CONTENTIOUS ISSUES OF FOREIGN POLICY IN EU NEGOTIATIONS

MERGING LIBERAL INTERGOVERNMENTALISM AND NEGOTIATION THEORY

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List of abbreviations

CDU   Christian Democratic Union
CFSP  common foreign and security policy
CSCE  Conference on Security and Cooperation in Europe
EC    European Communities
ECJ   European Court of Justice
ECMM  European Community Monitoring Mission
EIB   European Investment Bank
EP    European Parliament
EPC   European Political Cooperation
EU    European Union
FYROM Former Yugoslav Republic of Macedonia
IAEA  International Atomic Energy Agency
IGC   Intergovernmental Conference
MS    Member State
NATO  North Atlantic Treaty Organisation
PHARE Poland, Hungary Assistance for the Reconstruction of the Economy
PSC   Political and Security Committee
QMV   qualified majority voting
SEA   Single European Act
SFRY  Socialist Federal Republic of Yugoslavia
SPD   Social Democratic Party of Germany
TEU   Treaty on European Union
ToA   Amsterdam Treaty
UK    United Kingdom of Great Britain and Northern Ireland
UN    United Nations
UNMOVIC United Nations Monitoring, Verification and Inspection Commission
UNSC  United Nations Security Council
USA   United States of America
WEU   Western European Union
Chapter 1: Introduction

1.1 Motivation of importance

The EU represents an entity with unprecedented character and great potential in the field of international politics. If the MSs were able to act coherently and uniformly, the voice of the EU in international affairs would undoubtedly be significant and at the very least adequate to the sum of relevance of all MSs in the international arena. Incentive to cooperate is stimulated by the fact, that potential benefits from a collective action and firm common position are greater than if the MSs acted as individual international actors. However, in reality, the EU encounters 'capability – expectation gap' (Hix 1999: 347) resulting from the evidence that the expected weight and international responsibility derived from influential position of some individual MSs was not coupled with corresponding actions. An inevitable precondition for MSs to overcome the ‘capability - expectation gap’ is to unify their position on particular foreign policy issues through negotiations.

In this regard, our aim is not to evaluate the viability or susceptibility of the European CFSP, but to explain the outcomes of negotiating a common European standpoint among the EU MSs on foreign policy issues. The theoretical approaches we adopt will help us to determine the decisive factors playing the vital role in shaping the outcome of these negotiations. Subsequently, we will study the role of these factors in particular cases of negotiation and the way they influenced the final outcome of negotiations of the EU MSs about the issue in question. We will demonstrate the process of bargaining among the MSs on case studies of two ‘hard’ security issues, namely the Yugoslav recognition crisis of 1991 and the Iraqi crisis of 2002/ 2003 among the EU MSs. As the title of the thesis implies, we will concentrate on contentious issues of the EC/U’s foreign policy which directed our attention to the most striking examples of the EC/U MSs’ inability to reach a common standpoint on a foreign policy issue. Both cases – Yugoslav recognition crisis and Iraqi crisis are in general considered as the greatest failures of the EC/U MSs’ in the sphere of foreign policy, harshly criticised by the international community (March, Mackenstein 2005). However, this type of negotiation constitutes an important part of the CFSP and no joint action is possible without a previous agreement on a common stance. Although, external demands and outside pressures force the EU to act internationally and serve as a unifying factor and stimulus for strengthening the EU’s sense of international responsibility, the national preferences of the EU MSs are too diverse to find a common basis for action.

Concerning the relevance of our study, we hold the opinion that the ability to explain the reasons of the absence of a common European stance on problematic foreign policy issues and subsequent identification of common features of these issues could contribute to the adoption of mechanisms enhancing the cohesiveness of the EU in CFSP issues, increased institutionalisation and thus enhance the transparency and efficiency of decision-making in the second pillar.

In regards to the theoretical framework, this will be composed of liberal intergovernmentalism and negotiation analysis. This framework will lead us in the analytical chapters through two successive stages of an analysis of EU negotiations about foreign policy issues. As derived from liberal intergovernmentalism, the first stage will direct us towards examination of state preference formation which implies focus on the micro-level. Nevertheless, this stage is inevitable for further analysis and understanding of MSs’ negotiating behaviour in what will constitute the second stage of our analysis, namely the actual EU negotiations on foreign policy issue, transferring us to the meso-level of analysis.
This analysis of negotiations among the EU MSs will constitute the core of the study and will lead us to conclusions providing answers to our analytical research questions presented below.

1.2 Research aims and questions. Delimitation of the research and terminology

Following are the research aims and questions we will concern ourselves with. In regards to the theoretical aspect of our thesis we aim to develop a theoretical framework based on the combination of liberal intergovernmentalism and negotiation theory, which will direct our supplementary empirical research of the negotiation process. Furthermore, as will be mentioned later in the overview of theoretical literature, we need to identify features specific for EU negotiations as opposed to international negotiations, as due to the lack of literature analysing EU negotiations we are adopting structures of international negotiations and these need to be modified so that they correspond to the EU negotiations reality. Based on the above in the first part of our thesis (chapter 2 and 3) we pose the following theoretical questions which will be answered at the end of the theoretical part (sections 3.2 and 3.3):

- develop a model of negotiation based on the examination of theoretical concepts of liberal intergovernmentalism and theory of negotiation; in this regard define the specific features of the EU negotiations about the CFSP issues as opposed to traditional international negotiations

After the completion of the first part we will proceed with the analytical case studies. Here we will super-impose the theoretical structure on the selected particular cases of EU negotiations on foreign policy issues. We will concentrate on the identification of distinct stages of EU negotiations on foreign policy issues as the sequential character is one of the most important features of negotiations strongly shaping the final outcome of negotiations and as such to a high degree influences the potential success of reaching the common standpoint of the EU MSs on the particular foreign policy issue. Additionally, we will focus our attention on the examination of the actual outcomes of negotiations and the prospects of reaching an agreement on a common European stance. Correspondingly, the analytical research aims and questions, to which answers will be provided in the final conclusion (chapter 6), are as follows:

- based on the examination of the EU negotiation process we will identify distinct stages of EU negotiations over CFSP issues and the ‘point/ zone of agreement’ among actors and its consequences for prospects of an agreement.

Since the complexity of the examined issue is high and attempts to cover the whole range of questions related to it would provide superficial description, but not thorough analysis, we will focus on the negotiation process among the EU MSs constituting virtually the only possible way of reaching a common European position. Consequently, we will not examine the cohesiveness and coherence of the EU MSs in the sphere of the CFSP. Instead we will only concentrate on relevant aspects of the negotiation process on particular foreign policy issues. The endeavour to provide an in-depth analysis of the cases has allowed us to examine only two cases, which means that the findings of our research need to be further verified through a large scale research. Moreover, for the same reason we will not examine the
eventuality of transfer of sovereignty on supranational European institutions and the conditions when this transfer would be possible as this constitutes the third stage of liberal intergovernmental tripartite analytical framework presented by Moravcsik (1999).

As we have decided to study a case from the period of forming of the CFSP, but the CFSP was not yet officially confirmed by the TEU. Hence, we are using the terms EPC and CFSP where appropriate with respect to the stage of cooperation of the EC/U Members in the sphere of foreign policy and the term European foreign policy when referring to foreign policy cooperation in general regardless of the phase of institutionalisation.

1.3 Methodology Reflections

Our ontological and epistemological position is affected by the choice of the theoretical approach, namely liberal intergovernmentalism. Based on Marsh and Furlong’s classification of ontological and epistemological positions (2002: 18-41), the liberal intergovernmentalist position is foundationalist when considering ontology and positivist in terms of epistemology. Consequently, in relation to the questions of being it asserts that the world existence is independent of the knowledge of actors. Regarding the questions of knowledge it concentrates on causes of particular phenomena as well as their explanation. Besides, the choice of theory and our operationalisation of it has to a certain degree influenced the logic of argumentation which is deductive.

In regards to our research strategy, we have decided on focused paired comparison (Druckman 2002: 17-37) of two explanatory case studies (Yin 2003). This type of approach focuses on a small number of cases which when harmonised, they share number of common features and qualities, but differ in one variable. The number of cases can be as low as two, while a case is defined as “a bounded negotiation process that has been documented chronologically from early (including pre-negotiation) to later (including implementation) stages” (Druckman 2002: 17). The main aim is to capture the contextual detail, which is mainly possible due to the small number of cases and hence increase the internal validity (Bryman 2001: 30) of the analysis, while the analysis still bears the main features of a case study “an empirical inquiry that investigates a contemporary phenomenon within its real life context, especially when the boundaries between phenomenon and context are not clearly evident” (Yin 2003: 13)

Concerning the research methods used in our analysis of the process and outcomes of negotiation of the EU MSs on foreign policy issues, we will corresponding with the above choice of strategy and the availability of research material employ qualitative methods. As asserted by Terrence Hopmann, the research methods need to be predominantly determined by the “nature of theoretical paradigm” and substantive theoretical questions constituting the core of the analysis (2002: 68). Based on the nature of our study, where e.g. national preferences of EU Members constitute an essential part of the analysis, qualitative methods offer plausible technique for analysis. Especially when the use of quantitative content analysis makes it impossible to determine actors’ preferences concerning interests and this kind of information is only obtainable from interviews and broad examination of background material (Hopman 2002: 72). As we did not have the opportunity to conduct interviews with relevant actors, in our case representatives of the MSs, our analysis is based on a thorough analysis of the context and features of negotiation and behaviour and activities of actors as well as documents adopted. This kind of detailed examination of the nuances of the negotiation
process will enable us to determine if and how the process may affect the outcomes of negotiations.

With regard to operationalisation of our theoretical approaches, these will be used to determine the theoretical framework and theoretical categories we will concentrate on. Subsequently, we will super-impose this framework on two particular issues of European foreign policy. This framework will be strictly followed in our analyses as based on the results we will be able to provide more cumulative system of findings.

In order to eliminate to the highest possible degree their negative effects we need to identify the methodology shortcomings and weaknesses such as:

- even though detailed analysis of small number of cases enhances the internal validity of the research, the external validity (i.e. generalisability of the findings) becomes reduced. Our suggestion in this sense is that our analysis would constitute a complement to a large scale research, which we will propose in final conclusion as a suggestion for further research.
- attention must be paid to the selection of the sources of information – the emphasis is on objectivity and balanced character (public statements of state official are sometimes more political tactics than a formulation of country's preference
- moreover, the data obtained from secondary literature might be distorted, which means that this kind of sources of information must be subjected to cross-checking
- doing qualitative research, the researcher must be aware of subjectivity of assessment (also in the form of multiple explanation of certain occurrence)
- the relevant categories and theoretical framework of the analysis must be carefully and clearly identified

1.4 Overview of the literature

We will begin with an overview of the theoretical literature which will be utilised to provide a theoretical structure for a later analysis of two cases from the sphere of European foreign policy. Books by Rosamond (2000) and Diez and Wiener (2004) provide a useful overview and outline of the major theories of European Integration, but do not suffice when we need to apply the theory in its details in a particular analysis. Hence we will rely on primary sources of liberal intergovernmentalism, the work of Andrew Moravcsik (1991, 1993, 1997, 1999). Another category of theoretical literature we will focus on is literature examining the theory of international negotiation, which is quite substantial with a number of leading theorists specialising on different aspects of negotiation. Among others these are books by Kremenyuk (1991) and Zartman (1994), (Berton, Kimura, Zartman 1999), (Zartman, Rubin 2000) working together with a number of authors. Unfortunately the literature focusing in particular on the specificity of EU negotiation is very limited, the only source being a recent book edited by Elgström and Jönsson (2005) which means that we will need to combine the information about the decision-making in the CFSP with the studies of international negotiation in the points where it is relevant and for the purpose of our analysis to determine points where EU negotiations differ from international negotiation and modify the analysis of negotiations among the EU MSs accordingly. Using the theory of international negotiation we will develop the part of liberal intergovernmentalism concentrating on interstate bargaining
and negotiation to provide us with an indispensable theoretical framework used in later analysis of particular cases.

With regard to the empirical literature, this can be divided into two categories – primary (hard) sources and secondary (soft) sources. Into the category of primary sources fall sources providing direct evidence of decision-making, in our case studies these will be predominantly official EC/U documents, Treaties, reports from the General Affairs Council meetings, Presidency statements and European Council proceedings. The documentary analysis (Marsh, Stoker 2002: 237) of these primary sources provides data facilitating the development of the line of argumentation and enables us to verify the theses presented in the course of analysis, but they also help us to exclude alternative explanation of certain phenomena. By secondary sources we mean sources providing data on phenomena in question which were gathered and assessed by someone else. As for secondary sources we will use monographs and articles in scientific magazines on evolution and features of European foreign policy examining its various aspects which is presently growing in number (Smith 2004), (Carlsnaes, Sjursen, White 2004), (Nuttal 2000), (Winn, Lord 2001), (Knodt, Princen 2003), which maintain a high degree of objectivity. We are aware of the fact that the probability of distortion using this kind of sources increases, as it involves double interpretation – firstly the author’s interpretation of the primary sources and then our interpretation of her/his findings. For this reason we will carefully utilize sources such as public statements of state representatives, newspaper and magazine reports etc. with a high level of subjectivism involved. We will use the literature on the CFSP as a secondary source of data on actors’ preferences, activities, context and evolution of the issue within time.
Chapter 2: Theorising the CFSP

The process of European integration has provoked the emergence of a number of theories trying to explain this process as a whole or concentrating on its various levels and aspects while studying the European integration from various theoretical angles. The evolution of integration theory corresponds with the periods of the European integration to a certain degree. Apart from the so called proto-theories - functionalism and federalism (Diez, Wiener 2004: 7), the first grand theory of European integration was neofunctionalism. The integrating areas of 'low politics' creates functional pressures for integration in key strategic economic sectors, the central role in this process of functional 'spill-over' is played by non-state actors (Rosamond 2000: 50-73). Strengthening of the intergovernmental elements of the European integration which neofunctionalism was not able to explain became the major catalyst of emergence of intergovernmentalism. Intergovernmentalists influenced by the realist school of international relations theory emphasise the role of national interests of the MSs which is the main driving force of the European integration. Both neofunctionalism and intergovernmentalism are grand theories and as such concentrate on the top level of analysis – explaining the reasons and motives for integration, projecting the future of the European integration and major actors in the integration process.

Later deepening of the European integration has shown that these grand theories are suitable for that particular level of analysis, but do not suffice to explain novel phenomena in the European integration, constituting lower level of analysis and requiring new approaches. To these middle-range theories belong the three variations of new institutionalism and liberal intergovernmentalism as an opposing theory. New institutionalism studies the influence of institutions on political outcomes through limiting and shaping of political activities.

Moreover, growing complexity of the European institutions and decision-making processes has drawn the attention of theorists to the lowest level which contributed to the emergence of micro-level approaches such as multi-level governance, policy network analysis etc. Yet another stream of integration theory has evolved just recently, stemming from constructivist and critical approaches in the international relations theory of the 1980s emphasising the role of norms and identities in the form of social constructivism and European integration and gender perspectives.

The following chapter will firstly explain the reasons for choosing liberal intergovernmentalism, secondly it will introduce fundamental concepts of liberal intergovernmentalism, which will provide the basis for our analyses and thirdly it will look at the critiques of liberal intergovernmentalism as a source of suggestions to overcome limitations of this theoretical approach.

2.1 Why liberal intergovernmentalism?

There is no single theory of the European integration which would be able to explain the complexity and various aspects of it, which is reflected in the fact that the number of integration theories is not small and is still growing. We believe that liberal intergovernmentalism is very well suited for the purpose of this analysis of the CFSP and to provide answers to the research questions.
The CFSP identified by the Maastricht Treaty as the second pillar of the EU, was in the character of decision-making very different from the first pillar. The major difference resides in the following factors: the CFSP has no clearly defined goal, no timetable, no sanctions for failure to adopt policies and finally no central institution managing it (Peterson, Bomberg 1999: 233). The CFSP pillar has not been communitarized and has remained strongly intergovernmental in nature, decisions are taken almost exclusively unanimously and role of supranational institutions remain in the area of the CFSP strongly restricted and the dominant decision-makers in External Relations issues are the MSs of the EU. “Community law does not apply, and many commentators regard the CFSP as a form of co-operation coming within the sphere of international law instead” (Eeckhout 2004: 139).

According to Peterson's analytical framework with three analytical categories of EU decisions, liberal intergovernmentalism falls within the 'super-systemic level' where 'history-making decisions' are taken (Peterson, Bomberg 1999: 4-30).

<table>
<thead>
<tr>
<th>Level</th>
<th>type of decision</th>
<th>bargaining mode</th>
<th>'best' theory</th>
</tr>
</thead>
<tbody>
<tr>
<td>super-systemic</td>
<td>history-making</td>
<td>intergovernmental</td>
<td>liberal intergovernmentalism, Neofunctionalism</td>
</tr>
<tr>
<td>Systemic</td>
<td>policy-setting</td>
<td>inter-institutional</td>
<td>new institutionalism</td>
</tr>
<tr>
<td>sub-systemic</td>
<td>policy-shaping</td>
<td>resource exchange</td>
<td>policy network analysis</td>
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Table 2.1 Putting theory in its place.

Similarly Frank Schimmelfennig considers liberal intergovernmentalism to be a “grand theory seeking to explain major steps toward European integration” (2004: 75) and Lee Miles points out its insufficiency and limitations as a grand theory to comment fully on all aspects of the European integration, particularly those requiring lower level of analysis (2004: 255-258), liberal intergovernmentalism will be used in this thesis to provide basic theoretical framework for analysis of the CFSP decisions which constitute lower level of analysis.

More precisely, based on Peterson's categorisation, we will concentrate on systemic level of analysis, where policy-setting decisions are taken.

<table>
<thead>
<tr>
<th>level</th>
<th>type of decision</th>
<th>dominant actor</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>super-systemic</td>
<td>history-making</td>
<td>European Council</td>
<td>establishment of the CFSP through the Treaty on European Union, 1992</td>
</tr>
<tr>
<td>systemic</td>
<td>policy-setting</td>
<td>General Affairs Council</td>
<td>common Position on support to democratic forces in the Federal Republic of Yugoslavia (FRY), 1999</td>
</tr>
<tr>
<td>sub-systemic</td>
<td>policy-shaping</td>
<td>COREPER, Political and Security Committee (PSC)</td>
<td>PSC decision - appointment of the Head of the mission of the EU Police Mission in FYROM, 2004</td>
</tr>
</tbody>
</table>

Table 2.2 Multi-level EU decision making in the field of the CFSP leaning on Peterson J., Bomberg, E. (1999)
Contrary to Peterson's general identification of bargaining mode, which as he claims is interinstitutional (1999: 9) on the systemic level (Table 2.1), we are of the opinion that due to the above mentioned specific character of CFSP the corresponding bargaining mode in this case is intergovernmental. The character of decision-making related to the CFSP strongly resembles the intergovernmental bargaining at times of history-making decisions on the European integration – cases when liberal intergovernmentalism has been applied to provide a theoretical framework (Moravcsik 1999). The above mentioned arguments provide a basis for the claim that liberal intergovernmentalism is appropriate for analysing the process of intergovernmental bargaining in the field of the CFSP and that its key concepts focus precisely on those aspects of intergovernmental bargaining which are necessary for finding answers to research questions and verification of hypotheses.

2.2 Fundamental concepts of liberal intergovernmentalism

In the words of Andrew Moravcsik, a single author of liberal intergovernmentalism, this theory “builds on an earlier approach, intergovernmental institutionalism, by refining its theory of interstate bargaining and institutional compliance, and by adding an explicit theory of national preference formation grounded in liberal theories of international interdependence” (1993: 480). The strong influence of regime theory, international political economy and particularly neoliberal institutionalism (e.g. a concept of asymmetrical interdependence or idea of absence of hierarchy among issues/interests) (Keohane, Nye 1977) is recognizable in concepts of liberal intergovernmentalism, a theoretical approach grounded on three key elements (Moravcsik 1993: 480):

1. rational state behaviour
2. liberal theory of national preference formation
3. intergovernmentalist analysis of interstate negotiation

Rationalist framework of international cooperation presupposes that states follow well-ordered and relatively stable interests and based on that major negotiations on the European level are divided into three stages (Moravcsik 1999: 18):

a) formation of national preferences
b) interstate bargaining
c) choice of international institutions

This tripartite analytical framework of the EU negotiations will be for the purpose of this thesis transferred from super-systemic to systemic level without a major qualitative impact on its analytical strength.

Literature specializing on the theory of the European integration sometimes presents Moravcsik's liberal intergovernmentalism as a model of two-level games (Rosamond 2000: 136) and thus omits the last stage of negotiation, the choice of international institutions. In our opinion this is caused predominantly by two factors. Firstly, by the fact that Moravcsik himself focuses on the first two stages of negotiation, while examination of the third stage is preoccupied with questions of pooling and delegation of sovereignty, and secondly, because liberal intergovernmentalism in general marginalises the role of institutions and concentrates on state actors. This is also reflected in the fact that liberal intergovernmentalism is an amalgam of two seemingly contradictory theoretical approaches – liberal theory of formation of national preferences and intergovernmentalism focusing on intergovernmental bargaining. Whereas the classical version of the latter is strongly influenced by neorealism by viewing national preferences as determined by state system and state's self-perception in this system,
the liberal theory views them as a result of domestic political process, the outcome generated by competition of influential domestic/national groups.

Moravcsik not only presents the basic structure of analysis, the tripartite analytical framework, but also introduces in detail each stage, emphasising factors that need special attention when examining negotiation outcomes. In his opinion this structure is applicable for negotiations at the European level, as well as it is “generalizable to any international negotiation” (Moravcsik 1999: 9).

### 2.2.1 National preference formation

National preferences are defined as “an ordered and weighted set of values placed on future substantive outcomes, often termed as ‘states of the world’, that might result from international political interaction, they reflect the objectives of those domestic groups which influence the state apparatus and they are assumed to be stable within each position advanced on each issue by each country in each negotiation, but not necessarily across negotiations, issues, or countries” (Moravcsik 1999: 24). Moravcsik considers the approaches which are treating preferences as fixed to be misleading. Instead in his opinion governments pursue stable interests for that particular ‘episode of negotiation’, but these are subject to change within longer periods of time, issues and countries and are dependent on exogenous changes (1999: 20-21).

National governments are pursuing national interests that are formed domestically, aggregated through political institutions and shifting in response to outcomes of domestic competition for political influence. National preferences must be distinguished from temporary positions in the form of strategies, tactics, policies etc. Based on liberal theory, liberal intergovernmentalism stresses the importance of state – society relations, as particularly in democratic societies, foreign policies are subject to electoral control, societal pressures and constraints imposed by interest groups (Moravcsik 1997: 518). As the dominant interest of a government is to remain in the office, it is essential that it takes into consideration the interests of major societal groups, whose support is necessary – the national practices of political representation and the way of transmission of societal interests to national level via political institutions is of particular interest to liberal intergovernmentalism. This should not imply that all interested parties are consulted every time questions over foreign policy is raised, nevertheless there is a strong unwillingness on the side of politicians to ignore interests or impose costs on influential groups that hold them in power. In this regard it is necessary to examine whether the pressures coming from major societal groups are aggregated or ambiguous as the latter case opens larger space for government’s independent action. Another opportunity for more independent government action arises when the net costs of alternative policy are ambiguous, uncertain or insignificant, then the societal pressures are of lower intensity, which is usually the case of the CFSP. National preference formation plays a vital role in liberal intergovernmentalist tripartite framework as national preferences are the major determinant of state behaviour on the international scene. “The most fundamental influences on foreign policy are the identity of important societal groups, the nature of their interests, and their relative influence on domestic policy (Moravcsik 1993: 483).

In addition to above mentioned assumption of state rationality, liberal intergovernmentalism suggest that in cases of international negotiations states are also unitary actors “pursuing coherent national strategies” (Moravcsik 1999: 22) developed on the basis of domestically formed national preferences. As Moravcsik admits, it is sometimes necessary to “relax
unitary-actor assumption”, but it is of secondary importance (Moravcsik 1999: 22). ‘Unitary-actorness’ on the international level, i.e. in the relation to other states does not mean that states are unitary actors internally. Besides, the unitary-actor assumption is a simplification to a certain degree, as democratic governments are not represented by a single person, nevertheless it is a viable simplification as government representatives are usually bound by the same principles and follow central guidelines, which is true particularly in case of the CFSP. Moreover, this assumption is not followed rigidly by Moravcsik either, instead he suggests that states “act ‘as if’ they were unitary” (1999: 22).

Moravcsik in his case study of five major series of interstate bargaining within the process of European integration reaches the conclusion, that the dominant source underlying variations in national preferences are economic motives. The clear preponderance of economic incentives of integration over geopolitical considerations is determined by the steady deepening economic interdependence (Moravcsik 1999: 472-479). For the purpose of our study, our attention concentrates on the part of Moravcsik’s analysis where he concludes: “Only in matters with little or no calculable impact on economic interests, such as parliamentary powers or foreign and defence policy, does political economy theory generate predictions similar to those of the geopolitical theory” (1999: 50).

### 2.2.2 Interstate bargaining

In the second stage of analysing negotiation outcomes Moravcsik concentrates on interstate bargaining. It is a stage when states work out strategies and engage in mutual bargaining to achieve realisation of their national preferences with the aim to do it more efficiently than through unilateral activities. Moravcsik puts forward two competing theories of bargaining: supranational and intergovernmental, strongly favouring the latter which will be introduced here in detail and later applied in our analysis as due to specific character of the CFSP bargaining it is more appropriate. The purpose of these theories is to provide answers to two fundamental questions related to international negotiation: efficiency and distribution. In particular, the former considers the fact whether governments exploited all possible agreements and the latter examines how the benefits of negotiation were distributed.

According to intergovernmental bargaining theory negotiations are viewed as “bargaining games over the precise terms of mutually beneficial cooperation and focus on distribution of benefits” (Moravcsik 1999: 51). The character of distribution is determined by the relative power of national governments derived from terms of asymmetrical policy interdependence. Intergovernmental bargaining theory is based on three key assumptions:

1. Treaty amending negotiations, and the same is true of the CFSP, “take place within a non-coercive system of unanimous voting in which governments can and will reject agreements that would leave them worse off than unilateral policies” (Moravcsik 1999: 60). The non-coercive environment formed by democratic European governments means that tactics such as military threats, hard economic sanctions do not come into question. Besides, due to the existence of joint gains, governments try to avoid the collapse of negotiations which would leave each state worse off.

2. Considering the question of efficiency, benefits of mutual cooperation are high relative to the costs of obtaining information about other states’ preferences, resulting in information-rich environment. It is also a result of the above mentioned non-coercive character of the environment with the absence of
military coercion where states do not feel threatened when revealing their interests and demands. The result is an easier achievement of an agreement.

3. A very important assumption is related to the distribution of outcomes. Distribution is derived from relative bargaining power of the particular state, which is dependent on “relative value the state places on an agreement compared to the outcome of its best alternative policy” (Moravcsik 1999: 62) and Moravcsik utilises the term ‘preference intensity’. ‘Preference intensity’ is a concept that is used to overcome general problem of international relations theory how to define ‘power’ and Moravcsik really avoids doing it. Instead ‘preference intensity’ in a non-coercive environment is the fundamental determinant of negotiation outcomes. The relative power in negotiation matters and it is derived from asymmetries in relative intensity of national preferences.

To predict bargaining outcomes Moravcsik adopts ‘Nash bargaining solution’ claiming that “in the absence of coercive threats, governments would split the utility gains relative to their respective alternatives to agreement, which is done under pressure to avoid possibility that exogenous events might lead negotiations to collapse” (Moravcsik 1999: 62). The underlying motives of the states engaged in the bargaining process is reflected in the fact, that states which have the strongest interest on agreement (would benefit the most from an agreement) are also the ones willing to make the greatest concessions and are open to compromises. The result is that the states most content with the current situation (or better alternatives) and so least interested in an agreement gain the most from bargaining as they are not motivated to make any concessions – “the willingness of states to make concessions is itself primarily a function of preferences, not capabilities” (Moravcsik 1999: 523). For the location of all possible agreements, stemming from negotiations, limited by national preferences defining the ‘bargaining space’, Moravcsik uses the concept of Pareto frontier, which is a boundary of the set of agreements that improve welfare for all governments and would therefore secure their voluntary agreement” (Moravcsik 1999: 25). We will elaborate more on the Pareto frontier concept in chapter 3. In this regard negotiation outcomes tend to be determined by these factors (Moravcsik 1999: 63):

a) the value which is given to the unilateral policy alternatives in relation to the status quo, which might result in threats to veto
b) the possibility and the worth of alternative coalitions, which constitutes a threat of exclusion
c) the probability of issue linkage or side-payments, and as such offers for package deals

An elementary precondition for a negotiated agreement is the perception among interested parties that benefits of cooperation are higher than benefits of the best available alternative. A unilateral alternative which is superior to cooperation is the most serious threat to cooperation and produces the strongest bargaining position. Governments with attractive policy alternatives ‘best alternatives to negotiated outcomes’ (BATNA) (Zartman 1991: 65-77) have greater bargaining leverage for their preference intensity is lower and they will not be satisfied with inconvenient agreements. On the other hand, governments whose unilateral alternatives and influence over other governments is weak, have in this regard lowest bargaining power and so must concede and compromise the most. In order to avoid veto situation, the agreement is sometimes concluded only on the level of lowest common denominator, however this does not necessarily mean the lowest standard and such an agreement may create an incentive for further, higher level negotiations.
The consequence of the growing flow of goods, services, etc. is the emergence of policy externalities i.e. “policies of one government creating costs (negative externalities) and benefits (positive externalities) for politically significant social groups outside its national jurisdiction” (Moravcsik 1993: 485). The number of negative policy externalities can be brought under control or even eliminated through international cooperation, i.e. produces strong incentives for states to cooperate.

An alternative to cooperation is the creation of an alternative coalition which is considered to be viable. In such a case the bargaining position of a state is considerably strengthened. This is particularly the case of the EU negotiations as more than two states are involved in the process of bargaining. The possibility of being left out from the coalition agreement may result in the fact that a state will accept conditions leaving it worse off than status quo, just because the costs of being left out are even higher. On the contrary, being left out from a coalition might also have positive effects, especially when creating a space for free-riding. Larger states enjoy higher bargaining leverage due to the attractiveness for the purpose of building coalitions – this is often the case of voting in the Council, even though this does not play an important role in the CFSP field, where voting is predominantly unanimous.

Issue linkages are more frequent in cases of long term relations and more successful among states having varying level of preference intensities on diverse issues. On issues of lesser importance for a particular state, it gives up more and in return obtains more benefits on issues of higher preference intensity, in ideal case. Concession exchange on issues between states is possible when their interests are asymmetrical and do not collide. The main obstacle in issue linkages is domestic opposition towards them as they tend to have “important domestic distributional consequences” (Moravcsik 1993: 505). Package deals linking together a number of issues always create winners and losers for all the states involved and thus are a viable alternatives only in cases where the opposition is weak or diffuse.

Having introduced the first two stages of Moravcsik’s study of the process of negotiation, we will conclude with the concept combining these two stages into a demand – supply relationship of international cooperation. Moravcsik views the first stage – national preference formation as a demand side and interstate interaction forming possible outcomes and responses to these demands as a supply side. Foreign policy behaviour of states then reflects the interaction between demand side and supply side (Moravcsik 1993: 481).

### 2.2.3 Choice of international institutions

The third stage of tripartite analytical framework suggested by liberal intergovernmentalism examines the process of choice of international institutions. The idea of states delegating powers on international institutions is not in conflict with principles of liberal intergovernmentalism. To the contrary, states decide to empower institutional structures insofar as these help them to strengthen control over domestic affairs. The delegation of powers to an international institution results in the limitation of state sovereignty. Moravcsik examines two distinct ways of constraining sovereignty of a state (Moravcsik 1999: 67):

- pooling of sovereignty
- delegation of sovereignty

Sovereignty is pooled when states “agree to decide future matters by voting procedures other than unanimity” (Moravcsik 1999: 67), which is done through qualified majority voting.
Sovereignty is delegated when “supranational actors are permitted to take certain autonomous decisions, without an intervening interstate vote or unilateral veto” (Moravcsik 1999: 67) constituting constraint of sovereignty through autonomous institutions. As opposed to unanimity, when sovereignty is delegated or pooled, the efficiency is increased, but the government control is reduced. Delegation of sovereignty on supranational institutions brings about diminution of government control over decision-making, however enhancing efficiency to highest level. Pooling sovereignty and realisation of decision-making through QMV means a lower risk of absolute loss of control, but at the same time the efficiency is lower.

When examining the underlying motives of governments to pool or delegate sovereignty, three plausible reasons can be found (Moravcsik 1998: 10):

1. Federalist ideology – based on the strength of federalist ideas in the particular state as some states have stronger federalist tendencies and are more prone to transfer parts of their sovereignty on supranational institutions as other states. The attractiveness of federalist ideas is strongly influenced by the character of domestic governance.

2. Centralisation through technocratic coordination – collective action is managed better through a centralised authority, coordination and cooperation is done more efficiently due to technocratic expertise, and also due to centralisation of information (“information economy of scale”) (Moravcsik 1999: 71).

3. Intention to build more credible commitments – a state taking a decision to transfer sovereignty is increasing the credibility of its commitments as costs of policy reversal and non-compliance are considerably increased. The transfer of sovereignty partially predetermines future decisions and binds also future governments, encouraging the future cooperation. The state not only precommits to a number of future decisions, but it also signals and assures its partners that it is serious about cooperation in this field, but at the same time requires its partners to accept corresponding degree of commitment – ‘mutual lock in future decisions.’ Transfer of sovereignty is also an effective instrument against domestic opposition.

As mentioned above, states decide to transfer their sovereignty if this results in consolidation of their position – this can be achieved in both, their external relations and internal affairs. Externally, the efficiency of intergovernmental bargaining will be enhanced through reductions of cooperation costs by providing forum for negotiation, performing monitoring of compliance by a single authority, introducing common decision-making and common standards etc. Internally, the national government gains greater independence from domestic groups. The approval of national policy by the supranational institution grants it greater legitimacy. The reluctance of states to delegate or pool sovereignty is determined mainly by uncertainties of future decisions as the decision to transfer sovereignty inherently includes delegation of decisions about substantive, open-ended questions on autonomous institutions (Moravcsik 1991: 26).

Above, we have outlined the fundamental concepts and assumptions of liberal intergovernmentalism, which will provide the basic theoretical framework for our analysis. For the purpose of greater comprehensiveness we will make a summary of the elementary points and create a structure that will be set against the empirical material available about the particular case of interstate negotiation.
2.3 Critique of liberal intergovernmentalism – suggestions how to overcome its limitations

Despite the fact that liberal intergovernmentalism has provided valuable insights into the process of the European integration and bargaining among the MSs and as Frank Schimmelfennig observes it has “quickly acquired status of baseline theory against which new theoretical conjectures are tested” (2004: 75) it has been criticised for number of reasons. We consider these critiques, mainly those presented by specialists on the European Integration, to be of great value for our analysis as they highlight the weaknesses and limitations of this theoretical approach. The identification of shortcomings is necessary as some of them can be dealt with or avoided and so the quality of the thesis can be improved. The following lines will be based on liberal intergovernmentalist critique written by Helen Wallace, James. A. Caporaso and Fritz W. Schampf.
The first reservation Wallace has is related to primacy of economic factors over geopolitical factors in the European integration and bargaining as according to Wallace geopolitical considerations have periodically been influential (Wallace 1999: 156). Based on this claim and Moravcsik’s previously mentioned conclusion, that geopolitical factors are decisive only in cases without considerable impact on economic interests, we will avoid this problem of overestimation of political economy by choosing cases with a marginal or limited role involving the economic motivations for states.

Secondly, Wallace criticises Moravcsik for taking into consideration exclusively the preferences and motivations of the three largest MSs while omitting the role of smaller states even if they are sometimes able to build very strong coalition (Wallace 1999: 156). In this regard, for the sake of complexity, in our analysis we will try to take account of all the relevant actors involved in the issue, not excluding coalitions, sometimes successfully counterbalancing the large states even though the large states’ position has been decisive on many occasions.

Thirdly, Wallace opposes the concept of national preference formation with insufficient examination of the nature of politics within the countries in question (Wallace 1999: 157). We will try to satisfy this lack of attention paid to domestic politics and we will engage in a more detailed assessment of domestic politics, account for controversies and major disputes in the domestic political arena, especially where this decisively determines the national preferences followed by the government in the interstate bargaining.

Fourthly, Wallace suggests that the ‘neatness’ of Moravcsik’s tripartite analytical framework undermines the ‘persuasiveness’ of the whole theory as everything fits together perfectly and there is no space for irrationality or confusion, which in reality looks very much different (Wallace 1999: 158). It is hard to ‘account for irrationality’ in an analysis, how much a final decision is a result of confusion or how much it really reflects intentions of actors is impossible to judge. In this sense, Moravcsik tried to avoid this kind of criticism by considering his actors to be strictly rational, however on occasion a rational motive underlying a decision cannot be found and we will try to reflect this in our study.

Lastly, Wallace questions Moravcsik’s absolute denial of role of supranational entrepreneurs and institutions as a whole (Wallace 1999: 159). Admittedly, institutions are very influential in certain policies, especially those which have been communitarized. But the ratio between the influence of governments and institutions is not possible to determine not only because it varies issue by issue. Overestimating the role of either governments or institutions in particular sphere means presenting two extreme poles, which in reality never exists. For the purpose of our analysis we will use simplification in this regard and often avoid examining the role of supranational institutions. Having in mind that every theory is parsimonious to a certain degree, otherwise the picture it provides would become murky, we will concentrate on the role of governments. The basis for this decision is determined by the specific character of the CFSP decisions, as mentioned above, where supranational institutions play minimal role.

James. A. Caporaso shares a number of ideas with Helen Wallace and so they will not be repeated, even though he brings up the very important question of the choice of cases. We agree with Caporaso’s opinion that “selection of cases makes it easier to confirm the intergovernmentalist story” (1999: 162) and that the choice of a case partially may predetermine the outcome of a study. However, we find ourselves in a different situation as our purpose is not validation/falsification of a theory, but utilisation of liberal
intergovernmentalism to provide us with theoretical framework, pointing out elements deserving our attention so that at the end of an analysis based on this theory we are able to find answers for research questions posed at the beginning.

Finally, a critique of Fritz W. Scharpf concentrates on what is generally in theory termed ‘level of analysis’ (Viotti, Kauppi 1999: 13-16) problem. He questions “universalistic aspirations” of applying a single theory on wide range of decisions – from constitutional to every-day decisions and additionally he criticises Moravcsik for the complete neglect of decisions taken by the supranational institutions (1999: 166-167). On one hand, we are aware of the fact that no single integration theory is capable of explaining the character of this process in all its aspects, on the other hand as argued above, we are of the opinion that specific character of the CFSP decisions allows us to apply liberal intergovernmentalism and besides we examine the ‘policy-setting level’ of decision-making and not the policy-shaping level, where we agree that concepts of liberal intergovernmentalism would be insufficient.
Chapter 3: Analysis of negotiation

The previous chapter has provided us with an outline of basic theoretical framework which will be used in the thesis. Based on the fact that in the centre of our analysis is the process of negotiation of a common stance of the EU MSs in the field of the CFSP we feel the necessity to engage in a more detailed examination of a negotiation process suggested by leading negotiation theorists (Kremenyuk 1991), (Zartman 1994), (Lebow 1996), (Zartman, Rubin 2002). In this regard, this chapter will develop the previous sub-chapter on interstate bargaining.

During the process of development of theory of negotiation, a number of definitions of this phenomenon has been presented. It is possible to extract certain features common for all of these definitions: involvement of two or more parties, issue at stake is of mutual interest, existence of conflicting views on arrangement of issue, belief that an agreement ensures higher gains than unilateral action, combining views producing outcomes. The general definition of negotiation derived from these features sounds as follows: negotiation is a process in which two or more parties based on diverse proposals try to reach an agreement on arrangement of issues of common interest, while they benefit more from a joint decision than from a unilateral action. We will use the terms negotiation and bargaining interchangeably as is often done in theoretical literature, even though some authors express the opinion that negotiation is a sub-class of bargaining (Jönsson 2002: 212-234). Bargaining is viewed as a broader concept involving both verbal and non-verbal, formal and informal exchanges, while negotiation comprises only formalized verbal communication.

The first part of the following chapter will concentrate on the theory of negotiation; examine the elementary concepts of a branch of negotiation theory – negotiation analysis; concentrating on the most important dimensions of negotiation. The second part will based on an examination of liberal intergovernmentalism and the theory of negotiation which will present an answer to the first (theoretical) research question posed at the beginning of the thesis i.e. it will provide the model of the analysis of negotiation, later used in the case studies. The third part will outline major specific features of the negotiations among the EU MSs and thus answer the second part of the theoretical research question.

3.1 Theory of negotiation

Fiona Hayes-Renshaw and Helen Wallace suggest classification of negotiations based on three factors (1997: 248-250):

- number of participants
  - bilateral
  - restricted multilateral
  - extended multilateral
- scope of issues embraced
  - single issue
  - multi-issue
  - infinite scope
- layers of negotiation
  - large number
  - small number
According to this classification our case studies can be subsumed into a group of single-issue, restricted multilateral negotiations with small number of layers of political decision. As such they are characterised by the relative simplicity of the agenda as only one or small number of related issues are to be negotiated. Additionally, a relatively small number of participants is involved in the negotiations, which facilitates establishment of closer relations, better understanding of mutual interests and preferences and thus a more productive ground for an agreement. In relation to the number of layers, based on the assumption of liberal intergovernmentalism that states act as quasi-unitary actors in interstate bargaining, despite national preferences being formed in a competition among domestic groups, the number of layers is small, thus contributing to a simplification of the examination.

The substance of international negotiations is of high complexity, hence the study of its various characteristics requires corresponding theoretical approaches focusing on the variables which play a vital role. It is unlikely that a single comprehensive negotiation model will emerge and so before we proceed with our analysis it is necessary based on research questions and identification of decisive variables select corresponding theory of negotiation. The evolution process of the theory of negotiation has had many stages during which many new approaches, posing new questions and introducing new methods have come into existence. Among the most significant ones are historical approach, organizational theory, game theory, decision theory, negotiation analysis, coalition theory, leadership theory etc.

### 3.1.1 Negotiation analysis

As the outcomes of the negotiations of the EU MSs on CFSP issues are in reality a part of decision-making, in our analysis we will lean on decision-making negotiation approach, which in combination with game theory resulted in an emergence of a new a branch of the negotiation theory, negotiation analysis (Sebenius 1991: 203). This theory will be a theoretical complement to the second stage of liberal intergovernmentalism and will contribute to thoroughness, consistency and increased quality of our analysis.

Negotiation viewed as joint decision-making process “refers to a two phased activity: exploring to find a formula of agreement and then adjusting the details” (Dupont. Faure 1991: 44). However, as suggested by Bertram Spector, decision analysis on the one hand is concentrating on “[explanation of] modification in the initial positions and interests of nations that facilitate eventual convergence on mutually acceptable outcomes”, but on the other hand this approach is “less often [used] as a technique to analyze, understand, and explain how and why negotiating strategies were selected after the fact”(1994: 73). Consequently, decision-making negotiation theory would not be sufficient for the purpose of our analysis and must be therefore combined with game theory into ‘negotiation analysis’.

Despite the game-theoretical and decision-making background of negotiation analysis, Sebenius identifies distinctive features of negotiation analysis (1991: 205-206):

1. As opposed to game theory, negotiation analysis is asymmetrically prescriptive i.e. the key to the understanding of one party’s behaviour is the prediction of the other party’s behaviour.
2. The assumption of game-theoretical actors’ rationality is slightly loosened – it depends on actors how they perceive their preferences and interests.
3. In the centre of interest of negotiation analysis stands “zone of possible agreements”. In this regard, this approach concentrates on factors changing perceptions of the zone of possible agreements.

4. The agreements reached through bargaining among actors are not necessarily Pareto-optimal. The factors contributing to this fact are numerous – e.g. incomplete information.

5. Not all interests, issues, actors etc. need to be included in the analysis in advance, but they are added throughout the process of negotiations when they appear i.e. negotiation analysts engage in analyses which are not specified in advance.

The outline of distinctive features of negotiation analysis is not a sufficient basis for our case study and therefore it is necessary to appreciate the four core elements of this approach: “interests, alternatives to negotiated agreement, the processes of ‘creating’ and ‘claiming’ value and moves to change the game” (Sebenius 1991: 207).

An understanding of interests of the involved actors is the basic precondition of any negotiation analysis, while interests are considered to be anything of a concern for a negotiator. Furthermore, the subjectivity is reflected in the fact that it depends on subjective perception of the parties to determine whether joint agreement is of greater value than individual action. The perception of alternatives to negotiated agreement are not fixed and may vary on grounds of new information, new opportunities etc.

The attractiveness of mutual cooperation is grounded on a belief of the actors gaining more together than each of them separately. The benefits are determined by several factors creating additional value of the agreement. The integration of actors’ interests can provide a common ground for furthering the relationship and extending mutual cooperation. Additionally, reaching an agreement creates an opportunity for exploitation of the economies of scale. And finally, differences among actors do not necessarily imply disagreements, but may be accommodated through new types of agreements – e.g. issue linkages are possible in areas of asymmetrical interest for actors.

Of great value for the analysis of our case studies is the final assumption of negotiation analysis related to the changes in the negotiation. Generally, factors such as negotiation issues, actors and possible actions are considered to be fixed throughout the negotiation process. Negotiation analysis opens up the space for variation in these areas, claiming that these change within time based on situation and parties’ interests.

Similarly to Andrew Moravcsik, James Sebenius also adopts the negotiation-analytical metaphor of Pareto-frontier. The figure 3.1 illustrates the location of Pareto-frontier and the zone of agreement. Zero point marks the point of no agreement. Pareto-frontier represents a set of best alternative agreements for both parties, where improvement could be reached only through harming the other party. As parties do not know where exactly the Pareto-frontier is located, the agreement is usually situated somewhere within the ‘zone of agreement’. Based on the assumption of negotiation analysis, it is clear that the shape of the Pareto-frontier and consequently of the zone of agreement can change. If the alternatives of party 1 improve, the curve moves to the right on the horizontal axis, worsening of the other party’s (2) alternatives will result in moving the curve down on the vertical axis and for example improvement of alternatives on both sides means move of the curve up and to the right which results also in the expansion of the zone of agreement.
Similarly to other authors (Zartman 2002), (Lodge 1994), we will employ standard analytical categories suggested in Kremenyuk (1991) i.e. division into five interconnected dimensions: process, actors, structure, strategy, outcomes.

### 3.1.2 Negotiation process

Before examining the structure of negotiation which will later be used in the case studies, we will look at the substance of a ‘negotiation process’ as both our case studies viewed this as a ‘process’ of creation of a common stance of the EU MSs. Also Christopher Dupont and Guy-Olivier Faure emphasise the sequential character of international negotiations: “international negotiation is seen as a sequence of stages, either organized in well-articulated patterns, [...], or overlapping and developing over time in a rather haphazard or even confused way” (1991: 40) Throughout the negotiation process the actors come up with a number of demands, offers and counteroffers, with the aim to reach an agreement, but at the same time to make as few concessions from their real demands as possible. Despite claiming that there are number of stages in the negotiation process, it is hard to identify the move from one stage to another as well as key determinants of this move. In general, certain phases can be found in majority of international negotiations. As suggested by Dupont and Faure these are (1991: 43-44):

- preliminary contacts and prenegotiation (as termed by Zartman and Berman ‘diagnostic phase’) (Zartman, Berman 1982: 137) – consisting of unofficial or informal contacts (Track II) and official procedures preceding the actual beginning of negotiation (Track I).
- ‘formula phase’ – the actors unify the interpretation of the subject of negotiation, lay down the guiding principles of the negotiations and determine issues on which agreement can be reached.

![Figure 3.1 Pareto-frontier and zone of agreement.](image)

• ‘detail phase’ – actors agree the particularities of settlement.
• ‘concluding phase’ – the final agreement among parties involved was reached.

The negotiation among the EU MSs is considered to be a multilateral international negotiation, but when compared to traditional international negotiation it bears some specific features – these will be identified later in the chapter. Similarly, stages of the negotiation process in case of EU negotiations have some distinguishable attributes and do not completely correspond with the stages of international negotiation. We will identify these based on our case studies in the conclusion of the thesis when providing answer to one of the research questions.

3.1.3 Actors

For a proper analysis of negotiations we need to examine not only the underlying context of the negotiation process, but also the actors participating in negotiations. We have partially dealt with the question of actors in the preceding chapter about liberal intergovernmentalism. The key actors in our case studies will be the EU MSs, which based on the assumptions of liberal intergovernmentalism behave ‘as if’ unitary actors in the international arena despite domestic bargaining about national preferences. However, we believe, contrary to liberal intergovernmentalism, that the personality of the ‘negotiator’ who is in reality only a representative/agent of their constituents, plays an important role in negotiations and can substantially influence the process and the outcomes of negotiations. The qualities of the negotiator(s) are not the only determinant of his success – the decisive factors are e.g. what the actual opportunities are that can be exploited, but also whether the negotiator is under strict control of his constituents or he is relatively free to act.

For the purpose of our analysis, the principal actors are the EU MSs participating on the negotiation process, represented by a negotiators (state officials), who in international negotiations follow domestically formed national preferences, but where relevant we will also consider the personality of the particular negotiator. The success achieved in the particular negotiation is then defined by a distance of actor’s ideal position from the outcome (Bailer 2004: 109). The problem in this regard might be the identification of the ideal position as actors may have the tendency to hide their real interests or to exaggerate their needs, hoping to gain more from the negotiations. To avoid this problem we will try to derive the actor’s ideal position from their national preferences. Additionally, the character of the EU negotiation environment facilitates the information exchange and thus actors have better information about mutual preferences, which also contributes to elimination of the above problem.

3.1.4 Structure

The identification of a structure of negotiations is vital for successful examination of the whole process of negotiation and it involves the identification of the particular components as well as the set-up of these components. The essential components of a structure of negotiation are actors, their number and their characteristics – predominantly power and preferences. In the previous chapter we have shown that Moravcsik has ingeniously avoided the study of the power structure related to interstate bargaining, claiming that military and economic power does not play a decisive role in the EU negotiation, instead ‘preference intensity’ is crucial in
this respect (Moravcsik 1999: 60-65). We associate ourselves with this view as non-coercive character of the environment precludes the use of military or economic threats. The remaining dominant features characterising actors are their preferences.

Zartman attaches importance also to the arrangement of characteristics of components i.e. actors’ preferences – whether this relationship is symmetrical or asymmetrical (1991: 66-67). Model based on symmetry would be the simplest possible, but in reality such a model would rarely hold. Conversely, asymmetry in preferences is usually the case in negotiations. The success in asymmetrical negotiations is defined by ‘Homan’s maxim’: “The more the items at stake can be divided into goods valued more by one party than they cost to the first, the greater the chance of a successful outcome” (Zartman 1991: 67).

A number of assumptions concerning the theories of negotiation is derived from bilateral negotiations. The problem arises when the number of actors involved in negotiation increases. Consequently the structure of negotiation becomes more complex and theoretical assumptions about bilateral negotiations become insufficient. Three possibilities to manage the complexity of multilateral negotiations have been identified (Zartman 1991: 73). Firstly, and most frequently the complexity of multilateral negotiations is managed through coalition analysis as number of coalitions considerably lowers the number of parties. Dividing actors into groups based on preferences and affinity may result in applicability of bilateral approach, when there are two parties standing against each other. Secondly, it is possible through leadership, which is “an asymmetrical relationship of influence in which one actor guides or directs the behaviour of others toward a certain goal over a certain period of time” (Underdal 1994: 178). And thirdly, management of complexity through viewing international negotiation as ‘parliamentary diplomacy’ focusing on procedural elements of negotiations. As the CFSP negotiations are also a type of multilateral negotiations even if restricted, it is necessary to employ one of the above approaches to counter the problem of complexity of these negotiations. It is often observed in negotiations among the EU MSs that coalitions are formed for and against certain foreign policy issue, which encouraged us to adopt coalition analysis approach.

3.1.5 Strategy

Strategy is defined as “a set of behaviours that are observable at least in principle, and associated with a plan to achieve some objective through bargaining. Strategies are part of the process of negotiation, which encompasses a sequence of actions in which parties address demands and proposals to one another for the ostensible purposes of reaching an agreement and changing the behaviour of at least one actor“ (Odell 2002: 40). Throughout the negotiation process there are several alternative ways how the actors can reach an agreement. Dean Pruitt identifies three possible strategies which bring parties to an agreement (Pruitt 1991: 78-89).

- The first of the strategies is a strategy of contending, when one party tries to persuade the other party to make concessions. The parties usually adopt a tough stance, present strong arguments and threaten to use coercion in case of no concession from the other party. The negotiations have a character of a win-lose situation.
- The second strategy is so-called problem-solving, when parties engage in finding an agreement acceptable for both parties. This strategy requires combined effort on both sides and is possible only in the environment characterised by mutual trust. Problem-solving approach in the negotiations can lead to establishment of working
relationship among parties, which contributes to higher efficiency of negotiations, long-term relationship with opportunities for mutually advantageous issue linkages and package deals.

- The last strategy is a strategy of yielding, when one’s preferences have been abandoned and demands reduced which is based on internal belief. Frequently, yielding is a result of a time pressure, or situations when one party has positive attitude towards the other party and when no important issues are on the agenda.

Contending and problem-solving strategies represent two ideal types of actors’ behaviour: the former distributive bargaining or value-claiming, the latter integrative barraging or value-creating. Throughout the process of negotiation more than one strategy can be used – usual is the combination of contending and problem-solving in various stages of negotiations.

### 3.1.6 Outcomes

The main purpose of negotiation analysis is to explain, suggest means of influencing and if possible to predict the outcomes of negotiation. The outcome of negotiation is not necessarily an agreement, as even a non-agreement situation may signify considerable success in dealing with a problematic situation in mutual relations of actors. The form of the agreement varies greatly – verbal arrangement, written contract, one of the products of decision-making procedure based on previously agreed rules etc. The above mentioned Pareto-frontier defines the set of optimal agreements, when maximal negotiation efficiency was achieved (the negotiation costs were minimal). After the frontier is crossed, the benefits of one party are at the expense of the other party.

Richard Lebow presents another useful illustration (Figure 3.2) of an agreement situation between actors. To a certain degree it is an alternative to Pareto-frontier (Figure 3.1), but concentrates on a different aspect of it. It shows that depending on the particular case sometimes there is only a single possibility of agreement whereas sometimes there is a zone of agreement where number of agreements is possible on the issue. The problem in the second case arises when parties disagree on the choice from possible alternatives – the negotiations can possibly end in a stalemate.

![Figure 3.2 Bargaining encounters. Source: Lebow 1996: 57](image-url)
3.2 Model of analysis

The purpose of the two theoretical chapters (chapter 2 and 3) is to provide us with theoretical framework for our later analysis of two cases of negotiations of the EU MSs about CFSP issues. The general structure is determined by liberal intergovernmentalism while we have complemented the second stage of its tripartite analytical framework with negotiation analysis. We have summarized our theoretical findings into three interrelated diagrams. Figure 2.3 presents the main points of three-stage analysis suggested by liberal intergovernmentalism, pointing out the decisive factors of each stage. The second diagram, figure 3.3 illustrates the general structure which will be utilized in the case studies. The third diagram (figure 3.4) concentrates on the second stage within the tripartite analytical framework and provides a detailed review of negotiation analysis and the numerous aspects that need to be considered in the case study.
Figure 3.3 Moravcsik’s tripartite analytical framework as used in case studies.
Figure 3.4 Model of analysis of negotiation – Moravcsik’s second stage combined with negotiation analysis.
3.3 Specific features of EU negotiations

Negotiation has a central position in the EU decision-making. The process of European integration is characterised by permanent negotiations and the EU has been termed as “negotiated order” (Jönsson et al. 1998: 322). Although the EU negotiations are a type of multilateral negotiations, there are certain specific features that distinguish them from traditional international multilateral negotiations. In this enumeration of specific features of the EU negotiations we will concentrate on the field of the CFSP negotiations, on the policy-setting level where the primary instruments of the CFSP – common positions, joint actions, decisions and declarations – are adopted.

A. The number of actors of these negotiations is relatively small and stable. The MSs, represented by their Ministers of Foreign Affairs, negotiate in format of the General Affairs Council when deciding on the above mentioned instruments.

B. The environment in which representatives of the MSs meet is informal. The informality of negotiations is suggested in the sense that large part of the actual negotiation is concluded outside the negotiation room, as negotiators have many opportunities to meet and exchange views on negotiated issues. This should not imply that the negotiations lack formal rules and procedures, on the contrary they do exist and the informality is an inherent part of them.

C. The negotiation in the EU is a continual, interconnected and permanent process. To determine the beginning and the end of negotiation is hard as some issues are closely related and often overlap. Under the condition of recurrent negotiations and long-lasting relationship, the MSs try to avoid maximizing their individual benefits at the expense of others. The often quoted, sufficiently long “shadow of the future” (Axelrod 1984: 174) is a ‘guarantee’ of correct relations among the MSs. Besides, the MSs are willing to make concession for the sake of their future gains – the nature of the EU negotiation environment opens up a large space for issue-linkages, even though this is less true about the CFSP issues where questions of national interests are at stake.

D. The values on which are the societies of the MSs are built also provide a common ground for minimal standards of mutual relations. Consequently, certain tactics, such as threat to use military force are unthinkable. In this sense the MSs are limited in tactics they can use in negotiation, on the other hand the increased interdependence among the EU MSs brings possibilities of new tactics. The outcomes of negotiation are to lesser degree determined by relative power of the MSs and more by the salience they attribute to the particular issue.

E. The durable relationship facilitates cooperative behaviour and the threat of defection is low and so relatively high degree of mutual trust is developed. This is a solid basis for building reliable communication channels and information exchange. The MSs are relatively well informed about mutual interests and preferences.

F. Despite the ECJ not exercising any powers in the second pillar, it cannot be assumed that there is no real law enforcement similar to international law. Conversely, defection is not overseen and provokes corresponding countermeasure on the side of the remaining EU MSs.
The above mentioned specific features serve as constraints of structure derived from liberal intergovernmentalism and negotiation analysis and adjust a general structure of analysis of negotiation to EU specific character. Thus sometimes the choices offered by the analytical structure will be limited and sometimes new choices may emerge.
Chapter 4: Case study 1
EC recognition crisis over the former republics of SFRY

In previous chapters we have outlined the principal theoretical concepts that will lead our analysis of particular cases. The diagrams (figure 3.3 and 3.4) will serve as primary analytical tools, devices for approaching and conceptualising the negotiation process within the EU in the field of foreign policy. The structure of this chapter corresponds with the model suggested by the theoretical part and is divided into sub-chapters concentrating on the crucial dimensions of negotiations. To be able to find answers to our remaining research questions we need to conduct a thorough analysis of the negotiation process in two particular cases.

4.1 Context of negotiations

The situation in Yugoslavia became an issue of concern for the MSs of the EC from 1990 when the conditions in the Western Balkans deteriorated. Particularly in the early 1990s the EC provided the strongest support in terms of financial assistance through PHARE programme and the EIB. Even though secessionist tendencies within Slovenia and later Croatia and Bosnia and Herzegovina were apparent, the EC at that time preferred Yugoslavia to remain a single state. According to the EC, a centrally controlled state would ensure higher stability of the Western Balkans than a number of small independent states not able to cope with ethnical heterogeneity and economic problems. That is the reason why the EC conditioned any financial assistance to Yugoslavia by preservation of a united Yugoslav state (March, Mackenstein 2005: 143).

A worsening of economic crisis and ethnic unrests resulting in armed attacks and influenced the elections in which the former Communist parties in Serbia and Montenegro gained power. Croatia, but mainly Slovenia intensified pressures for loosening the federation with strengthening the desire for independence. The federal organs under the leadership of Slobodan Milosevic strongly opposed any secessionist tendencies and did not exclude the use of military power to suppress the insurgence and maintain the territorial integrity of Yugoslavia.

The conclusions of General Affairs Council held in March 1991 clearly call for unity of Yugoslavia: “[…], the Ministers confirmed the importance the Community attached to Yugoslavia’s territorial unity and integrity, in full compliance with human rights. The Twelve appealed urgently to all political leaders to respect this imperative of the unity of the Yugoslav nation” (Council of the European Communities 1991a: 14). Apart from financial assistance, Yugoslavia was considered for possible conclusion of an association agreement: “The Council was prepared, once that process was fully started, to consider (as had been the case with other East European countries) negotiations on the conclusion of the association agreement between the Community and Yugoslavia, thus allowing fuller integration of Yugoslavia into the European framework” (Council of the European Communities 1991a: 14). Some Balkan nations, and in particular Slovenians, aspired to become a member of the EC and viewed the preservation of SFRY as the major obstacle of this aspiration. Despite the conditionality in the EC’s assistance and no signs of improvement, the third financial protocol granting loans from the EIB to Yugoslavia was approved in April 1991.

The diplomatic activity of the EC in Western Balkans intensified in June 1991. On 24 June 1991 the Conclave of the Twelve agreed that “they would not acknowledge any unilateral
declarations of independence by Croatia and Slovenia, as a ‘unilateral act could not bring any solution.” (Nuttal 2000: 197). On the following day Slovenia and Croatia declared independence which provoked a reaction on the side of Yugoslav Federal forces and they took over the control of external Yugoslav borders. The European Council meeting in Luxembourg on 28 and 29 June 1991 caught the MSs unprepared for such a situation. The EC reacted by sending the Troika of Ministers of Foreign Affairs (Luxembourg, Italy, Netherlands) to negotiate a cease-fire between Federal organs and newly proclaimed Republics. The immediate impression the Troika visit to Zagreb left on the MSs was that it brought success: “[the European Council] heard a report from Ministerial Troika on its return from Belgrade and Zagreb and expressed satisfaction at the results of this mission” even though at the same time “the European Council remains concerned about the situation in this country and requests the relevant organs of European co-operation to remain seized of this situation and to follow developments closely” (European Council 1991: 16). In reality there was virtually no result of the Troika visit as fights continued.

The result of continuous EC engagement in the complicated situation in Yugoslavia was a meeting at Brioni on 7 July 1991 where Slovenia and Croatia agreed to temporarily (for 3 months) suspend their declaration of independence and the EC decided to dispatch observers (ECMM) to monitor the cease-fire in Slovenia and Croatia. Besides, the negotiations about the future of Yugoslavia were to commence by 1 August 1991. In the meantime the Council suspended the second and the third financial protocol and at suggestion of the USA an arms embargo was introduced (Nuttal 2000: 201). The Monitoring Mission was relatively successful in Slovenia due to the absence of the Serb minority on the Slovenian territory, while the contrary was true of the situation in Croatia where the conflicts continued with high intensity. Based on French and German proposals, the arbitration procedure was to be managed by an Arbitration Commission (known as Badinter Commission) and Conference on Yugoslavia, which was set up on 3 September. The first session took place in The Hague four days later and as its Chairman was appointed Lord Peter Carrington, former British Foreign Secretary and former NATO Secretary General. The Conference as a forum for discussion among belligerent parties was not very successful as the parties resorted to dialogue using the Conference as a forum only intermittently when there was no evident way out of a stalemate while the truce once agreed was frequently broken. The only measures the EC had at its disposal to influence the parties were of political and economic nature. The former was the recognition of new states and the latter were either sanctions or withdrawal of financial assistance.

The initial unity of the MSs over the issue of recognition started to vanish in the second half of 1991 resulting in Germany being positioned against the rest of the EC. The fundamental principles of Helsinki Final Act stood in the case of 1991 Yugoslav Crisis in stark opposition. Those were principle VIII guaranteeing the right to self-determination against principle III on inviolability of borders, principle IV on territorial integrity and principle VI on non-intervention in the internal affairs of a sovereign state (CSCE 1975). We will present motivation of particular EC MSs later in the chapter. At the time when the elementary principles of the CFSP were formed, the common stance originally existing gradually disappeared. The event of 3 October 1991 – Serbs usurping the Federal presidency was one of a number of occasions which showed the reluctance of Serbian leadership to cooperate with the EC and other Balkan nations on the settlement of the conflict. The primary rules of the settlement were proposed in the ‘Carrington Paper’ introduced on 4 October, stipulating that certain links between the republics are to be preserved, protection of minorities is to be ensured and that unilateral changes to borders are unacceptable (Libal 2004: 85-86). This can
be viewed as an indication of the EC’s gradual acceptance of the idea of emergence of independent republics on the territory of SFRY. Further use of economic measures in the form of “denunciation of cooperation agreement, and immediate suspension of its application, re-introduction of qualitative limits on textiles, removal of Yugoslavia from the list of beneficiaries of the general system of preferences, suspension of benefit under PHARE programme” while adopting positive measures towards cooperating republics (Council of the European Communities 1991b: 10) should force the Milosevic’s government to stop fighting and join the negotiations. The preferential agreements together with the access to PHARE programme and the second financial protocol were reinstated for the cooperative non-Serbian republics, namely Bosnia and Herzegovina, Macedonia, Slovenia and Croatia (Council of the European Communities 1991c: 4).

At the time of adoption of these measures Germany was determined to recognise Slovenia and Croatia even if unilaterally. The EC conditioned the recognition of the new republics by constitutional protection of their minorities and shortly after the introduction of the Carrington Paper allowed for two-month deadline for negotiations. At the end of November Germany announced that it will recognise Slovenia and Croatia by Christmas (Libal 2004: 94). An important point in development of this issue was Extraordinary EPC Ministerial Meeting held on 17 December 1991. As well as ‘The Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union’ it adopted a common position with regard to recognition of Yugoslav republics, which should enter into force if advised by the Badinter Commission. The Guidelines conditioned the recognition of new states by respect for fundamental principles of international law, in particular emphasising the rights of ethnic minorities and inviolability of borders (Türk 1993: 72). The ‘Declaration on Yugoslavia’ the EC declared that it would recognize new republics of Yugoslavia on 15 January 1992 providing that they apply for recognition by 23 December and fulfil the conditions set in the Guidelines and the Declaration with the involvement of the Conference and the Arbitration Commission while stressing the adoption of constitutional guarantees ensuring no territorial claims towards its neighbours (Council of the European Communities 1991d: 23). Germany kept its promise and recognised Slovenia and Croatia on 23 December 1991, despite postponing the establishment of diplomatic relations until 15 January. This was done before the conclusions of the Badinter Commission were presented on 11 January 1992.

According to the conclusions, only Slovenia and Macedonia fulfilled the conditions for recognition. Croatia failed to incorporate the ‘special status’ ensuring particular status for minorities required by Lord Carrington’s Draft Treaty into its Constitution. Bosnia and Herzegovina did not hold a referendum on the issue of independence. Despite these findings the EC recognised Slovenia and Croatia on 15 January 1992. The EC recognised Bosnia and Herzegovina after a successful referendum despite the boycott of the Serbian population in April 1992. Although Macedonia was positively evaluated by the Badinter Commission and modified its constitution by excluding any possibility of territorial claims against its EC neighbours, it had to wait for its recognition much longer because of its insistence on keeping the word ‘Macedonia’ in the name of the state and strong opposition of Greece against this (Rich 1993: 47-53).

4.1.1 Rules governing mutual relations

The EC recognition crisis collides with a very important stage in the history of the European integration, namely with the Intergovernmental Conference on political union as part of
preparations for the adoption of the Treaty on European Union. Additionally, the escalation of the Yugoslav crisis was the second event within a short period of time which showed the inability of the EC to take a decisive stance on the ‘hard’ security issues of world politics and influence the flow of these events in a fundamental way which was in great contrast to the aggregate economic power of the EC. These external stimuli to a great extent determined the decision of the MSs to develop cohesion in foreign policy. The IGC on political union that commenced its activity in December 1990 had precisely this aim.

The rules governing mutual relations were still determined by principles of European Political Cooperation which was initiated at the Hague summit and established throughout 1970s. The principles of the EPC went through a process of evolution and certainly did not remain fixed, even though some of them changed only slightly and some of them were formalised. This implies that as well as formal rules we need to consider also informal rules defining the character of relations and as such the final outcome of negotiations.

Formal rules are included in primary and secondary legislation adopted by the EC such as the Founding Treaties, Treaties of Association and other treaties with third parties established within the EC, but also multilateral agreements to which the MSs are parties (such as the UN Charter, Helsinki Final Act etc.). A number of practices became formalised in official documents after being applied for certain time in mutual relations and often mentioned in various reports and texts. One example is establishing the EPC Secretariat independently from the Secretariat General of the Council as a support for the Troika as stipulated in the Single European Act (Nicoll, Salmon 2001: 351).

In general, the SEA incorporated the formal rules governing the relations of the MSs at the time of the 1991 Yugoslav crisis and so they predominantly determine the formal environment where the decisions were taken. Article 30 of the SEA urges the MSs to adopt common European positions viewed as points of reference. They should strive for cohesion and avoid precluding consensus. They should also coordinate more their positions and particularly in relation to international gatherings (Title III, SEA 1986). It must be emphasised that common positions or joint action under SEA have no binding force and do not constitute an obligation for the MSs to behave this way and only encourage them to do so. The strong intergovernmental character of the EPC has been maintained until now with the EP having a consultation position and the commission being ‘fully associated with the EPC’ (Title III SEA 1986). The procedures of the EPC evolved over time to a great extent with an important role assigned to the rotating Presidency which acted as a major coordinator and initiator. The decisions were taken unanimously. Despite the reluctance of the MSs to tolerate any intrusion into their sovereignty, the cooperation among them intensified which is evident also on rapid growth of “traffic around the Coreu telex network” (Wallace, Wallace 2000: 466), which was used for information exchange among foreign ministries. Still, foreign policy of the EC was far from convergence among national interests and retained the form of intergovernmental cooperation common in international relations.

Despite not officially still being adopted, in Nuttal’s words “[b]y June 1991, the shape of the CFSP had been pretty well determined by the draft treaty which the Presidency had laid before the European Council in Luxembourg [and the only remaining points were] the position of the CFSP in the Community legal order, the question of majority voting and the Community’s security and defence personality [...]” (Nuttal 2000: 194). The gradual enactment of certain rules in foreign policy coordination was a result of cooperation among the EC MSs and on many occasions a procedure was formally incorporated in a Treaty after it
had been in practice for a period of time. To a large degree this was the case of CFSP negotiations within the IGC on political union prior to adoption of the TEU. The proposed changes corresponded to the needs of the MSs stemming from the practice in the field of foreign policy coordination. The changes included calls for single decision-making centre, i.e. the Council, similarly a single secretariat (fusion of EPC secretariat in the Secretariat General of the Council), giving the Commission a non-exclusive right of initiative, establishing procedures for consulting the EP, and procedures equipping the EC with a single voice on the international forums (Nuttal 2000: 127).

In relation to informal principles of mutual cooperation, as mentioned above some of these become formalized in Treaties. Generally, the setting in which negotiations take place is highly cooperative, while to reach a compromise is usually a common aim. Although adopting cooperative attitude in negotiations, the MSs tend to act antagonistic on occasions, when they hope to get the rest of the MSs to engage in more accommodating behaviour.

4.2 Actors

The key actors in 1991 Yugoslav crisis negotiations are the EC MSs working together in the Council. The EP and the Commission are not considered to play an important role and their involvement is not considered here. From the previous section on the context of negotiation it is clear that the underlying motives of cooperation are determined by the process of forming of the CFSP, the endeavour of the EC Members to coordinate their foreign policy positions with the intention to equip the economic power of the EC with corresponding influence in international politics, which could be done only through considerable increase in foreign policy coherence of the MSs. Moreover, unlike the Gulf crisis, the 1991 Yugoslav crisis constituted a threat in immediate proximity to EC borders. It appeared both as an opportunity and a challenge to forming European foreign policy as the United States were preoccupied by the situation in the dissolving Soviet Union. Furthermore the EC felt a high degree of responsibility towards Yugoslavia due to the geographical proximity, assistance, trade and cooperation agreements between Yugoslavia and the EC and also because the EC was Yugoslavia’s largest trading partner, making up 50 per cent of Yugoslav trade (Salmon 1992: 248). The Foreign Minister of Luxembourg Jacques Poos expressed the feeling among European politicians who perceived the crisis in Yugoslavia as European problem “it is the hour of Europe, not the hour of Americans” (Nuttal 2000: 200).

In the following part we will employ liberal intergovernmentalism for analysing the national preferences and national preference formation of the MSs. Despite the fact that the EC comprised twelve MSs, we will concentrate on the main actors who substantially contributed to the debate and the process of negotiations on this issue. Based on Morvacsik’s attention to the preferences of the three largest Members (France, German and the United Kingdom) we will examine those, but also coming out of the criticism presented by Helen Wallace in chapter 2 we will concentrate also on interests of other relevant EC Members.

At the outset of the Yugoslav crisis Germany supported the common stance of the EC calling for the preservation of an integrated Yugoslav state. Around the middle of June 1991 all major German political parties supported a unified Yugoslavia, which was confirmed in a declaration of all German political parties of 19 June 1991 (Bundestag 1991). The close relationship between Germany and the Republics of Slovenia and Croatia and the growing influence of the relationship on German foreign policy was undeniable. The main reasons of
this close relationship were firstly economic as the trade relations between Slovenia and Croatia (the most developed parts of SFRY, which greatly suffered from redistribution of financial resources by the federal government) and Germany were under promising development (Nuttal 2000: 198) and secondly the large Slovenian and Croatian population residing in Germany (Statistisches Bundesamt Deutschland 2005).

Looking at the main determinants of domestically formed national preferences as defined by Moravcsik we need to outline firstly the preferences of major societal groups and secondly the competition of domestic political forces and practices of political representation. The pressure coming from the public was not in anyway ambiguous, but focused and determined. The November opinion polls showed that two thirds of respondents supported recognition (Crawford 1996: 512). This was reflected in the media, particularly newspapers such as Frankfurter Allgemeine Zeitung and Die Welt which articulated the feelings of public and put the CDU government under enormous pressure (Die Welt 1 September 1991 – 23 December 1991), (Frankfurter Allgemeine Zeitung 1 September 1991 – 23 December 1991). Similarly, German Minister of Foreign Affairs Hans-Dietrich Genscher was under harsh criticism from the opposition SPD party which strongly supported the recognition of Slovenia and Croatia. Later the criticism came also from CDU itself. Also representatives of the sixteen German Länder demanded the EC to recognise Slovenia and Croatia mainly due to the intensification of the attacks of the Federal Yugoslav Army (Frankfurter Allgemeine Zeitung 1991).

A strong argument for the recognition of Slovenia and Croatia in Germany articulated the priority which was given to the right to self-determination of nations as this was the basis for recent recognition of German unification. Moreover the Federal Yugoslav Government was since mid-1991 no longer considered to be a representative of Yugoslav Republics for its reluctance to cooperate with the international community.

The division line between Germany and the rest of the EC Members was clear but not so rigid as some MSs inclined to German standpoint (e.g. Denmark and Belgium) (Salmon 1992: 252), however they retained the formal EC stance. The public opinion was not so focused on this issue in any other EC country and this allowed greater independence for politicians when negotiating the common European stance. Generally the reluctance of the EC Members to recognise Slovenia and Croatia stemmed from the belief that by recognising these two Republics the EC will lose the ‘threat of non-recognition’ as a powerful instrument to exert pressure over belligerent parties and stop the fights among them. Additionally, based on initial proclamations of the EC rejecting any unilateral declarations of independence, a change in this stance would mean incurring substantial loss of credibility of the EC.

The UK was one of strong opponents of the German efforts to recognize Yugoslav Republics. The main reason was the painful experience with Northern Ireland. The UK was not willing to be faced with another open-ended military commitment (Sharp 2004: 119) which was expressed by the words of Douglas Hurd, the then British Minister of Foreign Affairs: “British troops were deployed to Northern Ireland in August 1969 to protect Catholics from militant Protestants, and were still there, with no end of the mission in sight, twenty two years later” (Hurd 2003: 453). Similarly, other EC MSs with a history of separatist tendencies tried to avoid premature recognition of secessionist Republics of SFRY as they feared revival of their own problems in this regard. Together with the UK, this group of countries comprised Spain and Italy. The support of separatist movements in Yugoslavia would represent a positive stimulus for separatism in the rest of Europe. Furthermore, the principles of EC law, namely the superiority of protecting the individual rights stemming from the liberal roots of
the EC law, in principle precluded granting autonomy to a particular minority group (Henkin 1980).

Contrary to Germany and similarly to the UK, France is pictured as having historically given pro-Serb sympathies (de Graaf 2004: 141). French President Mitterrand held the opinion that for the peace in the Balkans the maintenance of the federation was indispensable and federalism was in Yugoslavia was defended by the Serbs against Croat and Slovenian separatism (Krušić 2004: 100). The priority of France was a successful conclusion of the negotiations on Treaty on European Union. Moreover, given that the French idea of security structure in Europe, independent of the US involvement, dominated in the time of forming of the CFSP, France was relatively willing to make concessions for the sake of united approach adopted by the EC. Germany considered together with France to be the motor of integration felt that the only concession in favour of the TEU adoption they can make is to postpone the recognition after Maastricht European Council.

The Dutch intensive involvement in the Yugoslav crisis stemmed from its position of the President of the Council in the first half of 1991 and from the role the Presidency was expected to play in European foreign policy. The major interest was to maintain the coherence of the EC, but under circumstances accompanying the 1991 Yugoslav crisis the Netherlands did not succeed. On a number of occasions Van den Broek expressed his dissatisfaction with the arrogant attitude of Serbian politicians, but this should not imply the support for recognition of Slovenia and Croatia and based on the Dutch Presidency, he constantly tried to facilitate an adoption of a common European standpoint, including slight modification of the EC Members in the later stages of the crisis (Both 2003: 119).

Due to geographical, historical and economic reasons another EC country strongly involved in the issue of recognition of Slovenia and Croatia was Italy. Any radical changes in Yugoslavia would bring direct consequences for Italian population (approximately 30,000) in Slovenia and Croatia not to mention the possibility of refugee flows from conflicting areas and safety of the North-East of Italy (Meyr 2004: 174-175). Italy was trying to influence Slovenia and Croatia to remain in the Federation, even though it supported change in the relations within the Yugoslav Federation and through the Conference on Yugoslavia Italy proposed a plan for Confederation in Yugoslavia following the Swiss model (Meyr 2004: 172-174). Greece being in the position of Yugoslav neighbour was also directly affected by the course of events in Yugoslavia. Apart from being religiously affiliated with Serbs (Orthodox Christian Church), Greeks also supported the maintenance of the Yugoslav Federation as disintegration would require Greece to recognise the Republic of Macedonia, what was strictly rejected. Moreover, the unrest in Yugoslavia affected also the Greek economy as Yugoslavia represented the only land transport link with the rest of Europe (Caplan 1998: 28-29). The rest of the MSs did not take any radical stance or form a coalition of states influencing the direction of negotiations in a decisive way. Ireland, in accordance with its neutrality, retained this attitude in the European divide over issue of recognition and opposed overtly only the possibility of an armed intervention (Fitchett 1991). Luxembourg, even though being active in the early stages of the EC involvement in the Yugoslav crisis as it was holding the Presidency in the first half of 1991, later adopted a rather neutral position (Schwabe 2004: 22).

Based on the above outline of interests of particular EC Members in relation to the recognition of Slovenia and Croatia, their attitude can be in relative terms summarised as showed in Figure 4.1 on a scale ranging from states being in favour of recognition through states with fairly equivocal attitude to states opposing the recognition.
Following the model suggested at the end of previous chapter, we should consider the personality of negotiators who in this case were mostly ministers of foreign affairs of the EC Members. Looking at the process of negotiation we claim that even though many of the politicians involved in negotiations are distinguished figures in European relations (such as German Minister of Foreign Affairs Hans-Dietrich Genscher, German Chancellor Helmut Kohl, French President Mitterrand, French Foreign Minister Roland Dumas, Dutch Foreign Minister Hans van den Broek, Italian Foreign Minister Giovanni de Micheliss etc.), in this case they did not in any substantial way influence the course of negotiation or contribute to major reversal of the trajectory of negotiations.

### 4.3 Structure

The next point in the model is covering the structure of negotiation. Important components of the structure are the actors with their characteristics, which were examined in the previous section. Considering the number of issues, we are examining a small number of closely interrelated issues because as well as about the dominant issue of recognition the EC MSs negotiated about the possibility of armed intervention, involvement of the WEU, conditions of recognition, establishment of Conference on Yugoslavia and Arbitration Commission etc. Throughout the process of negotiation they were led in the format of the General Affairs Council where the Twelve had its representatives. Apart from that, certain issues were negotiated on bilateral Franco-German summits (e.g. Summit of 14 November 1991) (Nuttal 2000: 221) confirming the existence of Franco-German axis within the EC.

As mentioned above, the concepts of the theory of negotiation examining bilateral relation are on many occasions not sufficient for an analysis of multilateral negotiation and it is necessary to introduce an approach to manage the complexity of multilateral negotiation either through parliamentary diplomacy, coalitions or leadership analysis. The Yugoslav crisis externally exhibits features which seem to favour the use of both the leadership and coalition approach.
as the main objective of both is to reduce the number of parties and then allow for the applicability of bilateral negotiation analysis. Detaching Germany from the rest of the EC Members might imply that leadership analysis would be appropriate especially when Slovenia and Croatia were recognized by all EC members, despite their original refusal to do so. Nonetheless, the development of definition of leadership in section 3.1.4 led Arild Underdal to suggest that leadership bears positive connotation, positive guidance for the group and not undermining an agreement, “being the first to defect from a joint undertaking would not qualify as leadership, however great and immediate the impact of that defection might be on the behaviour of one’s partners” (1991: 179). Consequently, for the purpose of managing the complexity of the ‘EC recognition crisis’ negotiations we will adopt the coalition analysis approach. In practice this means identification of groups of positions on issues. In our case we only have one such a group of eleven EC MSs standing in the opposition to a single EC state, Germany. Although the motives for being a part of this ‘anti-recognition’ coalition vary, for the purpose of decreasing the number of actors to two having contrasting views on recognition issue the model is appropriate. The fact that Germany was able to stand in the opposition to the rest of the EC confirms the fact that in the non-coercive EC environment, power relations in terms of military or economic power do not decisively influence the negotiation process. This conceptualisation will be very important when assessing the outcomes of negotiation as well as in the following comparison of preference intensities.

We will continue with an analysis looking at the preference intensities of these actors and comparison of these preference intensities which was considerably influencing the outcome of negotiations. Using the section 3.1.4 as a basis, we will abandon the ideal case symmetry of preferences as in the case of 1991 Yugoslav Crisis the salience that the MSs attributed to the issue of recognition differed state by state. For management of complexity we will examine our case as two-party negotiations, where on one side stands Germany and the other side the rest of the EC Members (EC11).

The first part of the diagram (Figure 4.2) shows the initial period of unity of the EC MSs over the issue of recognition. In July the statements of Hans-Dietrich Genscher such as “[i]f it had been left to me alone, specific mention would have been made of the need to recognize the independence of Slovenia and Croatia in the event of future military action” (Edwards 1992: 171) indicated that German view on the issue of recognition is changing particularly due to the growing pressure of public opinion, while EC11 retained negative stance toward recognition. Later in 1991 Germany made its position on recognition clear and did not exclude the possibility of unilateral action, but the EC11 altered slightly its position as well mainly due to the activities of Yugoslav Federal Government. It is necessary to point out that EC11 did not oppose the recognition as such, especially after it was clear that the SFRY in practice ceased to exist, but they were concerned about the situation with the right of ethnic minorities in these newly established Republics as their protection was not ensured, which was later reflected in the ‘Guidelines for Recognition’. Finally the decision among the EC members that they will recognise Slovenia and Croatia was taken in the half of December and in the half of January 1991 all EC11 followed the decision of Germany from 23 December 1991 and officially recognised Slovenia and Croatia.
This is not to imply that the strong preference intensities of one party are sufficient to counterbalance the unwillingness of the negotiating partner. Strong preference intensities of one state must be complemented by the very low preference intensities of the opposition party and even such a case does not necessarily lead to an outcome reflecting the preferences of the one strongly motivated. The probability of such an outcome is much higher under changed circumstances and variation in factors influencing the outcomes of negotiations as suggested by the negotiation analysis.

**4.4 Process**

The interval of our analysis is defined at its beginning by the statement of the EC MSs related to organisation of SFRY at the General Affairs Council in March 1991 (Council of the European Communities 1991a: 14) and at its end by the recognition of Slovenia and Croatia on 15 January 1992. It was necessary to concentrate on such a long time-frame and involve it in negotiation process as the issue of recognition is very complex and the process of reaching the final decision was scattered over a number of partial negotiations. We have determined the interval with the intention to follow the evolution of the EC MSs preferences over recognition.

In relation to the availability of information, it is very important to note that the EC MSs were relatively well informed about each other’s preferences (see section 3.3) as regular meetings of EC Foreign Ministers provided many opportunities for them to exchange information and defend their interests. Another aspect of information availability is the access to data related to SFRY and recognition itself. In this regard, the situation of the MSs radically improved with the establishment of the ECMM, which was the main provider of regular information. This showed to be of crucial importance in the evolution of the EC’s position toward recognition, its view of Serbia and decreasing support for the Federal Government.
What follows is the identification of stages of the 1991 Yugoslav Crisis EC negotiations, which will be done by modification of Dupont’s and Faure’s recognition of international negotiations stages (1991: 43-44) (section 3.1.2). As is generally true of EC negotiations, it is hard to determine the exact date of beginning of negotiations on certain issue (Tallberg, Jönsson 2005: 79). Consequently the phase of preliminary contacts and pre-negotiation present in international negotiations is not identifiable in Yugoslav Crisis negotiations. The establishment of contacts was not necessary as the representatives of the EC MSs met frequently on various occasions.

The first stage involved a decision to deal with the Yugoslav problem on the European level and a designation of the Crisis as an issue of common interest. This was done with intensive involvement of the Presidency which bore the responsibility for conduct of the EPC. The second, ‘formula phase’ was discernible in the EC negotiations about Yugoslav crisis even though it did not involve the definition of guiding principles as these were set longer before and we have identified these in section 4.1.1. Aside from guiding principles it was necessary to unite on the interpretation of the subject of negotiation and find points where agreement is possible without problems. In practice this meant reaching the initial consensus on the fact that the EC supports preservation of integrated Yugoslav state, while the question of secessionist tendencies in Yugoslav Republic and the problem how to deal with the civil war were left for further negotiations. The third ‘detail phase’ was more complicated in the issue of Yugoslav crisis then was suggested by Dupont and Faure in international negotiation. The major reason of this was that the situation changed considerably within time, which influenced the position of actors, in our case Germany and EC11. This caused that the accord once reached, was later changed because of changed position of involved parties. Moreover as shown above, the preference intensities of parties altered due to changed circumstances. In addition to this, the EC tried to counter the fighting that erupted in Yugoslavia and thus to cope with the secessionist tendencies. Successive phases of negotiation were to manage this through the establishment of ECMM and later the Arbitration Commission and the Conference on Yugoslavia, which constituted a sub-stage of ‘detail phase’ of negotiations. The ‘concluding phase’ was characterized by the agreement among actors on Guidelines on the Recognition of 17 December 1991, the ‘Declaration on Yugoslavia’ and German defection to follow these agreements and its unilateral recognition of Slovenia and Croatia. An interesting point is that Germany suffered consequences for defection, summed up by Trevor Salmon “it did prevent Germany breaking the ranks for a long period” (1992: 252).

4.5 Strategy

In accordance with Pruitt’s classification of strategies of negotiation (1991: 78-89) based on the behaviour and activities of actors it is possible to identify strategies adopted by actors, while we point out that the strategy employed in negotiation varied. The initial stages of negotiations were defined by problem-solving strategy adopted by both parties, which led to a common stance of Germany and the EC on the issue of recognition. Looking at the time-frame, this strategy was in place until November 1991, which corresponds with German determination to recognize Slovenia and Croatia even if unilaterally (Figure 4.2). The phase of problem-solving was marked by cooperation, attempts to find solutions to worsening situation in Yugoslavia, building consensus over the issue of recognition, bearing in mind the importance of common EC stance.

The later phase was characterized by intensifying engagement of contending strategy from German side. This evolved from emphasising the right to self-determination for Yugoslav
Republics; through gradually growing pressure on EC to recognise Slovenia and Croatia; to threat to act unilaterally against the initially adopted EC common stance. A part of contending strategy is bargaining over the outcome. According to Nuttal there was a trade-off between Germany and the rest of the EC states, if Germany postponed its unilateral recognition of Slovenia and Croatia until after Maastricht and accepted their demands on the TEU they would also recognise Slovenia and Croatia (Nuttal 2000: 220-224). This was confirmed also by Jane Sharp claiming that “British ministers dampened any criticism of Germany because, at Maastricht the previous week Germany had acquiesced in Britain's opt-out from the EU Social Charter” (Sharp 2004: 122). This implies that there was a negotiation linkage between the issue of recognition and the content of the TEU. The identification of the strategies suggests that actors proceeded from integrative to distributive bargaining. Initial emphasis on common interest was replaced by the concentration on individual interest, which resulted in a split in relation and the unity was not maintained not even externally.

4.6 Outcome

The evaluation of the outcomes of the EC negotiations in compliance with Lebow’s diagram (1996: 57) (Figure 3.2) leads us to conclusions summarised in Figure 4.3.

Since summer 1991, when public opinion put the German government under enormous pressure, Germany gradually altered its preference intensity and consequently also its position related to the question of recognition. From November, the German position stabilised on the point where it unconditionally requested recognition of Slovenia and Croatia, while at the same time EC11 (figure 4.3 – EC11a) opposed recognition. As it is illustrated in the diagram, there was no point of agreement and consequently no agreement could be achieved.

However, negotiation analysis (section 3.1.1) emphasises the appearance of new facts which can in decisive way influence the outcome of negotiation. Furthermore, negotiation analysis allows for subjectivity in actors perception of their interests, which can result in changes in these perceptions based on new information. Deriving from these assumptions of negotiation
analysis, we consider the Serbian reluctance to cooperate with the EC, the activities of
Yugoslav Federal government repeatedly violating fundamental principles of international
law and proving that the Federal government no longer represented all Republics of the SFRY
as new and at the same time critical information contributing to the change in the EC11’s
(EC11b) view of the situation and subsequent revision of its position. The EC highly valued at
least the external semblance of unity of the EC, which was hurt by unilateral German
recognition and despite the negative assessment of Croatia by the Badinter Commission, both
Slovenia and Croatia were recognised. The German position remained unaltered, but the
EC11’s stance moved in favour of recognition and finally a point of possible agreement
emerged. The outcome of such a development was recognition of Slovenia and Croatia by
Our second case study concentrates on another manifestation of the EU MSs inability to unify their stance on ‘hard’ security issue of world politics. We will concentrate our attention on the process of adoption of an integrated EU position toward the question of the US military intervention against Iraq to enforce UNSC disarmament Resolutions while pointing out the irreconcilable divergences among the EU Members and the underlying reasons of such a situation. Adoption of the same theoretical framework (figures 3.3 and 3.4) as in the previous chapter will allow us to draw conclusions, however not generalisations, about EU CFSP negotiations and the factors determining the outcome of these negotiations. Similarly to the first case, the Iraqi crisis has raised many doubts about the ability of the EU MSs to pursue an integrated common policy in the field of foreign affairs (Stahl 2004: 417), but contrary to the previously analysed case the MSs had had a decade to gain experience with cooperation under the umbrella of the CFSP.

It needs to be noted that Iraqi crisis was not negotiated on a single meeting of the EU leaders, but based on the established practice the General Affairs and External Relations Council met at least once a month where the latest developments of world affairs were discussed. Additionally as will be indicated later in the section 5.1.1 the rules provided by the Treaties, such as Article J.5 of the ToA “[t]he Council shall adopt common positions. Common positions shall define the approach of the Union to a particular matter of a geographical or thematic nature. MSs shall ensure that their national policies conform to the common positions” required the Members to unify on a position which could only be reached through negotiations especially when the national positions diverged. This process is still in a broader sense in line with the elementary definitions of negotiation provided by the leading theorists of negotiation such as Zartman “negotiation is a process of two (or more) parties combining their conflicting points of view into a single decision” (Zartman 1977: 622). Consequently negotiations in the case of Iraqi crisis were divided into number of parts (meetings of the General Affairs Council or European Council) when the state representatives were on the one hand aware of the fact that adoption of a common position on this issue is requisite, but on the other hand they were not able to reach this common position. According to ‘Provisional Agenda for the General Affairs Council’ Iraq was planned issue for discussion for almost all meetings of representatives during the period we concentrate on in our analysis (Council of the European Union 2002b), but no resolute decision was taken in relation to the question of what measures should the international community including all EU Members adopt.

5.1 Context of negotiations

Iraq was inextricably linked with the personality of its leader Saddam Hussein and has been of concern for the international community for number of reasons and on number of occasions. The attention of the leader of the post-9/11 global war on terror, the US was after Afghanistan directed at the next member of the “axis of evil”(Bush 2002a), Iraq. Following the State of the Union Address of President Bush in January 2002, a number of statements of the US representatives indicated that the US were preparing for a pre-emptive strike against Iraq (Cheney 2002), (Rubin 2003). Despite the fact that the US intensified its ‘lobbying’ activities at the UN against Iraq (Bush 2002b), according to the draft minutes of the Council meeting on external relations, the MSs of the EU only “had an exchange of views on the situation in relation with Iraq” (Council of the European Union 2002a), but no common position as one of
the main instruments of the CFSP was adopted. The UNSC started to draft a Resolution on Iraq enforcing Iraq’s compliance with previously adopted 16 UNSC resolutions requiring inter alia disarmament of Iraq and return of UN inspectors to Iraq. Germany as the first EU Member declared in September 2002 its opposition against war in Iraq (we will examine the preferences of particular EU MSs in section 5.2). The following period was characterized by intensive involvement of the British Prime Minister Tony Blair in advocating quick adoption of the UNSC Resolution, but at the same time an assumption of a tougher line toward Saddam Hussein who consistently refused to conform with the UN Resolutions adopted earlier (Kramer 2003). Gradually it became clear that there is an opposition camp in the process of formation within the EU. Prior to the adoption of UNSC Resolution, France signalled what its conditions for the potential Resolution were, more specifically Chirac demanded that a failure to follow the Resolution would not automatically lead to military action and that yet another resolution would be necessary to authorise military intervention (Gaffney 2004: 251). The position of the rest of the EU MSs crystallised throughout the end of 2002 and beginning of 2003. At the beginning of October 2002 the US Congress authorised the attack on Iraq. And in the second half of October 2002 Saddam Hussein was ‘reconfirmed’ in the position of a President of Iraq for another seven-year-period by 100 percent vote in a referendum.

On 8 November 2002 the Resolution 1441 was unanimously adopted by the UNSC after several disputes over the wording of the text of the Resolution. In the EU’s ‘Statement by the Presidency on behalf of the European Union on Security Council Resolution’ all MSs welcomed the UN Resolution as the EU has always unreservedly supported activities pursued by the UN and the reference to the UN principles creates a basis for legality of the EU activities. While the Resolution emphasised the necessity of Iraq’s compliance with previously adopted UN resolutions, it also demanded Iraq “[to] provide to UNMOVIC, the IAEA, and the [Security] Council, not later than 30 days from the date of this resolution, a currently accurate, full, and complete declaration of all aspects of its programmes to develop chemical, biological, and nuclear weapons [...]“ and that Iraq “shall provide UNMOVIC and the IAEA immediate, unimpeded, unconditional, and unrestricted access to any and all, including underground, areas, facilities, buildings, equipment, records[...]“ (UN 2002). Iraq accepted the Resolution 1441 and allowed weapons inspectors under the lead of chief inspector Hans Blix in Iraq. Based on the requirements of the Resolution on 7 December 2002 Iraq produced a 12,000-page dossier on its chemical, biological and nuclear activities. Nevertheless, before Christmas 2002 Bush approved stationing of the US troops in the Gulf region.

The European Council Meeting of December 2002 restricted its conclusions on the declaration welcoming the UN Resolution and supporting UN activities without any remark in relation to the growing US inclination towards military intervention (European Council 2002: 17) supported by the UK. The conclusions of January 2003 General Affairs and External Relations Council did not bring any substantial changes to the positions adopted by the EU in December 2002 even though it reflected the reports (observing that the 12,000-page dossier contained incomplete information) provided in the meantime by Hans Blix and Mohammed El-Baradei, the chief of IAEA, when stating that “[t]he resolution gives an unambiguous message that the Iraqi government has the final opportunity to resolve the crisis peacefully” (Council of the European Union 2003: 1-2). In the same month the weapon inspectors asked for several months to finish the inspections and President Bush announced in his annual State of the Union Address that the US are prepared to strike against Iraq even without another UN Resolution (Bush 2003).
The first public manifestation of support for the US campaign for prompt solution to the Iraqi crisis was the ‘letter of the eight’ of 30 January 2003, a statement “United We Stand” of eight European leaders (UK, Denmark, Italy, Portugal, Spain, Czech Republic, Hungary, Poland) which emphasised the great threat the regime of Saddam Hussein constituted for the international community and for the US in particular. They also stressed the necessity to counter the problem of proliferation of weapons of mass destruction and the high potential of terrorist attacks, while still having confidence in the UNSC (Aznar et al. 2003). At the same time the opposition against military solution of the Iraqi problem grew as well and all major cities around the world experienced vast anti-war protests. The Presidency of the EU carried out a demarche to Iraqi missions, urging Iraq to comply with the Resolution 1441 (EU Presidency 2003). A similar initiative to the ‘letter of the eight’ was launched by 10 Central and Eastern European states – a proclamation of so-called ‘Vilnius ten’ (Albania, Bulgaria, Croatia, Estonia, Latvia, Lithuania, Macedonia, Romania, Slovakia, Slovenia) issued on 5 February 2003. This proclamation was released on a day when the US Secretary of State Colin Powell presented the US case against Iraq using convincing material to secure international support for the US intentions to use military force against Iraq. Several days later the European leaders met on an extraordinary European Council Meeting, yet no revolutionary conclusions were reached. The EU MSs reiterated the importance of the UNSC, the necessity of Iraq’s disarmament and its adherence to the UN Resolution 1441. The important point is the appreciation of the indispensable character of the unity of international community for the solution of this problem, stating that the EU “[i]s committed to working with all [their] partners, especially the United States, for the disarmament of Iraq, [...]”(European Council 2003a: 3).

The proof of Iraq violating the provisions of UN Resolutions were the UN weapons inspectors finding warheads designed to carry chemical weapons and later Al-Samoud 2 missiles with an illegal range limit even though no weapons of mass destruction were found and according to the report of Blix and El-Baradei Iraq made progress in cooperation with the UN inspector team. The division that marked the whole period and presented a great split among the EU MSs was materialised on the ground of the UNSC when the US tried to propose a new resolution to endorse military intervention against Iraq. The proposal was advanced by the US, the UK and Spain claiming that the breach of Resolution 1441 by Iraq should result in authorisation of the use of force, however it was followed by informal counter-resolution submitted by France, Germany and Russia demanding extension of inspections and real chance for peaceful settlement of the problem (White House, 2002). The lack of sufficient support (9 out of 15 members of the Security Council and the absence of the use of veto by a permanent member) for the US proposal thwarted from calling for a vote on the proposal.

Nevertheless, the EU and the UN platform were not the only fora including EU MSs, which were affected by the split over the issue of Iraq as NATO was also seriously affected. Here the disagreement had a character of French, Belgian and German veto of the US proposal to protect Turkey in case of Hussein’s attack (Howorth 2003: 242).

At the beginning of March 2003 the pro-war campaign was intensified even more. On 17 March the ‘coalition of the willing’ met in the Azores urging the UNSC to adopt a resolution authorising war within 24 hours and issuing another 48-hour ultimatum for Iraq to comply fully, immediately and unconditionally with the Resolution 1441. In case of Iraq’s non-compliance with this ultimatum, military force would be used to disarm Iraq. Adhering to the ultimatum, the US (supported by the UK) declared war on Iraq on 19 March which was met
by the denunciation from the rest of the permanent members of the UNSC. The reaction of the EU was modest, the conclusions of the European Council commented that “[it is] faced with new situation” without assuming any decisive stance toward the US/UK intervention (European Council 2003b: 31-32). The developments in Iraq stimulated the anti-war camp of the EU Members, in particular France, Germany and Belgium to propose an independent European defence structure equipped with its own assets of command and planning in April 2003. This proposal was a continuation of Franco-German plans for establishment of common defence ground on certain issues and project of emergence of the EU military capacity of Le Touquet summit in February 2005 (Howorth 2003: 248-249).

5.1.1 Rules governing mutual relations

The shape of the CFSP was at the time of the Iraqi crisis stabilised and contrary to our previous case study no fundamental changes were to be introduced. The Nice Treaty which was in the process of ratification in the EU MSs did not suggest any substantial changes in the field of the CFSP. Consequently, in legal terms the relations and the content of the CFSP was determined by the TEU and the ToA, which constituted only a refinement to already existent arrangements. The TEU established the CFSP, stipulating that the CFSP “shall include all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence” (Article J.4 TEU) and at the same time the TEU introduced two instruments of the CFSP, namely a common position and joint action. An important aspect related to our case study is set down in Article J.2 of the TEU establishing an obligation for the MSs to “inform and consult one another within the Council on any matter of foreign and security policy of general interest in order to ensure that their combined influence is exerted as effectively as possible by means of concerted and convergent action.” Despite the fact that Iraqi crisis certainly was a matter of general interest, the MSs were not able to act uniformly as the only thing they agreed on was a support for the UNSC which is evident from the documents adopted in the period in question.

The ToA explained more closely the instruments introduced in the TEU and added common strategies to these instruments (Article J.13 ToA). In spite of the fact that at the time of Iraqi crisis the MSs had these instruments at hand to define the EU’s unified position toward this crisis, they never used them. The major problem of the structure of the CFSP as defined in these Treaties is that it requires consensus among the MSs, before it can be reinforced. In relation to the voting procedures on the CFSP issues, the ToA confirms unanimity principle even though allowing for ‘constructive abstention’. On issues related to previously agreed common strategy QMV may be applied, nevertheless the ToA stipulated that “any MS may block the taking of a vote ‘for important and stated reasons of national policy’” (Wagner 2003: 589). Both Treaties have not changed anything in terms of intergovernmental character of the CFSP and the deliberations of the Council had a character of a forum searching compromises among MSs’ domestic interests rather than an institution pursuing the CFSP based on a common interest of the whole Union.

In terms of institutional arrangements, no substantial changes were made. The Presidency retained its role of initiator (which is at the same time the right of all MSs) and representative of the EU, the Commission is to be ‘fully associated’ with the tasks of the CFSP and the EP is to be consulted and informed about the developments in the field of the CFSP. The one discernible change brought by the ToA is the novel function of the High Representative for the CFSP performed by the Secretary General of the Council (Eeckhout 2004: 396-421).
Apart from the Treaties which are elementary determinants of mutual relations, the developments in the field of the CFSP were influenced by number of other initiatives affecting the course of the CFSP and relations among the MSs. These were predominantly concentrating on enhancing the EU military and defence capabilities e.g. 1998 St. Malo Agreement, 1999 Helsinki European Council (Wallace, Wallace 2000: 473-491).

Although there is a number of occasions when convergence of foreign policies can be very well observed and reference to the CFSP is essential, the MSs’ national preferences are dominant and are not inclined to accept constraints imposed by adherence to the common European stance, if this is in a sharp contrast to their interests. In this sense there has been no real change since the transformation of the EPC, even though the number of instruments has increased as has widened the scale between agreement and disagreement of the MSs on the CFSP issues.

5.2 Actors

Compared to the previous case study the number of parties involved in the negotiations has with the 1995 EU enlargement (accession of Sweden, Finland and Austria) increased to 15 with an outlook of a further enlargement. As outlined in the previous section, the role of the Commission and the EP remained unchanged in the TEU and the ToA and so their influence on the efforts to build a consensus among the EU Members was marginal. The motivation for cooperation has not changed as the EU MSs were aware of the fact that a unified position of the EU on issues of international politics would be certainly more influential than a unilateral activities of particular MSs. The politics of scale, as presented by Ginsberg, referring to the “benefits of collective EU action over unilateral national action when the EU’s international presence is more than the sum of its constituent parts” (2001: 27) would provide the EU in world politics with weight corresponding to its economic power.

Similarly to the first case study as suggested by liberal intergovernmentalism, we will look at the EU MSs whose national preferences were in relation to Iraqi crisis most pronounced and constituted the core of two camps standing against each other.

The first EU MS openly declaring its opposition toward a military solution of the Iraqi crisis was Germany under Chancellor Gerhard Schröder. Schröder excluded participation of German troops even in case of a UN mandate and the importance of this position was underlined by the fact that Germany was a non-permanent member of the UNSC in the time of the Iraqi crisis. The main reason leading Germany to such an outspoken position were the upcoming elections and the combination of public disapproval of war and decreasing support for Schröder’s SPD (Pond 2004: 5). Especially in the pre-election period Moravcsik’s claim that state representatives need to take into consideration the preferences of those who hold them in power (section 2.2.1) had to be observed. In general, after the German Federal Constitutional Court ruled on controversial issue of participation of German Armed Forces on operations outside Germany in favour of this participation in 1994, the issue still resonated with German society and was reflected in political party divisions. As stated by Stahl, the Christian Democrats favoured employment of German missions abroad, SPD and the Greens opposed this view (2004: 433). Schröder’s pre-election strategy was successful and he was re-elected as a German Chancellor on 22 September 2002. The official German anti-war stance was not softened even after the autumn elections, still 71 per cent of Germans opposed the war (Pond 2004: 9). In Germany’s case it would be of great help to engage in an analysis of
German post-WWII identity and the efforts to reconstruct the German identity. The historical experience was a driving force behind the motivation of the German public to reject war as a means of conduct of international relations. Based on the fact that Moravcsik’s liberal intergovernmentalism has not provided us with theoretical concept accounting for the role of identities in national preferences, we will leave the subject of ‘the role of German identity in preference formation in Iraqi crisis’ as a suggestion for future study.

A similarly forthright but contrary to the position of Germany was held by the UK. The strong pro-American British position needs to be ascribed in the first place to the special relationship between the US and the UK. The UK tried to use the close relationship with the US as a comparative advantage of its foreign policy and claimed to build the Atlantic bridge between Europe and the US (Lindstrom, Schmitt 2004: 143). However, the contrary happened in reality and the gap between the two camps which formed within the EU widened. The British national preference formation seemed to follow the opposite direction as the German national preference formation. While in Germany the line seemed to follow a bottom-up direction where the public opinion was the major determinant, in the UK this appeared to follow the top-down direction when “Blair needed to convince sceptical British public of the war’s legitimacy” (Pond 2004: 7). Even though the UK originally agreed with the rest of the EU MSs that a military intervention in Iraq is not possible without the second UNSC Resolution, when the war broke out without an authorisation of the UNSC, the UK supported it not only verbally but also with military means. Blair’s insistence on the second resolution and later pursuit of military intervention without it was even more damaging for British relations with its EU partners than would be the support of the US lead operation without original accentuation of the necessity of the second resolution. According to Kramer not only the British public, but also much of the British elite had been very close to other European countries refusing war in Iraq and in particular the style adopted by the US when pursuing their policy in this geographical area (2003). Nevertheless, the House of Commons authorised military engagement of the British troops in Iraq even though the vote on this issue represented the greatest revolt of Labour MPs in years.

The great opponent of the UK and its policy over Iraq was France as French President Chirac “believed that Iraq was a defining moment for Europe, that Europe needed to speak with one voice, and that France spoke for Europe’s permanent interests”(Kramer 2003). Moreover, France hoped that as a permanent member of the UNSC it could create a coalition counterbalancing the US. French opposition against the US activities grew progressively and reached the climax shortly before the outbreak of war when Chirac refused to endorse the second resolution “under any circumstances”(Brenner 2003: 203). French position was to a certain degree determined by its position on the format of European defence. While the UK favoured the Atlantic dimension and NATO, France has traditionally accentuated the need for development of European structures. France put itself in the position of a defender of the ‘European public opinion’ and as Gaffney suggests it “considered the UK rather than itself the more isolated” (Gaffney 2004: 251). In addition to this, the fact that France presented its positions as European positions, underlined with the lack of diplomatic attitude in relations to applicant countries, considerably contributed to the split among the EU MSs and widening of the gap.

A strong supporter of the US-led coalition in Europe at the time of inception of the Iraqi crisis was Spain under the leadership of José Maria Aznar. The US engagement in Iraq must be viewed in the context of the global war on terror, consequently the US gained support from countries with experiencing terrorist attacks, which was the case of both the UK and Spain.
The core of the pro-US coalition amalgamated through the statement of the eight ‘United We Stand’ Denmark, Italy and Portugal as the other three countries joined the UK and Spain following their traditional NATO-oriented security policy.

On the other side, the Franco-German alliance was in all its activities joined by Belgium and less vigorously by Luxembourg. The third member of Benelux, the Netherlands was inclined to support the pro-US coalition which stemmed from its Atlanticism, even though the Netherlands adopted a more prudent approach by not signing the letter of the eight so as not to aggravate the tense relations in the EU.

The country that held Presidency at the time when the split in the EU over Iraq grew was Greece. Despite formally having the possibility to ease the tensions, the Greek position to the Iraqi crisis was not unambiguous when on the one hand Greece allowed the US planes to fly over its territory on their way to bomb Baghdad and to use the NATO military base on Crete and on the other hand blaming the US and the UK for trying to undermine and weaken the EU (Economist 2003: 47). Based on the above mentioned facts, the EU was at the end able to adopt only anodyne declarations of support for UNSC, which did not represent any great success as the EU MSs have always unequivocally supported the UN in its activities.

![Diagram of EU countries preferences on the use of military force in Iraq and elimination of Saddam Hussein’s regime by force](image)

**Figure 5.1** Preferences of the EU MSs on the issue of the use of military force against Iraq and elimination of Saddam Hussein (January – March 2003).

The rest of the MSs adopted rather a neutral position on this issue and only sporadically commented on the situation. Figure 5.1 illustrates the preferences of the EU Members, but also their preference intensities. The move to the centre of the spectrum away from the extreme poles means decreasing preference intensity on the issue of the particular MS.

In regards to the question of the personality of the negotiator as an aspect of relevance to our theoretical model, we can claim that similarly to our previous case study no negotiator (state representative) has influenced the outcomes of EU negotiations in a decisive way.
5.3 Structure

In the following section we concentrate on the components of structure of negotiations. Firstly, it is the number of issues which represent the subject of negotiations. In relation to the Iraqi crisis, there seems to be single point of contention, whether the Iraqi crisis should be solved with the use of armed force as pursued by the US. But in reality this problem had several sub-issues which were solved in parallel. These included the question of support for the UNSC, even though this did not constitute a problem in relations among the EU Members. More controversial was the question of the need for the second resolution authorising armed intervention against Iraq. The EU MSs in principle acknowledged that the second resolution should be adopted, but in reality they pursued their policies without it. Hence, when considering the number of issues involved in negotiations, similarly to our first case study we are considering a small number of closely related issues.

Secondly, as suggested by our theoretical model (figure 3.4), we need to determine a mechanism to reduce the complexity of negotiation so that the “negotiable situation becomes less complicated” (Zartman 1994: 6). Compared to the first case study, the number of actors has with the accession of the three new Members increased and consequently has grown the complexity of negotiation. The nature of the divide between the EU MSs allows us to adopt a coalition analysis approach with two coalitions being discernible in the process of negotiation. In line with the coalition theory “deal[ing] with conditions for coordination and cooperation in situations involving three or more actors with more or less conflicting preferences” (Elgström 2001: 113) we have identified two coalitions. In spite of the fact that both of the coalitions formally agreed to support the UNSC and the necessity of the second resolution authorising the use of military force, their view on practical policies toward Iraqi crisis diverged considerably. One of the coalitions (C1) pushed for speedy enforcement of the UNSC Resolution 1441 realised through deployment of armed forces and deposition of regime of Saddam Hussein. The other coalition (C2) favoured peaceful settlement of the Iraqi crisis through increasing the number of weapon inspectors, enhancing their powers and giving them enough time to complete the inspections, while the use of military force was seen as a last resort. Some EU Member clearly belonged to one of the coalitions, while the position of some was not so clearly crystallised, still they inclined toward one of the two positions. Based on the above, we can claim that Members of the first coalition, C1 were: the UK, Spain, Denmark, Italy, Portugal, the Netherlands and Ireland. Members of the second coalition, C2: France, Germany, Belgium, Luxembourg, Sweden, Austria, Greece and Finland (Pond 2004), (Stahl 2004).

Thirdly, for the evaluation of the outcomes we need to engage in a comparison of the preference intensities of actors and based on a previous determination of coalitions we will juxtapose the preference intensities of these two coalitions. It is necessary to note that the temporal aspect, variation within time did not play such a vital role as in the first case study. Hussein’s behaviour, his non-compliance with the Resolution 1441 and certain findings of weapon inspectors did not provide really unexpected information as the international community encountered this kind of information since Hussein’s seizure of power in 1979. Hence preferences of particular EU Members did not change since the outset of Iraqi crisis, they just became more pronounced. Consequently, the preference intensities did not vary substantially within time.
Based on that, figure 5.2 illustrates the asymmetry of preference intensities related to the Iraqi crisis. While the first coalition C1 strongly favoured military solution of Iraq’s non-compliance with the UNSC Resolution and the second coalition C2 rejected this solution. On the alternative settlement of the Iraqi crisis the coalitions had exactly the opposing view.

**5.4 Process**

In terms of time horizon, we are concentrating on a period beginning in September 2002 and ending in March 2003. The beginning is defined by the phase of the Iraqi crisis when the question of adoption of a new UNSC resolution started to be viewed as indispensable and the end is determined by the outbreak of war. We have decided to concentrate on the longer interval, because the activities pursued by particular EU MS were the main source of validation of their preferences and we intended to follow any possible fluctuations in their preferences and the factors contributing to such fluctuations. Moreover, based on Moravcsik’s warning about the possibility of ‘falsehood of soft primary sources’ such as public statements of national leaders (1999: 81) we tried to decrease this possibility by crosschecking through real MSs’ activities.

In regards to the dimension of availability of information related to the preferences of the EU Members, similarly to our first case study, the MSs had many occasions to exchange this kind of information. The second dimension of information availability, the information about actual development of situation in Iraq was not so well covered and the EU MSs received this information based mainly on the reports of weapons inspectors, yet these were at times weak and ambiguous. Another type of information the EU Members were lacking was the information about the real US interests in the region and particularly in Iraq.
Following the same pattern as in the previous case study (Dupont, Faure 1991: 43-44), we will identify the sequence of the main stages of the EU negotiations about the Iraqi crisis in its attempts to find a common standpoint. The conclusions related to the preliminary phase of negotiations of our first case study are valid also in the case of Iraqi crisis and therefore we will proceed to the following phases. The fact that Iraq was a ‘regular topic for discussion’ of the General Affairs Council meant that to bring this issue for discussion did not require special effort by the Presidency (in the second half 2002 it was Denmark) or any other MS.

The first stage of negotiation in relation to the Iraqi crisis (in spite of the fact that it is problematic to determine when Iraq started to be viewed as qualitatively new problem of international politics) consequently reflected the discussions within the international community prior to decision to start the debate on adoption of the UNSC Resolution.

The second, ‘formula phase’ corresponded with the discussion on the UNSC level about the text of the Resolution, while it became clear that the subjects of negotiations are Iraq’s non-compliance with previous UNSC resolutions, its weapons of mass destruction programmes, the regime of Saddam Hussein and the course of action the international community, including the EU, should follow. The guiding principles of negotiations were set already in the Treaties (see section 5.1.1), so there was no need to address such questions. Besides, the EU Members also reached an agreement on all but the last subject, namely the course of action adopted by the international community.

During the next, ‘detail phase’ the EU MSs being aware of the fact that a unified stance of the EU is necessary for effective solution of the problem the Iraqi issue was repeatedly put on the agenda of the General Affairs Council, but at the same time the conclusions of these partial negotiations restated the support for the same principles and never commented on the most severe problem. This was the result of the EU Members following their own interests with no intention to concede. The fact that further aggravated the situation and precluded agreement, were individual activities of the EU Members reinforcing their interests.

The final ‘concluding phase’ unfolding shortly before the war broke out brought only a widening of the gap between the two coalitions and no agreement was reached. The war represented a qualitatively new situation and could be studied as a separate ‘set of negotiations’ with its distinct phases.

5.5 Strategy

When examining the strategy of negotiation (Pruitt 1991: 78-89) in our second case study we come to slightly different conclusions as in the first case study. The negotiation strategy employed by the actors in relation to the Iraqi crisis varied more across the sub-issues than across the phases of negotiation. When negotiating about questions of support for UNSC, opposition against the weapons of mass destruction programmes or disapproval of Hussein’s regime the EU Members engaged in problem-solving as combining efforts of both camps contributed to speedy adoption of common standpoint on these questions of the whole EU. The negotiations about these subjects represented integrative bargaining, creating value by adopting a unified attitude of the EU. The statements and the activities in particular of the EU Members related to the international community course of action were characterised by contending strategy adopted by both coalitions, even though the coalition lead by France was
more active in this regard. Especially France with its announcement that it would veto any UNSC resolution authorising the use of military force signalled unwillingness of the French government to make any concessions. Here the two coalitions adopted a win-lose approach characterising distributive bargaining.

The inability of states to reach an agreement implies the absence of issue linkages or package deals among the EU Members. While considering the possibility of different outcomes depending on alternative agreement or alternative coalition, we can claim that the strong positions of the EU MSs precluded any alternative agreements and possibility of emergence of alternative coalitions.

5.6 Outcome

Modification of Lebow’s diagram (1996: 57) allowed us to summarize the outcomes of EU negotiations about the course of activity of the international community into the following diagram.

![Diagram of possible agreements between two EU coalitions](5.3)

**Figure 5.3** Point of possible agreement between the two EU coalitions related to the course of activity the international community should follow (January – March 2003).

In section 5.3 we have identified two coalitions that emerged throughout the EU negotiations. Both coalitions attributed great salience to their preferences and were not willing to make concessions. Consequently they did not want to accept any other agreement than the one corresponding to their preferences. The fact that the preferences of these coalitions were rather contradictory precluded attainment of an agreement. As the diagram shows, any other alternative to a preferred agreement meant making a concession of original preferences, which considerably decreases the possibility of an agreement. The result in our case is that the lines...
of preferences of both coalitions meet at a point where possible agreement equals to zero. Contrary to our first case study, no new facts and information that would urge the EU MSs to revise their preferences appeared throughout the negotiations and finally no agreement was reached by the time the war broke out.
Chapter 6: Final Conclusions

In the previous chapters we have outlined the fundamental concepts of liberal intergovernmentalism and negotiation theory and the combination of these two approaches constituted the theoretical core of the thesis providing us with the theoretical structure for further examination of two particular foreign policy cases. The purpose of this thesis was not to study whether the EU is able to have a common foreign policy or to prove the lack of cohesiveness of the EU Members, even though the choice of cases might imply this. Our thesis constitutes only a part of such a complex question as viability of the CFSP certainly is. Furthermore, an examination of only two particular cases falling within the sphere of the CFSP does not allow us to come up with any generalisations about the behaviour of the EU Members. Hence the following chapter will provide answers to the research questions posed in the first chapter, conclusions resulting from our analyses and suggestions for further research.

The first part of the analytical research question is related to identification of specific stages of the EU negotiations, which is necessary for the purpose of disaggregation of negotiations and subsequent easier and more comprehensive analysis of negotiation. We have, deriving from the identification of stages of international negotiations, identified stages of negotiation of the EC/U Members in two particular cases. Based on these two analyses we suggest that the stages of EU negotiations in the sphere of European Foreign Policy are as follows. Contrary to the first stage of international negotiation, the preliminary contacts and pre-negotiation phase are absent in the first stage of EU negotiations. Instead, the first stage is determined by formal procedural rules as stipulated by the Treaties and informal practices leading the course of action in the field of the CFSP. The first stage is related to what could be termed the ‘right of initiative’ which is in the sphere of the CFSP given to any MS and the Commission as stated in Article J.12 of ToA In practice this means that the first stage includes the process of instigation of negotiations on the particular issue and getting the issue on the negotiating table. Based on the developed informal practices the Presidency has gained and quite successfully discharged of the role of initiator of issues for General Affairs and External Relations Council meetings. Depending on the issue under consideration, as we have seen in the second case, the first stage can only include appreciation of a qualitatively new situation that emerged in relation to an issue that already was on the agenda of the CFSP meeting.

The second stage in international negotiation termed ‘formula phase’ bears certain specific features in the case of EU negotiations. The most significant one is the absence of negotiations on the definition of the guiding principles which were set in the Treaties or other documents regulating the sphere of External Relations. Besides, this stage involves similarly to international negotiation unification on the interpretation of the subject of negotiation. As negotiations on a particular foreign policy issue seldom encompass a single question, conversely, the negotiations usually deal with several sub-questions, this stage also includes agreement on a non-controversial sub-question as a basis for further negotiations.

In the third stage named ‘detail phase’ actors come up with their preferences in relation to the question of contention, while adopting various strategies they try to influence the other parties to yield to their demands, so that the final settlement reflects on their preferences to highest possible degree. A very important role is played by preference intensities of actors, which determine if and what concessions are the actors willing to make. As we have shown in the first case, the circumstantial factors can in a decisive way influence the salience the actors attribute to the particular issue, which has a critical impact on the outcomes of negotiation.
In the final, ‘concluding phase’ introduces based on the preferences, preference intensities and possible concessions the outcomes of negotiation. As we have seen in our analyses the outcome does not necessarily bring an agreement on the issue and a non-agreement situation may be a result of EU CFSP negotiations. Even though bringing doubts about the future of the CFSP, it does not necessarily mean a stalemate in cooperation in the sphere of the CFSP, especially where the preferences of members converge.

In regards to the second part of the analytical research question, we will derive conclusions from the analysis of outcomes. Our examination of outcomes was grounded on the search for possible agreements depending on the preferences of actors. For simplification and greater comprehensiveness we have explained the outcomes through the use of Lebow’s diagram. Our first case showed that after a shift in preferences of actors caused by external factors the lines of preferences of involved parties met in a single point and so allowed for an agreement which otherwise would probably not be reached. In the Iraqi case the lines of preferences did not meet in any point which was caused by strong preference intensities on both sides and unwillingness to make any concessions. Moreover, no substantially new exogenous (or endogenous) factors occurred which would contribute to a revision of actors’ preference intensities. Given that the preferences of states are relatively stable for the particular ‘episode of negotiation’ the shifts are linked rather to preference intensities than to preferences. Consequently, if there is no zone or point of agreement between actors as derived from their preferences, especially in cases where preference intensities are high, the point/zone of agreement can be achieved after a shift in preference intensities. When utilising the concept of Pareto-frontier (section 3.1.1), for a settlement to be reached, the agreement must be located in the ‘zone of agreement’.

6.1 Suggestions for further research

The possibility to make general conclusions on the CFSP negotiations, in particular on ‘hard security issues’, would not only provide a means to explain the outcomes of the CFSP negotiations (as we have done in our analyses), but also predict cases when an agreement is not possible and determine the conditions under which agreement could be reached. In practical terms this could lead to adoption of separate decision-making mechanisms on such issues which would at minimum prevent the occurrence of ‘international faux pas’ in cases when the CFSP principles look naive in comparison to the reality of disagreement of the EU MSs. Consequently, firstly we suggest further verification of our tentative conclusions through additional analysis of large n-number of different cases of EU CFSP negotiations while adopting the same analytical framework proposed in section 3.2. Secondly, we recommend an examination of conditions under which agreement is possible and the zone/point of agreement is identifiable. Thirdly, in cases of a non-agreement situation, we suggest identification of conditions under which, if possible, the EU Members revise their preference intensities so that agreement can be reached. This would require development of a general model of analysis applied to the particular cases. And finally, as a logical continuation of our thesis, and proposed by Moravcsik’s tripartite analytical framework, would be an analysis of prospects of sovereignty transfer from MSs to supranational European institutions.
Theoretical Literature


Empirical and Analytical Literature


Documents


Frankfurter Allgemeine Zeitung, 1 September 1991 – 23 December 1991


**Methodological Literature**


