle East peace process must be considered yet another reflection of the socially shared values. Though the Maastricht Treaty does not make self-determination an explicit principle, which the Union is to promote in its external relationships, the Treaty would label it a ’fundamental freedom’ (see previous section on socialization during Maastricht). More specifically, the support of the right of self-determination stem from the devotion to the principles laid out in the United Nations charter.

Another rule, or if you will, prescription issued at Florence concerned an important policy choice related to the security paradigm of the peace process. This time the European Council specified that

*”The European Union considers important the commitments the parties have made regarding security [...] It condemns all acts of terrorism and will continue to support the parties in their fight against it, its perpetrators and its political, economic and social causes.”* (European Council Conclusions, Florence, 1996).

Though already concluded, at the Brussels summit in 1993, that the Union’s policies should be aimed at the development of security it remained unclear what elements that was connected to security. However, at the Florence summit it became clear that efforts concerning security were to be related to the hindrance of acts of terrorism.

To conclude, it is highly interesting to note, despite summit intensity being as low as two times per year, that socially embedded values established in the Treaties had been indoctrinated in the European Council’s conclusions. On a similar note, the conclusions, I would argue, operate as a form of crystallization tool whereby the European Council formulate and operationalize the socially embedded norms. For instance at the Brussels summit in 1993 the European Council concluded that as a means of promoting, or strengthening, the democratic process in the Palestinian territories would through monetary assistance seek or political aid to monitor the elections crystallize the commitment to democracy as an embedded value. Further, the European Council’s conclusions are of a rather abstract nature, though as seen from the above analysis there are conclusions prescribing what policy action the Council, or EU, should adopt. Also highly relevant and important, for theoretical purposes, is the absence of any form of formal enforcement mechanism in the Maastricht Treaty, because of this, as discussed in the theoretical chapter on institutions as rules, the European Council’s guidelines, at least in theory, provide little prescriptive value. This is since individuals holding the final decision-taking power, in this case the Council of the European Union, would be able to overlook these prescriptions and would thus, as they are assumed to be egoistic, pursue their own goals. However,

whether the policy adopted during the Maastricht era did reflect the European Council's prescriptions will be established in the coming chapter analyzing the actual policy measures adopted by the Council of the European Union.

## **5.2 Middle East Peace Policy during Maastricht**

The European Union's policy adopted during the Maastricht era provides plenty of captivating information that can be used to make inferences concerning what institutional constraints that were triggered to, in this first case, shape the Union's policy towards the Middle East peace process.

Let us start in April 1994 when the first joint action (Council Decision, 94/276/CFSP) of the Council of the European Union towards the Middle East was adopted. Several of the above mentioned norms and rules adopted seems to have guided the Council when adopting the final policy document. First and foremost, policy during Maastricht seems primarily motivated by the principles of democracy, human rights and rule of law. This becomes particularly evident in joint action 94/276/CFSP where it is declared that the Union is to "use its influence to encourage all the parties to support the peace process unconditionally [...] and work for the strengthening of democracy and respect for human rights" (Art. 1, Council Decision, 94/276/CFSP). Concerning concrete measures, the Union was to materialize its socially embedded values, democracy and the rule of law, by aiding the Palestinian authorities in an attempt to establish a Palestinian police force (ibid, Art. 3). On the basis of joint action 94/276/CFSP (ibid, Art. 5), as a consequence of its promotion of human rights and the strengthening of democracy, and in line with the European Council's prescriptions at the Brussels summit in 1993, the Union adopted in 1995 further concretized policy measures concerning the support to observe the Palestinian Council elections (Council Decision, 95/403/CFSP). The measure adopted by the Council is a strong indicator on how the Union's policy was during Maastricht shaped by socially embedded values, support of democracy and the promotion of the rule of law in the Union's external relations. However, policy also reflect the prescriptions set by the European Council on how to realize and materialize the support of

democracy and rule of law in concrete terms, e.g. supporting elections and creating a police force.

Yet another example of how the Council's guidelines has shaped the direction of policy can be found in Common Position 14/94. The Common Position identifies the need to establish financial cooperation with the Palestinian Occupied Territories with the aim to support *inter alia* infrastructure, education, health and improvement of public administration institutions related to the advancement of democracy and human rights (Council Common Position, 14/94). Intriguingly, once again it is possible to find a link between the Union's policies adopted and the social norms embedded in the Maastricht Treaty. Nevertheless, it is intriguing to empirically establish how the European Council's guidelines function to materialize the shared values by prescribing what concrete policy action that should be pursued on part of the Council of the European Union. Yet, it is not only the above empiricism that demonstrates and evidence such a crystallization of socially shared norms.

In late 1995 additional policy was adopted directed towards the peace process. The policy, named the Barcelona declaration, was an attempt by the Union to establish a multilateral regional relationship with countries around the Mediterranean with the aim of creating an area of peace and stability as a further tool to "[...] support the realization of a just, comprehensive and lasting peace settlement in the Middle East [...]" (Barcelona Declaration, 1995: 2). Furthermore, the objective creating an area of peace and stability in the Mediterranean, and thus indirectly the Middle East conflict, would require "[...] a strengthening of democracy and respect for human rights, sustainable and balanced economic and social development [...], which are all essential aspects of partnership" (ibid: 2).

The establishment of the Barcelona declaration is in it own right a telling example of how the European Council managed to shape the Union's policy approach towards the Middle East peace process, especially when one considers the policy guidelines established at the Brussels summit in 1993. Despite being an interesting policy in its own right, the Barcelona declaration is also a reflection of how socially embedded values and norms did shape the Union's policy towards the Middle East peace process under the governing structure of the Maastricht Treaty. Empirical evidence also provide evidence that socialization and adherence

to the logic of appropriateness took place during the policy-making process. Perhaps the most clear empirical evidence, of a socialization process actually occurring, can be found in the document's "political and security partnership" provisions. These provisions stated that the parties subject to the provisions were to undertake action to;

*"develop the rule of law and democracy in their political systems, while recognizing in this framework the right of each of them to choose and freely develop its own political, socio- cultural, economic and judicial system"* (ibid: 3)

*"respect human rights and fundamental freedoms and guarantee the effective legitimate exercise of such rights and freedoms[...]."* (ibid: 3)

*"respect the equal rights of peoples and their right to self-determination, acting in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law [...]"* (ibid: 3)

Thus, following the analysis in the normative chapter, due to the regularized patterns of interaction both in the Council and COREPER it is possible to infer that there exist a causal relationship between socially embedded values established in the Maastricht Treaty and the adopted policy approach in the Barcelona declaration. Recollect that the Treaty established that the Union should in its relationships with the external world develop and consolidate democracy, the rule of law, the respect for human rights and fundamental freedoms. Hence, the three above quotes clearly demonstrate the manner in which socially embedded values formed and shaped the policy in the Barcelona declaration which was indirectly aimed at the Middle East peace process.

Furthermore, the Barcelona declaration also encompass the European Council's prescribed ambition to consolidate and secure peace in the Middle East through regional economic cooperation and development (ibid: 4). Thus, policy cannot be accredited to be shaped on shared values alone but also on the prescriptions given by the European Council as governed by the Treaty.

Another policy paradigm of importance to the peace process, as acknowledged by the European Council at the Florence summit, was security. Recall that it was prescribed at Florence that the Union condemned all acts of terrorism and should work to combat all of its social, economic and political causes. In April of 1997 the formal decision to adopt policy mirroring the prescriptions of the European Council was taken. The joint action (97/289/CFSP) did not only consider combating terrorism a key objective, but also the promotion and education of human rights. In Article 2 it is clearly stated that;

*”The objective of the programme is to support the PA’s [Palestinian Authority’s] capacity to counter terrorism and help sustain the Middle East Peace Process and to provide the relevant security and police services with a comprehensive understanding of the principles of human rights in the implementation of their activities in the territories under the control of the PA” (Art.1 §2, 97/289/CFSP).*

Hence, I would argue, that this piece of policy provide further evidence that policy was rather norm driven during Maastricht, and that European Council’s guidelines serve to materialize the socially shared norms and values crystallizing them into concrete policy measures.

To summarize the analysis of the policy adopted under Maastricht it is possible to infer that due to regularized patterns of interaction in the main CFSP policy-making institutions, policy was formed and shaped around common values and norms. Following the above analysis empirical evidence supporting such a conclusion would be the Union’s ambition to promote democracy and the rule of law by providing the Palestinian authority with assistance to establish a police force. Another example of this would be the acknowledgement of the Union in the Barcelona declaration that the Palestinian and Occupied Territories do have the right of self-determination. However, as already mentioned above, it would be naïve to assume that policy was shaped solely on norms and values. The above empirical analysis suggest that the European Council’s guidelines function as to materialize and crystallize the socially shared values and norms in to concrete policy measures. Also noteworthy is despite lacking a formal compliance mechanism, which was key in Ostrom’s argumentation, policy seems to have been



shaped by the European Council's guidelines. Thus, the European Council's prescriptions should also be accredited with shaping the Union's policy towards the Middle East peace process.

### **5.3 The Amsterdam & Nice Treaties**

The first Treaty reform amending Maastricht was the Amsterdam Treaty. Entering into force in 1999 the Amsterdam Treaty made interesting amendments that potentially could have altered the EU's policy towards the Middle East peace process. Perhaps most interesting was the amendment of Article 18 (Art. 18, 1997 Consolidated Version of the Treaty on European Union; ex Art. J.8) which established the position of a *High Representative for the CFSP*.

Also important was the consolidated role of the European Council, still remaining at the centre of EU foreign policy making. On a similar note, the Committee of Permanent Representatives' involvement in foreign policy remained, at large, the same as under the Maastricht Treaty (c.f 1999/385/EC), which meant that no extension to the interaction patterns with Amsterdam did occur. However, with the adoption and entry into force of the Nice Treaty, as will be developed below, interaction patterns did change as a consequence of the creation of a new institution tasked with policy formulation.

#### **5.3.1 Changes to Socially Embedded Values and Interaction Patterns?**

The adoption and entry into force of the Amsterdam and Nice Treaties brought about little change with regard to the socially embedded values and norms of the Union. Instead, both Amsterdam and Nice reaffirmed the Union's commitment to the socially embedded norms written in the Maastricht Treaty. Thus, EU foreign policy towards the peace process should, assuming that normative institutional theory correspond with its assumptions, be shaped by the shared values to preserve peace and international security, to promote international cooperation and to develop and consolidate democracy, the rule of law, respect for human rights and fundamental freedoms (Art. 11, 1997 Consolidated Version of the

Treaty on European Union; Art. 11, 2002 Consolidated Version of the Treaty on European Union; ex Art. J.1).

However, an important institutional innovation established by the Nice Treaty, was the introduction of the Political and Security Committee (PSC). The Committee which was tasked with

*”monitor[ing] the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council at the request of the Council or on its own initiative.”* (Art. 25, 2002 Consolidated Version of the Treaty on European Union)

The PSC, as argued by some scholars, replaced COREPER to become the linchpin of the Common Foreign and Security Policy (Keukeleire & MacNaughtan, 2008: 74; Juncos & Reynolds, 2007: 136) though the role of COREPER, officially, remained the same (c.f 1999/385/EC). Nevertheless, comprised of national permanent representatives, the PSC met approximately twice per week (Keukeleire & MacNaughtan, 2008: 74) thus adding to the frequency of regularized interaction, compared to when the Maastricht Treaty was in force as COREPER II was the only supporting structure meeting on a weekly basis.

Furthermore, with the introduction of the Amsterdam Treaty the European Council summit meeting frequency was intensified to four formal summits per year (European Council Website, European Council Conclusions Since 1993-2002 & European Council Conclusions Since 2003-2013), which according to normative institutional theory mean that norms should be more discernible in shaping the European Council’s summit conclusions as well as the policy of the Union. Additionally, the ‘General Affairs Council’ was with the Nice Treaty renamed to become the GAERC, or ‘General Affairs and External Relations Council’ seeing, at least, in 2004 an intensification in meeting frequency to no less than 26 meetings (Hayes-Renshaw & Wallace, 2006: 38), as compared to the previous approximation of once per month or as data suggested 16 times per year. Thus, one could argue that the Treaty reforms altered the frequency of meetings. Due to this one would expect policy to be more shaped around the shared values and norms.

To summarize, the Amsterdam and Nice Treaties did not bring about any extraordinary changes to the governing structure of the CFSP in terms of new socially embedded norms and values. However, the Nice Treaty did introduce another arena for the definition and formulation of foreign policy meeting regularly and frequently. Also, the intensification of summits on part of the European Council and the Council would lead to the expectation to empirically find that the Union's policy towards the Middle East peace process would take further consideration of the socially embedded norms written in the treaty become, as a consequence of regular interaction patterns, catechisms expected to be reflected in final policy. Nevertheless, since the socially embedded norms and values underwent no major changes the expectation according to hypothesis five would be that policy should remain similar to that during Maastricht.

### **5.3.2 The European Council still setting the prescriptive rules for foreign policy?**

Concerning treaty reform and the European Council's involvement in the Common Foreign and Security Policy, the Amsterdam and Nice Treaties introduced no institutional innovations that altered the role of the European Council as the "*organe d'impulsion*" of the CFSP. This can be established by looking at Article 13 of both the Amsterdam and Nice Treaties where it is stated that, "The Council shall take the decisions necessary for defining and implementing the common foreign and security policy on the basis of the general guidelines defined by the European Council" (Art. 13 §3, 1997 Consolidated Version of the Treaty on European Union; Art. 13, 2002 Consolidated Version of the Treaty on European Union; ex Art. J3). Thus, the Amsterdam and Nice Treaties, in terms of changing the formal rules prescribing policy action altered little since the role of the European Council remained intact at the level of providing the guidelines on which the Council should base its policy. Accordingly, the European Council's conclusions, must thus still be considered to prescribe the direction of the Union's policies aimed at the Middle East peace process. Though important to note is that there exist no formal mechanism through which the European Council could enforce the Council's obligation to base its decisions on

the European Council's guidelines thus allowing the Council to defect from its obligation. However, to determine this another investigation of the European Council's prescriptions is a must in determining whether these Treaties shaped or changed the Union's policy towards the peace process.

Beginning the analysis with an analysis of the Berlin summit in 1999, the European Council issued its first guidelines under the governing structure of Amsterdam. Interestingly, some policy aspects concluded at the Berlin summit changed the European Council's approach to the Middle East peace process. For instance instead of reaffirming the Union's position on the right of the Palestinians people to self-determination the European Council extended its position to include "[...] the creation of a democratic, viable and peaceful sovereign Palestinian State [...]" (European Council Conclusions, 1999, Berlin). Other than the directional change made at the Berlin summit in 1999, the European Council's prescriptive guidelines remained on the same path as during Maastricht. Several examples of this can be found in the forthcoming European Council conclusions issued ex post the Berlin conclusions. At the Gothenburg summit in 2001 it was consolidated that aid aimed at supporting Palestinian institution building and economy should remain an EU commitment as to ensure peace in the Middle East,

*"[...]aid to the Palestinian institutions and economy remains a European commitment we should maintain as part of an international effort."* (European Council Conclusions, 2001, Gothenburg)

Thus, precisely as prescribed at the Brussels summit in 1993, aid to the Palestinians was and still is, according to the European Council, a central policy domain on how the European Union is to approach the Middle Eastern peace process.

Another prescription established by the European Council already during the Maastricht era that remained part of the European Council's approach to the peace process was that of the security paradigm, specifically terrorism. The Thessaloniki European Council in 2003 consolidated the path the European Council had determined already at the Florence summit 1996.

*”the European Union unequivocally condemns terrorism and will continue to contribute to efforts aimed at cutting off support, including arms and financing, to terrorist groups. It is also ready to help the Palestinian authority in its efforts to stop terrorism, including its capacity to prevent terrorist financing”* (European Council Conclusions, 2003, Thessaloniki)

A further key objective to achieve peace in the Middle East identified by and at the 1993 European Council summit in Brussels was the establishment of the rule of law in the Palestinian territories. An objective that, in 2003 at the Thessaloniki European Council, was yet again emphasized

*”It [the European Council] reaffirms its readiness to support the Palestinian Authority in taking responsibility for law and order, and in particular, in improving its civil police and law enforcement capacity.* (European Council Conclusions, 2004, Brussels)

Interestingly, the European Council also remained convinced that the concrete way to ensure the rule of law was through the improvement of the capacity of law enforcement through the improvement of the Palestinian civil police force. It can thus be argued that the prescriptions issued by the European Council when the Amsterdam and Nice Treaties were in force, most certainly, demonstrate and provide evidence that the formal rules shaping the Union’s policy did not change but rather remained on the same path since the European Council identified these objective under the governing structure of the Maastricht Treaty.

In sum, when developing hypothesis two I argued that if the formal rules changed, or if new rules were created, one would expect policy to change. However, as demonstrated above the formal rules, or prescriptions, issued by the European Council changed very little from those issued when the Maastricht Treaty was in force, thus the expectations on policy changing due to the European Council’s prescriptions are slim. Though new to the European Council’s prescriptions was the aim of creating a democratic Palestinian state living side by side with Israel. In the context of the effect the Treaty reforms had on changing the prescriptions governing how policy was shaped I argue that the

implementation of Amsterdam and Nice Treaties affected little as the European Council still remained as the "organe d'impulsion" of the policy prescriptions issued. Moreover, it is further interesting to observe that the European Council still function as an arena to crystallize the socially embedded norms into concrete policy, as, perhaps best, evidenced by the quote where the Union's adherence to promoting the rule of law is turned into the improvement of law enforcement capacities. Despite the fact that the above analysis did not find evidence pointing to either a change or establishment of new formal rules it is all too soon to discard the Amsterdam and Nice Treaties as changing the course of the Union's policy towards the Middle East peace process. Remember, at the development of a theoretical framework that several hypotheses were developed and should therefore be tested. Consequently, I shall move the analysis forward to test the third hypotheses regarding contractual relationships to determine whether the agent of such a relationship has been able to introduce new policy approaches that may have caused a change in the Union's peace process policy.

### **5.3.3 The High Representative, A Shirking Agent?**

When established in 1999, the first titleholder of High Representative for the Common Foreign and Security Policy became Javier Solana the former Spanish foreign minister. The establishment of the HR for the CFSP is a theoretically interesting institutional innovation, especially considering the role awarded to the High Representative

*"The [...] High Representative for the common foreign and security policy, shall assist the Council in matters coming within the scope of the common foreign and security policy, in particular through contributing to the formulation, preparation and implementation of policy decisions [...]"* (Art. 26, 1997 Consolidated Version of the Treaty on European Union; ex Art. J.16)

This role description of the High Representative and that individual's involvement in the Union's foreign policy, I argue, conform with the definition of a *contractual relationship*. The principal, or in this case the Council, have

delegated policy preparation and formulation functions to the High Representative with the expectations that the individual fulfilling that role produces outcomes desired by the Council. However, as suggested by principal-agent theory, the agent is assumed to pursue goals in her or his own interest which may not be congruent with those delegated by the principal. At least theoretically the High Representative should pursue his or her own goals at the expense of the Council's, unless the Council render such behavior disadvantageous. Interestingly enough no such monitoring or incentive mechanisms are found in the Articles providing the legal basis for the HR nor in the Treaties at all (c.f. Arts. 18 §3 & 26, 1997 Consolidated Version of the Treaty on European Union).

Furthermore, the HR for Common Foreign and Security issues was not only part of the endogenous institutional framework of the European Union, but was also a part of the 'Quartet on the Middle East peace process' (Musu, 2010: 64) established at the Madrid Conference in 2002. The Quartet consisted, and still does, of the High Representative of the European Union, the Secretary-General of the United Nations, Minister of Foreign Affairs of the Russian Federation and the Secretary of State of the United States of America (ibid: 64). Solana's membership in the Quartet is deeply interesting for one particular reason, the Quartet could, precisely as the European Union, function as a socialization arena where different socially embedded values are present. If socialized, the High Representative could pursue other goals, and thus *shirk*, whilst playing an integral part of the CFSP policy-making chain. Thus, through the participation in the Quartet the High Representative could be exposed to other logics that could be in contrast with that of the Council's already adopted policies under the Maastricht Treaty. However, rather than assuming that the High Representative pursued goals of his own, it is necessary to establish whether the HR pursued other goals than those already established in policy and determine whether these goals were concretized in policy, thus determining the introduction of the High Representatives did alter the course of the Union's policy towards the peace process. By analyzing statements made by the Quartet and a strategy put forward by the High Representative it is my ambition to test whether the hypothesis deduced from principal-agent theory congrue with the empirical material.

The analysis will proceed as follow. Since, the previous sections have dealt with institutions as either shared socially embedded values or prescriptions regulating which actions that are required, permitted or prohibited to take, this chapter will follow the same structure. Hence, first the values pursued by the HR will be analyzed. Second, the prescriptive measures will be placed at the centre of attention and examined. These two steps are crucial to the analysis as they would establish whether any discrepancies exist, between the Union's policy pursued during Maastricht and the goals advanced by the HR, determining whether shirking occurred or not.

When analyzing the statements made by the High Representative, using the Quartet as a medium, and deducting what socially embedded values that are adhered to there are several notable insights that provide empirical evidence suggesting that the HR did not shirk. Early on it was identified and established that the promotion and development of democracy in the Palestinian territories would be a key objective of the High Representatives approach.

*"Implementation of an action plan, with appropriate benchmarks for progress on reform measures, should lead to the establishment of a democratic Palestinian state characterized by the rule of law, separation of powers [...]"* (Quartet Statement, New York, 2002)

Interestingly enough the previous quote does not only point to the prominence given to the promotion of democracy, but does also emphasize a shared commitment to the rule of law. These are valuable observations as they indicate that the HR, through the medium of the Quartet, share similar and the very same socially embedded values as those embedded in both the Maastricht, Amsterdam and Nice Treaties promoted by the EU which would imply that no shirking occurred.

Further empirical data testifying which normative goals the High Representative were pursuing can be found in the *"Road Map for Peace in the Middle East"* delivered by the Quartet in 2003. In the Road Map it is stated that peace can only be achieved as long as the Palestinians are willing to end violence and terrorism by establishing a practicing democracy which should be based on



tolerance and liberty (Quartet Road Map, 2003: 1), which, again, does not conflict with the established policy goals of the European Union. Following the deliverance of the Road Map for Peace in the Middle East much of the forthcoming Quartet statements were framed around the same objectives as laid out in the Road Map and does not provide any further noteworthy empirical evidence. However, supplementary examples of the social values pursued by the High Representative for the CFSP can be identified in a joint strategy paper written in 2007 by the HR and the Union's Commissioner for External Relations at the time. Named "*Statebuilding for Peace in the Middle East: An EU Action Strategy*" (Solana & Ferrero-Waldner, 2007), the joint paper provides further empirical evidence that the normative objectives adopted by the High Representative does not conflict with those pursued by the Union. Among the most important measures to achieve peace, identified by the HR, is the establishment of a democratic Palestinian state (ibid: 2). Hence, in terms of normative values pursued, the perspective adopted by the High Representative lies close to the policy adopted by the Union during the period the Maastricht Treaty was in force as well as the European Council's guidelines examined above. Nonetheless, the normative values pursued represents only part of the analysis whether the introduction of the High Representative changed the course of the Union's policy towards the Middle East peace process. Consequently, the following subsection shall examine the policy prescriptions the High Representative endeavored to implement.

Examining the prescriptive measures the High Representative sought to employ in his task to formulate the Union's policy towards the peace process, one realize that neither the prescriptions formulated by the High Representative infer that shirking came about. Among the indicators manifesting that shirking did not occur is the joint commitment to a two-state solution. Recall that it was established, by the European Council, in 1999 that the Union should work progressively towards a two-state solution in order to achieve peace. In 2002 the High Representative, using the medium of the Quartet, set for himself the same goal. "The Quartet remains committed to implementing the vision of two states, Israel and an independent viable and democratic Palestine living side by side in peace and security [...]" (Quartet Statement, New York, 2002).

What is further interesting with the above quote is the ambition to democratize Palestine, a socially shared value that, for instance, the European Council already in 1993 sought to pursue. Further empirical evidence suggesting that the theoretical premises of principal-agent theory did not apply to the introduction of the High Representative is discernible in the security paradigm of the peace process policy. Here it is evident that the HR builds on previous European Council conclusions, for instance Florence 1996 and Thessaloniki 2003, to consolidate the fight against terrorism;

*”The Quartet and the international community are prepared to intensify their engagement with the Palestinians to restore momentum on the roadmap, [...] ensure security and stability in Gaza and the West Bank from which Israel withdraws, prevent all acts of terrorism, and ensure the dismantlement of armed terrorist groups”* (Quartet Statement, New York, 2004)

Further required policy action in the security paradigm was the introduction of a democratic police force. Identified already in 1994 (c.f. 94/276/CFSP), and reaffirmed at the Thessaloniki and Brussels European Councils in 2003, as a key policy objective, the HR also re-adopted a similar approach;

*”Supporting the establishment of modern and democratic police forces [...]. Our assistance to the civil police will be complemented by wider support to the rule of law, including helping to establish an efficient penal and judiciary system”* (Solana & Ferrero-Waldner, 2007: 2)

Also noteworthy is the emphasis placed on the wider support of the rule of law, by establishing that it is required to setup an efficient judiciary system. At first sight this might suggest that the HR actually attempted to extend the prescriptions and policy of the Union. However, recalling that as a consequence of the Union’s socially embedded values in the Maastricht Treaty, it was already put into concrete policy measures. The development of an efficient judicial system was a necessity to achieve peace, in the Barcelona declaration in 1995, hence again suggesting that the theoretical and hypothesized predictions derived through principal-agent

theory did not congrue with empiricism. However, what is interesting to observe in the above quote is also the materialization of the normative value ‘rule of law’. In a similar manner as the European Council crystallized the Union’s shared values into concrete prescriptions, does the High Representative pragmatize the support of the rule of law.

Leaving the security paradigm and moving back to focus on general policy prescriptions issued by the High Representative when the Amsterdam and Nice Treaties were in force. Already spelled out as an objective of the EU, to support the Palestinian Authorities in their quest for institutional reform towards democracy, was to donate financial resources (c.f. European Council Conclusions, 1994, Essen; Common Position 14/94). The installation of the High Representative came not to change the course of this ambition either. A distinct example of this can be derived from the following quote;

*”The Quartet emphasizes the need for the international community to play a vital role in providing additional financial support to the Palestinians, which is essential in order to support needed reforms[...]”(Quartet Statement, London, 2005)*

To summarize this subchapter, there is plenty empirical evidence inferring that the High Representative did not attempt to pursue prescriptions, or goals, and values other than those already promoted by the European Council, and the European Union’s policy towards the Middle East peace process. Consequently, one must deem the treaty reform introducing the High Representative having little effect during the Amsterdam and Nice Treaty eras. This is since hypothesis three assumed that with the introduction of a contractual relationship the agent, or in this case the HR, would attempt to pursue goals other than those of the principal. Following the analysis in the above section, it was empirically established that the High Representative did not attempt to pursue values, norms, prescriptions or policy other than those already implemented when the Maastricht Treaty was in force. However, what will be interesting to investigate further in the coming chapters, concerning the Lisbon Treaty, is if the role of the High Representative changed and did, during the initial years of Lisbon, attempt to shirk.

## 5.4 Middle East Peace Policy during Amsterdam & Nice

Since the analysis above made it clear that despite the institutional innovations made by the Amsterdam and Nice Treaties, policy prescriptions and norms seemed to have remained largely the same as those pursued under the Maastricht Treaty. Due to this one would also assume the policy adopted to remain largely the same as that adopted during Maastricht.

Empirically, there are several examples that confirm the above assumption. For instance, only a couple of months after the entry into force of the Amsterdam Treaty the Council adopted a decision (Council Decision, 1999/440/CFSP) where the Union's commitment (c.f. 97/289/CFSP) to assist the Palestinian Authority in stopping terrorist activities stemming from its territories was reaffirmed. In 2000 the commitment to end terrorist activities was yet again extended where it, just as in the 1997 joint action, was reaffirmed that not only an end to terrorism that was necessary but also;

*"[...] provid[ing] the relevant security and police services with assistance and training that are fully compatible with the principles of human rights and respect of the rule of law."* (Art. 1 §2, Council Decision, 2000/298/CFSP)

The above quote, I would argue, demonstrate how the adherence to the socially embedded values are materialized into concrete policy measures. Besides empirically proving that norms shaped the Union's policy decision 2000/298/CFSP also demonstrate that the prescriptions issued, though the Council's decision was issued three years prior to the reaffirmation at Thessaloniki in 2003, that the European Council's prescriptions shaped the Union's policy towards the peace process. Further empirical examples of the Union's adherence to the socially shared norms and formal prescriptions and rules can be found in the Union's declaration of its policy objectives when extending the mandate for its "Special Representative for the Middle East peace process". It is explicitly made clear that;

*”The mandate of the Special Representative will be based on the policy objectives of the European Union regarding the Middle East peace process[...]. These objectives include: a two-State solution with Israel and a democratic, viable, peaceful and sovereign Palestinian State living side-by-side [...]. (Art.2 § (a), Council Decision, 2002/965/CFSP).*

It becomes rather evident that the prescription established at the European Council summit in Berlin, 1999, that the Union should pursue a two-state solution has been realized as a policy goal. Moreover, the previous quotation further demonstrate the consequence the regularized interaction patterns and adherence to the socially shared norms had on policy. This is since it was explicitly stated in the Treaties that the Union is ”to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms” (Art. 11, 1997 Consolidated Version of the Treaty on European Union; see also Art. 11, 2002 Consolidated Version of the Treaty on European Union; ex Art. J.1) when exercising its foreign policy towards the Middle East peace process. Further empirical evidence suggesting both that policy, as a direct consequence of no change to socially embedded values, and that policy to some extent was norm driven can be found in Article 3 of 2002/965/CFSP where it is expressed that the Special Representative in fulfilling his/her role should;

*”engage constructively with signatories to agreements within the framework of the peace process in order to promote compliance with the basic norms of democracy, including respect for human rights and the rule of law” (Art.3 (g), Council Decision, 2002/965/CFSP).*

Another prescribed policy action concluded by the European Council, that demonstrate that policy remained on the same path (c.f. European Council Conclusions, 2001, Gothenburg; Common Position, 14/94), concerns offering financial assistance to the Palestinians in their quest for statehood. By maintaining that aid to the Palestinians as an ambition, the policy adopted by the Union also came to reflect this. In 2004 the Council, in tandem with the Parliament, adopted regulation 669/2004/EC, whereas to;

*” [...] prevent any further deterioration of the Palestinian economy by contributing to the sound management and budgetary equilibrium of the Palestinian Authority and to consolidate that Authority by means of institutional reinforcement”* (Regulation, 669/2004/EC).

This is a clear indication that the policy of the Union towards the peace process still maintained on the same course as during the policy implemented when the Maastricht Treaty governed CFSP policy making. Moreover, there are still further empirical indicators suggesting that policy continued down the same path as the already established policy objectives as a consequence of the European Council remaining as the “organe d’impulsion” and socially shared and embedded values. Recall that at the 2003 Brussels European Council summit it was concluded that the Union should continue in its work in aiding the Palestinian Authority establishing the rule of law as an important part to establish peace in the Middle East. When, in 2005, the mandate of the Special Representative of the Union to the peace process was extended, another objective was also added to the list of the Union’s policy goals. That policy goal reflected the importance of the European Council’s guideline issued at Brussels in 2003 in shaping policy by stating that the Union shall have as its goal “the establishment of sustainable and effective policing arrangement under Palestinian ownership” (Art.1, Council Decision, 2005/796/CFSP). Furthermore, during that same year, the Union took further measures to live up to that specific goal, this time it became evident that the establishment of policing arrangements in Palestine was not only a consequence of the European Council’s guidelines but also a crystallization of the shared commitment to support democracy and the rule of law. The concretization of norms becomes evident as the Joint Action states that;

*”[...] the support of the EU to the Palestinian Civil Police aims at increasing the ‘safety and security’ of the Palestinian population and at serving the domestic agenda of the Palestinian Authority in reinforcing the rule of law”* (Preamble §5, Council Decision, 2005/797/CFSP)

The above quote clearly exhibit, how the different institutional constrains work to shape the Union's policy towards the peace process. For instance, as a consequence of the adherence to the socially embedded norms, the Union's policies reflect an ambition to strengthening the rule of law in the Palestinian areas. However, as argued in the previous section the European Council's conclusions function as a form of crystallization of the norms turning them into concrete policy measures, in this case by offering support to the Palestinian police force.

Despite only including policies up till 2005, the analysis demonstrate well the overall approach of the Union's policy towards the Middle East peace process, in terms of prescriptions and normative institutional constraints. Policy from 2005 to 2009 did reflect the very same ambitions as those written of in this section and were therefore excluded.

To conclude the analysis of policy during the Amsterdam and Nice Treaties, there are a few empirical observations that are highly interesting to speak further of. First, despite the theoretical promises of the introduction of a contractual relationship, argued for in hypothesis three, the establishment of the High Representative did not lead to shirking and consequently policy did not change, accordingly did the theoretical promises not congrue with empiricism. Second, the creation of a new interaction space, in the form of the Political and Security Committee, norms did not change and therefore one would not either expect a policy change due to this. However, empiricism still suggest that policy is reflective of norms but these norms are the same as previously. Third, as argued in hypothesis two, should the formal prescriptive rules be changed one would also expect policy to change. However, since neither Amsterdam nor Nice altered the role of the European Council, as the "organe d'impulsion", and the empirical fact that the European Council did not change its prescriptions, provided for policy reflected the same ambitions and aspirations as previously. Though it should be added that there is one more Treaty to analyze thus rendering this analysis representative of only the Amsterdam and Nice Treaties.

## **5.5 The Lisbon Treaty**

The final Treaty constituting a part of this analysis, and was the most recent to reform the Union's foreign policy system, was the Lisbon Treaty. Entering into force on December 1st of 2009, it consisted of two separate parts, one still named "Treaty on European Union" (TEU) the other "Treaty on the Functioning of the European Union" (TFEU). However, what has the Lisbon Treaty meant Treaty meant for the Union's policy towards the peace process? Has any radical changes occurred or should our theoretical premises argue for policy following the same path as during the previous Treaties? This is precisely what this chapter aims at examining. Through initially looking at whether any institutional constraints changed I then seek to determine whether these changes caused any changes to the Union's policy. Before moving to the analysis a small confession regarding a slight shortcoming in this chapter is necessary. The confession relates to the fact, due the Lisbon Treaty only entered into force four years ago, that empirical data is limited and therefore it is difficult to discern which of the institutional constraints that shaped the Union's policy towards the Middle East peace process under the governing structure of the Lisbon Treaty. Despite this shortcoming, data concerning the testing of all institutional constraints are available, though the analysis should be considered somewhat limited. On that note the time has come to start the analysis.

### **5.5.1 The Lisbon Treaty, extending the Union's normative framework and interaction patterns?**

When analyzing the impact the Lisbon Treaty had on the normative framework of the Union one can definitely determine that no major overhauls occurred. This becomes evident as one study Article 21 of the TEU closer;

*"The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human*



*dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law” (Art. 21, 2008 Consolidated Version of the TEU)*

Thus, one can confidently determine that, in terms of changes to the normative values of the Union, the Lisbon Treaty reform did alter little. Due to this, and the theoretical premises in hypothesis four, the Union’s policy should continue to be crystallized and framed around the same normative preconditions as the previous Treaties hence, at least hypothetically, causing policy to remain on the same course as reflected by the previous Treaties.

More interestingly, was a new institutional innovation causing the interaction patterns of the Union, in regards to the policy making structure of the CFSP, to increase. Article 27 §3 of the TEU provided for the creation of a supporting institution to the High Representative, the European External Action Service (EEAS) (Art. 27 §3, 2008 Consolidated Version of the TEU). The role given to the EEAS is an important one considering the implications it could have on socializing the normative framework and shaping the Union’s policy. The EEAS was tasked with the following;

*”The EEAS shall support the High Representative in fulfilling his/her mandates as outlined [...] in fulfilling his/her mandate to conduct the Common Foreign and Security Policy of the European Union including the Common Security and Defence Policy, to contribute by his/her proposals to the development of that policy, which he/she shall carry out as mandated by the Council and to ensure the consistency of the Union’s external action” (Art. 2, Council Decision, 2010/427/EU).*

Thus, because of the role granted to the EEAS, it plays a central role in the formulation of the Union’s external policies and thus also the policy towards the Middle East peace process. When continuing the analysis by looking further at the High Representative’s role, during Lisbon, the policy formulation role of the EEAS will become more evident. Furthermore, the interaction patterns at the EEAS is almost at a daily level inasmuch as sixty percent of the officials working

there are hired as 'European Officials' a permanent basis (Art. 6 §9, Council Decision, 2010/427/EU).

Turning the attention to the Council of the European Union, it becomes evident that interaction patterns remained similar as compared to the previous three Treaties. With the Lisbon Treaty the GAERC configuration was replaced with the "Foreign Affairs Council" (FAC) (Art. 16 §6, 2008 Consolidated Version of the TEU). Concerning interaction patterns, empirical data shows that the FAC, since its creation in 2009, met 52 times which is an average of 13 meetings per year, slightly more than once a month (Council of the European Union Website). Furthermore, the interaction patterns at the European Council, not taking into an account the extra-ordinary meetings, remained at four formal summits per annum (European Council Website, European Council Conclusions Since 2003-2013).

Following the analysis above I come to the following conclusion, despite the Lisbon Treaty reform innovated a new arena for regular interaction, the EEAS, which was tasked with aiding the High Representative in formulating the CFSP policies, much of the goals pursued by the HR, prior to the implementation of the Lisbon Treaty, reflected the socially embedded values pursued by the Union in the Treaties. Hence, as these norms were already socialized and the normative framework remained intact the expectation would be that the same norms would continued to be reflected in the Union's policy towards the peace process. Furthermore, the same goes for the European Council and the Council of the European Union which, despite the Lisbon Treaty reform, did not make any major alterations to their interaction patterns.

### **5.5.2 Never changing formal rules and prescriptions**

Despite innovating new institutions, such as the EEAS, the Lisbon Treaty did not make any alterations to role played by the European Council. Still, the European Council were to function as the impeller for foreign policy action as it was written in Article 22 of the TEU;

*"The Council [of the European Union] shall frame the common foreign and security policy and take the decisions necessary for defining and implementing it*

*on the basis of the general guidelines and strategic lines defined by the European Council” (Art. 26 §2, 2008 Consolidated Version of the TEU).*

Thus, under the circumstances introduced by the Lisbon Treaty, the European Council guidelines still remained as prescriptions which the Council must take into consideration when making policy decisions regarding CFSP action. Hence, to be able to answer the research question posed at the beginning of this thesis yet another examination of the European Council’s summit conclusions must be done. Since this last part of the analysis span over approximately four years, as already mentioned, the empirical material is rather limited, something certainly reflected when analyzing the European Council’s summit conclusions. The sole conclusions on the Middle East peace process was issued on September sixteenth of 2010. Perhaps not surprising by now, they did not offer any new prescriptive rules that offered any new constraints on policy. This becomes evident when the European Council presents its overall strategy and final goal for the peace process;

*” The European Union stresses that these negotiations on all final status issues should lead to a two-state solution with the State of Israel and an independent, democratic, contiguous and viable State of Palestine living side by side in peace and security” (European Council Conclusions, 2010, Brussels)*

Again, it is possible to see that the prescriptions issued at the 1999 Berlin European Council summit has remained on the prescriptive policy agenda of the European Council. Furthermore, it is rather evident that because of socialization of the collective norms, it is a democratic Palestinian state that is a required outcome of the peace process. Further empirical evidence suggesting that the European Council’s prescriptions has not changed, thus inferring that policy should not change, concerns the European Council’s ambition for the Union to maintain its role as a donor for the Palestinians;

*”The European Union is the first donor to the Palestinians and a crucial political and economic partner of both parties as well as their neighbours. In this regard, it stresses that the European Union will remain actively engaged and involved*

*including through the Quartet, to support and ensure the success of the negotiations [...]*" (ibid)

Thus, as prescribed by the quotation above, Union policy is permitted to include the ambition to remain a donor and actively involved in the agreement of a peace settlement. These ambitions has previously already been concluded by the European Council, at the Essen and Gothenburg European Council summits (c.f. European Council Conclusions, 1994, Essen; European Council Conclusions, 2001, Gothenburg), as key to the Union's policy towards the peace process. Unfortunately, these are the only clear-cut policy prescriptions the European Council concluded at its summit. However, there is another interesting quote mentioned in the document which emulate previously mentioned ambitions that can, more loosely than prescriptions, point to which aspirations the European Council had for the Union's policy under Lisbon. The declaration states that;

*"It [the European Union] also stresses the crucial importance of the continuation of the Palestinian State building process which the European Union will continue to actively support, [...]"* (European Council Conclusions, 2010, Brussels)

Though "state building" is quite an ambiguous concept, previous statements issued by, for instance, the European Council has *inter alia* pointed to the importance of securing the rule of law through building an effective and fully operational Palestinian police force (c.f. European Council Conclusion, 2003, Brussels). A further indicator, though already mentioned, is the establishment of a democratic state system in Palestine (c.f. European Council Conclusions, 2010, Brussels). Other than that it is difficult to distinguish what specifically is meant by supporting state building efforts, however, the policy adopted might provide clearer answers to this question.

This section has provided empirical evidence demonstrating that as a consequence of maintaining the European Council as the prescriptive impeller for the EU's foreign policy action little of the policy prescriptions issued has actually changed. This would consequently imply that the concrete policy measures adopted by the European Union would resemble those already in place stemming

from prior Treaties. However, as the European Council's prescriptions is only the second theoretical variable, derived from viewing institutions as a set of rules, demonstrating that no change has occurred there is still one remaining variable as well as the policy adopted to be examined before drawing the conclusion that policy did not change. Though it is at least theoretically and hypothetically true that one should not expect policy to look any different.

### **5.5.3 Introducing the EEAS, would the High Representative continue down the same path?**

The contractual relationship between the HR for the CFSP and the Council remained intact under the structure of Lisbon, though at this point the person fulfilling the role was no longer Javier Solana but duchess Catherine Ashton. Despite the changing the person executing the office of High Representative it is not arduous to see that the role conferred upon the High Representative is one where her/his individual goals could be pursued and shirking could occur;

*"The High Representative shall conduct the Union's common foreign and security policy. He shall contribute by his proposals to the development of that policy, which he shall carry out as mandated by the Council. The same shall apply to the common security and defence policy"* (Art. 18 §2, 2008 Consolidated Version of the TEU)

Furthermore, no formal mechanism in the Treaties was in place to render inappropriate behavior, shirking, disadvantageous on part of the High Representative. Thus, the governing structure introduced by the Lisbon Treaty, in theory, allowed for shirking, hence rendering an analysis of the High Representative's goals a necessity in order to answer the research question posed.

Further interesting, related to the role of the HR, is the relationship between the representative and the EEAS. Since I argued above that the EEAS plays a central role in the formulation of the CFSP and thus function as a normative socialization arena which, according to normative institutional theory, could affect the High Representative's goals, since the EEAS could contribute with normative

policy goals to CFSP issues thus affecting the role of the High Representative. However, as previously analyzed, the HR's pursued goals towards the Middle East peace process, did already contain normative elements rendering an assessment of the implications of the EEAS somewhat obsolete. Notwithstanding this is still the necessity to analyze the goals of the HR. Due to the High Representative still being a part of the Middle East Quartet, statements issued using this medium will be used as representing the empirical material demonstrating what goals the HR pursued.

The overall impression of the statements issued by the High Representative, using the Quartet as her medium, is that they are extremely close to, if not the same as, the European Council's prescriptions, as well as the collectively shared norms pursued by the Union in its external relations. In a statement issued on March 19 2010, the HR also adhere to the overall goal that the "[...] negotiations should lead to a settlement [...] and results in the emergence of an independent, democratic and viable Palestinian state living side by side in peace and security with Israel and its other neighbors" (Quartet Statement, Moscow, 2010). Already concluded at the Berlin European Council summit in 1999 (c.f. European Council Conclusions, 1999, Berlin), this policy objective had long been seen as the overall objective of the peace process of the Union. This is a valuable observation as the quote demonstrate that a key objective of the European Council is also a key objective to the High Representative.

Supplementary empirical observations that infer equal conclusions concerns the rule of law and the improvement of the Palestinian Authority's law enforcement capacity. In the Moscow issued statement the Quartet;

*"[...] calls on the Palestinian Authority to continue to make every effort to improve law and order, to fight violent extremism, and to end incitement. The Quartet emphasizes the need to assist the Palestinian Authority in building its law enforcement capacity"* (Quartet Statement, Moscow, 2010)

The intention to support the Palestinian Authority in improving its law enforcement capacity had long been on the agenda of the Union (c.f. 94/276/CFSP; European Council Conclusions, 2003, Brussels) despite it not appearing as

an explicit goal in the European Council conclusions stemming from when the Lisbon Treaty was in force. This policy prescription, though issued by the Quartet, indicate that the HR share similar goals to that of the Union and thus do not attempt to cultivate goals of her own on the policy formulation agenda when developing the foreign policies of the European Union.

*”The Quartet further calls on all states in the region and in the wider international community to match the Palestinian commitment to state-building by contributing immediate, concrete, and sustained support for the Palestinian Authority [...]” (ibid).*

Shifting focus to examining the norms pursued by the High Representative these also lie close to those emphasized and adhered to by the EU. Already mentioned, in the first quote examining the High Representative’s goals, was the ambition to create a democratic Palestine. Hence, the promotion of democracy must be deemed as a normative value advanced by the High Representative too. Furthermore, democracy is not the sole normative value promoted by the HR that can be distinguished, for instance at a statement issued in September 2010 one can discern that human rights is also a normative value advanced;

*”The Quartet urged a complete halt to all violence and reiterated its call on all parties to ensure the protection of civilians and to respect international humanitarian and human rights law” (Quartet Statement, New York, 2010)*

Thus, the High Representative’s normative ambitions lie close to those of the promoted by the Union in the Treaties. A last example, which certainly refutes the theoretical expectations derived from principal-agent theory, concerns the HR’s ambition to promote the establishment of law and order as stated in the Quartet’s Moscow statement from 2010 (c.f. Quartet Statement, Moscow, 2010).

In summary one can certainly argue that the theoretical and hypothetical promises of the introduction of a contractual relationship were not fulfilled. Despite the theoretical possibility for the High Representative to shirk, it is still quite clear that the High Representative did not shirk. Both the prescriptive policy

measures and the normative values pursued and advanced by the HR lie close to the policy goals either already made into concrete policy under the previous Treaties or the prescriptions, pursued by the European Council, and the normative framework established in the Lisbon Treaty. Furthermore, the emergence of the EEAS could have had implications for the policy goals sought after by the High Representative. However, since several institutions, e.g. COREPER II and the Foreign Affairs Council, with frequent interaction patterns were already established it is difficult to discern any difference the introduction the EEAS had on the High Representative's agenda. Accordingly, the expectation for the Union's policy is that it would at large remain the same as during the previous treaties.

## **5.6 Limited policy under Lisbon**

As already mentioned above, the empirical data available for analyzing the Union's policy under Lisbon is limited. Consequently, this may render the analysis of the Union's policy fragmentary. Notwithstanding this, there exist a few policy documents that, partially, can demonstrate what policy the Union decided to follow through and implement.

Following another extension of the European Union's special representative to the Middle East peace process it becomes evident that the European Council's 1999 Berlin summit ambition (c.f. European Council Conclusions, 1999, Berlin) to establish a democratic Palestinian state still remained a priority for the Union. In the Council decision extending the special representative's mandate it is emphasized that the mandate is based on the Union's policy and that the objectives of that policy include;

*"a two-state solution with Israel and a democratic, viable, peaceful and sovereign Palestinian State living side by side within secure and recognized borders enjoying relations with their neighbours [...]"* (Art. 2 §2(a), Council Decision, 2010/107/CFSP)

Thus, the prescriptions issued by the European Council, as regulated by the Treaties, seems to shape the Union's policy in accordance with the governing



structure of Lisbon. Another example demonstrating both how the Lisbon Treaty and the consequences of not reforming the policy formulation role of the European Council is the Union's continued ambition of establishing a Palestinian police force as part of their state building process.

*"the establishment of sustainable and effective policing arrangements under Palestinian ownership in accordance with best international standards, in cooperation with the Union's institution building programmes [...]"* (Art. 2 §2(e), Council Decision, 2010/107/CFSP)

This ambition had, as already explored, at least since 2005 (c.f. Council Decision, 2005/797/CFSP) been a part of the Union's approach to securing the goal of establishing a Palestinian state. Under Lisbon the ambition was reaffirmed through the extension of the same programme not only once but thrice (Council Decision, 2010/784/CFSP; Council Decision 2011/858/CFSP; 2013/354/CFSP). Other than these policy measures adopted by the European Union as part of the Common Foreign and Security Policy, it is difficult to denote further measures adopted.

Despite it being difficult to denote further concrete policy measures empirical data provide evidence that the socially shared normative framework to some degree still shaped the Union's policy. For instance, among the objectives of the special representative of the EU to the Middle East peace process was to;

*"engage constructively with signatories to agreements within the framework of the peace process in order to promote compliance with the basic norms of democracy, including respect for human rights and the rule of law"* (Art. 3 §(g), Council Decision, 2010/107/CFSP)

Unfortunately, further examples than these cannot be discerned in the Union's policy due to the lack of empirical data available. However, it gives at least an idea that the shared norms stemming from the Treaties were, at the very least, considered when mandating the special representative with the objectives originating from the Union's policy (ibid).

To conclude this section, one must deem the Lisbon Treaty to continue shaping the Union's policy down the same path as the previous treaties. Despite the maintaining of the contractual relationship between the High Representative and the Council empirical evidence suggest that the HR pursued the same goals and shared norms established either by the European Council or the Lisbon Treaty. Among the empirical evidence proposing that the Union's policy remained the same is the objective of establishing a democratic Palestinian state. Already advanced as a priority for the Union at the 1999 Berlin European Council summit, the objective remained a priority under Lisbon. Another of these examples would have to be the ambition of the Union since 1994 (c.f. Council Decision, 94/276/CFSP) to create a Palestinian police force something that also remained a part of the Union's concrete policy under the structure of Lisbon. Thus, as a consequence of not reforming the role of the European Council as the impeller of the CFSP, no changes to policy took place. Lastly, since the Lisbon Treaty, just as the past Treaties, did not alter anything concerning the normative commitments entrenched in the Treaty, the normative side of the policy remained similar to that of the other cases. However, the reader should be aware of the shortcomings regarding the empirical data and hence too broad generalization cannot be made based on the analysis of the policy under Lisbon.

## 6. Conclusion

The purpose of this thesis was to investigate how the Treaties has shaped and changed the European Union's policy towards the Middle East peace process. To be able to accomplish this task it was necessary to examine what structural features of the Treaties that had the potential to shape and change the Union's policies. Subsequently to identifying and hypothesizing which institutional constraints that could shape and change the Union's policy it was essential to identify the institutional constraints within the Treaty framework of the Union, which all of the hypothesized constraints did and exploring whether the constraints left any mark in either shaping or changing the Union's policy towards the Middle East peace process. This final chapter presents the findings in relation to each of the deduced hypotheses and will also discuss suggestions for future research.

### 6.1 Did the Treaties shape or change the Union's policy?

The claim that structures could shape and change policy has, interestingly enough, in the context of this thesis, only partially been fulfilled. This is since, the empirical material demonstrates that no substantial changes to the Union's approach took place after the respective Treaty reforms. However, a minor but yet important observation that the empirical material allows for is the change in the approach to the right of self-determination. Prior to the 1999 European Council the approach to the solution of the Middle Eastern conflict of the Union was to emphasize the right of self-determination of the Palestinian people. However, after the Berlin summit in 1999 both policy and the European Council's conclusions remained on the path set at Berlin. Thus, to summarize whether any changes to the Union's policy occurred with the Treaty reforms the answer has to be negative. This is largely a consequence of the Treaties not reforming and altering the role of key policymaking institutions and actors. For instance, in hypothesis two (H2) it was argued that should the formal rules regulating the CFSP change one should expect the policy to change as well. However, since neither of the Treaty reforms altered the role of the European Council in issuing foreign policy prescriptions

that the Council were to base the policy on, the policy did not change besides in the extraordinary case mentioned above. Furthermore, hypotheses four and five (H4 & H5) argued, if regularized interaction patterns exist, should the socially embedded and shared values and norms change policy would also change as a consequence of policymakers acting in accordance with the logic of appropriateness. However, since the normative framework established in the Treaties did not change with the respective Treaty reform the policy of the Union continued down the same path from the Maastricht Treaty to the Lisbon Treaty. Most interesting of all the institutional innovations that, according to principal-agent theory, should have caused a change in the direction of the Union's policy towards the peace process was the introduction of the High Representative for the Common Foreign Security Policy. Unfortunately, despite the promises of principal-agent theory and hypotheses three (H3) the introduction of a contractual relationship did not have any implications for the Union's policy in the Middle East peace process.

In terms of coming to a conclusion concerning how the Treaties has shaped the Union's policy there are plenty of highly interesting observations that can be made. Among the most interesting, in my opinion, was the empirical observations linked to hypotheses four (H4) and five (H5). The hypotheses claimed, if regularized interaction patterns exist and socially embedded values exist individuals would act in accordance with the logic of appropriateness and policy would be shaped in line with the shared norms. To be sure, the Union's policy was rather norm driven. Among the most explicit examples of norms being incorporated in the Union's policy was the commitment to diffuse the rule of law and democracy in the EU's relations with the rest of the world. Already in 1994 (see *inter alia*, 94/276/CFSP) the Union made it explicitly clear that in its ambition to disseminate democracy and the rule of law they were to build a Palestinian police force. This brings me to another intriguing point concerning the socially shared norms and values. During the exploration of the European Council's prescriptions it was possible to discern how the norms was used as a point of departure to materialize and crystalize concrete policy prescriptions on what actions that were required to take on part of the EU.

Considering the formal rules argued for in hypothesis two (H2), or prescriptions, and their role in shaping the Union's policy one must also, on the basis of the empirical findings, deem these to have played an substantial role in shaping the policy adopted. Among the most typical examples of prescriptions shaping the Union's policy was the decision to support the establishment of a Palestinian police force (see *inter alia*, European Council Conclusions, 2004, Brussels), to combat terrorism (see *inter alia*, European Council Conclusions, 1996, Florence) and the ambition of a two-state solution to the conflict (see *inter alia*, European Council Conclusions, 1999, Berlin).

When it comes to the introduction of the High Representative it is difficult to argue that the contractual relationship did matter for the shaping of policy. This is since the theoretical preconditions governing hypothesis three (H3) held that with the introduction of a contractual relationship it is likely that the goals of the two actors in the relationship will clash. However, by analyzing the statement issued by the High Representative using the Quartet for the Middle East peace process as a medium it became evident that no shirking on the part of the High Representative did occur. Hence, the goals of the High Representative was mere reflections of those already established by the European Council and the socially embedded norms.

## **6.2 Future Research**

The empirical investigation in this thesis has also laid the ground for me to propose future areas of research. The empirical inquiry clearly demonstrated that despite institutional innovations, such as the introduction of a contractual relationship, the policy adopted under the governing structure of the Maastricht Treaty remained at large the same despite Treaty reforms. This observation makes it extremely relevant to ask the question whether the historical selection of institutions or policy have any implications for locking policy to be path dependent thus rendering policy change difficult?

Another area that would be interesting to pursue future research in relates to regularized interaction patterns. In this thesis, I perhaps, naïvely infer that if regularized interaction patterns exist policy would be shaped in accordance with

the logic of appropriateness. However, in hindsight it would be highly relevant and also interesting to examine whether the quality, instead of quantity, of the regular interactions matters more when it comes to socialization into a set of norms and values embedded in, for instance, more in socializing and diffusing embedded norms.

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