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## European Union representation at the United Nations towards more coherence after the Treaty of Lisbon

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**European Union Representation at the United Nations: Towards  
More Coherence after the Treaty of Lisbon**

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## Abbreviations and Acronyms

AI	Agreement Index
Arab League	League of Arab States
ASEAN	Association of Southeast Asian Nations
AU	African Union
AWACS	Airborne Warning and Control System
CARICOM	Caribbean Community
CDU	Christian Democratic Union
CFSP	Common Foreign and Security Policy
CIS	Commonwealth of Independent States
CONOPS	Concept of Operations
CONUN	United Nations Working Party
COREPER	Committee of Permanent Representatives
CPA	Coalition Provisional Authority
CSDP	Common Security and Defence Policy
DG RELEX	Directorate-General for External Relations
DGs	Directorates-Generals
DPR	Deputy Permanent Representative
DRC	Democratic Republic of Congo
ECB	European Central Bank
ECHO	Humanitarian Aid and Civil Protection Department of the European Commission
ECJ	European Court of Justice
ECOSOC	UN Economic and Social Council
ECOWAS	Economic Community of West African States
EDA	European Defence Agency
EEA	European Economic Area
EEAS	European External Action Service
EEG	Group of Eastern European States
EES	European Security Strategy
EFTA	European Free Trade Association
ENP	European Neighborhood Policy
EP	European Parliament
EPC	European Political Cooperation
EU	European Union
EUFOR	European Union Force
EUSR	European Union Special Representative
FAC	Foreign Affairs Council
FAO	Food and Agriculture Organization
FDP	Free Democratic Party
GAC	General Affairs Council
GAFS	Group of African States
GASS	Group of Asian States
GRULAC	Group of Latin American and Caribbean States
HoM	Head of Mission

HR	High Representative of the Union for Foreign Affairs and Security Policy
HR/SG	High Representative for the Common Foreign and Security Policy/ Secretary-General of the Council of the European Union
ICC	International Criminal Court
ILC	International Law Commission
ILO	International Labour Organization
IMF	International Monetary Fund
IOs	International Organizations
LIA	Libyan Investment Authority
MEP	Member of the European Parliament
MFA <sub>s</sub>	Ministries of Foreign Affairs
NAC	North Atlantic Council
NATO	North Atlantic Treaty Organization
NSC	New Strategic Concept
NTC	National Transitional Council (of Libya)
OCHA	UN Office for the Coordination of Humanitarian Affairs
ODS	Official Document System of the United Nations
OLS	Ordinary Least Squares
OSCE	Organization for Security and Cooperation in Europe
OUP	Operation United Protector
PESCO	Permanent Structured Cooperation
PoCo	Political Committee
PSC	Political and Security Committee
QMV	Qualified Majority Voting
R2P	Responsibility to Protect
SAP	Stabilisation and Association Process
SD	Standard Deviation
SPD	Social Democratic Party
ToL	Treaty of Lisbon
UfC	Union for Consensus
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNBISnet	UN Bibliographic Information Centre
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
US	United States of America
WEOG	Group of Western European and Other States
WHO	World Health Organization
WMD	Weapons of Mass Destruction
WTO	World Trade Organization

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## Chapter 1 Introduction

The European Union (EU) is known for its solid support for an effective United Nations (UN). “Effective multilateralism” is a fundamental and recurrent theme in various EU documents (e.g., European Council 2003; Commission 2003; European Union 2004). The Treaty of Lisbon (ToL), which entered into force on 1 December 2009, reaffirmed the EU’s commitment to multilateral cooperation, especially within the framework of the UN. In order to transform the EU into a more coherent and influential international actor, the ToL introduced a set of institutional innovations affecting the Union’s external representation, including, *inter alia*, the conferral of legal personality to the EU, the creation of the President of the European Council (hereafter the President), the appointment of the High Representative of the Union for Foreign Affairs and Security Policy (HR) and the establishment of the European External Action Service (EEAS).

This dissertation examines the coherence of the EU’s external representation in the field of the Common Foreign and Security Policy (CFSP), within the contexts of two core UN bodies, namely the General Assembly (UNGA) and the Security Council (UNSC). Ensuring coherent EU representation at the UN is vital for the Union to stay relevant in global decision making and to promote its interests on the world stage. In a global environment where the EU faces various challenges, including, *inter alia*, the rise of new powers and the historical changes in the Arab world, either the Union adapts and adjusts its external representation to a more coherent presence, or it is in danger of being sidelined due to the relative decline of its weight (Emerson et al 2011; Balfour and 2013). Taking the principal-agent theory as the point of departure, this study considers the EU and its entire membership collective principals, which have been represented by different agents under different circumstances. The arrangements of the ToL have reformed the delegation structure of the EU’s external representation. They are expected to reduce agency losses, strengthen agent capacities as well as control mechanisms, and thereby infuse greater coherence into EU representation. However, not only the ToL left some agency problems unsolved but has created new inter- and intra-institutional tensions. Overall these defects may have counterproductive effects on coherence. It will

be interesting to see whether the ToL has contributed to increased EU representation coherence within a world organization like the UN.

A mixed approach will be adopted to combine both quantitative and qualitative methods to detect the coherence variation in EU representation before and after Lisbon. At the UNGA, EU representation coherence is measured and evaluated in terms of the voting cohesion of EU member states. At the UNSC, some descriptive statistics are first presented to describe and summarize the voting behaviour of the EU member states sitting on the UNSC. Based on the findings drawing on from these statistics, two cases – the conflicts of Iraq (pre-Lisbon) and Libya (post-Lisbon) – are selected for further investigation. Subsequently, the coherence of the EU's representation during each conflict is examined and then compared to each other to tell whether the EU performed more coherently in the Libya case where the ToL had entered into force.

It will be argued that whereas the ToL offers the opportunity to provide more coherence to EU representation at international organizations, this potential can hardly be fulfilled if the remaining problems and new structural conflicts are left unattended, especially if EU member states are unwilling to overcome their diverging preferences and support common EU positions. Equally important is the need for closer inter- and intra- institutional coordination in order to ensure consistent and complementary representation. It appears that more time is needed for new EU agents, namely the President and the HR – assisted by the EEAS – to develop sophisticated representative capacities and well-functioning relationships with other EU institutions as well as national governments.

This introductory chapter starts with an overview of the status of the EU's presence at the UN and explains why the UNGA and the UNSC are appropriate settings for this research. The second section considers the conceptual and methodological issues in research design. It firstly defines EU representation coherence and distinguishes the fundamental concept of coherence from other prominent themes in the studies in respect to the EU's role or performance in external relations. Then it continues to introduce how EU representation coherence is going to be measured within the two contexts of the UN and the corresponding analytical methods that will be adopted. The third section lays out the structure for the rest of chapters in this dissertation.

## 1.1 An Overview of the EU's Presence at the United Nations

The EU and the UN share similar core values, notably the maintenance of international peace and security, the protection of fundamental human rights, the pursuit of sustainable development and the seeking of multinational solutions to global problems. In parallel with the implementation of the CFSP, the EU has grown into an important partner to the UN. It is virtually visible in almost all major UN bodies, agencies, programmes and conferences. The Union is party to more than fifty international UN agreements and conventions as the only non-state participant. It has also been a full participant at certain UN summits, such as the Rio and Kyoto summits on climate change. Outstandingly, the EU is the largest financial contributor to UN activities. Until the end of 2012, together EU member states provided over 36 percent of the funding for UN peacekeeping operations, nearly 35 percent of the UN regular budget and about one-half of all UN member state contributions to UN funds and programmes (United Nations 2013). The EU owns the capability to assist UN missions and carry out UN resolutions. It has undertaken to establish a rapid reaction force as part of its common defence system, which will certainly infuse more inputs to EU-UN cooperation. The Union has delegations in the UN based in New York, Geneva and other locations all over the world. Communications between the officials of the two organizations occur on a regular basis as daily working contacts grow. The European Parliament (EP), which is conventionally conceived less active in participating the UN's work, now sends Members of the EP (MEPs) to attend major UN meetings more frequently than it used to do (Rasch 2008).

All EU countries are members of the UNGA.<sup>1</sup> Together they represent more than one eighth of the entire UN membership. The Union can count on over 30 votes since candidate countries, potential candidate countries and members of the European Free Trade Association (EFTA) and European Economic Area (EEA) frequently align themselves with EU statements (European Union 2004).<sup>2</sup> Only sovereign states can become members of the UN. But it does not prevent the EU from having a collective presence in this organization. In 1974, the then European Community (hereafter the Community) was granted by the UNGA

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<sup>1</sup> Croatia joined the EU on 1 July 2013 and became the 28<sup>th</sup> EU member. But it is not included in the empirical analyses in this dissertation due to the limits of the data.

<sup>2</sup> Current EFTA members include Iceland, Liechtenstein, Norway and Switzerland. The EEA contains 28 EU members (including Croatia) and three members of the EFTA. Switzerland is the only EFTA member not participating in the EEA.

an observer status, which has been promoted to a higher level through UNGA Resolution 65/276 in May 2011. EU representation at the UNSC is not as inclusive as it is at the UNGA. Only Britain and France (also known as the P2) are permanently represented while other EU states get elected on a rather random basis. Usually there are three to five member states (including the P2) sitting at the UNSC every year.<sup>3</sup> The EU has no regular collective presence at this body. Most of the time, the Union relies on those member states sitting on the UNSC, particular the P2, for representation. Occasionally other EU states or EU officials are invited in light of the provisional rules of procedure of the UNSC. Prior to the ToL, the responsibility of EU external representation was mainly assumed by the EU member state holding the Presidency of the Council of Ministers (hereafter the Council). This representation system applied to the UNGA as well. But the Presidency state could only address the UNSC on behalf of the Union when it happened to be an elected or permanent member or when it was invited. The ToL created two new leaderships, namely the President and the HR, to replace the role of the Presidency in representing the EU in the CFSP field. It's implications on the structure and coherence of EU representation will be discussed in greater detail in Chapter 4 from a principal-agent perspective.

The UNGA and the UNSC offer ideal empirical grounds to examine the ToL's effects on EU representation, as out of the five principal UN organs these two are most relevant to the CFSP.<sup>4</sup> Both the EU and its member states – to varying degrees – participate in the work of the UNGA. Discussions at this level cover a broad range of issues, making it possible to conduct a comprehensive assessment of EU representation coherence. Albeit UNGA decisions are nonbinding, they are *de facto* influential, as many international norms are rooted in specific resolutions of the Assembly (Petersen 2006). Moreover, UNGA voting records are readily accessible and relatively well-documented, allowing coherence to be quantitatively measured in terms of voting cohesion. The UNSC is the core organ that deals with global issues of “high politics” with respect to international peace and security. While UNGA resolutions are only recommendatory to governments, the decisions of the UNSC are legally binding on all UN member states.

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<sup>3</sup> The EU had Germany and Portugal sitting on the UNSC as non-permanent members in 2012. They were replaced by Luxemburg starting from January 2013.

<sup>4</sup> There used to be six principal organs of the UN, including the UNGA, the UNSC, the Economic and Social Council (ECOSOC), the Secretariat, and the International Court of Justice and the Trusteeship Council. The Trusteeship Council has suspended operations since 1994.

Since the end of the Cold War, it has regained its relevance in world affairs, especially in the authorization of the use of force (Wallensteen and Johansson 2004; Ronzitti 2012). Therefore, the coherence of EU representation at the UNSC is equally crucial to the functioning of the CFSP.

## **1.2 Conceptual and Methodological Considerations**

It is necessary to first clarify some key concepts in order to answer the research question whether EU representation has become more coherent after the ToL's implementation. However, not only the ToL left the term "representation of the Union" undefined, studies regarding the EU's role in international organizations (IOs) also often take this concept for granted (e.g., Frieden 2004; Mahieu et al. 2005; Laatikainen and Smith 2006; Rasch 2008; Niemann and Huigens 2011). This dissertation defines "EU representation" by its functionality. It refers to the institutional set-up that performs the function of representing the Union and its member states through legitimate representatives toward third parties in the international arena (see also Gstöhl 2012). Drawing on, and to some extent deviating from existing literature on coherence in EU foreign policy or external relations (e.g., Missiroli 2001; Gauttier 2004; Hillion 2008; Thomas 2012), coherent EU representation is conceptualized as the Union's capacity to coordinate EU member states' divergent policy preferences, allowing common positions to be formulated, and articulated by its representatives consistently and coherently toward the outside world.<sup>5</sup>

This conceptualization implies that the search for coherence requires on one hand coordination to attain internal harmony and on the other hand articulation to provide declaratory diplomacy with consistent contents (Gauttier 2004: 25). Both elements are indispensable to coherent EU representation. Coordination means the set of elaborate mechanisms through which the EU and its member states exchange information, make concessions and find a common ground on foreign affairs (Jordan and Schout 2006; Marchesi 2008; Degrand-Guillaud 2009). It is the necessary process for reaching coherence, especially when EU member states' preferences are not initially congruent. With the absence of a common approach hardly can the Union

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<sup>5</sup> The terms of "coherence" and "consistency" are often used interchangeably in academic discussions (e.g., Christansen 2001; Bretherton and Vogler 2006; Gaspers 2010). Some legal scholars and political scientists have underlined the necessity to distinguish one notion from the other (e.g., Gauttier 2004; Nuttall 2005; Hillion 2008): whereas "consistency" refers to compatibility and the absence of contradictions, "coherence" emphasizes complementarity and synergy; whereas "consistency" is an either-or concept, "coherence" is a matter of degree in the sense that an entity can be more or less coherent, but can only be consistent or inconsistent. This dissertation considers "consistency" a minimum requirement of "coherence", meaning that coherent EU representation should be non-contradictory at least.

project any sensible external representation. But EU representation coherence can be fully achieved only when the agreed policy as a result of coordination is consistently and coherently declared by EU and national representatives.

Considering the nature of the EU as a multi-level governance system (Hooghe and Marks 2001; Smith 2004), this research adopts a distinction between horizontal and vertical coherence that have been identified in the relevant studies (e.g., Christansen 2001; Gauthier 2004; Nuttall 2005; Bretherton and Vogler 2006; Hillion 2008; Gaspers 2010; Marangoni 2012). Horizontal coherence relates to the coherence between and within EU institutions.<sup>6</sup> Vertical coherence includes the coherence between EU member states and the EU and the inter-state coherence among EU member states.<sup>7</sup> The acquirement of horizontal coherence requires different EU institutions and different branches within these institutions to be able to represent the Union in a coordinated, consistent and unified manner (Helwig et al. 2013). The pursuit of vertical coherence means that EU member states need to aggregate their policy preferences through institutionalised coordination mechanisms and their representatives can present complementary or at least non-contradictory national positions to those of the Union (Portela 2012).

Coherence is closely related to another prominent theme when the EU's international performance is concerned, i.e., actorness, a concept broadly understood as "the capacity to behave actively and deliberately in relation to other actors in the international system" (Sjøstedt 1977). This definition alone does not provide methods to operationalize actorness. Subsequent studies, however, have emerged to assess actors applying different series of variables.<sup>8</sup> As for the relationship between actorness and coherence, the latter is often used either as a near-synonym (e.g., Groenleer and Van Schaik 2007; Thomas 2012) or a key criterion for

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<sup>6</sup> Some scholars, e.g., Guttier (2004), Nuttall (2005), Gaspers (2010) and Hillion (2008), think that horizontal coherence includes the coherence of policies across pillars. Since the ToL has abolished the pillar structure, it makes more sense to focus on inter- and intra-institutional coherence. "Institutional coherence" was seen as a sub-category of horizontal coherence in Nuttall's ternary categorisation, but was treated as a separate category because of its specialisation in the field of external relations.

<sup>7</sup> Gaspers (2010) differentiated between vertical and interstate coherence. Such a distinction is not made in the present study because the coherence among EU member states will be inevitably touched upon in order to tell whether their national policies are in line with the EU's. Marangoni (2012) identified "external coherence" as another dimension of coherence. It is related to the extent to which outsiders perceive the EU as coherent. For the sake of parsimony, this dissertation adopts the two-dimensional classification, namely horizontal and vertical coherence.

<sup>8</sup> For different approaches that measure actorness, see Jupille and Caporaso 1998; Bretherton and Vogler 2006; Brattberg and Rhinard 2013.

the former (e.g., Carbone 2013; Groen and Niemann 2013). This research adopts the idea that a higher degree of coherence contributes to a higher degree of actorness.

Ginsberg (1999) pointed to the phenomenon that scholars were moving beyond establishing the existence of the EU to assessing the Union's effectiveness as an important international actor. Many researchers have, implicitly or explicitly, used "goal achievement" as the benchmark determining effectiveness (e.g., Laatikainen and Smith 2006; Jørgensen et al. 2011; Delaere and Van Schaik 2012; Niemann and Bretherton 2013). Therefore, effectiveness of EU representation is seen as the extent to which the EU reaches the objectives defined by its common positions and manages to influence world affairs in accordance with its preferred outcomes.

EU policy-makers (e.g., Solana 2009) tend to posit a positive relationship between coherence and effectiveness. It is rather natural to expect greater effectiveness coming out of increased coherence since the Union appears to be stronger when all EU members jointly support a common position, which is expressed by a pooled representation. But empirical evidence suggests that their connection may not be straightforward. Groen and Niemann (2013) argue that whether coherence translates into effectiveness depends on the "opportunity structure", the external context that enables or constrains the EU e.g., the involvement of other important actors. Other scholars find that increased coherence may reduce effectiveness: the diverse national preferences of EU member states can result in agreements based on the lowest common denominator, which are non-constraining and inflexible; the lengthy coordination may prevent the Union from responding to sudden crises in a timely fashion; a highly united Union may raise political pressure from other actors that have opposite interests (Gst 2012; Thomas 2012; Carbone 2013). Therefore, coherence does not necessarily lead to effectiveness. Instead, it can be seen as a necessary but insufficient condition for the realization of effectiveness, that is to say, a coherent EU may not be successive in achieving its goals, but a divided Union with its member states pursuing conflicting agendas can rarely be effective.

It is difficult to measure a concept as complicated as EU representation coherence in general terms. This study operationalizes the EU's coherence at the UNGA as the voting cohesion of EU member states, which

is quantitatively calculable by UNGA roll call data. The data for the statistical analyses contain all the recorded resolutions of the UNGA between 1993 and 2012. They were partially extracted from Voeten and Merdzanovic's (2009) data and partially retrieved by the author from the UN Bibliographic Information Centre (UNBISnet) and the Official Document System of the United Nations (ODS).<sup>9</sup> Voting pattern analysis based on roll call votes has been commonly practiced by scholars in examining decision making within the UN (e.g., Kim and Russett 1996; Voeten 2000; Luif 2003; Smith 2006; Rasch 2008; Dreher and Jensen 2009; Hosli et al. 2010). This method is not unchallenged. Some scholars (e.g., Carrubba et al. 2008; Hug 2012) have pointed out the pitfalls of roll call votes: first, roll call votes only provide a partial picture of policy making since they are only applied to a relatively small fraction of UNGA decisions;<sup>10</sup> second, recorded votes may provide lopsided inferences because they are often used on more contested issues; third, an analysis of roll call votes may overestimate the actual degree of group cohesion since they can be used as an instrument to "show off" cohesiveness; fourth, roll call votes are limited in revealing true policy preferences because their application can be strategic, e.g., a state may choose to vote against its own preference on an issue in exchange for a deal on more important ones.

Hug (2012) pointed out in his recent findings on roll call votes that the "systematic difference" between decisions adopted by recorded votes and other decisions of the UNGA had become trivial starting from the 1970s. The observations of the present study start from 1993, meaning that the biases – although inevitable – shall be small. Hug also found that the majority of recorded votes had occurred on resolutions dealing with the issues falling into the CFSP field. This could be problematic for a research that expects to draw general inferences across EU policy areas. This dissertation, however, focuses on EU representation coherence in the CFSP domain and therefore will be less skewed. Researchers often lack information of non-recorded resolutions and non-voted decisions. Even if such data were available, it would be beyond this study's scope

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<sup>9</sup> The data starting from 1993 until 2008 were partially obtained from Voeten and Merdzanovic's (2009) datasets. Votes on paragraphs of resolutions, votes cast by non-UN members and absences were filtered out. The author rechecked Voeten and Merdzanovic's (2009) data and corrected some discrepancies and filled in some missing values. The data between 2009 and 2012 were manually retrieved by the author from the UN sources. The author has noticed that Voeten and his colleague Anton Strezhnev have extended their data collection to cover the resolutions adopted between 2009 and 2012, but decided to use her own data collection anyway for the sake of consistency. Voeten and Strezhnev's datasets can be found in the website: <http://dvn.iq.harvard.edu/dvn/dv/Voeten/faces/study/StudyPage.xhtml?globalId=hdl:1902.1/12379>.

<sup>10</sup> Decisions made in closed sessions or by presidential statements are often not subject to roll call votes.

to analyze all those decisions, as Hug himself admitted that tailor-made estimators and techniques to better inferences were yet immature. Besides, the potential inferential problems listed above apply consistently for both the pre- and post-Lisbon period in this research. In a word, it is considered that roll call votes – in a way – indicate the national policy preferences of individual EU member states on particular issues. An analysis of voting cohesion can thus demonstrate the degree of preference homogeneity or heterogeneity among EU member states, and more importantly, the extent to which they are willing to coordinate national policies to vote coherently at the UNGA, which are of great relevance to the concept of coherence.<sup>11</sup>

As Yin (2009) pointed out, a shortcoming of quantitative measurements is that they may be unable to equally describe every aspect of the dependent variable(s). Voting cohesion is directly related to the inter-state dimension of vertical coherence since it measures the cohesiveness of the voting behaviour among EU member states at the UNGA. It also concerns the coherence between the EU and EU states in a relatively straightforward fashion because the agreement reached by member states to vote coherently on a particular resolution is a result of coordination, during which an EU common position is formulated. When national delegations to the UN decide to synchronize their votes, they also act in line with the EU. Horizontal coherence, however, is indirectly manifested by voting cohesion. If a higher degree of voting cohesion is considered an outcome of improved coordination among EU member states, it can also be seen as an indicator of greater inter- and intra institutional coherence, since EU institutions, notably the HR and the EEAS, are established to ensure and organize the Union's internal coordination. Regarding the two elements of representation coherence, voting cohesion appears to be more directly linked to articulation. High cohesion often implies an agreed common approach, which shall be delivered by EU representatives at the UNGA. The essence of the coordination process, however, cannot be uncovered since voting cohesion merely reflects the outcome of political decision-making. It can be demonstrated in an indirect way in the sense that closer coordination tends to produce more cohesive voting behaviour.

Annual roll-call data of adopted UNSC resolutions are also retrievable from the UNBISnet, but the meaningfulness of applying a similar approach as in the UNGA is questionable. Due to the unique culture of

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<sup>11</sup> Casting identical votes does not necessarily suggest that the voters have identical interests towards a certain resolution, but it means that they manage to synchronize their voting choices regardless of their national policy differences.

decision making and voting procedures at the UNSC, over 90 percent of resolutions in the period of 1993-2012 have been adopted unanimously with 15 votes in favour.<sup>12</sup> It is difficult to identify an EU voting pattern in general or its developments led by the ToL and the policy preferences of individual EU states, not to mention the fact that the majority of the discussions regarding sensitive topics are held in the caucusing sessions or informal meetings that leave no records (Biscop and Missiroli 2008). Calculating the voting cohesion of the EU member states serving on the UNSC does not make as much sense as in the context of the UNGA. A high degree of voting cohesion or even full consensus is not tantamount to a high degree of coherence of the Union because the EU members in the UNSC and the members that are not may hold opposite positions. Furthermore, a veto threat might have led to the eventual withdrawal of an elaborately prepared draft. As it never came to a vote, a draft like this would not be recorded in the roll-call data.<sup>13</sup> Taking quantitative analysis as the only option thus risks overlooking important information (Lieberman 2005).

But descriptive statistics of EU voting behaviour help exposing “unusual” cases that are worth further investigation. The rarity of abstentions and negative votes at the UNSC implies that their occurrences may signify deeper disagreement with a particular resolution.<sup>14</sup> It is feasible to get a rough idea about the preference orientation of the EU state(s) that abstained and the preference distance among the EU member states within the UNSC on this particular issue. But identifying EU member states’ positions and the motivations behind requires close-range examinations so that assessing the degree of their preference homogeneity and the extent to which they are in line with the Union is made possible. Inter- and intra-institutional coherence obviously cannot be assessed by the descriptive statistics. Within-case studies are necessary to reveal the coordination mechanisms and articulation coherence at both horizontal and vertical levels. Focusing on separate cases alone does not facilitate the detection of the variations of EU

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<sup>12</sup> The author’s own calculation based on the data of UNSC Resolutions collected from UNBISnet between 8 January 1993 and 20 December 2012.

<sup>13</sup> An example is the resolution draft co-sponsored by the UK, Spain and the US, calling for the authorization of the use of force against Iraq, was eventually abandoned due to the veto threats from France and Russia.

<sup>14</sup> The resolutions voted against by at least one UNSC member account for less than one percent of all the UNSC resolutions analyzed in this research (1,264 in total). None of the EU members sitting on the UNSC voted against any resolution during the period under investigation. The resolutions from which at least UNSC member abstained account for about 9 percent of the total resolutions. EU member states cast abstentions on six resolutions, among which three resolutions concerned the situations in Iraq. Germany’s abstention from Resolution 1973 concerning Libya resulted in the most serious split of the EU since the Iraq war.

coherence under different circumstances. Cross-case comparisons shall be conducted as a follow-up if one wants to explore, e.g., the extent to which the new delegation structure created by the ToL has made a difference in EU representation coherence. By all accounts, a mixed analytical strategy is needed.

Guided by the research question and the descriptive statistics of EU voting behaviour at the UNSC, EU representation coherence will be studied in two cases: the 2002-2003 Iraq war and the 2011 Libya crisis. These two cases are selected based on a “most similar” design. They are considered to have many parallels but occurred respectively before and after the adoption of the ToL. If EU representation coherence is found to have increased during the Libya conflict, the ToL may possibly be responsible for the improvement. Case selection will be discussed in more detail in Chapter 5.

EU representation is qualified to be coherent if it scores high on both horizontal and vertical coherence. Measuring the degree of horizontal coherence requires evidence of the role of EU institutions in external representation and how they coordinated with each other during the two conflicts. Vertical coherence should be assessed by the degree of homogeneity or heterogeneity between EU member states’ policy preferences, the extent to which they coordinated their national policies to reach common approaches, and the extent to which the EU member states serving on the UNSC concerted and shared information. Meanwhile, the capacities of EU institutions in organising (and perhaps facilitating) the coordination will be evaluated. It also demands an examination of whether the statements between EU institutions and national representatives are complementary or non-contradictory at least. Increase in representation coherence will be determined by comparing both horizontal and vertical coherence across the two cases. EU representation coherence is considered improved if, at the horizontal level, the Union’s collective presence at the UNSC is upgraded, EU delegation structure is streamlined, and the role of EU institutions in representing the EU at this body is strengthened. Vertical coherence increase requires observations of converging policy preferences among EU member states on UNSC matters, greater concertation of the EU member states sitting on this council, closer contacts and improved information exchange between these states and other EU members as well as EU institutions, last but not least, more willingness of national delegations to represent the Union’s common interests.

Lastly, it needs to be clarified that the mixed analytical approach is not equally applied to the context of the UNGA. It is because EU voting cohesion at this platform varies across a wide range. Neither low cohesion nor full consensus is rare. It is not as easy to identify outstanding cases as in the context of the UNSC within a considerable amount of data. The advantage of a mixed method that statistical analysis provides guidance to case selection is less obvious regarding the UNGA.

### **1.3 Structure of the Dissertation**

The remaining chapters of the dissertation are organized as follows: Chapter 2 reviews the existing bodies of literature with reference to the EU's representation in the international system, notably at the UNGA and the UNSC, and explains how this dissertation contributes to the relevant fields of studies.

Chapter 3 first lays out the fundamental assumptions of the principal-agent theory and argues that this theoretical mode bears promising power in explaining the complexity and variety in the EU's external representation. Within this framework, the situations of EU representation in multilateral organizations are theorized into different types of delegation relationships, in which the EU and its member states are considered collective principals, while the actors that play the role of agents and the delegation structures are conditioned by the division of EU competences and the status of EU in particular international institutions. This section develops the typologies of EU competences and EU status models, and then specifies the agents and delegation structures under different (combinations of) circumstances within selected IOs. The final section of Chapter 3 places the principal-agent theory in a broader theoretical framework of new institutionalism. It compares the principal-agent theory with historical and sociological institutionalisms, and indicates that an extended and adapted model of the principal-agent theory that absorbs the strengths of the other two approaches of new institutionalism will serve as the theoretical foundation for this dissertation.

Chapter 4 is divided into two sections, which respectively draw a panorama for the evolution of EU representation at the UNGA and the UNSC from an adapted principal-agent point of view. Following a brief introduction of the institutional structures the UNGA, the first section takes a look back at the "problematic" delegation relationship of the EU's external representation at this forum in the pre-Lisbon era. Then it

describes the reformed representation structure of the Union established by the ToL and points out the remaining agency problems. Based on the post-Lisbon developments in EU representation, and drawing on the insights of the extended principal-agent theory outlined in Chapter 3, six hypotheses regarding the coherence of EU representation – measured by the voting cohesion of EU member states at the UNGA – are proposed to be tested using a quantitative method in Chapter 5. The second section briefly describes the *sui generis* institutional structure of the UNSC and examines the horizontal coherence of EU representation within this context in the pre- and post-Lisbon eras. It also examines the vertical representation coherence by looking at the implications of the ToL on the Union’s coordination and concertation mechanisms on UN matters. It is proposed that the innovations of the ToL – although limited – would contribute to an increase in the Union’s representation coherence at the UNSC. The final section touches upon the inevitable question about the reform of the UNSC and explores the EU dimension in the ongoing debate.

Chapter 5 tests the hypotheses formulated in Chapter 4 on EU representation coherence at the UNGA, with systematic statistical analyses of the voting behaviour of EU member states. This chapter also presents the descriptive statistics of voting in the UNSC, which not only demonstrate the unique decision-making methods within this body but also identify both general and unusual patterns of EU voting behaviour.

Guided by the descriptive statistics in the previous chapter, Chapter 6 assesses EU representation coherence in two case studies, i.e., the 2002-2003 Iraq war and the 2011 Libya crisis, which are divided by the entry into force of the ToL. In each case, EU representation coherence is examined at both horizontal and vertical levels. In order to uncover the variation in coherence after the implementation of the ToL, a follow-up cross-case comparison is conducted.

The conclusionary chapter, Chapter 7, is split into three sections: the first section summarizes and revisits the central empirical findings of this dissertation; the second section makes some recommendations concerning EU representation coherence based on the lessons that are learned; the final section points out the main contributions and remaining limitations of the present study, and prospects the directions for future research.

## Chapter 2 Literature Review

The developments of the EU's CFSP in the last two decades have brought heightened academic attention to its role as an actor in international relations (e.g., Ginsberg 1999; Gauttier 2004; Nuttall 2005; Bretherton and Vogler 2006; Wunderlich 2012). These studies tend to see the EU as a *sui generis* actor and attempt to construct new conceptual categorizations, such as coherence, actorness and effectiveness, to explain its performance in the international system. This *sui generis* nature of the EU means that the Union's status and representation vary across different IOs and multilateral fora (Gehring et al. 2013).

Because of the centralness of the UN in global governance and effective multilateralism, a considerable amount of literature regarding the performance of the EU in the UN system has emerged. Some scholars have assessed the EU-UN partnership, either in general (Farrell 2006) or in specific issue areas, e.g., conflict resolution (Dijkstra 2011), human rights (Smith 2006) and environment (Jupille and Caporaso 1998). This body of literature concentrates on the EU's contributions to UN activities, but pays less attention to the day-to-day decision-making practice and the roles played by EU institutions as well as EU member states. Others have explored the EU's presence in various UN bodies, including the UNGA (Wouters 2001; Hoffmeister and Kuijper 2006; Gstöhl 2009), the UNSC (Drieskens 2008; Pirozzi 2012), the ECOSOC (Paasivirta and Porter 2006), the International Law Commission (ILC) (McArdle and Cardwell 2012), and UN specialized agencies, such as the International Labour Organization (ILO) (Kissack 2006) and International Monetary Fund (IMF) (Mahieu et al. 2005) or UN institutions located in Geneva (Taylor 2006). These scholarly works have provided solid foundations for understanding the concepts related to EU's international role, i.e., coherence, actorness and effectiveness. But further difficulties arise when it comes to the empirical application of these concepts as they are insufficiently delineated in the first place. These studies do not contain concrete measurements to assess the EU's performance in external representation.

Efforts aiming to respond to these difficulties are represented by the emergence of the researches examining the EU's actual voting behaviour. Earlier studies (e.g., Hurwitz 1976; Lindemann 1982) resorted to voting pattern analysis of the Community at the UNGA with reference to the potential effects of the European Political Cooperation (EPC). They concluded that the EPC managed to increase the Community's voting cohesion in limited ways despite the considerable influence from the member states. Subsequent

studies carry forward the voting behaviour analysis to the later-established CFSP regime (Luif 2003; Young and Rees 2005; Rasch 2008; Hosli et al. 2010; Jin and Hosli 2013). Mostly these researchers maintain that EU voting cohesion – regardless of the ups and downs – has been increasing over time as the CFSP develops. Rasch specifically points out that the CFSP only functions in areas where national interests of EU member states converge, therefore does not make an overall difference.

Apart from institutional developments, scholars have looked into alternative variables, e.g., enlargement, which may explain EU voting cohesion at the UNGA (Johansson-Nogués 2004; Jakobsson 2009). Contrary to the conventional assumption that enlargement results in lower voting cohesion due to increased transaction costs in decision-making, they find that enlargement increases the Union’s capacity to exert influence if the new members are willing to act in concert with the old ones. Only tentative conclusions, however, can be drawn from these studies regarding the effects of enlargement because they were based on relatively small data collection. A few researchers have conducted some pioneering works (e.g., Birnberg 2009; Lucas 2012) in identifying the configuration of a host of elements that may contribute to determining EU voting cohesion in the UNGA, such as power, issue salience, transatlantic relationship, duration of EU membership and treaty reforms. Unfortunately, the results of their analyses are mostly non-conclusive due to the difficulties in unambiguously interpreting the empirical evidence or simply the limited coverage of data. These academic pieces are considered inspiring in exploring alternative explanatory factors to EU voting cohesion, but due to time constraints their analysis did not include the latest data and thus were unable to reflect the most recent developments in EU representation coherence after the enforcement of the ToL.<sup>15</sup>

Systematic research on the representation behaviour of the EU member states at the UNSC is still developing. Theoretically speaking, the Union should have been more influential over UNSC matters given the fact that EU member states (at least France and Britain) are always present at this forum. However, EU researchers find that the EU has been “pouching below its weight” because the Union and non-serving EU

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<sup>15</sup> An exception is Lucas’s article (2012), which tested the effects of institutional reforms, including the Maastricht Treaty, the Amsterdam Treaty and the ToL, on EU voting cohesion, based on the UNGA resolutions on human rights and security issues from 1980 until 2011. She found that the ToL had a significantly negative effect on EU voting cohesion, albeit the actual influence of the ToL might not yet be known due to lack of data.

members are marginalized from shaping the decision making at the UNSC (Biscop and Missiroli 2008; Blavoukos and Bourantonis 2011). The EU's representation seems to mainly depend on the EU member states sitting on the UNSC, especially on the two permanent member states, which enjoy a high degree of freedom to pursue their national interests (Drieskens 2010; Hannay 2012).

Some scholars try to find a solution to the Union's underperformance through the reform of the UNSC. On one hand, they embrace the idea that the Union should take the leading role in remodelling the UNSC (Chevallard 2005; Hill 2006), on the other they realize that there is no consensus on this issue between EU member states, especially between Germany and Italy, which are mostly blamed for drawing the dividing line within the EU (Fulci 1999; Martini 2010). A few reformists have suggested consolidating the seats of the UK and France into one EU seat, which would be subject to rotation among EU members (Kelly 2000; Missiroli 2005; Deudney and Maull 2011). The logic behind their suggestion is that numerosness does not amount to representativeness and effectiveness. This presumption so far has obtained some empirical support: for instance, a statistical analysis of the decision probability of the UNSC shows that increasing UNSC membership without abolishing or at least limiting the use of veto power has little relevance in improving its capability to act, or even worse, it rather leads to a higher degree of indecision (Hosli et al. 2011). In the case of the EU, it is understood that a less numerous but more coherent EU presence at the UNSC is more preferable because by voluntarily "sacrificing" one seat the Union could gain an upper hand with more credibility, and then force other hesitating members to be on board and push forward the reform (Missiroli 2005: 46-47).

The ToL is meant to initiate a new phase for the EU as an international actor. Discussions around the ToL's legal and political implications had started prior to its implementation (Drieskens 2008; Hillion 2008; Griller and Ziller 2008; Marchesi 2008; Blockmans and Wessel 2009). Several follow-up studies assessing the ToL's effects in a more systematic manner have appeared. Analyses using legal approaches attribute utmost importance to interpreting the amendments in EU treaties and how the EU's legal status in IOs, such as the UN, is going to be affected (Drieskens 2010; Piris 2010; Wessel 2011; Cardwell 2012; Blanke and Mangiameli 2012). Political scientists tend to play the emphasis on political and policy implications

(Gaspers 2010; Koehler 2010; Verola 2010; Emerson et al. 2011; Gstöhl 2012; Quinn 2012; Dosenrode 2012; Zwolski 2012). Most of these studies hold a fairly optimistic view, agreeing that the ToL is a step in the right direction, although there are criticisms stating that it is not a quantum leap forward in terms of creating a more coherent EU foreign policy and defragmenting the Union's external representation. However, a few researchers maintain that the improvements made by the ToL have little impact in on the EU's representation coherence because this issue ultimately relies on the political will of its member states (Drieskens 2008; Quinn 2012). Regardless of the spotlight thrown on the ToL, empirical analyses testing its effects on the coherence of EU representation in concrete terms are still underdeveloped.

This dissertation aims to contribute to a better understanding of the EU's role in international fora in general and at the UN in particular, by providing a clearer conceptualization of EU representation coherence – distinguished from other related concepts, e.g., actorness and effectiveness – and concrete measurements of coherence in both quantitative (voting cohesion) and qualitative terms (horizontal and vertical coherence). It strengthens the analyses on EU voting behaviour at the UNGA in the form of a sophisticated statistical investigation of EU voting cohesion within a relatively broader time frame. In the meantime, this research is able to reassess some alternative explanatory variables, including *inter alia*, membership size, socialization and issue areas on voting cohesion, based on a more complete data collection that includes the resolutions of the latest two UNGA sessions. It also adds creative values to the studies of the EU's presence at the UNSC by applying a mixed approach that combines descriptive statistics and case studies. The examinations of a classic case concerning the Iraq war and a timely case regarding the Libya crisis against the background of the Arab Spring are going to enrich the empirical observations on the EU's representation at the forum. Moreover, the current study contributes to the accumulation of interpreting the legal, political and policy implications of the ToL and conducts a systematic empirical test of its effects on EU representation coherence, which steers the discussions surrounding the ToL away from legal and theoretical perspectives to real-world evidence. Finally, this dissertation bridges the research traditions emphasizing the importance of outcomes and the approaches emphasizing the process of decision making that accounts for the international role of the EU.

## **Chapter 3 Theoretical Framework: Principal-Agent Theory**

Principal-agent theory, in essence, explains the agency relationship governed by a contract, in which the principal expects the agent to act on its behalf and protect its interests (Ross 1973). Originating from the neoclassic economic paradigm, this theoretical model has been applied to the fields of political science and international relations, where the principal delegates the authority to a chosen agent and let the agent carry out its policy preferences based on a pre-defined arrangement (Shapiro 2005; Pollack 2006).<sup>16</sup> Principal-agent theory deals with three central questions: (1) the conditions under which delegation occurs; (2) the main problems of principal-agent relationships; (3) the measures that can be taken by the principal to ensure effective delegation.

### **3.1 Central Arguments of Principal-Agent Theory**

A presumption of principal-agent theory is that principals and agents are rational players. The uppermost motivation driving a principal to appoint an agent is the prospect of achieving more benefits through delegation than alternative institutional arrangements. Drawing insights from seminal works on principal-agent theory (Kiewiet and McCubbins 1991; Moravcsik 1993; Epstein and O'Halloran 1994; Majone 2001; Thatcher and Stone Sweet 2002; Pollack 2003; Hawkins et al. 2006), six possible reasons why delegation occurs are identified. A principal delegates authority to an agent because: (1) the principal is in need of the agent's professional service, e.g., specific expertise, credibility, experience or other resources that the principal is either unable or unwilling to provide; (2) the principal counts on the agent to reduce transaction costs; (3) the principal reckons on the agent to resolve its internal disputes; (4) the principal needs the agent to facilitate collective decision-making; (5) the principal depends on the agent to ensure credible commitments and prevent the "free-rider" problem; (6) the principal relies on the agent to "lock in" its dominance or prerogative. As shown in this encapsulation, principal-agent theory views the occurrence of delegation in terms of functions.

Notice that the expectation of reaping benefits is not sufficient for delegation to take place. Other factors, such as preference heterogeneity, institutional rules and power balance, interact with the pursuit of benefits

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<sup>16</sup> See an excellent review of the political evolution of principal-agent models by Miller (2005).

as mitigating dynamics and affect the possibility that delegation arises. All else being equal, the probability of delegation is lowered when actors' policy preferences become more heterogeneous. Institutional competences and rules decide which type of agent a principal can utilize, how the agent should be selected as well as the scope of agent discretion. Institutional rules also determine how decisions are made and thus affect the agent's autonomy to act (Cortell and Peterson 2006).<sup>17</sup> For instance, decision rules requiring unanimity are more likely to reduce the probability of delegation than the rules under qualified majority voting since more votes are needed to approve an action. Power balance works as a moderating factor of delegation in that powerful players have more leverage in the agency relationship. They own the capability to act unilaterally or group with like-minded actors when delegation does not maximize their interests. In comparison, the weaker ones intend to rely on delegation to enhance their influence and get more benefits.

A core challenge in principal-agent relationships is that "agent slack" is inevitable. Agent slack is the agent's independent actions that conflict with the principal's preferences and lead to "agency losses". Information asymmetry, usually working in favour of the agent, creates more opportunities for agent slack. There are mainly two forms of slack: "shirking" and "slippage". The former, also called "bureaucratic drift", denotes the agent's opportunistic behaviour to minimize the efforts devoted to the principal in order to pursue its own interests. The latter occurs when the delegation structure itself provides incentives for the agent to act against the principal's interests (Pollack 2003: 39).<sup>18</sup> In cases of shirking, serious attention shall be paid to the agent's motives to engage in slack. These may be based on the agent's distinct policy preferences, moral convictions, or its intention of competence maximization (Kerremans 2006: 175). In cases of slippage, incentives that induce the agent to deviate from the desired behaviour depend on the specific delegation structure. Take the time frame of delegation as an example, an agent can afford to act against the principal's will, if the delegation is proposed for an indeterminate period of time or in a rotational format since it has fewer concerns about termination of agency. If an agent's authority is delegated for a limited period of time in renewable terms, the agent may want to restrain itself from slack activities due to

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<sup>17</sup> A brief note on the distinction between "discretion" and "autonomy": while the former entails the grant of authority or mandate the principal deems necessary to accomplish the delegated task, the latter denotes the range of independent action available to the agent. All else being equal, a wider discretion scope gives the agent more autonomy (Hawkins et al. 2006: 7-8).

<sup>18</sup> Some scholars seem to use these two terms interchangeably (e.g., Nielson and Tierney 2003; Shapiro 2005). Either way, both of them are related to the deviation from the principal's interests by the agent.

its concern about re-delegation in the future (Pollack 2003: 45). But if the agent's power is delegated for a very short period, not least in a rotational manner, the agent is likely to maximize its own substantive interests while it still can, knowing that it will be selected again sooner or later anyway. Apart from "intentional cheating", an agent may fail to fulfil its obligations because of capacity deficit, e.g., a lack of experience, resources, professionalism or institutional memory and continuity. Agency losses can be augmented by other exogenous factors, e.g., a sudden crisis that leads to unintended consequences beyond the agent's control or an international atmosphere that provides more leeway for the agent to act independently (Marks et al. 1996: 355).

The principal can use *ex ante* and *ex post* control mechanisms to minimize agency losses. *Ex ante* mechanisms refer to "agent selection" and "contract design". Principals can choose between existing agents with known biases or, at some cost, create a new agent with identical preferences. By selecting a sympathetic agent, the principal gains the advantage of steering the delegation from the beginning toward a favourable direction. In this way, the principal can grant the agent greater discretion and adopt less costly *ex post* mechanisms while still minimizing agency slack (Hawkins et al. 2006: 33-34). In contrast, weak screening and selection mechanisms may lead to adverse selection, ending up with an agent that does not represent the principal's interests. Through an elaborate contract, the principal can in advance decide the agent's mandate, stipulating administrative methods, decision rules, and punishments in case of contract violations (Blom-Hansen 2005). Discretion design is never easy. If a principal limits an agent's mandate too much, the agent may not be able to function normally. A contract must be profit-sharing to encourage the agent to realize the principal's objectives. So the trick is to grant just enough amount of authority that enables the agent to achieve desired outcomes with minimum agency losses. A contract that authorizes a legal mandate helps legitimize the agent's representative behaviour, but it does not have to be explicit or formally legalized (Hawkins et al. 2006: 6). *Ex post* controls include "monitoring" and "sanctions". The principal can either conduct a direct supervision over the agent's activities or rely on third parties to perform the oversight (McCubbins and Schwartz 1984). Sanctions are often imposed to punish an errant agent and force its compliance. Common practices consist of budget cutting, legislative overruling and re-delegation.

Control measures can contain agency losses, but they are not costless (Kiewiet and McCubbins 1991: 27). Identifying the ideal agent and creating a new agent are both costly. Contracts that are too strict may produce inflexible and inefficient policy outcomes. Monitoring may consume considerable resources while sanctions often cost the principal as well. For instance, re-delegation is most reformatory yet most costly and thus requires more caution. In any delegation relationship, there is a trade-off between gains and costs. Principals are willing to let a delegation continue only when the expected benefits outweigh the overall losses (the sum of agency losses and control costs).

Delegations in political settings are often more sophisticated than the standard principal-agent model with one principal and one agent. Real-life delegations usually involve “complex principals”, i.e., a number of actors either independently constitute “multiple principals” or form “collective principals” as a group (Lyne et al. 2006). Major distinctions between the two types of complex principals lie in the number and nature of the contracts: whereas multiple principals conclude separate contracts with an agent, collective principals negotiate a single *priori* contract with the agent. The problems of agent slack and control costs become more serious in cases of complex principals. Multiple principals are likely to compete with each other for the loyalty of an agent, which presents more options to the agent so that it can compare the principals and align with the ones that maximize its interests (Larsén 2007). Powerful principals with rich resources are usually more attractive to the agent. For collective principals, it is more difficult to select an agent and agree on the range of agent discretion, especially when unanimity is applied. Collective principals having conflicting preferences are less willing to appoint a single agent. When they do, they intend to opt for a relatively centrist and pragmatic one, which may not be the optimal choice (Miller 2005: 211). The costs of monitoring and sanctions for complex principals in general are higher because the agent can manipulate the differences among the principals to escape surveillance and punishment (Brent 1999). Its manipulation ability is influenced by decision rules, e.g., unanimity, compared to majoritarian rules, leaves bigger room for agent manoeuvre because the threshold for sanctions is higher (Pollack 2003: 44; Hawkins et al. 2006: 43). Re-delegation is also unlikely for complex principals having divergent preferences since they would prefer the *status quo* (Nielson and Tierney 2003). Overall, delegation becomes more beneficial to the

principals – multiple and collective – as their preferences converge. Collective principals are likely to have preference heterogeneity better controlled compared to multiple principals because the former normally have more institutionalized structure that facilitates the aggregation of divergent preferences.

Real-life delegations may also involve multiple agents. In such cases, a principal delegates the same function to a number of agents while each agent works as part of a bigger team of agency. The existence of multiple agents tends to amplify agency losses and control costs. These agents may have incompatible preferences. One agent may behave consciously or unconsciously in a manner that impedes the other. They may compete for scarce resources, influence and visibility (Dijkstra 2011: 4). The “free-rider” problem arises when an agent intentionally reduces its efforts devoted to the principal and let other agents perform the delegated task. The risk of shirking becomes higher in the case of multiple agents because it is more challenging for the principal to supervise all the agents at the same time (Shapiro 2005: 267). Moreover, informational distribution is further skewed toward the advantage of the agents (Waterman and Meier 1998: 183). But the principal is not entirely vulnerable if additional information can be acquired by comparing the performances of the agents and if one agent can be used to monitor the other (Tallberg 2003: 24-25).

### **3.2 Principal-Agent Theory and EU Representation in International Organizations**

EU external representation varies across international institutions and issue areas. The principal-agent theory is believed to hold considerable strength in explaining this variety and complexity. EU representation in international institutions can be theorized into different types of delegation relationships, in which the Union and its member states are often perceived as collective principals, whereas the actors that play the role of the agent(s) and the forms of delegation depend on the nature of competences within the EU and the statute of the international institutions (Wessel 2011).

The ToL eliminated the pillar structure, and for the first time introduced a precise classification in the founding treaties of three main categories of competences: exclusive, shared and supporting (Article 2 TFEU).<sup>19</sup> In areas of exclusive competence (e.g., common commercial and monetary policies), the EU alone may legislate and adopt binding acts. The member states’ role is therefore limited unless the Union

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<sup>19</sup> For the non-exhaustive lists of the three types of competences, see Article 3, Article 4 and Article 6 TFEU respectively.

authorises them to do so. External representation in these areas normally has been delegated to the European Commission (hereafter the Commission).<sup>20</sup> At ministerial level, representation is provided by the corresponding Commissioner, while at the level of heads of state and government, it is provided by the Commission President (Kaczyński 2011). Following the ToL's entry into force, the delegations of the Commissions overseas have been replaced by the delegations of the EU, which, according to the treaty, shall represent the Union in third countries and IOs (Article 221 TFEU). Although EU delegations are part of the EEAS working under the authority of the HR, which represents the Union in the CFSP field, they comprise staff from relevant Commission services (Article 27 TEU), and thus can also deal with issues that fall outside of the scope of the CFSP.

In areas of shared competence (e.g., environment and energy), both the EU and member states can adopt binding acts, but the latter may continue to exercise their competences to the extent that the Union has not exercised, or has decided not to exercise, its competence.<sup>21</sup> Prior to the ToL, the rotating Presidency had been the leading agent speaking on behalf of the EU and its member states (Rhinard and Kaeding 2006). Theoretically speaking, the ToL eradicated the Presidency's role in providing external representation and entrusted this responsibility to the Commission with the exception of the CSFP and other cases provided for in the Treaties (Article 17 TEU). Not surprisingly, due to preference conflicts some member states are reluctant to accept the complete exclusion of the Presidency and stress the need for continued collaboration between EU institutions and member states in representing the Union externally (Szabó 2011; Emerson et al. 2011). On 22 October 2011, the Council endorsed practical arrangements regarding the EU's representation in multilateral organizations, in which the member states (as collective principals) agree that agent selection and delegation structure shall be decided on a case by case basis. They may request the Council to designate EU actors or a member state, notably the rotating Presidency, to do so on their behalf (Council 2011).<sup>22</sup> It seems that the Presidency will continue to play a role in representation in the domain of shared competence.

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<sup>20</sup> On the literature regarding the Commission as the EU's agent in external economic governance, see Pollack 1996; Kerremans 2006; Niemann and Huigens 2011; Rommerskirchen 2013.

<sup>21</sup> This pre-emption principle does not apply to the areas of research, technological development, space, development cooperation and humanitarian aid (the so-called parallel competence), where the Union's competence shall not preclude the member states from exercising theirs.

<sup>22</sup> EU actors denote the actors competent to represent the Union as provided in the Treaties, i.e., the President, the Commission, the HR and EU Delegations.

Finally, at high-level events involving heads of state and government, the President of the Commission shall be accompanied by the President, but it is the former that will address most of the substantive issues (Corthaut and Van Eeckhoutte 2012: 154).

In the domain of supporting competence (e.g., culture and education), the EU has no legislative power and can only intervene to support, coordinate or supplement the actions of member states. The Commission as per the mandate conferred by the Council has been negotiating alongside the member states, with the incumbent Presidency at the helm coordinating and chairing the multilateral negotiations with respect to the issues in this category (Ferri 2005: 21-25). Exceptionally, and after due coordination, a member state other than the Presidency may take the floor during the negotiations in so far as its contribution was limited to supporting the agreed common position (cf. Council 2005). After the ToL’s adoption, it appears that the HR has replaced the role of the Presidency in representing the Union. An example is the recent Memorandum of Understanding agreed by the EU and United Nations Educational, Scientific and Cultural Organization (UNESCO), which aimed to boost cooperation and information sharing between the two organizations. This deal was signed by the HR and the Development Commissioner on behalf of the EU and its member states (Commission Press Release 2012).

**Table 1: EU External Representation in Different Categories of Competences after Lisbon**

	<b>Exclusive Competence</b>	<b>Shared Competence</b>	<b>Supporting Competence</b>	<b>CFSP</b>
<b>Decision Making</b>	Council	Council	Council	FAC, European Council
<b>Representatives (Agents)</b>	Commission	Commission, the Presidency, the President (Summit)	Commission, the HR (replacing the Presidency), member states	The President (Summit), the HR (Ministerial level) and the EEAS
<b>Local Representation</b>	EU Delegations	Delegations of EU member states, EU Delegations	Delegations of EU member states, EU Delegations	EU Delegations

The EU has special competences in the CFSP field in the sense that it has competence in all areas connected to the CFSP, which are however subject to specific rules and procedures, e.g., the EU cannot adopt legislative acts in this field and the European Court of Justice (ECJ) does not have jurisdiction with respect to the provisions in this area (Article 24 TEU).<sup>23</sup> During the years preceding the application of the ToL, it was the Presidency that had been representing the Union in matters falling within the CFSP. The Presidency was assisted by the High Representative for the CFSP and Secretary-General of the Council (HR/SG), while the Commission was fully associated in these tasks (Gstöhl 2009). The ToL re-delegated the task of representing the EU externally to the President (at the level of heads of state and government) and the revamped HR (at the ministerial level), both supported by the EEAS. On the ground, EU delegations are responsible for providing local representation of the Union. Up to July 2013, the EU has a network of 139 delegations representing the Union in 163 third countries and international institutions (Ashton 2013). Meanwhile, the Presidency's influence on agenda setting to a large degree has been weakened since the right of initiative in CFSP matters has gone to the HR, who also chairs the Foreign Affairs Council (FAC), and the power of shaping strategic planning of the European Council has been taken over by the President. Its role as a consensus builder has declined as well because the EEAS has assumed the responsibility of preparing and organizing EU coordination meetings. However, the Presidency continues to be an important "stakeholder" in EU external relations in that it remains in charge of the majority of Council configurations (except for the FAC) and preparatory bodies, including the Permanent Representatives Committee (COREPER).<sup>24</sup> On rare occasions, the Presidency can still perform representative function due to the absence of a Union delegation, e.g., the EU was represented by the Hungarian embassy in Tripoli during the

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<sup>23</sup> The EU's competence in the CFSP field is sometimes understood as a form of parallel competences (e.g., Keukeleire and MacNaughtan 2008). But there are commentators who argue that the separate treatment for CFSP competence in the ToL suggests that it is best described as *sui generis* (e.g., Cremona 2009; Sari 2012). Declarations 13 and 14 attached to the ToL that emphasize that the treaty should not affect the competencies of EU members in foreign policy further reinforce the presumption that pre-emption does not apply to the CFSP. Therefore, this dissertation follows the second approach and considers CFSP competence a special case. The EU also has special competences under other two circumstances: the EU has the competence to define guidelines to ensure coordination of economic and employment policies of the member states (Article 5 TFEU); the Union has the competence to adopt the appropriate measures beyond the powers conferred by the Treaties, to attain one of the Treaties' objectives if certain specific procedure are met (Article 352 TFEU).

<sup>24</sup> COREPER is divided into two entities: COREPER I and COREPER II. Whereas COREPER I prepares a large number of Council meetings (e.g., employment, agriculture, education), the Councils that discuss more politically sensitive areas (GAC, FAC, ECOFIN and JHA) fall within the competence of COREPER II.

Libya crisis (Szabó 2011). Table 1 encapsulates the situations of EU external representation described above in different categories of competences in the post-Lisbon era.

The EU's representation is also sensitive to the statute of international institutions. By the conferral of legal personality to the EU, the ToL has allowed the EU to negotiate and conclude international agreements, to participate in treaty regimes and pursue memberships in IOs. But the fact that some international institutions do not allow for EU membership often leads to a complex form of EU representation and hampers its coherence (Wessel 2011: 633). In the aftermath of the ToL, the Union has succeeded from the Community various types of status in multilateral organisations.<sup>25</sup> Based on existing relevant studies (cf. Hoffmeister and Kuijper 2006; Emerson et al. 2011; Comelli and Matarazzo 2011; Gstöhl 2012), four main models of the EU's presence in IOs can be identified:

**Both the EU and its member states are full members**, e.g., in the World Trade Organization (WTO) and the Food and Agriculture Organization (FAO). In IOs where the EU has obtained full membership in parallel with the member states, the Union is allowed to play a preminent role. Albeit there is not necessarily an absolute connection between the character of a competence and the form of delegation, as the degree of preference homogeneity is higher among the collective principals in areas of exclusive competence, the opportunity to appoint EU institutions, e.g., the Commission, as the sole agent tends to increase.<sup>26</sup> This delegation structure applies to the WTO. For decades, the Commission has had a delegation in Geneva that deal with the relationships between the EU and other IOs. After the ToL, the Commission delegation has transformed into Union delegation. But the HR established a new Permanent Mission to the WTO with the concern of the volume of WTO negotiations. This split risks creating new complexity and tensions between the Permanent Mission and the EU Delegation (Comelli and Matarazzo 2011: 9). The mandate of the FAO covers issues of both exclusive and shared competences. Depending on the topic on the agenda, EU representation was practiced either by the Commission or the Presidency (Emerson et al. 2011). Theoretically speaking, the Commission and the EU Delegation to the FAO should represent the EU in the post-Lisbon period. But due to the resistance from the member states, a transitional arrangement was

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<sup>25</sup> 15 out of 139 EU delegations are to multilateral organizations. For a list of these IOs, see Comelli and Matarazzo 2011: 6.

<sup>26</sup> An exception is on the Executive Board of the IMF, the European Central Bank (ECB) has only a limited observer status.

established: the EU delegation would indicate the nature of the competence, which would determine whether the Commission or the Presidency should act as the agent of the Union.

**The EU is an “enhanced observer”, “virtual member” or full participant, while (some) EU states are full members**, e.g., in the UNGA, the Organization for Security and Cooperation in Europe (OSCE), and the G20. In many cases of shared or mixed competences, the EU has established a status, with which it enjoys identical operational rights as full member states do, e.g., to intervene in debate and present common proposals, except without vote or membership. The EU’s competences in the UNGA are not unimportant. But since UN membership is only open to sovereign states, for years the Union, as one of the permanent observers, had been primarily represented by the Presidency before the ToL took effect. In May 2011, its status was upgraded to enhanced observer. The Presidency’s role in external representation has been progressively taken over by “EU actors” provided in the ToL, notably the President, the HR and the Union Delegation in New York. The development of EU representation at this body and the implications of the ToL will be addressed explicitly in Chapter 4.

The OSCE is one of the organizations with which the ToL called for “all appropriate forms of cooperation” (Article 220 TFEU).<sup>27</sup> The EU is considered a “virtual member” or *de facto* full participant within the OSCE, though its status has never been formally defined (Gstohl 2012: 151). During the pre-Lisbon period, the Commission had its own delegation to the OSCE. In areas of exclusive competence, the Commission could intervene like an OSCE member and was responsible for representing the EU and its member states. In areas of shared competence, the Presidency acted as the leading agent and the main coordinator. The Commission President would attend OSCE summits as the Union’s representative while at the ministerial level the corresponding Commissioner would provide representation (Emerson et al. 2011: 99-100). Since the ToL was implemented, the EU Delegation has started to play a stronger role the OSCE, despite the reluctance of some EU member states, e.g., Britain and France, to fully accept the new agents. Similarly, when the issue on agenda falls primarily within the EU’s competence, the Union Delegation

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<sup>27</sup> The other two organisations are the Council of Europe and the Organization for Economic Cooperation and Development.

intervenes as an OSCE member, whereas the Presidency is still in charge of EU external representation in other areas (Gaspers 2010: 35).

The G20 was created in 1999 as a successor of the G7/8 meetings. It gathers 19 important industrial countries – including France, Germany, Britain and Italy from the EU – all over the world, plus the Union, which is recognized as a full participant, to discuss issues regarding global economic stability (Emerson et al. 2011; Gstöhl 2012).<sup>28</sup> Initially, the EU was represented by the President of the ECB and the Presidency, whereas the Commission was merely involved at a technical level in the delegation. The four EU member states were represented by their finance ministers and central bank governors. In November 2008, the G20 was reestablished at the level of heads of state and government. Since then EU member states had been represented by their national leaders, while the Union was represented jointly by the Presidency (in areas of exclusive competence) and the Commission President (in areas of mixed competence).<sup>29</sup> With the ToL's entry into force, the Presidency has been replaced by the newly created President, who now shares the representation responsibility horizontally with the Commission President: the former acts on the agent of the EU on CFSP matters while the latter speaks on behalf of the Union on issues falling into exclusive competence. When it comes to areas of shared competence, the agent is selected on a case-by-case basis depending on the subject at stake (Rommerskirchen 2013). For the meetings at the ministerial level, the Commissioner for Economic and Monetary Affairs and the Euro, the Presidency and the head of the ECB represent the EU act jointly as EU representatives at the G20 (Wouters et al. 2012: 129).

**The EU is an ordinary observer, while all EU member states have full memberships**, e.g., in the World Health Organization (WHO). The Union is likely to be an observer in multilateral organizations that deal with the issues where it has moderate competences. The subjects covered by the WHO, such as public health, mainly fall into the areas of supporting competence, where the EU can only conduct a supplementary role. Prior to the ToL, the Union's common approach had been presented by the rotating Presidency, whereas the Commission got involved occasionally in cases of exclusive competence, where it represented the EU behind the Presidency (Eggers and Hoffmeister 2006). The ToL is supposed to further encourage the

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<sup>28</sup> Some scholars (e.g., Wouters et al. 2012) see the EU as a full member of the G20.

<sup>29</sup> Spain and the Netherlands have been regularly invited to attend G20 meetings since 2008.

Commission's involvement in external representation. For issues that have CFSP implications, e.g., health in the Palestine territory, the ToL authorizes the HR and EU delegation in Vienna to take over the Union's representation. It remains unclear, though, whether the Presidency's role should be entirely eliminated. Besides, EU member states are largely hesitant about accepting a transfer of competences to EU institutions. After long debates, the Commission agreed not to claim authority for external representation on all issues yet during the transitional phase. As a result, EU representation is organized within a temporary framework, with EU common positions presented by means of the Presidency (Van Schaik 2011). In the long run, representation by EU actors in the WHO is going to be constrained by the fact that the EU is not a member. However, this problem is unlikely to be solved soon given that WHO membership is only open to states.

**The EU has no status while some member states are full members**, e.g., at the UNSC and North Atlantic Treaty Organization (NATO). The situations where EU member states operate without any EU presence are becoming rare because of the expansion of EU competences to new policy areas (Pollack 1994). The absence of a formal status of the Union is mainly a result of the institutional restrictions of the particular IOs on memberships. Only sovereign states of the UNGA are eligible to become the members of the UNSC. Until the ToL entered into effect, EU representation had to rely on the two permanent EU member states sitting on this body and occasionally on the EU state holding the Presidency if it was invited to address the UNSC according to the provisional rules. The ToL has created the possibility for the HR to speak on behalf of the EU when there is a common EU position and extended the obligation to defend the positions and interests of the Union to all EU members serving on the UNSC. Apart from these improvements, the ToL hardly contains any further innovations that may profoundly affect the EU's presence at the UNSC. It continues to allow EU member states – reinforced by the two declarations annexed to the ToL – to prioritise their responsibilities to the UNSC over EU membership (Pirozzi 2012). In the future, EU representation at the UNSC also depends on the institutional structure of this body itself. EU member states, however, remain split over the questions such as whether the UNSC enlargement shall be limited to non-permanent seats and whether a unified EU presence could be part of the solution. Again, a comprehensive discussion will be

provided in Chapter 4 about the developments of EU representation at the UNSC and the debates between EU member states concerning the UNSC reform.

NATO is a second example where individual EU member states are active while a formalized EU representation is non-existent. According to the founding treaty of NATO (Article 10), only European states that are able to “further the principles of this Treaty and to contribute to the security of the North Atlantic area” can be admitted as members. Currently, there are 22 EU member states represented in NATO.<sup>30</sup> However, the EU’s role as a collective security actor within NATO is very limited, e.g., there is neither a Union delegation to NATO nor a *de facto* “EU caucus” inside NATO decision making (Græger and Haugevik 2011: 751). Institutionalized EU-NATO cooperation on security issues goes back to the letter exchange between the EU Presidency and NATO’s Secretary General in 2001.<sup>31</sup> It was followed by a comprehensive package of formal arrangements between the two organizations, collectively known as the Berlin Plus, which has been in effect since 2003. The Berlin Plus framework promised greater cooperation on crisis management and information change as well as the possibility for the EU to use NATO assets and facilities (Reichard 2006). Gradually, EU-NATO relationship has developed into a “strategic partnership” as described in NATO’s New Strategic Concept (NSC) adopted in 2010.

There has been regular meetings since 2000 between NATO and EU officials at various levels, including, *inter alia*, the levels of foreign and defence ministers, ambassadors, military representatives and defence advisors (cf. Sloan 2003: 197). The absence of formal status does not imply that the Union is entirely invisible at NATO. The HR/SG were invited to all ministerial meetings the North Atlantic Council (NAC) and in a reciprocal way the NATO Secretary General often took part in EU foreign and defence ministers’ meetings. EU leaders, i.e., the Commission President and the HR/SG were also invited to participate in NATO summits. After the ToL took effect, the ministerial meetings of the NAC are now attended by the newly established HR, who can speak on behalf of the Union. On the margins of ministerial meetings, the HR also holds a number of bilateral meetings with important counterparts. At NATO summits, the EU are jointly represented by the two Presidents of the European Council and the Commission along with the HR,

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<sup>30</sup> Non-NATO EU members include Austria, Cyprus, Finland, Ireland, Malta and Sweden.

<sup>31</sup> For detailed accounts of the development of institutionalized relationship between the EU and NATO, see Emerson et al. 2011; Græger and Haugevik 2011; Duke 2012.

who are allowed to make statements on behalf of the Union (e.g., at the NATO Summits in Lisbon and Chicago). On the margins of the summits, EU leaders can hold bilateral, trilateral or multilateral meetings with NATO members on their respective levels.

**Table 2: EU Representation in Different International Organizations in the Post-Lisbon Period**

Status of the EU	Status of (some) EU Member States	Examples of IOs	Competence	EU Representation
Full membership	Full membership	WTO	Exclusive	Commission Permanent Mission
		FAO	Exclusive	Commission, EU Delegation
			Shared	The Presidency
Enhanced observer	Full membership	UNGA	CFSP	The President The HR, EU Delegation
Non-CFSP			Commission	
Virtual member		OSCE	Exclusive	Commission, EU Delegation
			Shared	The Presidency
Full participant	Full membership (Four EU members)	G20	Exclusive	Commission
			CFSP	The President
			Shared	Decided case by case
Observer	Full membership	WHO	Supporting	The Presidency
			Exclusive	Commission
			CFSP	The HR, EU Delegation
No status	Full membership	UNSC	CFSP/CSDP	Member states in the UNSC
				The HR (on invitation only)
		NATO	CFSP/CSDP	The President, the Commission President, and the HR (summits)
				The HR (ministerial meetings)

Since EU actors are present at ministerial meetings and summits with speaking rights, they are entitled to deliver messages on behalf of the Union on the subjects where common EU approaches exist. However, past

experience shows that EU member states have rarely coordinated their positions or attempted to establish unified representation within this organization (Græger and Haugevik 2011). The ToL could have become point of departure for better coordination and more coherent representation of the EU to take place within the NATO context since the treaty calls on EU member states to consult one another in order to determine common approaches on matters concerning foreign and security policy and to coordinate in IOs in order to uphold the Union's common positions (cf. Article 32 and 34 TEU). It also authorizes the HR, at least in paper, the mandates to organize this coordination and represent the EU's interests on the international scene (Ibid.). On the other hand, the ToL stipulates that the EU shall respect the obligations of certain member states, which see their common defence realized in NATO (Article 42 TEU). Once again, similar to the case of the UNSC, the ToL has put the member states' responsibilities to NATO on top of their EU membership. Therefore, scholars (e.g., Græger and Haugevik 2011; Duke 2012) argue that the ToL is unlikely to have any dramatic effect on improving EU representation within NATO, not least considering the preference conflicts among EU member states, e.g., on the often cited Cyprus stalemate, and the skepticism of other non-EU members, the US in particular, on the formation of an EU caucus inside NATO. Table 2 schematically shows the situations of EU representation in selected IOs along with the EU's competences, classified according to the typology of the EU's status in multilateral institutions.

All in all, EU representation varies in different multinational organizations since the status of the EU is constrained by the institutional rules of the IOs under discussion. Within an international institution, EU representation also varies across categories of EU competences. In IOs that principally deal with issues falling within the domain of exclusive competence, the preferences of EU member states, which are considered collective principals, are already congruent. Therefore, they are more willing to appoint a single, supranational agent, e.g., the Commission. As for IOs that deal with matters falling into the areas of shared competence or mixed competences, preference multiplicity within EU member states is likely to lead to a complex form of delegation involving multiple agents. The ToL attempts to bring more "Europeanization" into EU representation, but EU member states, especially the big powers, are reluctant to accept the transfer

of competences and entrust representation to the newly created agent(s). Consequently, the Presidency is likely to remain involved in EU representation within these international institutions. This problem of multi-headed agency in EU representation may create inter-institutional rivalry between the Council and the Commission (Van Schaik 2011) and thus decrease the Union's horizontal coherence in representation. Meanwhile, the tensions between EU member states and EU institutions over the question of who should represent the Union are a main source of declined vertical coherence in the post-Lisbon era.

As demonstrated, many disputes over the EU's external representation in IOs were settled by transitional arrangements, which either provide multiple agents for the Union or determine the agent on a case-by-case basis: the former approach risks creating new institutional competitions, while the latter may spend too much time on procedural questions. Both contribute to higher agency losses and control costs. If these uncertainties are left unattended, it will cost the coherence of EU representation. An understanding between EU institutions and the member states shall be reached either by practice or by rulings of the ECJ so that a streamlined representation is made possible. The aggregation of EU representation into a joint and common representative brings into play a fundamental trade-off between the benefits of delegation and the costs of overcoming heterogeneous interests within the collective principals. The greater the benefits, e.g., added power in shaping the decision making in the IO, the more likely EU member states are willing to support the delegation. The discussion above also reveals the sensitivity of EU representation to exogenous factors, e.g., the attitudes of third countries in the particular IO towards coherent EU representation. The closer the preferences of EU member states to each another, and the further way they are from those of non-EU states, e.g., the US, the greater possibility that the EU will face stronger resistance from other blocks in the IO, which consequently may obstruct the formation of coherent EU representation.

### **3.3 Principal-Agent Theory and New Institutionalism**

New institutionalism is a disparate set of ideas that developed during the 1980s and early 1990s (Jupille and Caporaso 1999: 431).<sup>32</sup> There are three primary variants of new institutionalism: rational-choice institutionalism, historical institutionalism and sociological institutionalism. Originally applied to the

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<sup>32</sup> For reviews of the new institutionalism, see March and Olsen 1984; Powell and DiMaggio 1991; Steinmo and Thelen 1992; Hall and Taylor 1994; Kato 1996; Pollack 1996; Bulmer 1998.

studies of American congressional politics, rational-choice institutionalism assumes that actors are utility-maximizers having exogenous preferences and acting based on the “logic of consequentiality” (Pollack 2005: 365). This school argues that policy outcomes are determined by actors’ strategic interactions that are structured and modified by institutions (Hall and Taylor 1996: 945). Its focus on institutions mainly points to legislative or formal decision rules.<sup>33</sup> Principal-agent theory is the product of an incorporation of analytical tools of agency theories into rational-choice institutionalism (Tallberg 2003: 16). Historical institutionalism emerged from a reaction to the group theories of politics and functionalism prominent in political science during the 1960s and 1970s (Hall and Taylor 1996: 937).

Historical institutionalists assume that actors operate under a bounded rationality based on preferences that are endogenous to institutions. It means that institutions, once established, shape and reshape preferences and interests (Bulmer 1998). This theoretical approach emphasizes the cumulative effects of institutions on policy outcomes over time. It maintains that historical development of institutions is fundamentally path-dependent, i.e., decisions at an earlier stage affect actors’ policy choices at a later point in time. Therefore, historical institutionalism attaches importance to the role of timing, sequencing and critical moments or junctures in policy-making process (Pollack 2005). Sociological institutionalism developed within the subfield of organization theory in sociology (Hall and Taylor 1996: 946). It proposes that an actor’s behaviour is primarily driven by the “logic of appropriateness” which goes beyond rationalist calculations (March and Olsen 1984; Lewis 2005).

Sociological institutionalists endogenize policy preferences by emphasizing the constitutive role of socialization, i.e., preferences, instead of being fixed, can converge over time through social interaction processes (Breuer 2012). They define institutions more broadly, covering both formal institutional structures and informal rules, such as socially-constructed norms and cultural dimensions. Since its focus is mainly on macro-level factors, like society and culture, sociological institutionalism tends to consider individual actors largely dependent and rather unimportant (Koelble 1995).

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<sup>33</sup> But in recent years, informal rules, norms and culture appear to be assuming an increasingly important role in rational-choice institutionalism (Kato 1996; Thelen 1999).

In summary, whereas rational-choice institutionalism views the origin of institutions in terms of functions with the prospect of gaining benefits, historical and sociological institutionalisms see institutions as the results of historical development and socialization respectively. Rational-choice institutionalists tend to take institutions as contextual constraints that influence policy choices, while historical and sociological institutionalists see institutions as determinant variables in policy making. The latter two branches of new institutionalism give a broader interpretation of institutions that includes not only formal rules but also informal norms and practices. They assert that actors' preferences are not fixed, as rational-choice institutionalists often claim, but rather endogenous to institutional arrangements. However, whereas both rational-choice and historical theorists believe that actions of individuals affect the ultimate policy outcomes, sociological scholars generally think little of the role of individual actors. Each approach has its comparative advantages: rational-choice institutionalism is thought to be highly useful to the analysis of interactions among key actors within organizations; historical institutionalism is more appropriate in explaining systemic changes during institutional development; sociological institutionalism is a good choice in interpreting the implications of socially-constructed norms for institutions and policy outputs (Koelble 1995: 241-243).

Although different variants of new institutionalism have different origins, assumptions as well as strong points, the core premise of these approaches is the same: they all admit that institutions, once created, have effects on policy outcomes, no matter as intervening factors or determinants. This virtue of new institutionalism fits nicely with the tradition of neofunctionalism, which lays emphasis on the role of institutional structures during the process of regional integration. Meanwhile, the theories of new institutionalism accept the fundamental intergovernmentalist argument about the continuing centrality of nation states in forming international relations. Therefore, new institutionalism contributes to transcending the impasse between neofunctionalism and intergovernmentalism and offers a more inclusive theoretical framework that combines their strengths.<sup>34</sup> Take the EU as an example, principal-agent theory accepts the critical role of the member states in building and amending EU institutions but does not ignore the

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<sup>34</sup> For representative works and commentaries on the debate between neo-functionalism and intergovernmentalism, see Tranholm-Mikkelsen 1991; Moravcsik 1993; Pollack 2005 and Moga 2009.

importance of EU institutions, which enjoy a certain degree of independence to influence, even shape the preferences of EU member states, and ultimately affects the Union's policy making (Pollack 1996).

Recent years have witnessed an increasing convergence of the three approaches of new institutionalism (Kato 1996; Thelen 1999). For instance, many rational-choice theorists have started to accept the importance of institutions in determining policy outcomes and to embrace a broader view of institutions that includes informal rules and norms. Among historical and sociological institutionalists, there has been a stronger appreciation of rational calculations and individual behaviour.<sup>35</sup> In the meantime, in order to reinforce our understandings of the relationship between actors and institutions, political scientists and theorists have applied, extended and adapted the rational-choice principal-agent analysis by taking into account alternative perspectives of new institutionalisms. Largely relying on principal-agent theory, but also drawing insights from historical and sociological institutionalisms, Chapter 4 will formulate the main hypotheses regarding EU representation coherence, measured by EU voting cohesion at the UNGA and assessed by horizontal and vertical coherence at the UNSC.

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<sup>35</sup> For a review of the works that construct explanations across different schools of new institutionalism, see Thelen 1999.

## **Chapter 4 EU Representation at the UN: Principal-Agent Explanation**

EU representation at the UN is complicated because it is not only affected by the rules of participation in different UN bodies but also by the delegation structures designed by the Union. This chapter attempts to explain these varieties and complexities from the perspective of the principal-agent theory. The Union and its entire membership are considered collective principals, whereas agents of the EU and the representation structures are different at the UNGA and the UNSC. In each context, the EU's representation has experienced different stages of development. Whether the ToL has contributed to increased EU representation coherence remains to be seen. This chapter will describe the evolution of EU representation at these two UN organs while placing a particular emphasis on the implications of the ToL.

### **4.1 The EU in the Context of the UN General Assembly**

#### **4.1.1 The UN General Assembly at a Glance**

The UNGA is the chief deliberative, policymaking and representative organ of the UN (Marin-Bosch 1998). Currently comprising 193 Members, it provides a significant forum for multilateral discussions of the full spectrum of international issues. The functions and powers of the UNGA include, *inter alia*, discussing and making recommendations on any question relevant to international peace and security, except when the issue is being discussed by the UNSC;<sup>36</sup> giving recommendations to promote international political cooperation and peaceful settlements; considering reports from the UNSC; deciding on UN budgetary matters; electing the non-permanent members of the UNSC, the members of other UN councils and organs, as well as appointing the Secretary-General on the recommendation of the UNSC (Baehr and Gordenker 2005; Franda 2006). The Assembly normally gathers under its president or the Secretary-General in a regular session, which lasts from mid-September to December every year. Special sessions can be convened in case of emergency by the Secretary-General, at the request of the UNSC or of a majority of the UN members (Article 20 UN Charter).

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<sup>36</sup> However, through its “Uniting for Peace resolution” in November 1950, in a case where there appears to be a threat to the peace, breach of the peace or act of aggression, the UNGA may consider the matter immediately and issue any recommendations it deems necessary in order to restore international peace and security, if the UNSC fails to act due to a lack of unanimity among its permanent members.

UN membership is only open to peace-loving states which accept and are willing to carry out the obligations under the UN Charter (Article 3 and 4 UN Charter). This requirement also applies to the UNGA. Member states of the UNGA are equally represented and each member has one vote. Non-member states, entities and organizations can be invited to participate as observers in the work of the UNGA (Weiss 2010). The UN Charter does not provide clear procedures for observer status. Generally, observers have access to most UNGA meetings and relevant documentation. But they are not allowed to vote. On 3 May 2011, the EU secured an enhanced observer status at the Assembly by UNGA Resolution 65/276. Since then, EU representatives have obtained the rights to speak in general debates, to make interventions, oral proposals and amendments, and to exercise the right of reply regarding positions of the Union. However, the EU cannot vote or challenge resolutions and decisions. Enhanced observer status is open to other IOs out of request. So far, the EU is the only entity that has been granted such a status.

The UNGA can establish Committees and other subsidiary organs as it deems necessary for the performance of its functions (Article 22 UN Charter).<sup>37</sup> There are six Main Committees.<sup>38</sup> Each committee consists of all UNGA members. The Main Committees discuss the items referred to them by the UNGA within their respective specialties and seek to harmonize the various approaches of states. After the relevant Committee has duly considered its content, a draft resolution or decision for consideration will be presented to a plenary meeting of the Assembly.<sup>39</sup>

Although not legally binding,<sup>40</sup> decisions of UNGA resolutions carry significant moral or political weight (Petersen 2006). Decisions can be made with or without a vote. The president of the UNGA can propose a resolution to be adopted by consensus after having consulted with all delegations. If a vote is decided to be necessary, decisions on important questions – such as peace and security, admission of new

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<sup>37</sup> UNGA subsidiary organs include committees, boards, commissions, councils and panels, working groups and others.

<sup>38</sup> These main committees are the Disarmament and International Security Committee (First Committee), the Economic and Finance Committee (Second Committee), the Social, Humanitarian, and Cultural Committee (Third Committee), the Special Political and Decolonisation Committee (Fourth Committee), the Administrative and Budgetary Committee (Fifth Committee) and the Legal Committee (Sixth Committee).

<sup>39</sup> According to Rule 65 of UNGA Rules of Procedure, the UNGA “shall not, unless it decides otherwise, make a final decision upon any item on the agenda until it has received a report of a committee on that item”. On issues such as Palestine and the situation in the Middle East, the Assembly acts directly in its plenary meetings without a report from any of the Committees.

<sup>40</sup> Decisions of UNGA resolutions have no binding power, except on internal UN affairs, such as budgetary issues.

members and budgetary matters – are made by a two thirds majority of the members present and voting.<sup>41</sup> Decisions on other matters should be made by simple majority. Resolutions adopted by a vote can be documented either as roll call votes if so requested in advance or merely with a summary of the result. Recorded resolutions only take a small portion of all UNGA resolutions. Under exceptional circumstances, some meetings of the UNGA and its Main Committees are held in private without official records (Hurwitz 1976; Kim and Russet 1996; Hug 2012).

#### **4.1.2 Developments of EU representation at the UN General Assembly**

The EU's presence at the UN can be traced back to the information office created by the Commission in New York. It became an official delegation in 1974 when the UNGA decided to grant the Commission observer status, which allowed a representative of the Commission to take the floor on behalf of the European Community on matters within its exclusive competences as a nonvoter. The Community could only address UNGA meetings after all the member states had done so. Strictly speaking, at that time the Community had no agent to defend its common interests coming within foreign policy. In practice, its opinion was expressed on official occasions by the member state holding the revolving Presidency.

Aiming to further promote cooperation and better protect the Union's common interests, EU member states agreed in the Maastricht Treaty (signed in February 1992, in force in November 1993) to launch the CFSP and to entrust the responsibility of representing the EU in this field to the Presidency in legal terms. The Maastricht Treaty itself was a result of the growing political solidarity and preference homogeneity among member states since the introduction of the EPC in 1970. The Amsterdam Treaty (signed in October 1997, in force in May 1999) created the position of the HR/SG to assist the Presidency. While the Nice Treaty (signed in February 2001, in force in February 2003) did not make any significant changes to the delegation structure of the EU, it provided a treaty basis for the Political and Security Committee (PSC), which had been made a permanent body of the EU in January 2001 to formally replace the Political Committee (PoCo).<sup>42</sup> The PSC retains the PoCo's function to monitor the international situation falling in

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<sup>41</sup> "Members present and voting" refers to members casting affirmative or negative votes. Members that abstain from voting are considered non-voters.

<sup>42</sup> Council Decision (2001/78/CFSP) of 22 January 2001.

the area of the CFSP, to contribute to the definition of policies, and to monitor the implementation of agreed policies. It exercises political control and strategic direction of crisis management operations and can take relevant decisions under the authorization of the Council. In this sense, the Nice Treaty delegated a function that had been normally reserved for the Council to the PSC (Duke 2005).<sup>43</sup>

Before the adoption of the ToL, the Presidency had been the leading agent in the CFSP field. The Presidency represented the Union by delivering presidential statements on official UN occasions,<sup>44</sup> and by negotiating on behalf of the EU toward a wider UN membership in *troika* meetings, along with the representatives from the Commission delegation, the Liaison Office of the Council Secretariat, and if necessary, the next Presidency (Keukeleire and MacNaughtan 2008). EU *troika* meetings at the UN were held at different hierarchical levels. At the ministerial level, the EU was co-represented by the foreign minister of the Presidency, the Commissioner for External Relations and the HR/SG. The Presidency was also responsible for informing other EU members about UN activities and organizing internal coordination meetings over UN affairs. The workload of the Presidency was heavy, given that there were over 1,000 meetings in New York every year. On rare occasions, the HR/SG or a Commissioner could take the floor behind the plate “European Community”. But their role, along with the Council Secretariat’s Liaison Office, was mainly to support the Presidency (Bengtsson and Allen 2011: 114).

The delegation relationship during this period was initially problematic. First, each Presidency was conditioned by its domestic, historical and geographical preferences, which were not necessarily consistent with the collective interests of the EU. For the Presidency, representing the EU was an option rather than an obligation (Drieskens 2008: 612). Second, the Presidency rotated every six months among EU member states. Given that the time horizon of delegation was rather short, and that EU member states had no concerns for cancellation of delegation, there were fewer incentives for the Presidencies to avoid agent shirking or slippage. Each rotation was accompanied by a shift of political priorities, diplomatic reputation and global influence, which would cause discontinuity in the agents’ representative capacities (Dijkstra

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<sup>43</sup> For an overview of the developments from the Maastricht Treaty to post-Lisbon, see Griller and Ziller 2008; Piris 2010; Regelsberger 2011; Dosenrode 2012.

<sup>44</sup> The declarations and statements by the Presidency had to be formally approved by all member states and were revised via the COREU network (Smith 2006). For a more detailed analysis of the COREU network, see Bicchi 2011.

2011).<sup>45</sup> The *troika* formation was introduced to mitigate this problem, but its role in bridging the continuity gap was limited, not to mention the added confusion due to increased number of agents (Bengtsson and Allen op.cit. 109). Third, the fragmented pillar structure led to internal rivalries among the Presidency, the Commission and the HR/SG. Fourth, the requirement of unanimity for CFSP decision-making gave the Presidency more leeway to manipulate coordination meetings towards its own advantage. Finally, control system was inadequate in terms of both *ex ante* and *ex post* mechanisms. The Union did not have an option in agent selection in the sense that each member state had an equal chance of being the agent in turns and the EP was not involved in the appointment of the HR/SG. It was difficult to control the Presidency by limiting its discretion because the Presidency itself, as an EU member, participated in designing the extent of agent discretion. The supervisory power of the EP over the Presidency was relatively superficial. The Presidency was only required to keep the EP regularly informed of the development of the CFSP and consulted on relevant decisions. The EP could call the Presidency to answer questions but could not bring it to court in case of violation of EU treaties since the ECJ had no jurisdiction in the CFSP remit (Greco 2003; Hinarejos 2009). Altogether the European Council under the leadership of the rotating Presidency performed sub-optimally (Dosenrode 2012: 161).

The ToL re-delegated the task of representing the EU on CFSP matters to two separate agents: the President, which has replaced the Presidency to chair the European Council and the HR, which was created by combining the former HR/SG and the Commissioner for External Relations. The conflicting preferences within the EU led to the appointments of two centrist and pragmatic agents of relatively low profile in November 2009, namely Herman Van Rompuy as the President and Catharine Ashton as the HR. Early contestants for the President had included, *inter alia*, former British Prime Minister Tony Blair, who had been a charismatic global figure in the foreign policy domain. His candidacy was rejected because of his failure to lead the UK to adopt euro and to sign the Schengen Agreement, and because of his decision to engage British soldiers in the US-led invasion of Iraq in 2003, which had seriously split the Union (MacCormick 2011: 128). Mainly due to the joint support from Nicolas Sarkozy and Angela Merkel, the

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<sup>45</sup> For a detailed analysis of the discontinuity between different rotating Presidencies, see Bengtsson and Allen 2011; Dijkstra 2011.

European Council eventually chose Van Rompuy, a lesser known centre-right technocrat who had served as the 66<sup>th</sup> Prime Minister of Belgium. The appointment of Ashton was largely a compromise between the UK and the Franco-Germany axis. It was reported that Gordon Brown dropped Blair's bid for the President so that a centre-left British Labour politician could inherit the office of the foreign policy chief (Barber 2010:61).

The risk of shirking is reduced since both the President and the HR are full-time agents that focus exclusively on EU business rather than the interests of a particular member state. Compared to the Presidency, they are less likely to be diverted by national politics.<sup>46</sup> The agents are no longer subject to semiannual rotation. The President is elected for a term of two and a half years, renewable once, while the HR's term of office is five years. Relatively stable yet limited time horizons of delegation provide fewer incentives for slippage. The termination of rotation also increases the continuity of agent capacities. Representative capacities have much to do with the two officeholders' personalities, e.g., their characters, expertises, resources, experiences as well as leadership styles. The incumbent President is described as a shrewd, introverted, self-effacing and mild-mannered politician (Barber 2010; Dinan 2012). Van Rompuy is highly regarded in EU political and policy circles for his coalition-building skills, economic expertise and multilingual abilities. His leadership style is open and pragmatic with a problem-solving orientation. He tends to respect constraints and is less likely to force an agreement if there is no general consensus (Van Assche 2009: 18). As for the new HR, those who have been working with Ashton portray her as an intelligent, cautious, hard-working official and a quick learner. As a trained economist and the former Trade Commissioner of the EU, she has developed rich knowledge of economic issues and good negotiation skills. Ashton is also known as a people person who works in a relatively flexible and practical style (Howorth 2011; Helwig 2013).

Though agent capacities are subject to change when different personalities assume the offices, the ToL has provided the President and the HR with stronger administrative and professional assistance to overcome capacity deficit. It established the EEAS, which, under the authority of the HR, works in cooperation with

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<sup>46</sup> Article 15 TEU prescribes that the President cannot simultaneously hold a national office.

the diplomatic services of EU member states and contains officials from relevant departments of the Commission and the Council as well as staff seconded from national diplomatic services (Article 27 TEU).<sup>47</sup> The delegations of the Commission around the world have been transformed into EU delegations, which form an integral part of the EEAS. EU delegations contain both regular EEAS staff and staff from relevant Commission services, who work under the authority of the Heads of Delegations. The delegations are the operational focus of the service and cover issues of the entire range of EU competences (Van Elsuwege and Merket 2012: 42). At the UNGA, the Commission Delegation and the Council's Liaison Office have merged into the Delegation of the EU, which has progressively assumed the role of the national delegation of the rotating Presidency. Moreover, the new agents are less vulnerable to exogenous factors than national governments. Take the eurozone crisis as an example, if the Spanish Presidency had been leading the European Council in the first half of 2010, its capabilities of representing the Union would have been weakened due to its wobbly financial situation. On the contrary, owing to his expertise in economic and financial issues, Van Rompuy was able to, in an authoritative and reassuring manner, comprehend the developments of the crisis and effectively lead the Union by establishing a Task Force to seek for the solutions (Dinan 2012).

The EU has gained more power in agent selection. According to the ToL, the President shall be elected by the European Council by a qualified majority (Article 15.5 TEU) while the HR shall be appointed by the European Council through a qualified majority with the agreement of the President of the Commission (Article 18.1 TEU). Meanwhile, the EP has an indirect say over the appointment of the HR since the latter, as a Vice-President of the Commission, shall be subject to a vote of consent by the EP as a body together with other members of the Commission (Article 17.7 TEU). In practice, the EP holds a series of public hearings with the candidate Commissioners before the voting.

In this new "contract", the President is entrusted with the tasks to provide strategic leadership, coordinate the Commission and the GAC, facilitate consensus within the European Council, and represent the EU toward the outside world (Article 15 TEU) and of European Council towards other EU institutions

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<sup>47</sup> For discussions of how seconded national experts influence EU decision making, see Yannick 2012.

(Dosenrode 2012). In comparison, the mandates conferred upon the HR by the ToL are far more extensive: first and foremost, the HR acts as the EU's representative in the CFSP remit. As the head of the EEAS and the European Defence Agency (EDA), the HR conducts and implements the CFSP, including the CSDP.<sup>48</sup> The HR has the right to submit proposals or initiatives regarding these policies to the Council, either on its own initiative or jointly with the Commission (Article 22.2 TEU). Acting in contact with the PSC, the HR shall ensure coordination of CSDP tasks (Article 43 TEU). Moreover, the HR chairs the FAC, and can convene extraordinary Council meetings on emergency matters (Article 30 TEU).<sup>49</sup> Simultaneously as a Vice-President of the Commission, the HR is in charge of coordinating different aspects of the Union's external action and ensuring its consistency (Article 18.4 TEU). This innovation is supposed to bridge the competence gap and encourage information flow between the Council and Commission (Marangoni 2012; J. Schmidt 2012). Inside the College of Commissioners, the HR is the chair of the Group on External Relations Commissioners.<sup>50</sup> The HR also participates in the work of the European Council (Article 15.2 TEU). In international conferences and organizations, the HR and EU delegations have progressively replaced the former *troika* in conducting political dialogue with third parties on the Union's behalf and in organising the coordination of EU member states and ensure their compliance with the principles of "loyalty and mutual solidarity" (Article 24 and 27 TEU). Take the UNGA as an example, the HR, together with the President, supported by the EU delegation to the UN, have taken over the EU's representation from the Presidency. In international platforms where not all EU member states participate, such as the UNSC, the HR shall be kept informed by those members that are represented. At the UNSC in particular, the HR can be invited to present the Union's common position (Article 34 TEU).

Parliamentary oversight over the agents is somewhat extended. The President is required by the ToL to submit a report to the EP after each European Council meeting (Article 15.6 TEU), while the HR needs to keep the EP regularly informed and consulted on issues concerning the CFSP and the CSDP. In addition, the

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<sup>48</sup> The explicit mention of the CSDP corresponds to the fact that it is declared an "integral part" of the CFSP (Article 42 TEU).

<sup>49</sup> The HR may, where necessary, ask to be replaced by a member of the rotating Presidency, e.g., when the FAC is convened to discuss common commercial policy issues.

<sup>50</sup> A commissioner group set up by President Barroso in April 2010, including the Commissioner responsible for Development, Enlargement and Neighbourhood Policy, International Cooperation, Humanitarian Aid and Crisis Response, Trade, and Economic and Monetary Affairs. The President of the Commission can chair the meetings of this group if he chooses to.

EP has the right to refer questions or make recommendations to the HR. The EP also holds semiannual debates – rather than “an annual debate” stipulated in the preceding treaties – on progress in implementing CFSP and CSDP policies (Article 36 TEU). The budgetary power – shared with the Council – over the operational expenditure of the EEAS allows the EP to exert indirect influence (Bickerton 2011). The Union has gained additional strength in sanctions as well since the European Council can terminate the President and the HR’s terms of office in case of an impediment or serious misconduct.

The Union obtained legal personality through the ToL (Article 47 TEU). It means that the EU, which has replaced and succeeded the European Community, thereafter has got the ability to conclude and negotiate international agreements, join international conventions and become a member of international organizations. Such an improvement made it possible for the Union to pursue an advanced status at the UN. According to UNGA Resolution 65/276, the EU can be invited to participate in the General Debate, to make interventions, to exercise the right of reply concerning EU positions, and to present proposals or amendments as agreed by EU member states. This resolution permitted EU representatives to rank among the first speakers in UN discussions.<sup>51</sup> But EU representatives can neither vote nor challenge UN resolutions. Nor can they raise a point of order or put forward candidates in the UNGA. A precondition for them to take the floor to present the Union’s positions is a pre-defined agreement among EU members. Nevertheless, this resolution has promoted the EU’s status at the UN and aligned the modalities of EU participation in the UNGA to the new arrangements of the ToL.

However, EU representation in the post-Lisbon era is far from flawless. The ToL does not contain any provision relating to the nomination process for the President or the HR. Candidates for both posts in practice are nominated by national governments and then appointed by the European Council via qualified majority voting (QMV). The EP has no formal control whatsoever over agent selection. It risks making the process into an intergovernmental horse-trading and thus depriving the collective principals of a full range of candidates from which to choose. For example, the appointments of Van Rompuy and Ashton were considered to be a trade-off among the powerful member states. Member states’ firm attachment to national

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<sup>51</sup> For example, at the General Debate of the 67<sup>th</sup> Session, the EU was put between Australia and Egypt on the list of speakers.

sovereignty in foreign policy and their reluctance to give great powers to Brussels resulted in appointing two moderate and pragmatic agents who were unlikely to upstage the leaders of larger member states. The need to reach power balance brought about a centre-right male President from a small member state and a centre-left female HR from a big member state. It seemed that these concerns were put before candidates' actual qualifications for the jobs. The fact that Van Rompuy was backed by Merkel and Sarkozy while Ashton was championed by Brown suggests that big members within the EU are more influential on agent selection. The lack of treaty base and transparency for the method of appointment has led to accusations of "Soviet-style secrecy" from Central and Eastern member states. But the last-minute appeal from Poland to hold "job interviews" for the candidates in front of EU leaders was in the event quickly brushed aside (Barber 2010:65).

Neither Van Rompuy nor Ashton could be counted as political heavyweights (Regelsberger 2011: 32). Nor could they be regarded as foreign policy specialists. This might be problematic since the first incumbents are especially influential in shaping the positions. It was speculated that they would become followers rather than leaders in EU foreign policy, that they would act as internal negotiators instead of representatives of the EU towards the outside world, and that they would be too much of moderators rather than enterprising initiators (Dinan 2012; Marangoni 2012). Assessments of their performance to date draw mixed responses. Admirers insist that they have basically filled the job-descriptions in difficult times while critics accuse them of lacking judgement and leadership.<sup>52</sup>

In respect of contract design, the ToL puts the President in charge of presiding over the European Council, but the former close link with the Council of Ministers does not go automatically with the job. The rotating presidency continues to chair various Council formations, where the President has no ability to direct or control their agenda-setting and legislative processes. Within the European Council, the President does not enjoy the right to vote as other leaders of national governments do. On one hand, it prevents the President from manipulating decision-making based on individual preferences. On the other, it limits the President's role as the consensus builder. Moreover, the creation of the President could add an extra layer of

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<sup>52</sup> For assessments of both the President and the HR's performance, see Howorth 2011; Marangoni 2012 and Helwig 2013. For the evaluation of the HR's performance in particular, see Rieger 2011.

multiplicity to EU representation, as it increases the number of agents and places the President in competitions with the HR and the Commission President. The ToL prescribes that the President shall conduct representation without prejudice to the powers of the HR (Article 27 TEU), whereas the Commission shall ensure the Union's external representation, with the exception of the CFSP, and other cases provided for in the Treaties (Article 17 TEU). These provisions imply that the designers of the ToL – in despite of foreseeing the potential of conflicts cross EU institutions – did not clarify in the treaty the distribution of representation responsibilities or the possible resolutions to these problems. A reading between the lines seems to suggest that the President and the HR represent the Union on matters regarding the CFSP, respectively at the level of heads of state and government and the level of ministers, while the Commission represents the EU on non-CFSP issues. Although so far the picture of EU representation in IOs emerged from practice has been mixed (as illustrated in Chapter 3), this “formula” generally applies to the UNGA. Take the 67<sup>th</sup> UNGA as an example, the EU was represented by President Van Rompuy in General Debate, by Commission President Barroso at the High-level Meeting on the Rule of Law, and by HR Ashton in the meetings of Foreign Affairs Ministers. Three Commissioners also travelled to New York and represented the EU at various bilateral and multilateral meetings in their respective fields (EU@UN 2012).<sup>53</sup>

The Presidency remains relevant in the Union's external affairs after Lisbon, though it is no longer seen as an EU agent in external representation. It is required that the President submits draft agenda to the GAC and prepares regular meetings of the European Council “in close cooperation” with the rotating Presidency, which still chairs most of Council formations and preparatory bodies (including working parties and committees).<sup>54</sup> Especially as it is in charge of the GAC and COREPER II, which respectively prepares the meetings of the European Council and the FAC, the Presidency is able to exert influence on the strategic planning and agenda-setting of the CFSP. One can assume that the bigger the member state holding the Presidency, the greater influence it possesses and thus the greater the potential for friction (Rüger 2011: 227). Moreover, the ToL affirmed the *trio* Presidency system, where three Presidencies work together under an 18-month common programme (Batory and Puetter 2012). All these arrangements lead to a higher risk of

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<sup>53</sup> The three Commissioners are Kristalina Georgieva (International Cooperation, Humanitarian Aid and Crisis Response), Connie Hedegaard (Climate Action) and Andris Piebalgs (Development).

<sup>54</sup> European Council Decision (2009/882/EU) of 1 December 2009 adopting its Rules of Procedure.

conflicts between the *trio* Presidencies and the President or risk of competitions between the *trio* and the HR. It appeared that EU member states, at least some of them, were not prepared for a swift end to the extensive power of the rotating Presidency in external affairs: e.g., the Spanish Presidency insisted on hosting the EU-US summit in 2010 (Allen and Smith 2011: 211),<sup>55</sup> while the Hungarian Presidency rejected the EEAS pledge to chair Council meetings, not until the service became more firmly established (Vanhoonacker and Pomorska 2013: 1325). Therefore, horizontal coherence of EU representation to a certain degree depends on the interplay between these EU actors, including the HR, the President, the Commission and the rotating Presidency, on whether they can coordinate with each other to minimize inter-institutional tensions. The resistance from the member states with respect to the transference of competence to supranational agents of the EU is also an indicator of their divergent preferences in the matter of external representation, which is a main source of vertical incoherence.

As introduced earlier in this section, the ToL gives the HR a broad and cross-institutional mandate regarding the EU's external representation. It represents an attempt to combine different aspects of external relations and to bridge the institutional divide between the Council and the Commission. Yet, this "all-encompassing" mandate does not cover trade, development cooperation and humanitarian aid, despite their obvious connections to the CFSP. As a matter of fact, the HR does not even chair the FAC when these issues are under discussion, which poses the question of the extent to which she can influence the policy making in that configuration (Marangoni 2012). Perhaps this problem sounds less serious when it is compared to the relentless workload of the HR. The demanding mandate almost makes this job an "impossible mission" (Rüger 2011: 220). It is hard to imagine that one individual "wearing so many hats" can get all the work done while simultaneously maintaining high quality standards. No wonder the timing of Ashton's proposals and the quality of her discussion papers have often been criticised (Kaczyński 2011). Although the HR was designed to be a full-time agent, in reality she can only be a part-time leader at best in any of the EU institutions. Ashton was repeatedly criticised for her lack of visibility at hotspots, e.g., Haiti after the earthquake, and for not attending important gatherings, e.g., the first Defence Ministers meeting

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<sup>55</sup> The dispute was to a degree solved by President Obama's rejection to attend the summit originally scheduled in Madrid. The EU-US Summit in 2010 was in the end held on 20 November in Lisbon, by when the rotating Presidency had passed to Belgium.

since her assumption of the Office (Howorth 2011). Being constantly questioned and criticised weakens the HR's role as one of the leading representatives for the EU. To do her justice, it is simply impossible for her to attend different occasions at the same time. The ToL does not provide deputies for the HR. The current arrangements for other actors, e.g., Commissioners, ministers from the rotating Presidency, senior EEAS officials or European Union Special Representatives (EUSRs), to deputise for the HR are still ad-hoc. In the 2013 EEAS review, Ashton calls for the formalization of these arrangements, or alternatively, the creation of formal deputy HR position(s), to provide the HR with stronger support (see Ashton 2013).

The EEAS was established with the purpose of assisting the HR in fulfilling her multiple mandates. But by scholars' accounts on the performance of the EEAS in the early days (e.g., Blockmans and Laatsit 2012; Vanhoonaeker and Pomoska 2013), it suffered from the diversity in its members' backgrounds, the absence of standard operating procedures, and the lack of an *esprit de corps*. This intra-institutional incoherence within the EEAS can be partially explained by how the Service was set up. As noted in the previous section, the EEAS contains officials from the Commission, the Council Secretariat and national diplomatic services, which before the transition were subject to different institutional rules, regulations, working cultures, management styles and fields of expertise. Blending these differences between branches of the EEAS and clarifying the allocation of responsibilities has not been easy. In fact, the process started with difficulties simply due to the physical dispersion of EEAS officials in different locations of Brussels (Marangoni 2012). As an integral part of the EEAS, EU delegations have encountered a similar problem since delegation employees are divided between the EEAS and the Commission. Different backgrounds and working approaches may cause miscommunications, even disharmony between the two categories of staff. This split of EU delegations staff between two institutions also raises concerns about loyalty. Legally speaking, the Head of Delegation, who is appointed by and accountable to the HR, has authority over all staff in the delegation, irrespective of their status and origins.<sup>56</sup> It is unclear where the loyalties of the Commission staff lie, with the Head of Delegation and the HR, the Commission or their country of origin, especially when the

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<sup>56</sup> Council Decision 2010/427/EU of 26 July 2010 establishing the organization and functioning of the European External Action Service.

Commission, like the HR and the EEAS, can issue instructions to the delegation as well.<sup>57</sup> The uncertainty is further amplified if these instructions from different institutions are inconsistent or even conflicting. In January 2012, the EEAS and the Commission agreed detailed working arrangements covering cooperation on instructions and management of work in EU delegations. The arrangements were considered well functioning in the 2013 EEAS Review, but the HR noted that the Development Cooperation coordination would still need to be strengthened in order to raise the profile of the EEAS (Ashton 2013).

The “loyalty” issue within EU delegations reflects a deeper leadership rivalry between the HR and the Commission President. An early example of the competition between these two EU representatives is that in March 2010 President Barroso unilaterally appointed the Head of the EU Delegation in Washington without consulting Ashton in advance. It triggered a controversy as Commission delegations had become EU delegations following the ToL’s entry into force, meaning the right to appoint Heads of Delegations had fallen on the HR. But the Commission argued that the appointment was still within its competence since the EEAS were not yet in place (Allen and Smith 2011: 210).

Challenges to horizontal coherence exist not only within the EEAS but also between the EEAS and other EU institutions that have external or international dimensions, notably the Commission and the Council. According to the Council Decision establishing the EEAS, the Service shall support the HR, as Vice-President of the Commission, in her responsibilities in the EU’s external relations and in coordinating different aspects of the Union’s external action, without prejudice to the normal tasks of the Commission services.<sup>58</sup> However, there is no clear delineation of the contents of the “normal tasks”. Many Commission Directorates-Generals (DGs), especially External Relations DGs, have been working on external action for many years.<sup>59</sup> It is difficult for them to accept being coordinated by a new structure established outside the Commission. Some Commissioners fear that the EEAS represents a dangerous development of national governments interfering in Community competences (Helwig et al. 2013: 31). For these reasons, the EEAS’s attempt to coordinate some of the Commission DGs was generally unwelcome. Even before the

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<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

<sup>59</sup> The Directorates-Generals inside the Commission are divided into four groups: Policy DGs, External relations DGs, General Service DGs and Internal Service DGs. For a comprehensive guide to the way the Commission is organised, see Spence and Edwards 2006; Wille 2013.

establishment of the Service, the Commission had transferred several units from the Directorate-General for External Relations (DG RELEX) to newly created DGs to prevent them being merged into the EEAS. Another manifestation of this concern is the transference of the European Neighborhood Policy (ENP) from the External Relations portfolio to Trade and then to Enlargement (Blockmans and Laatsit 2012: 144). Apart from the turf wars between the two institutions, EEAS officials often complain about the hesitations of Commission officials in information sharing (Helwig et al. 2013).

Meanwhile, the EEAS is required to support the HR in her capacity as President of the FAC, without prejudice to the normal tasks of the General Secretariat of the Council.<sup>60</sup> Although the “normal tasks” were left undefined, they should include the administrative tasks of preparing and holding Council meetings (Blockmans and Laatsit 2012: 145). After the ToL went into effect, all the preparatory bodies with a fixed chair are either chaired by an EEAS official, acting as a representative of the HR, or by the General Secretariat of the Council.<sup>61</sup> In all working parties preparing the PSC and FAC, the chairperson is flanked by a representative of the EEAS and a representative of the General-Secretariat of the Council (Helwig et al. 2013: 16). There has been evidence indicating that the General Secretariat of the Council would have preferred to retain its supportive role to the HR (Marangoni 2012: 14). Allowing the EEAS, instead of the rotating Presidency, to take over chairing the PSC and the thematic (or geographical) working groups connecting to the CFSP adds to more continuity in agenda planning in the EU’s external action. But as explained earlier in this section, the Presidency – by keeping its power over other preparatory bodies, especially COREPER II, which prepares decisions to be taken by the FAC – has found its way into intervening in the “business” of the EEAS.

The inter-institutional divide is further embodied in the service the EEAS provides its different “masters” with (Blockmans and Laatsit 2012). According to the Council Decision,<sup>62</sup> the EEAS is required to support the HR in her various capacities. The EEAS also assists the President of the European Council, the Commission President and Commissioners in the exercise of their respective functions in the rear of external relations. Furthermore, the EEAS is obliged to support, and work in cooperation with, EU member

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<sup>60</sup> Council Decision 2010/427/EU.

<sup>61</sup> For a list of the two categories of preparatory bodies, see Council (11903/11) of 22 June 2011, List of Council preparatory bodies.

<sup>62</sup> Council Decision (2010/427/EU).

states' diplomatic services, the Council General Secretariat, as well as Commission services, in order to ensure horizontal coherence of the Union's external action. Finally, it is required that the EEAS extends appropriate support and cooperation to the EP and other relevant institutions of the Union. It remains to be seen the extent to which the EEAS can fulfill its obligations of serving multiple political masters.

The ToL has hardly made any advancement in the "design" of decision rules on CFSP matters since unanimity continues to prevail (Article 31.1 TEU). Among the rare exceptions where the Council decides by QMV, the one relating to the HR stipulates that the Council can do so when adopting a decision defining a Union action or position, based on a proposal presented by the HR "following a specific request of the European Council" (Article 31.2 TEU). Apparently, whether to make that request depends on the European Council, where national leaders of the member states continue to hold decisive power. Another innovation of the ToL is its introduction of *passerelle* clauses into CFSP decision-making, which allows the European Council, acting by unanimity, to replace unanimous voting in the Council with QMV, or transform a special legislative procedure to the ordinary legislative procedure after receiving the EP's consent (Article 31.3 and 48.7 TEU).<sup>63</sup> Whether to take that initiative, likewise, is up to the European Council. For the adoption of such decisions, the European Council needs to seek the agreements of the national parliaments beforehand, implying that domestic politics of the member states may come into play.

The agents' abilities to facilitate effective policy-making are rather confined. Despite limited progress made in agent control, the EP remains in nature a consultative and advisory assembly when it comes to the CFSP. The Council can ignore the EP's suggestions or even reach an agreement before the EP gives its opinion. The ECJ, the body that is tasked with interpreting EU law and ensuring its equal application across all EU member states, has not yet obtained jurisdiction with respect to CFSP issues (Article 24.1 TEU).<sup>64</sup> It means neither the Council nor the HR, which are entrusted with the responsibility to ensure "CFSP-specific principle of loyalty" prescribed in Article 24.3 TEU can appeal to the ECJ to impose sanctions for cases of non-compliance with CFSP obligations (Van Elsuwege and Merket 2012). However "beautiful" the spirit of

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<sup>63</sup> These provisions do not apply to decisions having military or defence implications (Article 31.4 TEU).

<sup>64</sup> There are two important exceptions to this non-jurisdiction rule of the ECJ provided by the ToL: the possibility to police the borderline between CFSP and non-CFSP competences of the Union and to review the legality of decisions adopted by the Council on restrictive measures against natural or legal persons (Article 24 TEU; Article 275 TFEU).

“loyalty and mutual solidarity” may sound, the CFSP has not become a policy area that is readily amenable to enforcement.

This weakness of EU representation in *ex post* control mechanisms questions the HR’s capabilities of promoting vertical coherence within and outside the Council, that is, to harmonize the different preferences of EU member states and forge common EU positions. The HR, and by analogy other EU agents, in spite of enjoying some level of autonomy, are largely confined within the discretion scope that was agreed by their collective principals, i.e., EU member states. After all, EU representatives are able to deliver and defend a common approach on the premise that the member states acknowledge the existence of such an approach. At the end of the day, the realization of vertical coherence in EU representation depends on the extent to which EU member states are willing to overcome the preference heterogeneity, and the degree to which they are willing to accept the transfer of competences, allowing EU agents to fully perform the representation and coordination functions. Considering the remaining differences of foreign policy culture, experiences and expectations among EU member states (Cameron 2011), and the fact that EU representatives have to compete with national leaders for centre stage in the Union’s external relations, one can only imagine that the “journey” to coherent EU representation will not be easy.

This predicament also applies to the EEAS and EU delegations. So far, national views on the new EU agents are mixed. Although it is difficult to make generalizations about all EU member states, some patterns in the perceptions of foreign policy elites can be identified. A recent edited special issue by Balfour and Raik (2013) represents such an effort to provide a systematic research on this subject based on case studies of fourteen EU member states, taking account of a broad range of features: size, duration of membership and geographic distribution. To summarize some of their key findings: in general, foreign policy elites see the new EU agents as added value but not replacements to national Ministries of Foreign Affairs (MFAs), whereas some member states show concerns with national visibility declines (e.g., Spain, the Netherlands and Greece) and suggest reservations about competence transfer for specific areas (e.g., France and Italy). Britain and the Czech Republic rank the most sceptical countries on the enhanced status of the EEAS with the former emphasizing clear boundaries between national and EU competences while the latter being

vigilant against the EEAS as a tool of domination by larger members. In comparison, the UK government is more pragmatic since it considers the EEAS beneficial wherever national strategic interests are met, whereas Czech officials see the EEAS at best ancillary and oppose further integration of the CFSP. Both countries view a leading role of EU delegations in IOs as problematic. The British government even sent around instructions to its national embassies warning of a “competence creep” of the EEAS (Ibid. 144). France advocates a bigger role for EU delegations in IOs, with the exception of the UNSC. Against the background of eurozone crisis and economic recession, the majority of EU member states are not interested in expanding the EEAS budget. Estonia is one of few countries willing to consider an increase in the budget for the EEAS. France on the other hand stresses the importance of burden-sharing and the supports the establishment of a European fund to ensure credible commitments. When it comes to the transfer of diplomatic tasks from national to EU level, EU member states are mainly split into three groups: Estonia, Finland, the Netherlands and Greece welcome a potential takeover of consular services by Union delegations; Germany, Sweden, Portugal and Slovenia are either open-minded or ambiguous about the competence transfer; Italy, Spain, Poland, Britain and the Czech Republic are strong opponents of EEAS involvement in consular affairs. But the Czech Republic would like to see the EEAS to play an important part in Eastern Europe and the Balkans. France does not quite fit in any the groups because it supports the coordination role of the EEAS in providing consular protection and evacuation in cases of emergency, but has not yet prepared to go as far as surrender its right of visa issuance.<sup>65</sup> It appears that smaller members within the EU tend to be less antagonistic to supranational agents of the EU. Within the “Big three” (i.e., France, Germany and the UK), Germany is most friendly to joint representation in IOs insofar as it does not cut down German diplomatic networks. It may have something to do with its long-standing pro-integration tradition (D éz Medrano 2003; Harmsen and Spiering 2005). On the contrary, both Britain (D éz Medrano 2003) and the Czech Republic (Taggart and Szczerbiak 2004), which are most conservative about the empowerment of the EEAS and EU delegations, are conventionally considered Eurosceptical countries.<sup>66</sup>

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<sup>65</sup> For more detailed descriptions, see Balfour and Raik 2013.

<sup>66</sup> Notice that this divide between pro-integration and Euroscepticism risks oversimplifying EU member states’ attitudes towards European integration, given that recent years have witnessed a rise of Euroscepticism in the regions that were traditionally regarded as Euroenthusiastic (Verney 2011).

Long story short, EU member states generally accept that there is a complementary role for the new EU actors to play regarding the Union's external representation in third countries and multilateral organizations. But when it comes to "paying the bills" and task transfer, they are reluctant to let go of national competences and to make genuine commitments. This prevailing mistrust of EU member states have for the EEAS leads to limited information-sharing between EU delegations and national embassies (Helwig et al. 2013). It also results in ambiguity in the status of EU delegations overseas, which has been illustrated in Chapter 3, where many EU delegations to IOs are currently operating under transitional arrangements. It implies that the success of the EEAS and EU delegations in contributing to greater vertical coherence largely depends on whether they can coordinate the divergent priorities of EU member states and whether they can win EU member states' trust to take the lead on matters concerning common EU interests. Meanwhile, the EEAS is still developing and adapting, which is expected to have an incremental socialization effect on the EU's policy convergence at the vertical level over time, in the form of day-to-day interplay with national diplomatic services and of seconding and training national diplomats during the participation of EU decision-making structures.

Lastly, the ToL extended the application of enhanced cooperation to military and defence policy by allowing the EU member states which fulfil higher criteria and have made more commitments on military capabilities to establish Permanent Structured Cooperation (PESCO) (Article 42.6 TEU). Creating this type of enhanced cooperation has even fewer restrictions. There is no minimum threshold for the number of participants required. Its authorisation is determined by the Council via QMV instead of unanimity (Article 46 TEU). Such a mechanism facilitates the optimization of resource distribution within the Union and enables those willing and able member states to organise deeper cooperation in CSDP missions with greater interoperability (Dyson and Konstadinides 2013: 72). Nevertheless, its negative effects are non-neglectable in the long run. PESCO may create an exclusive club which smaller members feel either reluctant or difficult to join, thus risks generating a multi-speed EU with greater asymmetrical power balance within the collective principals (Cremona 2009; Cantore 2011). It also means that it will be easier for the groups of more powerful EU states to bypass EU foreign policy actors. In fact, both the HR and the EP are sidelined in

this context in the sense that the role of the HR is restricted to giving opinions and launching these programmes does not require the consent from the EP, whose powers are confined to giving information and being regularly informed (Article 328.2 and 329.2 TFEU). However, in the four years since the entry into force of the ToL, PESCO has yet to be used.

In a word, the ToL has succeeded in making progress in some aspects of EU representation but failed in others. Given that the ToL has solved some agency problems in EU representation but meanwhile created new institutional tensions risks for further fragmentation, interpreting the institutional developments alone may not answer the question whether the ToL has made a difference in EU representation coherence. Statistical analyses are thus necessary for assessing the variation of EU coherence, which is measured by the voting cohesion of EU member states in the UNGA.

Drawing on the theoretical insights of the principal-agent theory and the new institutionalisms outlined in Chapter 3, a series of hypotheses are formulated and about to be tested in Chapter 5:

In parallel with the development of the CFSP regime, including the recent progress following the ToL's implementation, EU representation should have been gradually improved, that is to say, agency losses caused by agent slack and information asymmetry should have been lowered, agent autonomy and capabilities should have been strengthened and the overall delegation system should have become more stable and streamlined. The reformed representation structure in turn reshapes the policy preferences of both the agents (EU representatives) and the collective principals (EU member states). Moreover, the cumulative effects of these institutional developments and years of socialization process should have led to greater "Europeanization" in the field of foreign policy. At the vertical level, there should be an incremental convergence of policy preferences among EU member states based on shared values and norms, resulting in closer coordination among themselves and with EU institutions. National governments should have found it more acceptable to support common EU positions and to be represented by supranational agents. At the horizontal level, the establishment of new institutions, the EEAS in particular, is expected to facilitate – while potentially slowly – the cultivation of shared organizational culture and working methods. Intense contacts and regular cooperation between EU agents should have become a pattern in foreign policy making,

which would ultimately promote the representation consistency and coherence of the Union. In terms of evidence, we expect to observe greater EU representation coherence, reflected by increased EU voting cohesion at the UNGA over time.

**Hypothesis 1(H<sub>1</sub>):** EU voting cohesion at the UNGA has been increasing over time.

Following the same logic, an increase in EU voting cohesion is conceivable after the ToL took effect. However, the reverse argument can be equally true, given the counterproductive impact of the unsolved control problems and newly-created institutional complexities: e.g., the risk of political trades in the nomination process of the President and the HR may lead to the appointments of suboptimal agents, which are more likely to be sidelined; the cross-institutional collision among the President, the HR, the Commission President as well as the rotating Presidency, and the intra-institutional clash within the EEAS and EU delegations may cause inconsistency and decreased coherence in EU representation; the HR may become semi-functional due to the overloaded responsibilities and absence of formalised deputies; the sustained weakness in control mechanisms, i.e., the marginalized role of the EP and the ECJ may not be able to ensure vertical coherence between EU institutions and the member states. Therefore, a non-directional hypothesis is formulated.

**Hypothesis 2 (H<sub>2</sub>):** EU voting cohesion would vary after the ToL entered into force.

According to the principal-agent theory, preference heterogeneity, *ceteris paribus*, tends to be higher within a group with a larger membership. The UNGA has 193 members representing a wide range of ideologies, political systems, religious and cultural backgrounds, as well as different stages of socio-economic development. All EU member states are democracies with functioning market economies, and share relatively similar values and cultures. Compared to the entire UNGA membership, EU member states have more resemblances in policy perspectives and economic interests, and therefore should show a higher degree of coherence, in terms of a higher degree of voting cohesion. This pattern shall not be affected by the implementation of the ToL.

**Hypothesis 3 (H<sub>3</sub>):** EU voting cohesion is higher and remains to be higher than that of the entire UNGA membership after the implementation of the ToL.

Analogously, EU representation coherence is assumed to decrease after each round of enlargement. Increased membership often links to higher transaction costs and preference heterogeneity with regard to decision-making. An EU that contains more collective principals with augmented economic and political diversities means that establishing coherent representation will be more difficult and time-consuming. The two recent enlargements saw the Union took in the former communist states of Central and Eastern Europe. These newcomers were remarkably poorer in wealth compared to the “old” members. They would have different priorities and interests in CFSP policies, which might trigger more splits within the Union over sensitive issues and intensify the existing tensions, e.g., between Europeanists and Atlanticists or Euroenthusiasts and Eurosceptics. Therefore, a decrease in EU voting cohesion should be observed at the UNGA right after the enlargement. However, the other side of the coin is that enlargement elevates the EU’s strategic weight in IOs. The negative effects caused by enlargement could also be offset by socialization process and institutional adaption, such as the reformative arrangements brought by the ToL. As a result of constant participation in EU decision-making, the new entrants would become more familiar and experienced with the decision rules and working methods of the Union. Their policy preferences would be reconstructed through their daily interactions with EU institutions. A convergence of interests is likely to emerge. If EU member states can act in concert after enlargements, the Union should be more coherently represented at the UNGA.

**Hypothesis 4 (H<sub>4</sub>):** After an enlargement, EU voting cohesion first decreases but then recovers to its previous level or even steps up a higher level. Overall, enlargements should be positively related to the degree of EU voting cohesion.

Voting cohesion of EU member states can be expected to differ across policy areas. Generally, preference homogeneity or heterogeneity inside the collective principals on different issues is likely to influence their policy choices. After the ToL started to take effect, with additional facilitation by the new instruments, the autonomy of EU representatives may have increased and the coordination among EU member states should be promoted, even in areas where policy preferences have traditionally been conflicting. Hence, even higher voting cohesion shall be observed in such areas since the ToL.

**Hypothesis 5 (H<sub>5</sub>):** EU voting cohesion varies across different issue areas. After the adoption of the ToL, cohesion in the conventionally conflicting issue areas is improved.

Based on a similar logic that formulates H<sub>3</sub>, regional organizations with larger memberships, other things being equal, should exhibit lower degrees of coherence due to the higher risk of preference conflicts. However, there is a common notion that the EU is more integrated compared to other regional organizations (Rasch 2008; Drieskens 2010; Wunderlich 2012). So far the EU is the only regional organization that has been granted an advanced observer status at the UNGA. The existing extent of institutionalisation and the recent efforts made by the ToL aiming at more coherent representation are likely to imply that the EU should act more cohesively than other regional integration schemes. As a result, EU cohesion, in the framework of the UNGA, can be expected to be higher compared to that of other regional organizations for the periods both pre- and post-Lisbon, regardless of their different organizations sizes.

**Hypothesis 6 (H<sub>6</sub>):** Compared to other regional organizations, the EU has higher voting cohesion at the UNGA for both the pre- and post-Lisbon era, regardless of its size of membership.

These hypotheses, while only exploring part of potential effects of the ToL on EU voting cohesion at the UNGA, can reveal some interesting developments as to the extent of EU representation coherence in global politics over time, and notably after the adoption of the ToL. They also present the opportunities to examine the effects of some alternative variables, such as time (as a proxy for institutional developments and socialization), membership size, enlargement, issue areas and the degree of regional integration, on the coherence of the EU and of regional organizations in general.

## **4.2 EU Representation at the UN Security Council**

### **4.2.1 UN Security Council Structure, Working Methods and Procedure**

The UNSC bears great importance at the UN. Its predominance mainly roots in its “primary responsibility for the maintenance of international peace and security” and its exclusive power of authorizing the use of force. Starting from the 1990s, the UNSC has recovered from the paralysis during the Cold War and reactivated the willingness to shoulder its responsibilities (Hannay 2012). According to the principal-agent theory, institutional structures, including decision-making rules, voting procedures and

working methods, construct and condition agent preferences and behaviour. EU representation on this stage is difficult to understand because it is co-determined by the rules of the Union and the *sui generis* nature of the UNSC (Hoffmeister and Kuijper 2006).

Only sovereign states that are UN members can be selected to serve on the UNSC. Apart from five pre-defined permanent members (also known as the P5), ten non-permanent members are elected by the UNGA based on “equitable geographical distribution” and their contributions to the purposes of the UNSC, for a term of two years without the possibility of immediate re-election (Article 23 UN Charter). In practice, the ten rotating seats are distributed to five Regional Groups of the UN, i.e., the Group of African States (GAFS) with two seats; the Group of Asian States (GASS) with two seats; the Group of Latin American and Caribbean States (GRULAC) with two seats; the Group of Western European and Other States (WEOG) with two seats; and the Group of Eastern European States (EEG) with one seat. The last one seat, also known as the “Arab swing seat” is reserved for an Arab country, for which the GAFS and GASS take turns every two years to provide a suitable candidate.<sup>67</sup> With great privilege comes great responsibility. All UNSC members are required to fulfil the obligations prescribed in the UN Charter in good faith (Article 2 UN Charter). These obligations shall prevail over the ones under any other international agreements (Article 103 UN Charter).

Decisions of the UNSC include resolutions and presidential statements. UNSC resolutions are legally binding and can be adopted either by a vote or by consensus.<sup>68</sup> Each member has one vote. Decisions on procedural matters require an affirmative vote of nine members while decisions on other matters have to be made by an affirmative vote of nine members including the concurring votes of the P5 (Article 27 UN Charter). Through this provision, the P5 are practically endowed with exclusive veto power upon all nonprocedural issues. Initially, the veto was designed to ensure the great powers’ commitments so that the failure of the League of Nations would not be repeated. However, its existence caused nonfeasance of the UNSC during the Cold War. Nowadays, exercises of vetoes are very rare. Without actually blocking the resolutions, states with veto power often abstain or just threaten to use veto to express their discontent (Voeten

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<sup>67</sup> It has become an informal agreement since 1968 between the Asian and African Groups that a seat should go to an Arab country.

<sup>68</sup> Voting is the most frequently used method by which the UNSC makes a decision. But recent years have witnessed a trend toward more consensus decision-making in the UNSC (Hulton 2004).

2001). But the threat itself could prevent a serious matter from coming to a vote, which to a large degree allows the P5 to dominate the UNSC's agenda (Franda 2006; Ronzitti 2012). Another example of power imbalance within the UNSC is that standing and temporary members have different terms of service. Given that the UNSC often works by referring to precedents, the elected members are inherently at a disadvantage because they have suffered from a lack of both continuity and institutional memory (Bosco 2009).

If the UNSC cannot reach consensus or a passing vote on a resolution, the decision can be taken in the form of a non-binding presidential statement (Hulton 2004). Both types of decisions are made in formal meetings of the UNSC, which can be attended by non-UNSC countries without the right to vote, if the council considers that their interests are specially affected or if they are parties to a dispute (Article 31 and 32 UN Charter). The UNSC's Provisional Rules of Procedure refer to participation of non-members. States are invited to attend UNSC meetings on the basis of Rule 37:

“Any Member of the United Nations which is not a member of the Security Council may be invited, as the result of a decision of the Security Council, to participate, without vote, in the discussion of any question brought before the Security Council when the Security Council considers that the interests of that Member are specially affected, or when a Member brings a matter to the attention of the Security Council in accordance with Article 35 (1) of the Charter.”<sup>69</sup>

Individuals, e.g. experts or representatives of IOs, are invited under Rule 39:

“The Security Council may invite members of the Secretariat or other persons, whom it considers competent for the purpose, to supply it with information or to give other assistance in examining matters within its competence.”<sup>70</sup>

Nevertheless, the majority of deliberate negotiations actually take place on informal occasions, such as private consultations or working lunches, which are not officially recorded or open to non- members of the UNSC, unless they are invited (Hurd 2007; Malone 2012).

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<sup>69</sup> Provisional Rules of Procedure of the UNSC (electronic version): <http://www.un.org/docs/sc/scrules.htm>.

<sup>70</sup> Ibid.

#### 4.2.2 EU Representation in the Context of the UN Security Council

Not all EU member states are represented in the UNSC as they are in the UNGA. Theoretically speaking, the Union could obtain six seats in total – including the two permanent ones held by Britain and France – since EU member states are spread out across three Regional Groups: sixteen in the WEOG, ten in the EEG, and one (Cyprus) in the GASS. Albeit this ambition has never been realized, the Union has managed to secure at least four seats about half the time during the period of 1993-2012 (as shown in Table 3). At first sight, it appeared that the EU was well-represented, at times even over-represented. However, EU member states have to compete with each other for nominations in their respective geographical groups (Götz 2008). It is often more difficult for smaller countries to get elected since they have fewer financial and diplomatic resources, let alone serve on the UNSC twice. There are four EU members that have never been elected to the UNSC.<sup>71</sup>

**Table 3: EU Member States Elected to the UN Security Council (1993-2012)**

Year	Number	States	Year	Number	States
1993	1	Spain	2003	2	Germany, Spain
1994	1	Spain	2004	2	Germany, Spain
1995	2	Germany, Italy	2005	2	Denmark, Greece
1996	2	Germany, Italy	2006	3	Denmark, Greece, Slovakia
1997	2	Portugal, Sweden	2007	3	Belgium, Italy, Slovakia
1998	2	Portugal, Sweden	2008	2	Belgium, Italy
1999	1	Netherlands	2009	1	Austria
2000	1	Netherlands	2010	1	Austria
2001	1	Ireland	2011	2	Germany, Portugal
2002	1	Ireland	2012	2	Germany, Portugal

Table established based on data collected from: <http://www.un.org/en/sc/members/search.shtml>

According to the UN Charter, the EU, as a regional organization, cannot procure UNSC membership. A formal collective presence of the EU is only possible after a profound reform of the UNSC on its membership. Since UNSC reform remains stagnant, to date, no official EU representation is envisaged in this body (Pirozzi 2012: 95). The Maastricht Treaty assigned the task of ensuring the defence of the EU's common positions and interests to the permanent EU member states sitting on the UNSC, i.e., Britain and France. The rotating Presidency was unable to represent the EU, unless it was simultaneously holding a

<sup>71</sup> The four EU members are Cyprus, Estonia, Latvia and Lithuania.

UNSC seat or it was invited to attend UNSC meetings under Rule 37. On even rarer occasions, the voice of the EU could be heard from the representatives of the Commission or other EU institutions on specific topics according to Rule 39. For example, the HR/SG, Javier Solana had made speeches or interventions at the UNSC six times in total.<sup>72</sup> Suffice it to say that EU representation during the pre-Lisbon period was generally defective in almost every aspect of horizontal coherence: there was no formal collective EU presence at this body; the role of traditional EU representatives, namely the Presidency and the HR/SG were marginalized, where as the two agents sitting on the UNSC, as permanent member states with veto power, enjoyed a high degree of independence to engage in “shirking” and “slippage” because they saw their national interests and their responsibilities to the UNSC taking precedence, and because they had no concerns about termination of agency. The prerogative of France and the UK as the sole agents of the Union at the UNSC had stayed intact in the subsequent treaty amendments until the ToL went into force.

The ToL required the HR to be fully informed by the EU member sitting on the UNSC and granted an opportunity for the HR to present the Union’s joint position (Article 34.2 TEU). Since early 2010, the UNSC has started to invite the HR or the Head of the EU Delegation in New York to participate in its open debates. As of February 2013, Ashton has addressed the UNSC three times since her assumption of office.<sup>73</sup> But the “multi-hatted” job of the HR makes her frequent appearance at the UNSC impossible. More often, it is the Head of the EU Delegation to the UN that delivers coordinated statements on behalf of the Union and its member states. The appearance of the HR or the Head of EU Delegation may be fruitfully exploited to raise the profile of the EU in general on UNSC matters (Pirozzi op.cit. 97) and to create a *de facto* EU presence at this supreme UN organ. The ToL also extended the obligation to defend the position and interests of the EU to all EU member states serving on the UNSC. They are also obliged to concert and keep the other member states informed. By introducing more agents into play, the EU may gain more power in

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<sup>72</sup> Solana made two interventions at the UNSC in January and March 2002 on the situations of Africa and of Bosnia and Herzegovina respectively. In July 2003, he made an intervention at the UNSC on the Democratic Republic of Congo (DRC). Again in September 2004, Solana intervened at the UNSC debate on “Civilian Crisis Management”. In January 2007, he made a presentation at the UNSC on DRC/EUFOR. Finally in September 2008 Solana addressed the UNSC about the EU’s mid-term review of its EUFOR operation in Eastern Chad and North Eastern Central African Republic.

<sup>73</sup> Ashton addressed the UNSC for the first time on 4 May 2010 about EU–UN cooperation on peace and security. On 8 February 2011, she made a speech at the UNSC on the issue of cooperation between the UN and regional and subregional organizations. Again on 13 February 2013, she addressed the UNSC with respect to the same topic.

agent control since the non-permanent EU members can exert a certain degree of restriction over France and Britain, although the monitoring effect will be limited and the risk of agency losses resulted by multiple agents is unavoidable. Another innovation of the ToL that contributes to the enhancement of the EU's representation at the UNSC is the transformed EU delegation to the UN, which combines the former Commission delegation in New York and the Council Secretariat's Liaison Office under the authority of the Head of the Delegation of the Union. It is now charged with the responsibility to chair the coordination meetings among EU member states. The added value of the Union delegation not only lies in providing a higher degree of continuity and institutional memory in the EU's diplomacy but also facilitating the vertical coherence of EU representation, which will be further explored in the next section. In this sense, EU representation coherence at the horizontal level is somewhat improved. However limited the progress is, it represents a step that the EU and its member states were willing to take to improve the coherence of EU representation on CFSP matters at this state-centric forum.

However, the ToL has not fundamentally altered the status of the Union in the UNSC. It is partially determined by the institutional structure of this UN body itself, where the UK and France keep holding dominant power in EU representation as long as they are the only two EU member states holding permanent seats at the UNSC. It is only natural for them to prioritise national interests and act independently whenever necessary, especially if EU members fail to agree a common position. Compared to the P2, non-permanent EU countries are considered secondary agents, not only because they have no veto privilege, but also because they are less familiar with UNSC decision-making. As a result, they may not have adequate power to constrain the agent slack of France and Britain, or worse, they may commit agent slack themselves. The past twenty years have witnessed behavioural inconsistencies of these EU countries: even those belonging to the "Europeanist Camp" tended to adjust their policies to develop distinctive national positions once they became UNSC members. Speaking from this perspective, the ToL may have added more confusion in EU representation by assigning the task to more agents. The "free-rider" problem that is embedded in multiple agents is also likely to emerge. Due to lack of interests or resources, some EU members sitting on the UNSC tend to be passive followers rather than active participants on particular issues. There is little continuity in

agent capacities since the composition of the group of elected members in the UNSC changes constantly. The inequality of representative capabilities and the impermanence in structural rules at the UNSC create more incentives for the agents, especially the privileged ones, to engage in slippage. Information asymmetry has not been meaningfully ameliorated, if not worsened, given that the number of agents has increased. Although the ToL requires those EU countries on the UNSC to keep other members and the HR fully informed, it is up to the providers to determine the contents and qualities of information sharing. It remains to be seen whether the EU delegation can minimize information withholding and fill in the information gap among EU members on UNSC matters.

A peculiar problem of “dual loyalty” exists within the framework of the UNSC since EU members serving on this body have to bear extra responsibilities regarding the maintenance of international peace and security. Moreover, their actions are heavily influenced by other non-EU countries in the “club”. For instance, Britain for long has linked its foreign policy closely with the position of the US, sometimes even closer than other EU member states. The ToL confirmed their “double agent” identities by saying that these countries should defend the Union’s interests “without prejudice” to their accountabilities under the UN Charter (Article 34.2 TEU). Under the insistence of the P2, Declarations 13 and 14 that were attached to the ToL further emphasized that the ToL’s implementation would not affect the competencies of EU members in foreign policy or their participation in the UNSC. These two declarations demonstrated the obstinate attachment to national prerogatives and deep mutual mistrust among EU member states (Verola 2010).

Control mechanisms in the EU’s representation remain to be weak within the UNSC. The Union has little say about agent selection. It can neither decide which member states to sit on the UNSC nor terminate their terms of service in case of “malpractice”. The autonomy of the HR is narrow since its presence in this body to a great extent depends on the willingness of those EU members sitting on the UNSC. It also depends on whether a common position has been formulated. Controlling four to five agents is apparently more difficult and costly than controlling two. As long as EU decision-making rules over the CFSP and the ECJ’s marginalization in this field stay unchanged, the Union lacks the means to enforce member state’s compliance with CFSP obligations.

Still it is argued that the ToL has exhibited its potential to improve the EU's horizontal coherence, if the presence of the HR or the Head of EU Delegation can be made from an *ad hoc* basis to a routine. Eventually it is possible for the Union to establish a *de facto* EU collective representation in the UNSC by upgrading the visibility of the new EU foreign policy actors, notably the HR. It is crucial that the EU delegation can provide strong assistance to the HR and other EU representatives to ensure active diplomatic actions in New York. It also requires a convergence of national policies performed by EU member states and their readiness to allow the HR or the EU delegation to play a bigger role so that the coordinated approach can be promoted consistently and coherently by EU representatives. The second requirement leads to the importance of ensuring inter-state coherence and the coherence between the member states and EU foreign policy actors. This search of vertical coherence needs to be addressed by looking at the concertation of the member states sitting within the UNSC at New York and the overall coordination within the EU in Brussels, including the coordination among EU member states and the interplay between EU member states and EU institutions.

#### **4.2.3 EU Coordination on UN Matters: From Brussels to New York**

EU coordination on UN matters has a long history. Informal intergovernmental consultations had been taking place since 1970s within the framework of the EPC. The Council established the United Nations Working Party (CONUN) to study UN business and the relationship between the two organizations and identify the Community's objectives at the UNGA (Luif 2003). Back then there seemed to be a consensus that member states of the Community should synchronize their positions prior to UNGA sessions. Cooperation at that stage was mostly informal, consultative and informative. There was no agreement for uniform voting in any sort or any codified obligations of information sharing. Most of the time the Community was able to avoid casting opposing votes against each other at the UNGA. Abstentions were often used as a moderate way to express disagreements. But such acquiescence could not be observed at the UNSC. The Maastricht Treaty for the first time made clear references on the UNSC, demanding those serving members to concert and to keep the other EU members fully informed. The Amsterdam Treaty did not amend the substance of the provisions regarding the CFSP but compiled them into one place as Article 19. It remained unchanged in the Nice Treaty and later revised by the ToL into Article 34, which serves as

the pivotal guidance for current EU coordination at the UNSC. A radical amendment is that Article 34 highlights the role of the HR and the EEAS in organizing EU coordination in international conferences and organizations, presumably including the UN and its main bodies.

Through many years of practice, the EU has built a relatively systematic *ex ante* coordination mechanism concerning UN matters. Internal coordination for the upcoming UNGA session in September begins with the preparation of the EU's priorities paper. A wide range of issues on the UN's agenda is debated in a number of Council working groups in Brussels, most frequently in the CONUN, which is now chaired by an EEAS official appointed by the HR to add greater continuity to its function. The CONUN consists of highly specialized officials from all EU member states, who meet on a monthly basis to discuss recent developments at the UN and provide strategic guidelines for the EU's participation in the work of the UN (Degrand-Guillaud 2009). It is responsible for drafting the priorities and overall positions of the EU ahead of UNGA meetings. The draft document is sent to the PSC for examination, and then to the FAC to be approved. For example, the FAC approved the EU's priorities for the 67<sup>th</sup> UNGA Session on 23 July 2012 according to this procedure.<sup>74</sup> However, the resolutions adopted in Brussels usually reflect the lowest common denominator, of which the contents are too general to be operational at the UNSC (Helwig et al. 2013). More elaborated targeted meetings are held in EU capitals comprising officials of EU members' delegations to the UN (Pirozzi 2012). Still a position pre-agreed in Brussels may have to be reviewed by UN-based delegates in order to adapt to the up-to-the-minute situation on the ground.

Over 1,000 EU coordination meetings on average are taking place every year in New York. Starting from 26 September 2012, these meetings can be held at the new premises of the EU Delegation to the UN. The Delegation has become the information communicator for EU member states and the contact centre connecting the two organizations. It coordinates regular internal briefings and interactions with international media. Under the HR's authority, it has assumed the job of the former Presidency in organizing EU coordination at the UN.

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<sup>74</sup> Press Release of the Council, Press 345, Nr. 12800/1/12 REV 1 (English), on 23 July 2012.

Based in New York, formal EU coordination on UN issues, including those on the UNSC agenda, are held at three levels. The highest-level meetings are the weekly gatherings of the Heads of Missions (HoMs) of EU member states to the UN, normally on Tuesday mornings. Outside Tuesdays, *ad hoc* HoMs meetings are held to deal with special issues. These meetings used to be chaired by the Presidency and continued to be chaired by the Presidency after the ToL's entry into force until June 2010, when the EEAS was ready to take over. Currently the meetings of the HoMs are chaired by the Head of EU Delegation to the UN. In the discussions a great deal of time is spent on UNSC matters. There is no particular order of contributions but often the EU member holding the monthly UNSC Presidency starts the session. Later other members can add inputs, make comments, raise questions and exchange their views on a certain subject (Rasch 2008). Without any clearly defined obligations, the HoMs meetings are mainly retrospective and informative in nature. Non-UNSC EU members are more receptive rather than informative of opinions. But the latest developments suggest that the HoMs meetings are taking the most important decisions (Kaczyński 2011).

More expert-level meetings are the so called Article 34 briefing meetings based on the ToL, which prescribes an obligation of concertation and information sharing between EU member states serving on the UNSC. The mechanism was first created by the Amsterdam Treaty, but had been long ignored. Only until early the 2000s, these meetings were made a routine under the joint efforts of the Swedish and Spanish Presidency. The Permanent Representative of Spain to the UN once suggested extending the obligation of concertation to cover the entire EU membership (Rasch 2008). But the ToL stops at the point of expanding the obligation of defending the Union to include non-permanent member states. On one hand, it elevates the status of these countries in interfering UNSC decisions and to a certain degree balances the mandates between permanent and non-permanent EU states. What needs to be clarified is that this arrangement does not transform them into first-class agents as France and the UK since they do not possess the right of veto. On the other hand, in view of the risk of agent *shirking*, it may actually create an even larger group of EU countries that are willing to deviate from predefined positions back in Brussels or EU capitals. Article 34 meetings take place on Thursday afternoons and begin with a report from the "briefer of the month", usually a representative from the EU member state holding the UNSC Presidency of that month. If no EU country is

holding the Presidency of the UNSC, then the briefer shall be a representative from EU member states sitting in the UNSC and the position rotates every month. Like in the HoMs meetings, non-permanent EU members merely absorb what their superior colleagues decide to share and do not often make comments or add more inputs to the report. Hardly do they have any effective means to influence the decision-making within the UNSC.

A comparison of the HoMs meetings and Article 34 briefings finds that both meetings consider UNSC matters a top priority in their weekly agenda. Both types of meetings are intergovernmental in nature, informative and retrospective focusing on factual matters rather than creative and proactive, although the HoMs meetings are considered relatively more fruitful since participants are permitted to provide the information that is not allowed in Article 34 briefings. On the other side, information shared in Article 34 meetings is first-handed and timelier (Rasch 2008). Moreover, since one meeting follows the other, there comes a problem of duplication. But the central problem lies in these mechanisms is that concertation among those EU members serving on the UNSC is only possible when their national interests coincide.

Coordination at a mid-level is the Deputy Permanent Representative (DPR) meetings attended by deputy chiefs of EU member state Missions to the UN. These meetings handle issues that are raised at the HoMs sessions but require further exploration, or issues that are too time-consuming to be discussed at the highest level, e.g. issues regarding UNSC reform, and issues that do not fall into a specific thematic field and are inappropriate to be processed by Article 34 meetings (Pirozzi 2012:96).<sup>75</sup> Compared to the two types of meetings introduced above, DPR meetings take place less frequently.

Additional coordination instruments of the EU in New York include working lunches held by EU member states toward third parties, consultations at the chamber next to the UNSC chamber and monthly gatherings of the HoMs and their respective UNSC Coordinators (Ronzitti 2012). These informal meetings are untraceable in record and are closed to non-members. Ironically, it is in these meetings that the actual preparatory work is done so that a certain resolution or action has been agreed upon before it is put before a formal session of the UNSC.

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<sup>75</sup> Its status is comparable to that of COREPER I in the Council of the EU.

The ToL does not change the fact that EU members of the UNSC, especially the two with permanent seats, enjoy a high degree of independence to forward national policies and pursue domestic interests. They prefer to take orders from their national capitals rather than the FAC or the PSC and mainly rely on their national delegations to the UN to deal with UN matters rather than on EU-level concertation instruments. France and the UK appear to be more senior and specialized agents compared to their elected peers for not only do they own veto power, but also more resources, both economically and politically, and more institutional experiences with UNSC policy-making. Their deviation behaviour has a negative impact upon the elected EU members in the UNSC and will undermine the atmosphere of concertation within the group (Drieskens 2008). The capacity of the PSC to supervise and steer the actions of EU member states at the UN is tempered by the physical distance and by the fact that the ambassadors appointed by EU member states for the PSC are often inferior to their colleagues sent to New York. This agency problem cannot be ameliorated at least institutionally as long as CFSP decision-making continues to require unanimity and as long as the UNSC structure remains the same without a reform.

However, the ToL managed, from certain perspectives, to improve the vertical coherence EU representation at both the UNGA and the UNSC. Regarding the coordination among EU member states back in Brussels, the ToL replaced the rotating Presidency with EEAS officials in chairing the Council working groups or committees that concern the EU's representation and participation in the work of the UN, such as the PSC and CONUN (Marchesi 2008). It made a similar arrangement for the coordination among EU member states in New York by appointing the Head of EU Delegation as the chair the meetings of the HoMs. In this way, the ToL stressed the role of the EEAS and the EU delegation as an organiser and consensus-builder in the EU's external representation at the UN. When it comes to the concertation among the EU member states sitting on the UNSC, the ToL narrowed the competence gap between permanent and non-permanent member states in defending the EU's interests, and in a way strengthened the control mechanism by monitoring the P2 through non-permanent EU members in the UNSC. Moreover, in light of the principal-agent theory, policy preferences of EU member states should gradually converge through the

day-to-day participation in EU agenda-setting and decision-making as these institutions become more and more mature.

Combining the analyses in the previous section on the ToL's implications on the horizontal coherence of EU representation at the UNSC, it is expected that the ToL has somewhat increased EU representation at both horizontal and vertical levels, regardless of the remaining delegation problems. A closer look at these shortcomings suggest that they are either explained by the institutional restrictions of the UNSC, e.g., the lack of formal EU representation, the predominant role of France and Britain as EU agents, the absence of control over agent selection, or the unsolved puzzles left by the ToL, e.g., the risk of agent slack due to the unanimity rule in the CFSP and the absence of enforceable instruments. Considering that the reform of the UNSC is currently locked in stalemate and that another treaty reform of the EU is unlikely in the foreseeable future, the agency problems caused by these two factors would apply consistently in the periods both before and after Lisbon that are investigated in this dissertation. Therefore, it is hypothesized that even the limited reform introduced by the ToL on EU delegation structure should contribute to an increase in the coherence of EU representation at the UNSC in the post-Lisbon era. This hypothesis will be tested by comparing the degrees of EU representation coherence in two cases, namely the Iraq war and the Libya conflict, which respectively represent the contexts before and after the adoption of the ToL.

### **4.3 UN Security Council Reform: Toward A Single EU Representation?**

Recall the constitutive role of institutions emphasized by the principal-agent theory and new institutionalisms in Chapter 3, the format of EU representation and its coherence at the UNSC are affected by the institutional rules of both organizations. A change of the landscape at this forum would not only have significant repercussions on the existing coordination and representation structure of the EU but also on the future development of the CFSP (Hill 2005; Marchesi 2008). UNSC reform is of radical importance to EU members states as well, not only because the status of the EU states that already have become a member of the council would subject to change, but also because EU member states are at strongly involved in the heated debate. Most EU countries agree that a reform toward more representativeness and effectiveness is not only inevitable but also necessary for the UNSC to tackle complex global challenges in the 21<sup>st</sup> century

(Hannay 2012: 46). The consensus stops at how to carry out the reform (Hill 2006; Martini 2010). Until today, efforts to undertake a fundamental UNSC reform have yielded few results due to the deep divisions in national perspectives. A timeline of UNSC reform will be first laid out before prospecting an EU dimension in this contentious issue.

A profound reform implies a modification of substance of the present UN Charter, which is only possible if it is adopted by a vote of two-thirds of UNGA member states and ratified by two-thirds of the members, including the five permanent members of the UNSC (Article 108 UN Charter). Regardless of the procedural difficulties, in 1963 the UNGA successfully pushed through a membership increase of the UNSC. Since then almost all attempts for another reform have ended in vain, e.g., the endeavours devoted by the then UN Secretary-General Boutros-Ghali and the explorations made by the Open-Ended Working Group in the 1990s. Neither the “Quick Fix Formula”, which advocated Germany and Japan’s permanent candidacy (Hill 2005) nor the “Razali Plan”, which suggested a “Two (Germany and Japan as new permanent members) plus Three (non-permanent rotating seats allocated to the under-represented regional groupings)” received substantial follow-up in order to push the progress forward (Marchesi 2008).

The momentum of reform was picked up again in 2005. Based on the report of the High Level Panel on Threats, Challenges and Change, Secretary-General Kofi Annan proposed two reform models: Model A presented the plan to add six new permanent seats without veto and three two-year non-renewable seats while Model B created a new category of non-permanent members with eight four-year renewable seats and one non-renewable seat (Ronzitti 2012: 81). These two models could have served as a concrete basis for future reform at the 2005 Millennium Summit. Disappointingly, the Summit reached few positive results except for the establishments of the Peace-building Commission and the Human Rights Council. Realizing that UNSC reform had once again reached a deadlock, in September 2008, UNGA Decision 62/557 moved discussions from the level of working groups to intergovernmental negotiations (Martini 2010). Since May 2010, it has been decided that the negotiations should move toward a text-based solution. In December 2011, the chair of the intergovernmental negotiations, Ambassador Zahir Tanin from Afghanistan, announced that subsequent meetings would be dedicated to the major initiatives submitted by member states and interest

groups (Hansen 2012). Until 10 April 2012, at the fifth meeting of the eighth round of intergovernmental negotiations, there was still little agreement among states, except on increasing the amount of African representation (Schlosser 2012).

Stalemate is indeed frustrating but not without reason. It is the lack of a common approach among UN members coupled with the aversion of the P5 for reform that has been preventing the negotiations from making a breakthrough. The cleavage within the EU has heavily contributed to this end. EU members mainly split over two lines. Starting from the mid-1990s, Germany has aligned itself with Brazil, India and Japan (known as the G4), bidding for a permanent seat. Opposing Germany's candidature, Italy, Spain and Malta, along with other countries, forged the United for consensus (UfC), also known as the "Coffee Club". On 18 February 2009, the President of the UNGA, Miguel D'Escoto Brockmann identified five key issues related to UNSC reform: categories of membership; the question of the veto; regional representation; size of an enlarged Council and working methods of the UNSC; and the relationship between the UNSC and the UNGA. The paragraphs below compare the central viewpoints of EU members over the two camps on these five issues.

The G4 seek a UNSC enlargement in both permanent and none-permanent terms. The standards for membership selection should take into account the contribution of a country to maintaining international peace and security while ensuring better representation of the developing world, especially African countries. In regard to the veto, the G4 in principle insist on the veto power for their national candidacy. But in order to secure more support, they have agreed to postpone the use of a veto for no more than fifteen years until further review. For instance, Germany has showed its willingness to accept an intermediary arrangement, i.e., a temporary seat for longer terms with the possibility to transform to permanent member with the right of veto. That no reference of veto was included in their latest report sent to Ambassador Tanin is an indicator of this trend toward compromise. The G4 advocate a "mid-twenties" UNSC with six new permanent members having no veto plus four non-permanent members allocated to the four regional group, namely, the GAFS, the GASS, the GRULAC and the EEG. The G4 have given their approval in reforming the working methods of the UNSC, with the condition that it should be made after the expansion. On the

issue of the relationship between the two UN bodies, the G4 propose that the UNGA shall provide political guidance to the reform of the UNSC. Germany as a sponsor of the G4 and meanwhile an EU member has to constantly struggle between national aspirations and EU commitments. Germany considers a single EU seat a long-term target. But as long as this goal is not realistic, Berlin will continue to appeal for a national seat in the UNSC. Given its Europeanist tradition, Germany could become active agent of the EU. However, its willingness to pursue its own path at the UNSC should not be underestimated.<sup>76</sup>

The UfC insist that enlargement should only occur in the category of non-permanent seats. On 21 February 2012, the Italy/Colombia proposal suggested creating a new group of non-permanent members with longer terms and an increase in the number of regular non-permanent seats. The new seats would be assigned to UN regional groups and subject to a term either of three to five years without the possibility of immediate re-election or two years with up to two immediate re-elections. The regular seats would be given to small and medium-sized states. Candidates for the additional seats would be left to respective Regional Groups to decide and later submitted to the UNGA for election.<sup>77</sup> The UfC refer to Africa as a “special case” and should be granted two to three of the new seats. The UfC’s attitude toward the veto is that it should be abolished or at least limited. On the issue of reforming UNSC working methods, the UfC emphasize that it must be an integral part of the overall reform pack. The major motivation of Italy’s participation in the UfC is to prevent Germany from gaining a permanent seat. It is considered that an elevation of Berlin’s profile in the UNSC would alter the balance within the EU and undermine Rome’s influence in the international community. Italy once had campaigned for a consolidated EU seat, but it was removed from the agenda due to its impracticality. Overall, its actions on UNSC reform are more national-based strategic rather than Europeanized.<sup>78</sup>

Although members of the G4 and the UfC openly criticize each other for blocking the reform progress, their proposals are identical in many terms. Both groups propose a “mid-twenties” UNSC; both agree that a reform of the UNSC’s working methods is necessary; both advocate a better representation for developing countries and appeal for the support of African Union (AU). As EU member states, both Germany and Italy

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<sup>76</sup> For detailed discussions of the views of the G4 on UNSC reform, see Martini 2010; Okhovat 2011.

<sup>77</sup> A/64/CRP.1. The document can be downloaded from the website: <http://www.centerforunreform.org/node/470>.

<sup>78</sup> For a detailed discussion of the proposals of the UfC, see Martini 2010.

consider a European seat an ultimate objective in the long run. There might be a chance of cooperation or compromise at least between these two countries, especially if the HR could play a bigger role in harmonizing their policies on this issue.

France and Britain have consistently expressed their support for the G4's campaign, including Germany's request for a permanent seat. As far as they are concerned, Germany probably would give up the idea of an EU seat if its ambition were satisfied. The inequality of participation in the UNSC has induced these two privileged members to obstruct reforms in favour of a joint representation (Gstohl 2012: 147). Like other permanent members of the UNSC, France and Britain are rather conservative about the UNGA's meddling with UNSC working methods.<sup>79</sup> Their argument is that the UNSC shall decide its own rules and procedure as provided by the UN Charter (Article 30 UN Charter). They certainly reject any reform that will endanger the current veto system. In July 2009, the P2 jointly put forward an intermediate solution to create a group of new semi-permanent seats that would become permanent at the final phase after a review. Germany welcomed this temporary method as long as the possibility for transformation would be ensured. Both France and the UK advocate for an increase in African representation. But Paris also calls for a presence of the Arab world at the UNSC. Other EU members, such as Belgium, the Netherlands, Slovenia and Hungary have agreed to consider the G4's proposal (Hansen 2012). The rest of EU members either have not publicly taken any side or have rather ambiguous opinions about this matter.

Whether the EU should have a unified seat in the UNSC has been a perennial and contentious question for EU member states since UNSC reform was reconsidered in the mid-1990s. Although some researchers argue that the EU is more influential with multiple spokesmen rather than having one representative in the UNSC (e.g., Verbeke 2006; Gstohl 2012), advocates of a single EU seat exist both in Brussels and in national capitals of the EU. At the initial phase of the reform, both Germany and Italy had been proponents of a single EU representation. The two countries later adjusted their strategies and set a single EU seat as a long-term objective when regional representation was proven inoperable in the UNSC due to the severe resistance from the P5. But efforts keep going on to incorporate the dispersive EU representation into the

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<sup>79</sup> The overall negativism of the other three permanent members on the UNSC reform can be reflected by the fact that during the negotiations they often present relatively short statements with little substance, except repeating their commitments to the reform in general.

CFSP mechanism. During their mandates at the UNSC in 2003 and 2004, Germany and Spain suggested to establish a “European laboratory” to include in their delegation one representative of the Presidency and one representative of the HR/SG. This idea was blocked by France and Britain and never came into existence. During Italy’s mandate from 2007 to 2008, it appointed a “focal point” within its own mission to liaise permanently with the Presidency, the Council Secretariat and national representatives of other EU members (Pirozzi 2012). At the supranational level, the Parliament reiterated in its resolution on 11 May 2011 that an EU seat would remain a central, long-term goal of the EU and called, in the interim, for the seeking of coordinated EU positions at the UNSC (European Parliament 2011a). Other well-known supporters include the former HR/SG, Javier Solana and the former Commissioner of External Relations, Benita Ferrero-Waldner. But what is striking is that Ashton, as the newly appointed HR, once said that she had no opinion about an eventual EU seat in the UNSC during her audition in front of the EP (Martini 2010).

After the ToL’s entry into force, it seems more sensible to “Europeanize” the seats that EU members have at the UNSC. By granting legal personality to the EU, the ToL has removed one of the obstacles for an official EU representation in this body, at least from a legal perspective. However, as Solana once pointed out, “as long as France and Britain are the only EU members with permanent seats on the UNSC, the EU does not have a chance for its common foreign policy to work” (Franda 2006). The ideal situation of a common seat in the UNSC is unlikely to be feasible as long as the P2 see themselves as free agents and keep blocking any assumptions that may endanger their special status in the UNSC.

To sum up, the attitudes of EU members toward this particular issue are hardly consistent. The UNSC is still perceived as a state-centric arena to defend national interests rather than a multilateral framework to uphold common positions of the EU. Analogous to the case of the EU, it is the commitments of UNSC member states – particularly the commitments of the P5 – that matter for deciding the structure of the UNSC in the years to come. The adoption of the ToL could be a turning point for EU external representation in the sense that it gave the Union a legal personality and demanded for better concertation among EU member states in the UNSC. It is imaginable to establish a high-level coordination mechanism and eventually a *de facto* EU collective presence in the UNSC. In other words, the ToL offers a possibility for change but

leaves the major determining power to the EU member states which sit on the UNSC. Based on this political reality, the EU should focus on improving coordination and concertation mechanisms at the UN in a pragmatic way rather than blindly strive for a single EU seat or seek the increase of numerical representation.

It needs to be clarified that, although the reform of the UNSC has significant influence on EU representation coherence, this factor is not taken into account in the hypothesis formulated in the previous section. As the reform is still pending, it is unclear which model will finally be agreed by UN member states, therefore, the effects of the would-be reformed structure on the coherence of EU representation cannot be examined in real-life cases.

## **Chapter 5 Quantitative Analysis of EU Voting Behaviour at the UN**

The first section of Chapter 5 applies a quantitative method to test whether real-world EU voting behaviour has provided empirical evidence that supports the hypotheses proposed in Chapter 4, on the basis of a study of the UNGA roll-call votes. The second section presents a statistical description of the voting patterns of the EU members serving on the UNSC. As clarified in Chapter 1, the meaningfulness of analyzing the roll-call data at this forum might be called into question due to its operational limitations. But it will be demonstrated that a summary of the main features of EU voting behaviour at the UNSC is useful for picking out the “unusual” cases that may be worth an in-depth research in qualitative terms.<sup>80</sup>

### **5.1 Overall Voting Coherence of the EU at the UNGA**

#### **5.1.1 Data Description and Analytical Model**

This part of the research assess EU representation coherence – measured by EU voting cohesion – at the UNGA between 1993 and 2012 (i.e., the 48<sup>th</sup> and 67<sup>th</sup> Sessions), and explores whether there is essential variation in its extent after the enforcement of the ToL. The time span is between 1 November 1993 – when the Maastricht Treaty officially created the EU – and 24 December 2012, three years after the ToL’s entry into force. The UNGA provides an appropriate research environment because EU representation at this level is fairly well developed and the UNGA roll-call data are relatively well-documented. With these data, it is possible to identify the pattern of EU voting behaviour both over a long period and during a particular interval, e.g., before and after the Lisbon. Accounting for the EU’s voting cohesion across different sizes of membership and a wide range of issues areas is also achievable. Furthermore, the statistical approach enables a comparison between the EU and other regional organizations at the UNGA, or even the entire UNGA membership.

The data of this analysis are partially derived from the datasets created by Voeten and Merdzanovic (2009), which contains the votes cast by every member state of the UNGA on all adopted resolutions from 1946 to 2008. This study selects the voting records starting from 1993 in their compilation, but expands data collection to include the votes until 24 December 2012, which were retrieved from the UNBISnet and the

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<sup>80</sup> Vote defection from the majority on UNSC resolutions has been rare for EU members. It is of great interest to dig the cause why an EU member chose to vote differently from the others.

ODS. Only votes cast on entire resolutions will be considered in the subsequent analyses.<sup>81</sup> With the data collected from the latest two UNGA sessions, this dissertation contributes to providing updated explanations for the voting behaviour of the EU within this body.

Voting cohesion is computed based on the number of affirmative, negative and abstaining votes. Scholars disagree with how to code abstentions (e.g., van Kampen 2007; Hosli et al. 2010). Some treat abstentions as a softer form of negative votes and code both choices as contributing to a resolution not reaching the required threshold (e.g., Voeten 2000). Others regard abstaining as “half the weight of a complete agreement” (e.g., Lijphart 1963; Luif 2003). A third group of researchers treats the three types of votes as equals, arguing that each vote deviating from the consensus undermines overall voting cohesion (e.g., Hix et al. 2005; Rasch 2008). Based on these coding practices, this research introduces three indices to assess voting cohesion:  $C_I$ ,  $C_{II}$  and AI.<sup>82</sup> The difference between  $C_I$  and  $C_{II}$  lies in the coding of abstentions. For both indices, pro and con votes are respectively coded as 1 and 0, while abstentions are coded 0.5 for  $C_I$ , and 0 for  $C_{II}$ . The voting cohesion on resolution  $x$  in percentage term, is given by

$$C = |AVx - 0.5| \times 2 \times 100 \quad (1)$$

where  $AVx$  stands for the average vote of a group on resolution  $x$ .

AI gives equal weight to each vote choice. The voting cohesion indicated by AI in percentage terms, is given by

$$AI = \frac{\text{MAX}\{Y, N, A\} - 0.5[(Y + N + A) - \text{MAX}\{Y, N, A\}]}{Y + N + A} \times 100 \quad (2)$$

where  $Y$ ,  $N$  and  $A$  respectively stand for the count of each type of votes.

### 5.1.2 Hypotheses Testing and Evaluation

Table 4 displays the average values of EU voting cohesion in each session of the UNGA, measured by  $C_I$ ,  $C_{II}$  and AI respectively. The mean of each measurement is reported at the bottom of the table. A much higher

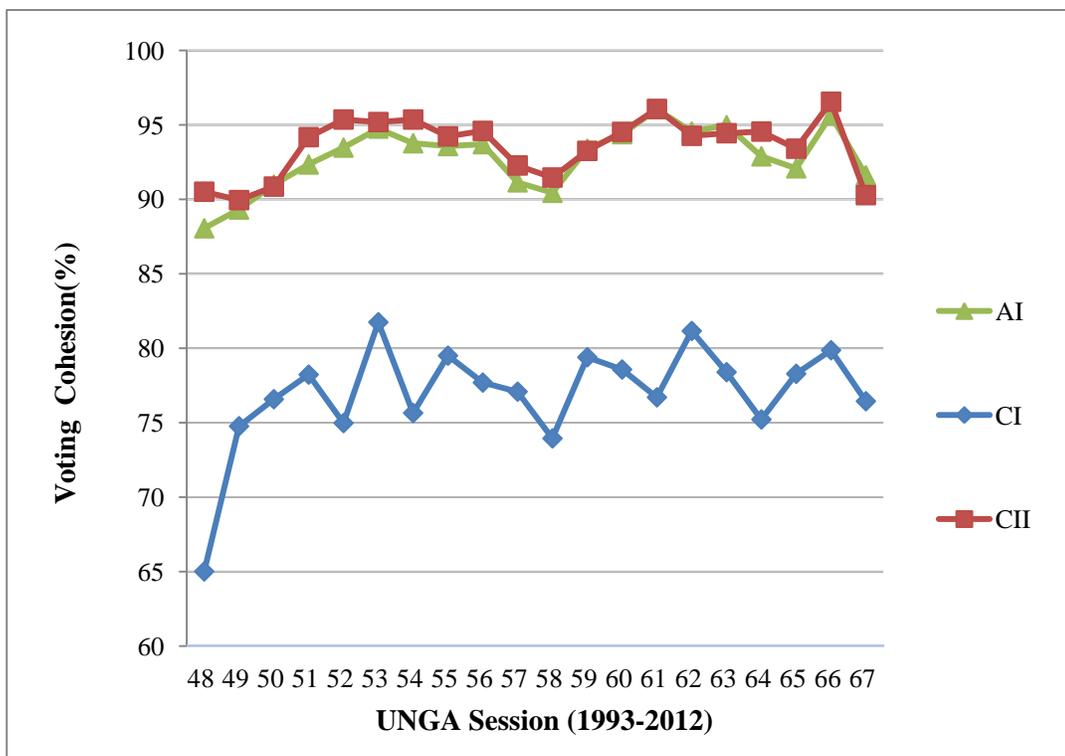
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<sup>81</sup> Votes on paragraphs were filtered out since it had been demonstrated that they would make no significant difference to the final results (e.g., Luif 2003; Rasch 2008).

<sup>82</sup> AI denotes the Agreement Index, as applied by Hix et al. (2005) in a study assessing the cohesion of the EP’s political groups.

$C_{II}$ , compared to  $C_I$ , suggests that the Union appears to be more cohesive when abstentions are coded as negative votes. An evaluation of the total 1,419 resolutions using Pearson's correlation reports a coefficient ( $r$ ) of 0.3 for  $C_I$  and  $C_{II}$  ( $p < 0.01$ ), 0.3 for  $C_I$  and AI ( $p < 0.01$ ), 0.9 for  $C_{II}$  and AI ( $p < 0.01$ ), indicating that while the measurements of the three indices are positively correlated with each another, the correlation between  $C_{II}$  and AI is stronger.<sup>83</sup> The Bland-Altman analysis demonstrates that  $C_{II}$  and AI provide more similar measurements to EU voting cohesion compared to the other two pairs.<sup>84</sup> This outcome is also illustrated by Figure 1: whereas the lines of  $C_{II}$  and AI are almost identical, falling between 85 percent and 100 percent, the line of  $C_I$  lies alone at the very bottom. Only AI will be applied to the subsequent tests because it treats all three types of votes equally in the calculation.

**Figure 1: EU Voting Cohesion in the UNGA (48<sup>th</sup> – 67<sup>th</sup> Session)**



<sup>83</sup> Notice that a strong correlation does not automatically imply that the two indices are measuring the same quantity.

<sup>84</sup> The points of these two measurements in the plot of identity fall closer to the line  $y = x$  compared to the other two pairs. In the Bland-Altman plot, most of the points are located between the 95 % limits lines, which indicate the range of agreement.

**Table 4: EU Voting Cohesion (48<sup>th</sup> – 65<sup>th</sup> Session)**

UNGA Session (year)	C <sub>I</sub>	C <sub>II</sub>	AI	Cases
48 (1993/1994)	65.0	90.5	88.1	65
49 (1994/1995)*	74.8	90.0	89.3	68
50 (1995/1996)	76.6	90.9	91.0	70
51 (1996/1997)	78.2	94.2	92.3	76
52 (1997/1998)	75.0	95.4	93.5	69
53 (1998/1999)	81.7	95.2	94.8	61
54 (1999/2000)	75.7	95.4	93.8	69
55 (2000/2001)	79.5	94.2	93.6	67
56 (2001/2002)	77.7	94.6	93.7	67
57 (2002/2003)	77.1	92.3	91.1	73
58 (2003/2004)*	73.9	91.5	90.4	76
59 (2004/2005)	79.4	93.3	93.4	71
60 (2005/2006)	78.6	94.5	94.4	75
61 (2006/2007)*	76.7	96.1	96.1	84
62 (2007/2008)	81.2	94.3	94.6	78
63 (2008/2009)	78.4	94.4	95.0	72
64 (2009/2010)**	75.2	94.6	92.9	68
65 (2010/2011)	78.3	93.4	92.1	73
66 (2011/2012)	79.9	96.6	95.6	62
67 (24/12/2012)	76.4	90.3	91.6	68
<b>Mean</b>	77.0	93.6	92.9	71

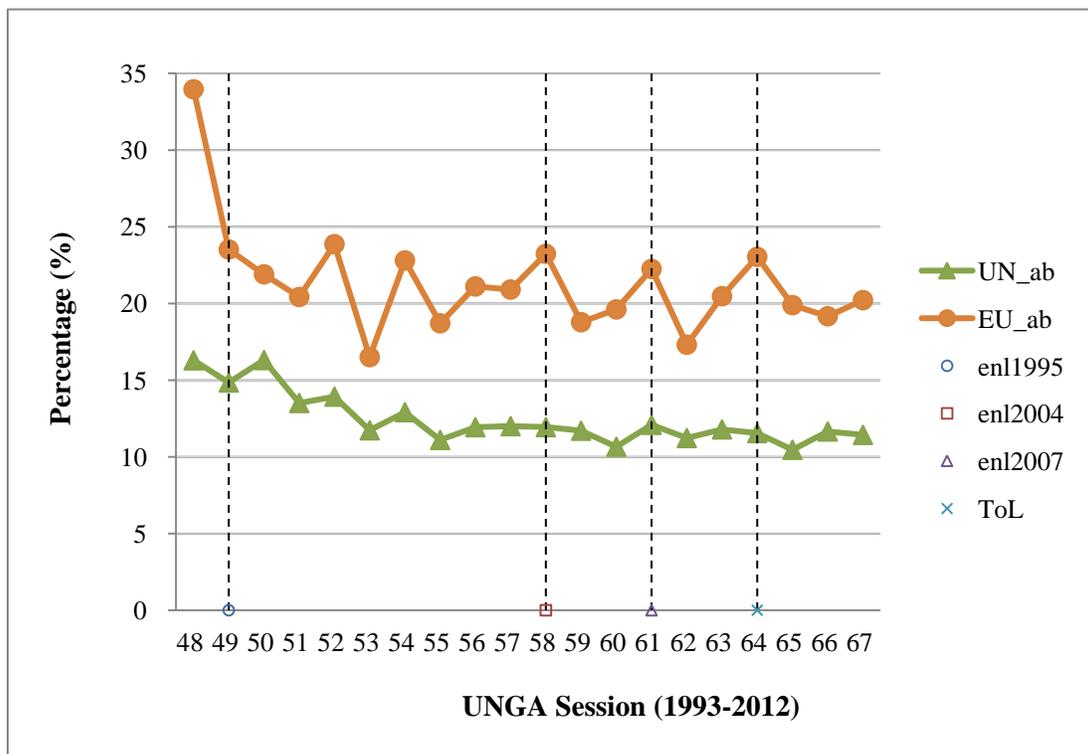
\*Marks the UNGA sessions during which EU enlargements took place.  
\*\*Marks the UNGA session during which the ToL entered into force.

Figure 2 compares the ratio of abstentions of the EU with that of the entire UNGA membership. It appears that EU countries have cast abstentions more frequently as a milder way to express disagreement. The share of abstentions of the EU is on average 9 percent higher than that of the global level. The rightmost vertical dotted line indicates the 64<sup>th</sup> Session when the ToL started to take effect, while the other three lines on the left respectively mark off the UNGA sessions during which the three waves of EU enlargements took place.<sup>85</sup> For the EU, the proportion of abstaining votes ranges from 16.5 percent to 34 percent, whereas the number is constantly below 17 percent for the UNGA as a whole. The two descending lines illustrate that the ratios of abstentions for both the EU and the UNGA have been decreasing since the 48<sup>th</sup> Session. The range of decline for the EU is almost 14 percent, which is much larger compared to the UNGA's 6 percent. The

<sup>85</sup> The meanings of the lines equally apply to Figure 3 and Figure 5.

percentage of abstentions for the Union dropped to a lower level after each enlargement. Meanwhile, EU voting cohesion increased by a small amount, except for the 2007 enlargement, after which cohesion decreased by 1.5 percent. This could be a reflection of the Union’s 20 years of efforts to cultivate the CFSP and avoid deviations in voting at the UNGA. A decline in the ratio of EU abstentions also occurred immediately after the ToL’s entry into force, while voting cohesion dropped by 1 percent. But it appears that no apparent linear relationship between EU voting cohesion and the percentage of EU abstentions can be claimed.<sup>86</sup>

**Figure 2: Ratios of Abstentions of the EU and the UN (48<sup>th</sup>-67<sup>th</sup> Session)**



H<sub>1</sub> hypothesizes that EU voting cohesion has been increasing over time. The upper line in Figure 3 shows the cohesion pattern of the EU across UNGA sessions. The level of EU voting cohesion appears to be fluctuant. Since the 50<sup>th</sup> Session EU cohesion has been above the level of 90.0 percent. But it suffered a

<sup>86</sup> A preliminary correlation analysis discovered that the two variables are negatively correlated. But the linear correlation was largely due to the extreme value (34 percent) of the percentage of EU abstentions in the 48<sup>th</sup> Session. Without this value, this is no apparent linear relationship between the percentage of EU abstentions and EU voting cohesion.

sharp drop and hit the bottom at the 58<sup>th</sup> Session.<sup>87</sup> Then the cohesion continued to grow until the 65<sup>th</sup> Session.<sup>88</sup> After a return to 95.0 percent, the voting cohesion again fell to an even lower point in the 67<sup>th</sup> Session.<sup>89</sup> An OLS regression using UNGA sessions as the independent variable and EU cohesion measured by AI as the dependent variable reveals the existence of a significant positive linear relationship ( $b = 0.18$ ,  $SE = 0.08$ ,  $t(1417) = 2.37$ ,  $p < 0.01$ ,  $r = 0.06$ ). For each UNGA session, EU voting cohesion increases by 0.2 percent on average. In other words, for another decade, EU cohesion, on average, is likely to increase by 2 percent. But the fact that the effect size is small indicates that increasing EU representation coherence through institutional reforms and socialization is a slow process.<sup>90</sup>

H<sub>2</sub> assumes that EU voting cohesion would change after the ToL's adoption. Contrary to the more general expectation that the ToL will bring more coherence to the EU, Figure 3 shows that the degree of EU voting cohesion actually experienced a small decline after the ToL was enforced. The cohesion reaches an even higher level (above 95 percent) following a rebound in the 66<sup>th</sup> Session. Then it decreases again, by 4 percent. An independent *t*-test (Test 1) is conducted to compare EU cohesion levels between two groups using the 64<sup>th</sup> Session during which the ToL started to take effect as the cut point. The first group (Pre-ToL) includes 309 resolutions adopted between the 60<sup>th</sup> and 63<sup>rd</sup> sessions while the second group (Post-ToL) is comprised of 278 resolutions that were passed during the 64<sup>th</sup>-67<sup>th</sup> Session. The means of the two groups are calculated as 95.0 percent ( $SE = 0.71$ ) and 93.1 percent ( $SE = 0.78$ ) respectively. The mean difference in EU voting cohesion of the two groups is about 2 percent ( $M_{\text{Pre-ToL}} - M_{\text{Post-ToL}}$ ). It appears that there was a small decrease in EU voting cohesion after the ToL was adopted. But the difference is not statistically or substantively significant ( $t(517) = 1.62$ ,  $p = 0.11$ ,  $r = 0.07$ ). A second test (Test 2) is performed using 1 December 2009 – the date when the ToL officially entered into force – as the cut point to categorize the resolutions between 1 January 2007 and 24 December 2012 into two groups. 156 cases are classified into the

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<sup>87</sup> The resolutions that contributed to the lower level of EU voting cohesion during the 58<sup>th</sup> Session include, *inter alia*, A/RES/58/50, A/RES/58/51, A/RES/58/198, and A/RES/58/245, among which three are related to nuclear weapons or armed conflict while one was about economic measures against developing countries.

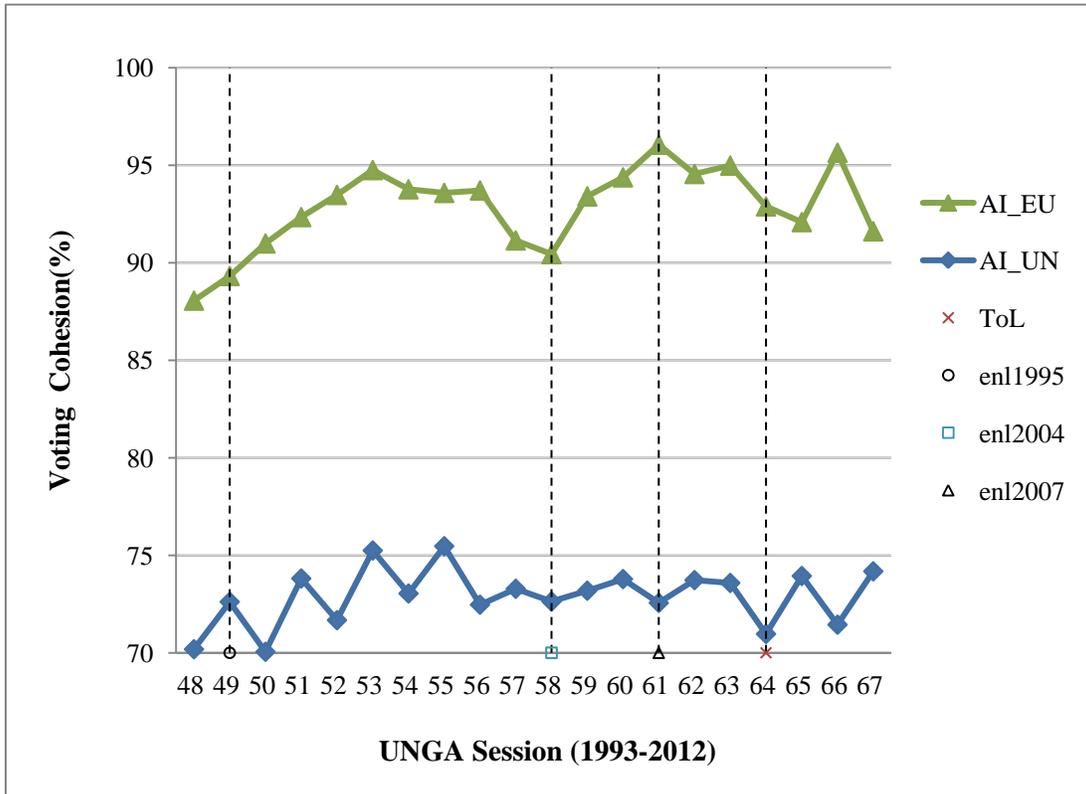
<sup>88</sup> The relatively low voting cohesion in the 65<sup>th</sup> Session was mainly caused by the split votes of EU member states over five resolutions: A/RES/65/55, A/RES/65/71, A/RES/65/119, A/RES/65/219 and A/RES/65/240, among which two are related to nuclear weapons, one is relevant to human rights issues and the other concerns decolonization.

<sup>89</sup> The low voting coherence in the 67<sup>th</sup> Session was mainly caused by the split votes of the EU over five resolutions (A/RES/67/19, A/RES/67/36, A/RES/67/46, A/RES/67/56 and A/RES/67/171), among which two are related to nuclear weapons, one related to human rights, one concerning Palestine.

<sup>90</sup> Cohen (1988) suggested that  $r = 0.1$ ,  $r = 0.3$  and  $r = 0.5$  represent small, medium and large effects, respectively.

first group (Pre-ToL), while 275 cases fall into the second group (Post-ToL). Again, EU voting cohesion decreased by 1.2 percent ( $M_{\text{Pre-ToL}} - M_{\text{Post-ToL}}$ ) after the ToL's implementation. But the statistics are not significant and the size of effect is small ( $t(429) = 0.79, p = 0.43, r = 0.04$ ), making it difficult to tell the overall influence of the ToL.

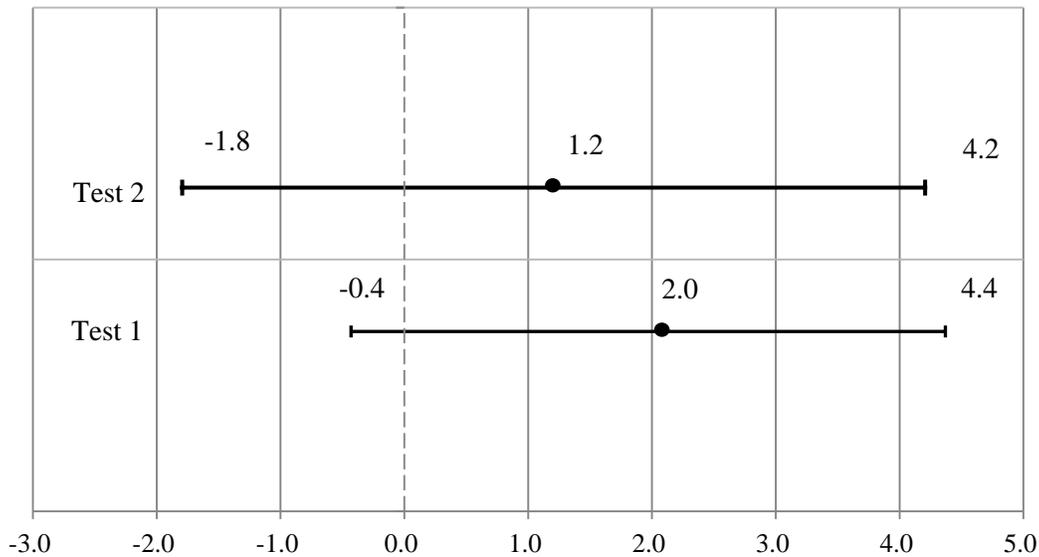
**Figure 3: Voting Cohesion of the EU and the UNGA as a Whole (48<sup>th</sup>-67<sup>th</sup> Session)**



If we look at Figure 4, in which the ink dots represent the mean cohesion difference ( $M_{\text{Pre-ToL}} - M_{\text{Post-ToL}}$ ) of the two groups respectively in the two tests. The error bars demonstrate the confidence intervals of these mean differences. It can be seen that both dots are located on the right side of 0. It means that in the two samples EU voting cohesion of the pre-Lisbon period is consistently higher than that of the post-Lisbon period. This may reveal a somewhat problematic trend. But it would be arbitrary to jump to the conclusion that the ToL has negative effects on EU representation coherence. Suffice it to say that the ToL has not made the EU a more coherent actor at the UNGA yet. A possible cause could be the remaining agency problems and new institutional tensions that were discussed in Chapter 4. The institutional adaption of the ToL may

really “bite” in the years to come when EU members can act in concert at this forum, allowing EU representatives to take the floor and when these representatives can truly stand as fully-fledged agents that can represent the Union consistently and coherently.

**Figure 4: Confidence Intervals of Cohesion Difference Pre and Post-Lisbon**



H<sub>3</sub> stipulates that the EU performs more coherently in general than the UNGA as a whole and this “superiority” will not be affected by the ToL. This assumption is likely to be supported as in Figure 3 the line marking EU voting cohesion is obviously higher than that of the global level. An independent *t*-test later confirms that the voting cohesion of EU member states, on average, is about 20 percent greater than that of the entire UNGA membership between 1993 and 2012 ( $t(2442) = 25.67, p < 0.01, r = 0.46$ ). The effect size is large, meaning that as well as being statistically significant, this effect of membership represents a substantive finding. A second test comparing the voting cohesion means of the EU and the entire UNGA membership after the date when the ToL took effect shows that the former remains to be about 20 percent higher than the latter ( $t(492) = 12.19, p < 0.01, r = 0.48$ ). Again, this finding is both statistically and substantively significant.

H<sub>4</sub> assumes that EU voting cohesion is reduced at the early stage of a post-enlargement era. But it will rebound to its previous or an even higher level afterwards. The overall effect of enlargements on EU voting cohesion should be positive. As shown in Figure 3, only the 2004 enlargement fitted the description of H<sub>4</sub>.

The development of EU voting cohesion around the 2007 enlargement appeared to be the very opposite of our hypothesis. As for the 1995 enlargement, EU voting cohesion did not experience any decline but continued to increase until the 53<sup>rd</sup> Session. Take the 1995 enlargement as an example: the resolutions during the 49<sup>th</sup>-50<sup>th</sup> Session are classified into two groups using the date 1 January 1995 as the cut point.<sup>91</sup> 67 and 71 cases fall in the two groups respectively. The independent *t*-test results indicate that the voting cohesion increased about 2 percent after the enlargement ( $t(136) = 0.61, p = 0.55, r = 0.05$ ). The test regarding the 2004 enlargement (the 58<sup>th</sup>-59<sup>th</sup> Session) reveals that post-enlargement cohesion was about 3.6 percent higher than the cohesion prior to the enlargement ( $t(142) = 1.30, p = 0.19, r = 0.11$ ). The third test with respect to the 2007 enlargement (the 61<sup>st</sup>-62<sup>nd</sup> Session) has produced a similar result, with post-enlargement cohesion 1 percent higher than that of pre-enlargement period ( $t(160) = 0.61, p = 0.54, r = 0.05$ ). It appears that EU voting cohesion was somewhat increased after each round of enlargement. Consistent as they are, none of these findings are statistically or substantively significant. It is safe to suggest that EU enlargements did not at any rate reduce EU cohesion, although there is no conclusive evidence of a positive relationship between EU voting cohesion and enlargements.

The reason why EU voting cohesion did not decrease after the enlargements could be that those new EU member states had started to vote coherently with the EU majority at the pre-accession stage. Any European country can apply for EU membership if it meets the so-called “Copenhagen criteria” and has the ability to apply the body of EU laws and rules, also known as the *acquis communautaire*.<sup>92</sup> Applicants typically sign association agreements with the Union to get prepared for candidacies and eventual memberships. A special process, the Stabilisation and Association Process (SAP) exists to deal with the countries of the Western Balkans (Cohen 2008). The Council, based on the Commission’s opinion, decides whether to open accession negotiations. Once the negotiations are concluded, a draft treaty of accession needs to be approved by EU institutions, including the Council, the Commission, and the EP. Then it must be signed and

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<sup>91</sup> Austria, Finland, and Sweden acceded to the EU on 1 January 1995.

<sup>92</sup> The “Copenhagen criteria” requires that the candidate country seeking EU membership need to achieve “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressures and market forces within the Union” (Presidency resolutions, Copenhagen European Council, 1993).

ratified by the candidate country as well as all EU member states.<sup>93</sup> The process from application to accession (e.g., the 2004 enlargement) can take more than a decade.<sup>94</sup> After years of preparations to meet the requirements for EU membership, national preferences of the applicant countries might have converged with those of existing EU members. In other words, the socialization process and institutional adaption had been initiated prior to the formal accession and continued to affect the preferences of the new entrants in the context of their growing participation in EU foreign policy-making.

**Table 5: Keywords for Issue Area Classification**

<b>Issue Area</b>	<b>Selected Keywords</b>	<b>Main Committee</b>	<b>Cases (%)</b>
1. International security	Nuclear, proliferation, disarmament Israel, Palestine,	First Committee	466 (33%)
2. Middle East	Palestinian, Lebanon, Syria, Middle East Jerusalem.	None <sup>95</sup>	397 (28 %)
3. Human Rights	Human rights, cultural	Third Committee	326 (23 %)
4. Decolonization	Decolonization, colonial, coercion, Cuba Climate, economic,	Fourth Committee Second Committee	152 (11 %)
5. Other issues	development, environment law.	Fifth Committee Six Committee	78 (5 %)

H<sub>5</sub> suggests that EU voting cohesion varies across different issue areas. All 1,419 UNGA resolutions are classified into five issue areas. It is primarily carried out by identifying the Main Committee involved.<sup>96</sup> The categorized resolutions are further distinguished by preset keywords shown in Table 5 (which also lays out the number and proportion of resolutions in each category). Plenary resolutions without the involvement of a particular Main Committee were classified by their contents. For the contents having multifaceted dimensions, the UN Yearbook was consulted. As a result, resolutions regarding issues like nuclear weapons, proliferation and disarmament, the reports of the IAEA, the security situations of states, or cooperation between the UN and the OSCE, fall into the category “International Security”. The category “Middle East”

<sup>93</sup> For a detailed introduction of EU enlargement process, see Nicolaidis (1999); Ott and Inglis (2002).

<sup>94</sup> For some countries, notably Sweden, Finland, and Austria, it took only a couple of years. For others, it may take two decades or even longer. Turkey, for example, applied for full EU membership in the 1987 and has yet to conclude accession negotiations, which were opened in 2005. See an analysis of the way in which time-rules and time-horizons structured and mobilized EU enlargement process in Avery (2009).

<sup>95</sup> See footnote 24.

<sup>96</sup> In practice, 81 percent of the resolutions in the data of this dissertation are based on a report submitted by a Main Committee.

includes all resolutions that are relevant to the Middle East.<sup>97</sup> The category “Human Rights” encompasses issues related to human rights and social development, including the resolutions regarding the restitution of cultural property. The category “Decolonization” contains the cases dealing with decolonization and self-determination. Resolutions concerning economic or political coercion against developing countries, e.g., the embargo imposed by the US against Cuba, are also classified into this category. The remaining resolutions that do not belong to any of these five groups are labelled as “Other Issues”.<sup>98</sup>

**Figure 5: EU Voting Cohesion across Issue Areas at the UNGA (48<sup>th</sup>-67<sup>th</sup> Session)**

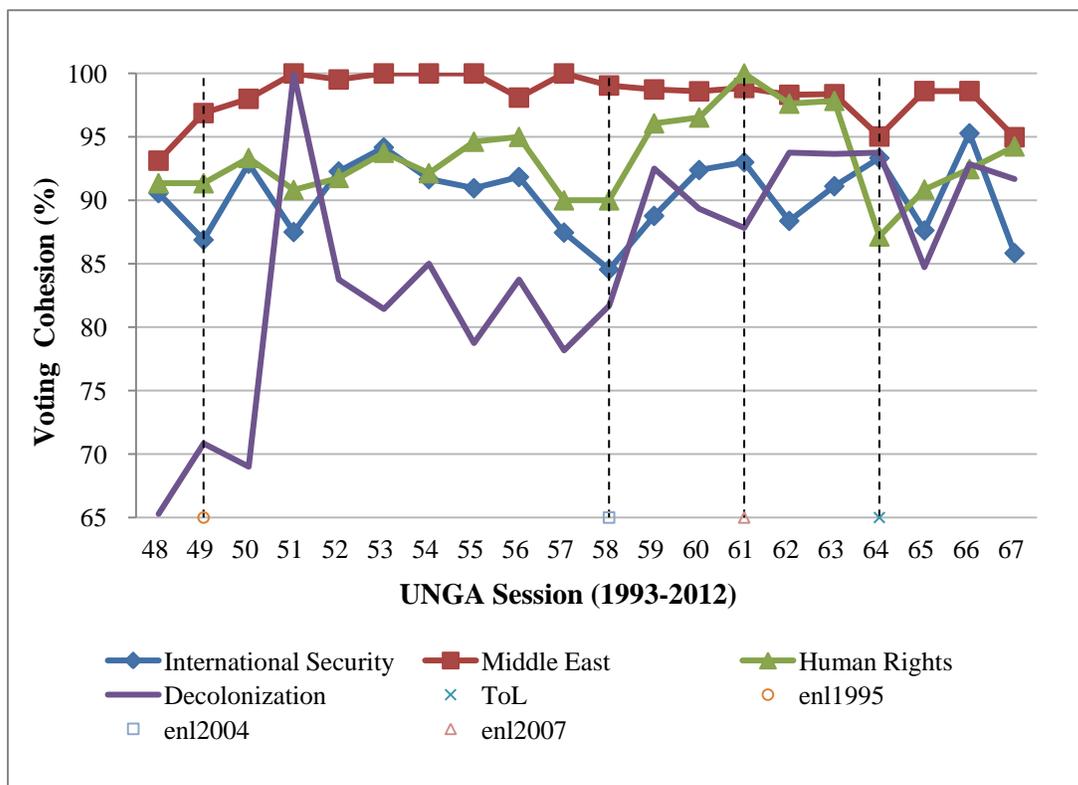


Figure 5 captures EU voting cohesion across issue areas over UNGA sessions. EU cohesion ranks the highest on “Middle East” issues in the diagram.<sup>99</sup> In the past 20 years, the Union’s voting cohesion on issues of this domain has been consistently above 90 percent. In fact, as early as 1980 by the Venice Declaration,

<sup>97</sup> Resolutions that are marked as “Middle East” issues will no longer be categorized into other issue areas.

<sup>98</sup> Resolutions falling into this category are excluded from the analysis testing H<sub>5</sub> since their share is small and their topics are not as relevant as the resolutions of the other four categories.

<sup>99</sup> It is consistent with the findings of some earlier studies, e.g., Luif (2003); Rasch (2008); Hosli et al. (2010).

the then nine member states of the Community had decided to coordinate their policies on Middle East affairs, especially on the Arab-Israeli conflict (Luif 2003: 27). The lower voting cohesiveness starting from the 58<sup>th</sup> Session – during which the 2004 enlargement took place – was mainly caused by the deviating votes of Cyprus and Malta.<sup>100</sup> The category “Human Rights” has the second highest voting cohesion. EU voting cohesion has been equal to or greater than 90 percent until it experienced a considerable decrease (over 10 percent) in the 64<sup>th</sup> Session.<sup>101</sup> Afterwards, EU cohesion increased again and reached 94.2 percent in the 67<sup>th</sup> Session. EU voting cohesion on issues regarding “International Security” has been fluctuating between 85 percent and 95 percent in the past two decades, whereas the category “Decolonization” shows the least voting cohesiveness and the largest extent of fluctuation between 65 percent in the 48<sup>th</sup> Session and full consensus in the 51<sup>st</sup> Session.

The results of one-way ANOVA analysis suggest that there is a medium significant effect of issue areas on the degree of EU voting cohesion ( $F(3, 481) = 47.89, p < 0.01, r = 0.28$ ).<sup>102</sup> Games-Howell *post hoc* test further discovers that EU voting cohesion on “Middle East” issues is significantly the highest ( $M = 98.25, SE = 7.54$ ), whereas the cohesion among “Decolonization” issues is the lowest ( $M = 83.66, SE = 21.85$ ).<sup>103</sup> The analysis fails to detect any significant difference in voting cohesions between the categories “International Security” and “Human Rights”. An independent *t*-test later finds that the voting cohesion on “Human Rights” issues is about 3 percent significantly higher than that of “International Security” issues, although the size of effect is small ( $t(790) = 2.52, p < 0.05, r = 0.1$ ). The relatively lower cohesiveness in the latter category may contribute to the reduction of overall EU voting cohesion, since it accounts for the largest share of the resolutions analyzed in this research.

H<sub>5</sub> also assumes that the EU’s voting cohesion in traditionally contested areas, i.e., “International Security” and “Decolonization”, should be promoted after the ToL took effect. As shown in Figure 5, EU

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<sup>100</sup> There were two three-way splits of the EU in the 64<sup>th</sup> and the 67<sup>th</sup> Session respectively. The split votes on UNGA Resolution A/RES/64/21 regarded the endorsement of the Goldstone Report on the Gaza conflict. The split of EU member states over Resolution A/RES/67/19 on upgrading Palestine to non-member observer state status in the UN was mainly between support (14 voted in favour) and abstention (12 abstained). Only the Czech Republic joined the US and Israel and voted against it.

<sup>101</sup> This sharp decrease was mainly caused by the EU’s split votes over three UNGA resolutions: A/RES/64/148 (the implementation of and follow-up to the Durban Declaration and Programme of Action), A/RES/64/172 (the human right to development) and A/RES/64/292 (the right to water and sanitation).

<sup>102</sup> The Welch *F* is reported because the assumption of homogeneity of variance is violated.

<sup>103</sup> Games-Howell test is used because sample sizes are very different and the assumption of homoscedasticity is violated.

voting cohesion of both categories dropped to a lower level in the wake of the ToL's implementation. It quickly returned to the previous level but decreased again in the 67<sup>th</sup> Session. Independent *t*-tests are conducted to compare the EU's voting cohesion of the two issue areas between the period of the 60<sup>th</sup>-63<sup>rd</sup> Session and the period of the 64<sup>th</sup>-67<sup>th</sup> Session. According to the statistics, it seems that EU cohesion in both categories slightly decreased after the ToL entered into force, although the differences are not considered significant. On issues concerning "International Security", such as disarmament in general or nuclear weapons in particular, EU member states' opinions tend to differ. As permanent members of the UNSC and nuclear powers, France and the UK prefer holding onto their nuclear prominence and have often aligned themselves with the US, whereas non-nuclear member states, especially Austria, Sweden and Ireland, are devoted to building a nuclear-free world (see also Luif 2003; Young and Rees 2005).<sup>104</sup> In addition, the EU member states of NATO sometimes disagree with the non-aligned states, and within NATO, France played a special role after it had withdrawn from NATO's integrated military structure in 1966 (Fassbender 2004: 862). As a result, two-way or even three-way split votes of EU member states prove to be unavoidable within this issue area.<sup>105</sup> When it comes to "Decolonization" issues, France and Britain, as former colonial powers, tend to distance themselves from the EU majority (see also Wouters 2001). But recent UNGA sessions have witnessed a gradual convergence among EU member states since more and more frequently Britain is the only EU member that votes against such resolutions.<sup>106</sup> Anyhow, the second part of H<sub>5</sub> is not supported by the empirical evidence.

It is worth mentioning that EU voting cohesion in the category "Human Rights" in the post-Lisbon era, appears to be about 7 percent lower than that of the pre-Lisbon era ( $t(84) = 2.36, p < 0.05, r = 0.25$ ). This finding may raise some concerns in the sense that not only the ToL fails to improve EU cohesion in the traditionally contested areas but may also contribute to lower coherence in the areas where EU member states have exhibited highly coherent voting behaviour.

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<sup>104</sup> Austria is a nuclear-free zone and the country favours an anti-nuclear policy. Both Sweden and Ireland are members of the New Agenda Coalition, which seeks to facilitate nuclear disarmament.

<sup>105</sup> For instance, the decrease in EU voting cohesion during the 65<sup>th</sup> and 67<sup>th</sup> Session was mainly resulted by the Union's three-way splits on these resolutions concerning nuclear weapons: A/RES/65/49, A/RES/65/55, A/RES/65/71, A/RES/65/76 A/RES/67/31, A/RES/67/33, A/RES/67/36, A/RES/67/46 and A/RES/67/56, among which France and the UK voted against six out of nine. Only France voted against A/RES/67/33.

<sup>106</sup> For example, Britain is the only EU member that voted against UNGA resolution A/RES/65/119.

$H_6$  proposes that the EU has a higher voting cohesion than other regional organizations at the UNGA during the periods both before and after Lisbon. One-way ANOVA analysis is applied to compare the EU with the League of Arab States (Arab League),<sup>107</sup> the Association of Southeast Asian Nations (ASEAN),<sup>108</sup> the AU,<sup>109</sup> the Caribbean Community (CARICOM),<sup>110</sup> the Commonwealth of Independent States (CIS),<sup>111</sup> and the Economic Community of West African States (ECOWAS).<sup>112</sup> These organizations are chosen because their integration degrees are somewhat comparable to that of the EU in economic, institutional or political terms and because they represent diversity in terms of both geographical location and group size.

It turns out that the levels of voting cohesion are significantly different across regional organizations ( $F(6, 4404) = 82.17, p < 0.01, r = 0.29$ ).<sup>113</sup> The effect of membership on voting cohesion is a substantive finding and represents a medium effect size. Planned contrasts are used so that it is possible to explore whether the size of membership mitigates voting cohesion at the same time. Contrast 1 compares the block of ASEAN, CIS, CARICOM and ECOWAS (membership size < 20) with the block of Arab League, the EU and the AU (membership size > 20). The results show that the voting cohesion of the second block of regional organizations is significantly higher than that of the first block ( $t(8770) = 8.46, p < 0.01, r = 0.1$ ). Contrast 2 compares the block containing ASEAN and CIS (membership size = 10) with the block containing CARICOM and ECOWAS (membership size = 15). Again, the test tells us that the voting cohesion of the block with a larger membership is significantly higher than the block with a smaller membership ( $t(4537) = 17.01, p < 0.01, r = 0.24$ ). Contrast 3 reveals that ASEAN is significantly more coherent than CIS ( $t(2496) = 17.80, p < 0.01, r = 0.34$ ). Contrast 4 compares CARICOM and ECOWAS but

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<sup>107</sup> The Arab League currently encompasses 22 member states. Palestine is not included in this analysis since it is not a UN member. Comoros is considered in the analysis after 20 November 1993 when it became a member of the Arab League.

<sup>108</sup> The ASEAN has 10 members, of which Vietnam, Myanmar and Cambodia obtained membership on 28 July 1995, 23 July 1997 and 30 April 1999, respectively. These three countries are analyzed only after their dates of accession.

<sup>109</sup> The AU, as the successor of the Organization of African Unity (OAU), was founded in 2002 and currently has 54 member states. Within our observation period, the Sahrawi Arab Democratic Republic has not become a UN member, and thus is not included into the analysis. South Africa became a member of the OAU on 23 May 1994 and is taken into account in the analysis since this date. South Sudan joined the UN on 14 July 2011 and the AU on 27 July 2011 and is only considered an AU member since that date.

<sup>110</sup> The CARICOM has 15 full members. Montserrat is not a UN member and is not considered in the analysis. Suriname and Haiti joined the community respectively on 4 July 1995 and 2 July 2002. They are calculated as CARICOM members only after their dates of accession.

<sup>111</sup> The CIS originally had 10 member states. Turkmenistan changed its status to associate member on 26 August 2005. Therefore, it is no longer considered a member in the analysis from this date onwards. Georgia withdrew from the CIS on 17 August 2009 and is since then no longer taken as a member state in the analysis.

<sup>112</sup> ECOWAS currently has 15 member states. Mauritania withdrew from ECOWAS on 1 January 2002 and therefore, is not considered in the analysis from this date onwards.

<sup>113</sup> Again, the Welch  $F$  is reported here.

fails to find any significant difference in voting cohesion between the two organizations. Contrast 5 compares the block of Arab League and the EU (membership size < 30) with the AU. The statistics show that the voting cohesion of the two smaller organizations is significantly higher than that of the AU, but the effect size is rather small ( $t(2783) = 4.29, p < 0.01, r = 0.08$ ). Contrast 6 finds that there is no significant difference in voting cohesion between the EU and the AU.

A conclusion can be drawn from the planned comparisons: membership size alone does not determine voting cohesion. According to the principal-agent theory, all things being equal, a larger group tends to have higher preference heterogeneity and thus lower coherence. But contrast 1 and 2 have revealed that regional organizations with larger size of membership manage to exhibit higher degree of coherence at the UNGA. Contrast 3 demonstrates that two organizations having exactly the same size of membership can have different degrees of voting cohesion. These findings do not have to be contradictory to the assumption of the principal-agent theory since the condition “all things being equal” is not met in these contrasts. For the first two contrasts, the CIS contributes a great deal to the lower cohesiveness in the smaller blocks. Established in December 1991, the CIS was seen more a vehicle for managing the inter-state relations after the Soviet Union’s disassembly than an institution for closer regional cooperation (Dragneva 2004: 280). Because of limited and selective formalization of its institutions, policy-making within the CIS mainly relies on traditional diplomacy and power mechanisms (Aslund et al. 1999). Plus the problems of preference heterogeneity, mutual mistrust and poor commitments among its member states, the CIS has been relatively disappointing in terms of both economic and political integration. Therefore, the degree of integration and the “maturity” of institutional structure may have stronger influence on the coherence of an organization.

The results of Games-Howell *post hoc* test are displayed in Table 6. Combining the findings of planned contrast, this ANOVA analysis uncovers that the CIS is the least coherent organization ( $M = 78.4$ , all  $p$ -values < 0.05) and the AU has been voting less coherently ( $M = 91.17$ ) than the Arab League, CARICOM and ECOWAS (all  $p$ -values < 0.05). However, there is no statistical evidence suggesting that the Arab League, ASEAN, the AU, CARICOM, ECOWAS and the EU vote significantly different from each other at the UNGA. Multiple independent  $t$ -tests that compare the EU with the remaining five organizations show

that the voting cohesion of the EU ( $M = 92.9$ ) is significantly higher than that of the AU, but it is lower than the voting cohesion of the Arab League and CARICOM, although the effect sizes for all three tests are rather small. Neither of the two organizations is perceived to feature higher level of integration than the Union. A possible explanation could be that these organizations are less concerned about some subjects in UNGA discussions than EU member states are (see also Rasch 2008). To sum it up, the EU's voting cohesion is only found to be higher than that of the AU and the CIS.  $H_6$  is thus only partially supported. It demonstrates that the ToL so far has not made the EU the most coherent actor at the UNGA in terms of voting cohesion.

**Table 6: Multiple Comparisons of Voting Cohesion of Regional Organizations**

Membership		Mean Difference	Std. Error	Membership		Mean Difference	Std. Error
Arab League	ASEAN	1.25349	.62290	AU	CARICOM	-2.92887*	.58863
	AU	2.82283*	.61122		CIS	12.77083*	.79678
	CARICOM	-.10604	.58257		ECOWAS	-2.53250*	.58658
	CIS	15.59366*	.79231		EU	-1.72736	.60988
	ECOWAS	.29033	.58050	CARICOM	CIS	15.69970*	.77502
	EU	1.09547	.60403		ECOWAS	.39637	.55666
ASEAN	AU	1.56934	.62857		EU	1.20151	.58117
	CARICOM	-1.35953	.60075	CIS	ECOWAS	-15.30333*	.77346
	CIS	14.34017*	.80577		EU	-14.49819*	.79128
	ECOWAS	-.96316	.59874	ECOWAS	EU	.80514	.57909
	EU	-.15802	.62159				

\*. The mean difference is significant at the 0.05 level.

## 5.2 EU Voting Behaviour at the UNSC: Descriptive Statistics

Voting behaviour to a certain degree serves as an indicator of a country's policy preferences. Analyzing the voting pattern of EU member states in a long-term period at the UNGA is commonly accepted by EU researchers as one reliable quantitative approach to steadily investigate the quality of EU decision-making in this UN organ. Following the same logic, one would look at the voting behaviour of the EU member states sitting in the UNSC in order to comprehend EU representation coherence in this body. However, unlike in the UNGA it is rather questionable to apply a similar approach in the UNSC. It is firstly because there are numerous informal consultations or closed meetings that either have inaccessible records or no record at all

(Malone 2012). Although the annual data of adopted UNSC resolutions are available in the UNBISnet and the ODS, the meaningfulness to apply this method is questionable due to the unique decision making and voting procedures at the UNSC.

During the period 1993-2012, the UNSC adopted 1,286 resolutions, of which 1,264 (about 98.3 percent) were subject to a vote and 22 were adopted by consensus with no vote casting.<sup>114</sup> Among these resolutions, 1,168 were adopted unanimously with 15 votes in favour (about 92.4 percent), 11 were adopted with some members against the draft resolution and 82 had members abstaining. It will not be difficult to predict that the voting cohesion of the UNSC stays at a quite high level. As expected, the average voting cohesion (measured by AI) of the UNSC is 98.7 percent.

One explanation to the high frequency of unanimity and voting cohesion is that the UNSC – in order to refrain from its paralysis in the early days – has established a practice not to allow the matters that are too contested to come to a vote (Franda 2006). When a certain proposal is subject to a vote before a formal session of the UNSC, intense negotiations have been conducted and compromises have been made during informal consultations so that the concerning parties are able to agree at least not to cast negative votes. This tendency is also reflected by the fact that the use of the veto has largely dropped since the 1990s. Before its collapse, the Soviet Union used to be the most frequent exerciser of the veto. Starting from the mid-1990s, the US has been leading in the use of the veto. The last time France and the UK used their veto power was in 1989 in a joint veto with the US on the situation of Panama (Okhovat 2011: 13). But France has threatened to apply its veto power on several occasions, e.g., in the Iraq crisis. It prevented a second resolution drafted by the US and its European adherents from granting mandate for a military attack on Iraq. The case of Iraq will be explored in more detail later on in Chapter 6.

When the casting of negative votes becomes rare, abstentions and non-participation may bear another layer of meaning. Abstentions in the UNSC can be classified into three categories: obligatory abstention, voluntary abstention and other abstentions. Obligation abstention refers to Article 27(3) of the UN Charter which prescribes that “in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a

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<sup>114</sup> Own calculation based on the data of Security Council Resolutions between 8 January 1993 and 20 December 2012, collected by the author from UNBISnet.

dispute shall abstain from voting”. The third category includes those cases in which a member is considered directly concerned with the matter under consideration has abstained from voting or has been recorded as not participating in the vote, even though itself has not contended that the matter is a dispute. Voluntary abstention means that a permanent member of the UNSC may voluntarily choose to abstain from voting due to its “strong negative” attitude toward a particular draft resolution (Gross 1951). It chooses to abstain because casting a negative vote may constitute a veto, which makes the adoption of a resolution impossible. Likewise, nonparticipation can be resulted by a negative attitude either against the way the issue under consideration is dealt with rather than simply due to lack of instructions from the capital. It is not always self-evident whether a country chose to abstain or not to participate a particular voting based on which ground. Without in-depth exploring the background of the matter under consideration and the foreign policy of the state, it is difficult to be precise about the genuine motive behind a certain voting choice.

As for the EU, there were three to five EU member states serving on the UNSC each year, including the two permanent members, the UK and France, during the period of our investigation. Of all 1,264 voted resolutions, the entire group of EU members sitting in the UNSC have cast affirmative votes in 1,258 resolutions (about 99.5 percent). Only in six resolutions have EU member states cast abstentions, among which France abstained five times while Germany three times.<sup>115</sup> Of all six resolutions, three centred around the situation in Iraq: UNSC Resolution 1134, Resolution 1284 and Resolution 1958.<sup>116</sup> In each case France stood as the only EU member that abstained. The first two resolutions related to the disarmament of Iraq. Resolution 1134 requested Iraq’s cooperation with UN weapons inspection teams and threatened to impose travel bans on Iraqi officials in the event of non-compliance. France abstained because it had been trying to convince the international community to lift the sanctions on Iraq after the First Gulf War (Styan 2006). Resolution 1284 created a new weapons inspection team, lifted some restrictions in the “oil-for-food” trade, and promised to suspend all remaining sanctions as long as Iraq made significant progress on disarmament. France abstained this time along with Russia because it worried about its fair share of the “oil-for-food” deal

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<sup>115</sup> These resolutions include UNSC Resolutions 1134, 1284, 1487, 1497, 1958 and 1973.

<sup>116</sup> Resolution 1134 was adopted on 23 October 1997 by 10 votes to none against and 5 abstentions from China, Egypt, France, Kenya and Russia. Resolution 1284 was passed on 17 December 1999 by 11 affirmative votes with four abstentions from China, France, Malaysia and Russia. Resolution 1958 was adopted on 15 December 2010 with 14 votes in favour and one abstention cast by France.

that was worth about \$17 billion per year (Read 2003). Two out of the six deviation cases took place in the aftermath of the ToL's adoption. France who wanted additional financial guarantees abstained on Resolution 1958, which terminated the residual activities of the "oil-for-food" Programme and ended some major sanctions on Iraq. Germany's abstention on Resolution 1973 that formulated the legal basis for the military intervention in the Libyan civil war resulted in the most serious split of the EU since Iraq.<sup>117</sup> Given that departure from unanimity is rare in the UNSC, topics surrounding the situations of Iraq and Libya are considered as unusual cases that have provoked curiosity in further inquiry. A second astonishing finding is that Germany and France, the two countries that are considered as the core engine driving EU integration forward, have contributed to EU splits at the UNSC in recent years. But without a close-range exploration of the particular cases, it is impossible to understand the causal mechanism behind their decisions to vote differently from the majority of EU members.

Like the roll-call data of UNGA voting records, the compiled voting data of UNSC resolutions only represents the decisions adopted with recorded votes but not the decisions made in closed sessions nor the decisions made through presidential statements. It only presents the final outcome of policy-making but cannot reveal the entire coordination process before the final decision or the complex motives of EU member states that drive for a particular voting choice in a resolution. Merely taking the analysis of voting behaviour as the only option of the EU's presence within the UN would overlook other alternatives, e.g. an in-depth case study that can elaborately explore EU representation and coordination over UNSC matters. Although the data of our collection are unable to uncover the matters that were even more disputed and never came to a vote in the UNSC due to a promising veto (e.g., during the Iraq crisis, a draft resolution proposed by the US, Spain and the UK was eventually abandoned because a French and Russian veto was almost certain), they were able to uncover the unusual events and provide an enlightening guidance for case selection.

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<sup>117</sup> Resolution 1973 was adopted on 17 March 2011 with 10 votes in favour and 5 abstentions from Brazil, China, Germany, India and Russia. Resolution 1497 was adopted on 1 August 2003 concerning the situation in Liberia.

## **Chapter 6 Case Studies: EU Representation in the Iraq and Libya Crises**

As analyzed in Chapter 4, the ToL to a certain degree has improved EU representation coherence within the UNSC at both horizontal and vertical levels, by placing emphasis on the role of the HR and the EU delegation, and by narrowing the competence gap between permanent and non-permanent EU member states. Meanwhile, it leaves some agency problems unsolved: e.g., the absence of formal representation, the persistent predominance of the P2 agents; the risk of agent slack; the problem of “multiple agents”; information asymmetry; the lack of monitoring and enforceable instruments. These shortcomings may continue to diminish the coherence of EU representation. However, it is hypothesized that the reformed delegation structure created by the ToL would increase EU representation coherence at the UNSC, regardless of the remaining problems.

This chapter tests this hypothesis by assessing and comparing the extents of EU representation coherence in two cases, namely the 2002-2003 Iraq war and the 2011 Libya crisis, which respectively represent the contexts before and after the adoption of the ToL. Within each case, the degree of EU representation coherence is investigated at both horizontal and vertical levels. The evaluation of horizontal coherence requires examining the role of EU foreign policy actors, e.g., the rotating Presidency and the HR/SG (pre-Lisbon) or the President and the HR (post-Lisbon), in the Union’s external representation, intra- and inter-institutional coordination, and the (in)consistency of their statements. The assessment of vertical coherence needs to look at the homogeneity or heterogeneity of EU member states’ policy preferences, inter-state coordination or concertation (including the quality of information exchange), the capacities of EU actors to organise and catalyze the coordination, and the extent to which the statements between EU institutions and national governments were consistent and complementary. In cross-case comparisons, representation coherence is considered improved in the case of the Libya crisis if, at the horizontal level, the Union’s collective presence at the UNSC was upgraded, EU delegation structure was more streamlined, and the role of EU actors in representing the EU is strengthened, and at the vertical level, national policy preferences were more convergent, coordination among the EU member states was better, last but not least, EU member states were more willing to allow EU actors to represent the Union’s common interests.

An integrated method that includes an intensive qualitative research as a follow-up can improve the insufficient interpretation due to the lack of reliable quantitative data. It can also lend a hand in exploring the complexities of the second dimension of EU representation, i.e., internal coordination mechanisms during EU policy making. A detailed discussion of how the EU represented itself toward these two events between which the ToL was adopted not only expands the literature on the EU foreign policy process but also contributes to our knowledge of different phases of EU external representation and the difficulties the Union encountered in developing a common EU presence in major CFSP affairs. The case studies draw on insights from official statements and documents of the EU and its member states, letters of government officials, press coverage, event reports, online resources, survey data and academic articles or policy evaluations of the two cases by leading researchers and experts. Diverse resources can provide comprehensive information and enhance the reliability of analysis.

The rest parts of Chapter 6 are organized as follows: it starts with a section that clarifies case selection. The next two sections conduct within-case analyses of EU representation coherence during the two crises respectively. Each case study begins with a brief introduction of background, which is followed by detailed discussions of EU coherence at both horizontal and vertical levels. Each section ends with an overall assessment of the performance of EU representation through the lens of the principal-agent theory. The final section of this chapter compares the degrees of EU representation coherence in the two cases in order to tell whether an increase can be detected in the Libya crisis, which occurred after the ToL's entry into force.

## **6.1 A Discussion of Case Selection**

The Iraq and Libya crises first came into notice in the descriptive statistics displayed in Chapter 5 about EU voting behaviour in the UNSC. Out of 1,264 voted UNSC resolutions, there were six on which EU member states voted inconsistently. Of all these six "deviation" cases, three resolutions on which France abstained referred to the situation in Iraq, and one on the military action against Libya was notoriously known for its bitter EU debacle for Germany's abstention. Considering the relevant rarity of abstentions at the level of the UNSC, the sensitivity and intensity of the Iraq and Libya crises make them outstanding cases that are worth further exploration.

The case studies adopt a “most-similar systems” design, where the independent variable of interest is the implementation of the ToL.<sup>118</sup> A close-range study of the Iraq and Libya conflicts reveal many parallels. Both cases exhibited roughly similar salience as security crises and attracted substantial international attention, e.g., both crises were covered extensively by world media, addressed at the UNGA and intensively debated within the UNSC. The purpose of both conflicts was to eliminate the dictatorial regimes, which were considered threats to their own people. Ironically, both dictators, Saddam Hussein and Muammar Gaddafi encountered a sudden fall despite their claims that they would prevail. Therefore, the durations of both conflicts were relatively short. Both conflicts were subject to foreign military intervention and involved similar interlocutors, including NATO-led coalitions and EU member states. One more thing, the primary export of both countries is oil, although whether this factor was crucial during the two conflicts is still debatable.

For the EU specifically, both conflicts constitute litmus tests of reformed delegation structure of EU representation brought by treaty reforms. In need of addressing the failure of the Union to act cohesively during the Balkan crises in the 1990s, the Amsterdam Treaty appointed the HR/SG to assist the revolving Presidency in order to bring more coherence to EU external representation. The Iraq war was the first major security issue that occurred after this innovation. Similarly, the unrest in Libya – which broke out about 14 months after the ToL was ratified and less than two months after the EEAS was declared operational – offered a timely opportunity to test the new CFSP-related institutional structures. Therefore, the fact that they are divided before and after the ToL’s entry into force can be exploited to detect the effects of the ToL on representation coherence.

Moreover, the EU was reported to be highly divided during both conflicts (e.g., Springford 2003; Hughes 2003; Bluth 2004; Gaffney 2004). The statistical evidence presented earlier in Chapter 5 about EU representation coherence at the UNGA find that although EU voting cohesion has been incrementally increasing over time and although the Union performs more coherently in general than the UNGA as a

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<sup>118</sup> The most-similar systems design means that “the chosen pair of cases is similar on all the measured independent variables, except the independent variable of interest” (King et al. 1994). If the independent variable of interest and the dependent variable differ in both cases, it can be concluded that this independent variable is likely of relevance when explaining the outcome. This design is useful to exclude alternative variables strategically. But notice that when it comes to explicit qualification, few events in social science can be explained by only one variable.

whole, there is no obvious evidence between the implementation of the ToL and an increase in EU voting cohesion, either in general or in specific issue areas. A possible cause could be the remaining agency problems and new institutional tensions that were discussed in Chapter 4. However, due to the limitations of quantitative measurements – as mentioned in the introductory chapter – that voting cohesion is not able to measure every aspect of representation coherence, it is unclear whether these findings drawn from the context of the UNGA also apply to the UNSC. Close-range case studies can provide rich information and complement the limitation of our insights drawn from the descriptive statistics on EU voting behaviour at the UNSC in the previous chapter. An elaborate discussion of the EU's representation from the perspectives of both horizontal and vertical coherence makes up the weakness of quantitative analysis that cannot demonstrate the precise coordination mechanisms of the EU. Considering the attention of these two cases gained from the UN, and especially the UNSC, they are more than suitable for test the hypothesis regarding the variation of EU representation coherence at this body. In addition, by examining the recent events of the Libya crisis, which rooted in the Arab Spring, the case study gains the advantage to analyze the status of EU representation in the CFSP field as it is to date.

Obviously, a research involving two cases will not be able to seek statistical generalization as the quantitative analyses conducted in the previous chapter were trying to accomplish. But it is possible to have analytical generalizations by comparing the empirical evidence with the hypothesis generated from the principal-agent theory (cf. Yin 2009). As explained earlier, the Iraq war and the Libya crisis can be seen as contested cases. If EU representation coherence managed to increase in highly politicized and sensitive conflicts like these two cases, it would be logical to assume a similar trend in less contested cases.

## **6.2 The EU and the Iraq Crisis**

The Iraq crisis caused an unprecedented challenge to the CFSP since it was introduced by the Maastricht Treaty (Levy et al. 2005). It could have been a chance for the Union to display its collective policy-making abilities to the world, especially after it was equipped by the Treaty of Amsterdam with a new HR/SG. However, the fifteen EU member states back then failed to forge a common foreign policy toward Iraq despite the Union's efforts to bring more unity through a consolidated constitution during the period. Policy

preferences of EU members were arguably at odds when the UK, Italy and Spain aligned themselves with the US in support of military intervention while France and Germany were in strong opposition and argued for peaceful solutions. The rest of EU members were hesitant about any early and clear positioning but eventually had to choose sides between the two camps (Gaffney 2004: 247). Although the Central and Eastern European countries that were waiting in line to accede to the EU overwhelmingly fell to the line of the UK-led coalition, their proactive action did not contribute to bridging the internal cleavage with France and Germany. What was more problematic was the way the Union dealt with the crisis once again demonstrated the inherent weaknesses of its representative system and of decision-making in the foreign policy field. The role of the rotating Presidency, which should have been the leading agent of the EU, was deeply downplayed because of the enormous divergences among the collective principals, i.e., EU member states. The HR/SG that was supposed to assist the EU Presidency to build a common EU response to the crisis was almost invisible during the decision-making process that was full of clashes. The Iraq case exemplifies the inherent institutional agency problems of the pre-Lisbon EU representational system as indicated in Chapter 4.

### **6.2.1 Background**

After the Gulf war, the US and its European allies had been trying to force Iraq's compliance with a series of UNSC resolutions that prohibited it from developing or possessing weapons of mass destruction (WMD). Their efforts proved to be hardly effective due to Iraq's constant resistance to cooperate with the UN inspection. The concerns of America about Iraq intensified after the 9/11 terrorist attacks. Early in 2002, President George W. Bush named Iraq, Iran, and North Korea the new "axis of evil" posing grave a danger for world security (Copson 2003; Springford 2003). In the same year American and British intelligence revealed with considerable certainty that the Iraqi government possessed extensive WMD projects and would acquire a nuclear capability fairly soon. It directly led to a change of US foreign policy from containment to regime change (Levy et al. 2005). By late August, the Bush Administration had recognized that a pre-emptive war against Iraq was almost inevitable. The intention to attack Iraq was first revealed by Vice President Dick Cheney in a speech honouring veterans of the Korean War, in which he highly doubted

that more UN weapons inspections would be effective and concluded that the problem of Iraq would be better solved without Saddam Hussein (Gordon and Shapiro 2004: 168). This speech was later denied as an official positioning of the US, which left European states confused (Peterson 2004: 12-13).

On 12 September President Bush addressed the UN and called for the authorization of the use of force against Saddam's regime. But after rounds of intensive negotiations, the US eventually sought compromise and agreed to give Iraq a final opportunity to comply due to the strong opposition for war from three veto players of the UNSC, i.e., France, China and Russia. The result was the unanimously adopted UNSC Resolution 1441 on 8 November. The Resolution required the Iraqi government to accept the resumption of UN inspection and insisted on its unconditional compliance or face "serious consequences" otherwise. It also decided that any false statements or omissions in Iraq's declarations and the failure to comply with the implementation of this resolution would constitute a further breach of Iraq's obligations (UN Security Council 2002). UNSC members agreed that Resolution 1441 did not endorse strikes against Iraq nor did it contain any "automaticity" with respect to the use of force if Iraq failed to meet the requirements to be disarmed. It reserved the right of discussing measures for the next phase to the UNSC in the event of further Iraqi violations of its obligations. Washington made it clear that this resolution could not prevent any member state to act against the threat if the UNSC failed to issue sanctions for war (Byers 2004).

In the aftermath of the adoption of Resolution 1441, Iraq accepted the return of UN weapon inspectors but still cooperated in a half-hearted manner. A month later, Iraq submitted a weapon declaration to the UN denying the possession of any WMD. The declaration provided few updates in the eyes of the UN Inspection chief Hans Blix. He reported on 27 January 2003 that Iraq had not come to a genuine acceptance of disarmament while admitted at the same time that no evidence of WMD was found yet (Bluth 2004; Gordon and Shapiro 2004). Based on this report, America, Britain and their allies asserted further Iraqi breach of UN resolutions, whereas opponents argued that Iraq should be given more time to comply. Considering the Iraqi statement a lie, US Secretary of State Colin Powell presented self-claimed compelling evidence gathered by American and British intelligence before the UNSC on 5 February, arguing that Iraq not only possessed WMD but also intended to use them against its neighbours and other Western targets.

However, Blix's impression of Iraqi cooperation was improved in his report on 7 March because Iraq had begun to destroy its al-Samoud missiles. He however questioned the reliability of the evidence Powell had presented before by pointing out that UN inspection teams found no evidence suggesting that Iraq was hiding unconventional weapons (Kendall 2003). Washington persisted in using the first report as the basis for the conviction of Iraq's further defiance and meanwhile had started to prepare a war by deploying American troops to the Gulf region (Gordon and Shapiro op. cit. 172).

Washington's resolve to go to war left its European allies unprepared and badly divided into two camps. Some traditionally Atlanticist European countries led by the UK aligned with the US in support of the use of force, while others centring around France and Germany strongly opposed military action in Iraq and insisted on a diplomatic solution. The tension was intensified when the eight pro-US countries – five of them fifteen EU members, i.e., Britain, Italy, Denmark, Spain and Portugal, and three Central and Eastern European countries that would join the Union in 2004, namely Hungary, Poland and the Czech Republic – co-signed a letter to advocate the US policy publicly in late January 2003 (Wood 2003; Hughes 2004).<sup>119</sup> The “Letter of Eight” was shortly followed by a “Vilnius Letter”, jointly sponsored by the Vilnius Group that lined up to enter the NATO and the EU as well (Rhodes 2004: 428).<sup>120</sup> On the opposite spectrum, Germany and France, with the support of Russia, waged an anti-war campaign. When European leaders were busy quarrelling with each other, an unprecedented massive anti-war demonstration started from mid-February in all major European cities and soon swept across the entire Europe (Balabanova 2011: 74). In face of the widespread protests against war, EU leaders on 17 February reached a temporary agreement that force would only be used as a last resort.

Persuaded by Britain, the US went back to the UNSC to seek a second UNSC resolution authorizing military strikes against Iraq but only realized afterwards that such a resolution would never be approved since France, Russia and possibly China would use their veto power if necessary, which once wielded would

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<sup>119</sup> The Netherlands did not sign the letter because its political parties could not agree on a consistent policy on Iraq.

<sup>120</sup> Members of the Vilnius Group include Albania, Bulgaria, Croatia, Estonia, Latvia, Lithuania, the Republic of Macedonia, Romania, Slovakia and Slovenia. The entire group of countries were also EU-membership applicants during the time. Bulgaria served at the UNSC during 2002-2003.

make other votes from other UN members irrelevant (Dunne 2012: 427).<sup>121</sup> The three countries plus Germany proposed to give UN inspectors another four months to complete their work, which was found unacceptable by the US and its proponents in the UNSC.

Due to lack of success in garnering support for the second resolution, Washington concluded that diplomatic possibilities at the UN had been exhausted. They eventually withdrew their proposal on 17 March but decided to proceed to attack Iraq anyway with or without a clear UN mandate. On the same day, President Bush declared a 48-hour deadline for Saddam and his sons to leave the country or face a war otherwise (Gordon and Shapiro 2004: 154). When the ultimatum was ignored, the “coalition of the willing” led by the US officially began on 19 March with an aerial attack against a location where Saddam was suspected to be meeting with top Iraqi officials (Copson 2003).<sup>122</sup> Despite the unexpected harsh resistance from the Iraqi side, the military operation was rather quick and decisive. Baghdad fell on 9 April, signifying the collapse of Saddam’s 21-year ruling of Iraq. By the beginning of May, Bush had already declared victory because of the end of major combat operations while Saddam was still at large and insurgencies between different groups as well as attacks against coalition forces were still going on (Ibid. 35). Later that month the UNSC passed Resolution 1483 and legitimised the Coalition’s control of Iraq.

Saddam was finally captured on 13 December, and was then executed by the new Iraqi government in 2006 after a year-long trial. Ironically, WMD stockpiles that could justify the US-led operation to topple Saddam were never found in Iraq, according to the Duelfer Report by the Iraq Survey Group, which was a fact-finding mission dispatched by the multinational force to replace the UN inspection teams to find hard evidence for Iraq’s material breach of disarmament obligations (Bluth 2004:888). French and German leaders might somehow have felt that their decisions were vindicated, but it did not change the fact they had not won support by other EU member states. On 16 October 2003, the UNSC unanimously approved Resolution 1511 that effectively authorized the occupation of Iraq by the multinational forces. The UNSC called on UN members to contribute to the maintenance of security in a post-war Iraq. France, Russia and

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<sup>121</sup> In the UNSC at that time, the US, Britain, Spain and Bulgaria were in favour of a resolution authorizing the invasion while France, Germany, Russia, China and Syria had expressed their opposition to such a proposal. The other six countries, also known as the “undecided six”, including Angola, Cameroon, Chile, Guinea, Mexico and Pakistan, were caught in between the two lines. But even if the US and its allies could win the support of all six countries, their efforts would become meaningless once a veto was cast.

<sup>122</sup> The US managed to rally troops from thirty-five countries, of which twelve were EU members.

Germany only agreed to support the resolution when they were assured that a deadline would be set up for the coalition to return power to the Iraqi people (Byers 2004: 181).

In late June 2004, the Coalition Provisional Authority (CPA), a transitional governing body created by the multinational coalition shortly after the invasion of Iraq began, formally transferred power to the newly-appointed Iraqi Interim Government. The transitional Iraqi National Assembly was elected on 31 January 2005, which formed the Iraqi Transitional Government and was given a mandate to draft a permanent constitution (Gordon and Shapiro 2004). A referendum held on 15 October ratified the new Iraqi constitution. The Transitional Government was later replaced by a permanent Iraqi government on 20 May 2006. In October 2011, US President Barack Obama declared that all U.S. troops would withdraw from Iraq by the end of the year. On 15 December, Defense Secretary Leon Panetta formally announced the Iraq War was over (Stahl 2008). However, violence continued in post-Saddam Iraq. Conflicts between Sunni and Shia Iraqi groups and bomb attacks against the authority constituted a constant threat to the stability of the new government and the safety of the Iraqi population. Until today, the Iraq war remains a disputable question not only because the WMD that justified the course of military intervention were never found on Iraqi soil but also because the security situation in Iraq is still problematic.

### **6.2.2 Horizontal Coherence: EU-level Response to the Crisis**

This sub-section explores the role of the rotating Presidency, the HR/SG and the Commissioner of External Relations in representing the Union during the Iraq crisis, the coordination between these two institutions and the extent to which they were able to deliver coherent EU foreign policy. The first collective response towards Iraq was made in late August 2002 by the Foreign Minister from the Danish Presidency, Per Stig Møller, who on behalf of the Union called on the Iraqi government to allow the immediate return of UN inspection teams but meanwhile indicated that no decision had been reached within the EU on military action (Stahl 2008: 9).<sup>123</sup> On 16 October, the Danish Presidency made a statement in the UNSC, which emphasised the necessity to resume UN inspections. Its pro-US position became obvious when Prime

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<sup>123</sup> Denmark started to serve as the EU Presidency on 1 July 2002. The successive presidencies, notably Greece (1 January – 30 June 2003) and Italy (1 July – 31 December 2003), were cooperating with the Danish Presidency as Presidency trios for an 18-month period during the time of the Iraq crisis.

Minister Anders Fogh Rasmussen made a controversial statement stating that the UN resolutions to date sufficed to legitimize a military intervention (Stahl op.cit.11). The Danish government later became one of the signatories of the “Letter of Eight”. There is evidence suggesting that even before signing the letter Denmark had been prepared to actively support the US (Ibid. 14). Denmark officially declared war on Iraq in March 2003 and submitted its troops to US command (Rhodes 2004: 428). It appeared that Denmark, as the agent of the EU, was trying to be prudent and avoid any specific positioning on Iraq. However, in the end its Atlanticist policy orientation prevailed and the Danish Presidency was involved in shirking.

Greece succeeded Denmark as the Presidency in the first half of 2003. Before the succession took place, Greek Prime Minister Costas Simitis had marked CFSP approach as the core of their presidential work (Levy et al. 2005). Since then the Greek Presidency had been trying hard to patch up the differences among EU member states to reach a common ground preferably based on a negotiated solution. On 27 January the EU was able to issue a joint declaration demanding Iraq to comply completely without delay with UN weapons inspection. But it merely reflected the “lowest common denominator” acceptable to all EU members. The Union remained to be fractured with the UK, Italy, Spain, the Netherlands, Portugal, Denmark and several accession countries being supportive of American appeal for military intervention on one side as the “New Europe”, whereas Germany, France, Belgium and Luxembourg on the other side as the “Old Europe” strongly opposing a unilateral military action (Ibid.).

Similar to its predecessor, Greece was also hesitant about any early and explicit positioning on the Iraq issue (Stahl 2008: 82). The “Letter of Eight” caught Greece by surprise and was considered a disrespect of Greek Presidential work since Greece had not been consulted in the first place. Simitis strongly criticised the letter, arguing that the declaration was inconsistent with the EU’s endeavour to reach a common position. But the Prime Minister was not the only one feeling marginalized. Neither Commission President Romano Prodi nor HR/SG Solana were consulted either, let alone the block co-led by France and Germany that were against military action (Ibid.).

In the meantime, large-scale demonstrations for peace were taking place across Europe. In mid-February, millions of European citizens marched in the streets and protested against war. The most massive protests

were organized in London, Rome and Madrid, the capitals of the three EU countries that were most committed to a US-led war against Iraq (Levy et al. 2005; Balabanova 2011). In order to unite an increasingly widening Union and to respond to the quickly growing anti-war population, the Greek Presidency convened an extraordinary meeting of the European Council on 17 February (Wood 2003: 15). UN Secretary Kofi Annan and European Parliament President Pat Cox also attended the summit. Before the summit began, the Greek presidency had warned that the Union would enter a deep crisis if a common foreign policy on Iraq was still unachievable. Luckily at the end of the meeting, EU leaders managed to reach a compromise resolution to give Iraq a final opportunity to resolve the crisis peacefully. The joint statement clarified that the EU's primary objective remained to be full and complete disarmament of Iraq and repeated the Union's conviction of the central authority of the UNSC in dealing with the issue of Iraq. This statement echoed France and Germany's positions that UN inspectors should be extended to complete their task but pointed out that inspections could not continue indefinitely. The meeting recognized that war was not inevitable but would only be used as a last resort. It was the first time that the EU collectively acknowledged the possibility of military intervention. Three days later, the thirteen acceding and candidate countries aligned with the EU's position after they were briefed by the EU *troika*, composed of Greek Prime Minister Simitis, Commission President Prodi and UN foreign policy chief Solana.

The common position was achieved because both camps made certain concessions. The pro-US group led by Britain agreed to drop the demand for setting a deadline for UN teams to complete weapon inspections while the anti-war group represented by France and Germany accepted an agreement that did not rule out the use of force (Mahony 2003). Prior to the EU Summit, France, Germany and Belgium had softened their positions on the issue of defending Turkey against Iraq, which had been debated for weeks within NATO. Both Greek Foreign Minister George Papandreou and UN foreign policy chief Solana highly praised the EU summit. They believed that the EU was united again on a very important problem, an announcement which was later only proved to be too optimistic.

Like the previous joint statement, it merely united the EU on paper but by no means resolved the fundamental conflicts among EU member states. The Union soon found the remaining problems resurfaced.

In the wake of the summit, French President Jacques Chirac spoke at a press conference in which he rebuked the “Vilnius Ten” for taking the Anglo-American line and warned that such a move might endanger their EU membership (Rhodes 2004: 433). This speech not only incurred a storm of criticism from EU candidates but also conflicted with the perspective of EU Commissioner of External Relations, Chris Patten. In a speech before the EP on 12 March, Patten remarked that EU enlargement should not be called into question simply because the acceding countries had different views on Iraq and assured that they would be welcomed to join the EU. The Commissioner also warned that the risk of collateral damage and a revival of terrorism caused by a war, but he added that if military conflict was proven unavoidable, the decision should be taken by the UNSC (EU@UN 2003). Blair chose to do just the opposite against Chirac. He highly praised the leadership of the “Vilnius” on the Iraq issue in a letter addressed to EU applicant countries. Meanwhile, Britain emphasized that force shall be used if Iraq could not be disarmed peacefully and started to work with America and Spain to push through a second UNSC resolution sanctioning military intervention in Iraq. France and Germany, together with Russia, repeatedly claimed that they would not support such a resolution. However, the US and its European followers had made their minds to strike Iraq no matter whether a clear UN mandate existed or not. Foreseeing the failure of the UNSC to endorse use of force, they revoked the proposed resolution and launched military offences on 19 March (Gordon and Shapiro 2004: 163).

Until then, the Greek Presidency had exhausted all the institutional and political possibilities in its disposal but still the Union failed to close ranks and to reach consensus on an appropriate response to the threat posed by Iraq. The Presidency conclusions of the 20 and 21 March European Council reiterated the EU’s commitment to the full disarmament of Iraq and invited the Commission and the HR/SG to explore the means by which the EU might be able to contribute to post-war reconstruction (Council 2003a). As all its endeavours turned out to be fruitless, Simitis expressed on the eve of war that the Greek government was in strict opposition to a war lack of legitimacy and that Greece would not participate in the US-led invasion against Iraq. This declaration marked that Greece had officially sided with the Franco-German anti-war axis. But Greece supported the US-led coalition indirectly and logistically. It also allowed the US to use its military bases on Greek territory due to respective bilateral treaties (Stahl 2008: 93).

Later Blair called on other EU leaders to put their differences over the war in Iraq behind and focused on finding a common approach regarding the reconstruction of the country. The Greek Presidency also encouraged EU members to search for a common ground to restore the damage to the transatlantic relations. On 16 April, Greece issued the Presidency's statement in which it called for a further stronger UN involvement in post-conflict Iraq and reaffirmed the Union's pledge to play a significant role in the political and economic reconstruction of Iraq (Council 2003b). Since the Union and some of its key members had already been sidelined in the previous military action, its role in Iraq's reconstruction was doomed to be limited. At the end of the month, the core of "old Europe", namely France, Germany, Belgium and Luxembourg held a small summit in Tervuren to discuss the possibility of closer defence cooperation. None of the "new" European states was invited (Mouritzen 2006: 140). This was ferociously criticised by those Atlanticist EU members which accused these four countries were trying to institutionalize an already divided EU (Menon 2004).

As the agent of the Union, Greece made achieved certain success by bringing about a common EU position. But eventually it failed to facilitate further consensus and fell into the anti-war camp (Mouritzen op. cit. 153). The position of the Greek Presidency was backed by HR/SG Javier Solana and External Relations Commissioner Chris Patten, who also advocated for diplomatic instruments and multilateralism (Patten 2003). But both actors took a low-key profile in the crisis, and gradually faded from the debate as the intra-EU arguments became heated. This indecisiveness of EU institutions was reaffirmed by the Parliament's failure to reach any kind of agreement Iraq. The PSC, which was just made a permanent body, did not play a meaningful role during the entire process of the crisis. Many PSC ambassadors received strict instructions from their respective MFAs that Iraq was to be kept rigorously off the agenda (Juncos and Reynolds 2007; Howorth 2010).

By the time Italy took over the EU Presidency, Iraq had no longer been a top priority on the Presidency's agenda. Italian Foreign Minister Franco Frattini confirmed his support of a possible US intervention, but made it clear that Italy was not a nation at war (Stahl 2008: 91). Frattini also declared that it was time for the EU to bury the differences arisen during the Iraqi crisis and to repair the wounds done to the EU-US

relationship (Ibid.). There were practically no serious discussions in the Council of Ministers or in the European Council on Iraq during the Italian Presidency. EU member states acted as if the matter was for the UNSC and the US to solve. After the adoption of UNSC Resolution 1483, the EU lifted its sanctions against Iraq. In June 2004, the EU endorsed a medium-term strategy paper for relations with Iraq, which had been jointly proposed by the HR/SG and the Commission.<sup>124</sup>

### **6.2.3 Vertical Coherence: Divergent Reactions from EU Member States**

The Iraq crisis marked a nadir of European integration in the field of foreign policy. As some scholars have elaborated, the lack of EU representation coherence during the 2003 Iraq war was caused by deep-rooted policy differences within the collective principals, i.e., EU member states (Stahl 2008; Portela 2009). It leads to the vertical dimension of coherence, which needs to be assessed by the degree of preference homogeneity or heterogeneity among EU member states, the extent to which they managed to coordinate their national policies, and the extent to which those EU member states serving on the UNSC concerted and shared information. Moreover, the capacities of EU institutions, e.g., the rotating Presidency and the HR/SG, in organising and perhaps facilitating the coordination should be evaluated. It also demands an examination of whether the positions stated by EU institutions and national representatives are coherent.

The consensus of the Union stopped at the point that Iraq should be fully disarmed. Yet EU members were profoundly divided over the means – diplomatic or military – to achieve the goal, the importance of the UN, and American leadership in regard to solving the Iraq crisis. At the heart of these disputes were differing perceptions of the prospect for the Union’s CFSP and its relationship with the US. Based on different considerations of national interests, EU member states parted ways with Britain, Spain, Italy and several acceding Eastern European countries, choosing to firmly support a US-led military invasion of Iraq while German and France deciding to prevent a war by all means. The rest of EU members at first were hesitant to take clear positioning but eventually had to gather around one line or the other. As Patten pointed out, CFSP suffered a severe setback because EU member states on both sides of the debate had chosen to take firm national policy positions as if they spoke for the EU as a whole (EU@UN 2003). The subsequent

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<sup>124</sup> Communication from the Commission to the Council and the European Parliament, “The European Union and Iraq: A Framework for Engagement”.

analysis will mainly focus on the “Big Three”. In the anti-war camp, Germany and France are selected as these two countries were the most determined opponents of a US-led war against Iraq. They are chosen also because they were serving the UNSC at the time of the crisis with Germany as an elected member while France was a permanent member with veto power. The UK is selected for the same reason but also because it was the spearhead of the pro-war camp.

Germany was the first EU country that clearly clarified its position opposing a war in Iraq due to a national election looming in September 2002. Having a sharp nose for a public that was growing war-averse,<sup>125</sup> Chancellor Gerhard Schröder declared in early August at the start of his re-election campaign that Germany was not available for adventures and therefore would not provide troops or money for an attack on Iraq even if it was mandated by the UNSC (Hooper 2003). Schröder further distanced himself from Bush as the election was approaching. On 30 August, a day after Cheney’s the speech calling for regime change of Iraq, the Chancellor threatened to withdraw German biological and chemical detection equipment in Kuwait if the US unilaterally attacked Iraq. Absolute rejection of war brought Schröder a close victory of the Social Democratic Party (SPD)-Green coalition in the election but also made him extremely unpopular among American and British elites who were advocating military action. For instance, President Bush did not congratulate Schröder after he was re-elected, which was unprecedented in the history of German-American relations since the Federal Republic was established.

In November 2002 the UNSC decided to give Iraq a last chance to comply with the UN’s disarmament request or face serious consequences. It was reported that Germany played a crucial role in persuading the UK and the US to drop a reference that might imply automatic military intervention in case of Iraq’s uncooperative behaviour (Mahony 2003). Leading policy-makers of Berlin found themselves not convinced by the evidence presented by the US that Iraq posed an immediate threat and needed to be neutralized by force. Although there was a consensus within the government that war was unacceptable, differences existed within the red-green coalition on how to address the Iraq issue publicly. On 21 January 2003, the Chancellor declared at a campaign event that Germany would not approve a second resolution authorizing

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<sup>125</sup> Around 80 percent of the German population objected to military attack on Iraq during the time (Kritzinger 2003).

war. This statement, according to Foreign Minister Joschka Fischer, had reduced Germany's diplomatic leeway to zero (Fischer 2011). The Foreign Minister, as a sophisticated diplomat and a Green member, preferred not to take a categorical position so that Germany would not be isolated. Largely due to his personal efforts, Germany was able to back down and settled with a joint EU statement in February that accepted the possibility of the use of force.

In late January, Hans Blix, the chief weapons inspector, released his first progress report on Iraqi disarmament, in which he concluded that although Iraq had decided to cooperate in principle, so far it had not provided full information for the unaccounted weapon stocks to inspectors. American and British governments took this report as evidence of Iraq's further violation of its disarmament obligations and had lost their patience for an extension of UN inspection (Gordon and Shapiro 2004). Germany, as a sitting member in the UNSC and its Presidency starting from 1 February was unable to present any concrete initiative to close ranks within the UNSC. In order not to be isolated, Berlin moved closer to the positions of Paris and Moscow. Believing that the inspections were producing results, France shifted its policy of being open to all options to steadfast opposition against a military intervention. At the 40<sup>th</sup> anniversary of the Elysée Treaty on 22 January, Schröder addressed the press conference with French President Chirac that the two countries had agreed to completely harmonize their positions and find a peaceful solution to the Iraq crisis (Hughes 2003). On 10 February, the two countries aligned with Russia and jointly declared their preference for the continuation of UN inspection and their determination to disarm Iraq peacefully while in the meantime acknowledged the use of force as the last resort (Goldthau 2008). On 5 March Berlin, Paris and Moscow hardened their positions in a second joint declaration saying that they would not allow a resolution legitimising war to be passed, which implied that France and Russia as permanent members of the UNSC were prepared to use their vetoes. The three countries made a last-minute joint attempt to prevent war in mid-March. In a letter addressed to the President of the UNSC from Germany's Permanent Representative to the UN, the foreign ministers of Germany, France and Russia jointly appealed to all members of the UNSC to ensure that a peaceful approach prevailed since nothing in the circumstances

justified the use of force (UN Security Council 2003). Their efforts can be seen as an attempt to balance the hegemonic power of the US on the Middle East.

Berlin's last try to avoid military conflict turned out to be fruitless when one when the US-led "coalition of the willing" launched their strikes against Baghdad. Germany's absolute anti-war stance on Iraq marked a departure from its traditional policy to align with the US at moments of crisis. It reflected Germany's increasing ambition to play an independent role in international affairs and its deep scepticism regarding the use of force in general due to its restraint tradition (Levy et al. 2005). The logic behind Berlin's decision-making is multi-fold: as far as German statesmen were concerned, a war against Iraq was not only unnecessary – especially when the UN inspection team was making progress – but also mistaken (Stahl 2008). They were worried that an Iraq at war might put regional stability in danger and undermine international anti-terrorism efforts. The German government was also afraid of terrorist revenge if Germany supported the US. The tragic train bombings in Madrid of 2004 proved that Berlin's anxiety had not been groundless. But it was domestic political calculations that played a prominent role in German early positioning over Iraq. Schröder undoubtedly used the German public's widespread scepticism of war and anti-American sentiment for electoral advantage. Besides, an approval from the *Bundestag* for military participation in the Iraq war appeared to be very unlikely since the views of Germany's political parties converged on the war-averse stance. However, Berlin was trapped in its own categorical rhetoric and had to stick to it until the end or faced a credibility loss of the coalition government instead (Harnisch 2004).

This also explains why after its successful re-election, the Chancellery tried to mend fences with the American government while holding on to its original position against war and non-participation. As the coalition troops were pushing forward, German leaders, including both Schröder and Fischer, softened their tones and hoped for a US victory in overthrowing the dictatorship and building democracy in Iraq (Copson 2003). Regardless of its non-participation in military terms, Germany in fact made a greater material contribution to the war than expected. It granted flyover rights for American military aircraft, safeguarded US military facilities located within Germany territory, maintained chemical and biological detection equipments in Kuwait and stationed antimissile defence systems for Turkey's protection (Wood 2003). As

early as in May following the end of the major combat operations, Schröder indicated that Germany would like to participate in the post-conflict reconstruction if the UN would be in dominance of the process. Berlin in the end contributed to Iraq's reconstruction by providing financial and technical assistance as well as by training Iraqi security forces and police outside Iraqi territory.

France was the closest ally to Germany during the crisis of Iraq. Although France participated in the American-led military coalition forcing Iraq out of Kuwait and had severed its relationship with Baghdad since 1991. By the mid-1990s, diplomatic and business ties between Paris and Baghdad were gradually reconnected. Based on energy and commercial considerations, France started to energetically lobby for lifting the sanctions against Iraq. Since then French policy on Iraq had been distancing from that of America and Britain. In 1997 and 1999, France twice abstained on UN resolutions regarding the situation of Iraq.<sup>126</sup> The specificity in Franco-Iraqi relations steered the orientation of Paris for a peaceful solution of the crisis. When the Bush administration revealed its intention to attack Iraq in the autumn of 2002, the French government, though patronizing toward Germany's opposition against war, carefully avoided categorical pronouncements because it feared that a tough opposition might push the US to simply abandon the UN and invade Iraq unilaterally. On 29 August, President Chirac emphasized in a speech to the Annual Conference of French Ambassadors that any decision on Iraq must be taken within the framework of the UNSC through collective process and suggested the resumption of UN inspectors in Iraq (Gordon and Shapiro 2004). At that time, Paris had not completely ruled out a military intervention and even considered the threat of resorting to force might help enforce Iraq's quicker compliance with the UN. In late September, Chirac proposed the need for two UNSC resolutions for a military operation to be taken in Iraq. France accepted a resolution threatening the use of force after it made sure that it excluded any automatic trigger of military attack in case of Iraq's non-compliance. Chirac even offered his services to convince Syria not to vote against it so that UNSC Resolution 1441 could be adopted unanimously (Stahl 2008).

The French open-to-all-option policy towards Iraq only lasted until January 2003. While Washington and London insisted that Iraq's incomplete cooperation presented in Blix's preliminary assessment had

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<sup>126</sup> UNSC Resolutions 1134 and 1284.

constituted a further material breach of UN resolutions, Paris had a different interpretation which recognized the progress made by UN inspection teams and believed that peaceful disarmament was still workable. President Chirac stressed that France would only support military action if the UNSC as a whole made that decision based on the report of UN inspectors. It was rather an insincere statement since France could veto the resolution if it wanted. Still it sent a confusing signal to Washington that Paris might give consent to military action. On 20 January, France as the monthly Presidency of the UNSC was holding a session on terrorism. Foreign Minister De Villepin had convinced Powell to attend the meeting with a promise that there would be no debate on Iraq (Rhodes 2004). But at a press conference after the meeting, the French foreign minister told the reporter that nothing in the circumstances raised the prospect for a second UN resolution and indicated the possibility of using the veto to stick to its principle (Peterson 2004). Two days later, at the anniversary celebrating the 40-year Franco-Germany friendship, Chirac announced that the two countries held the same judgment on the Iraq crisis. He portrayed himself and Schröder as the representatives of European citizens, which brought discontent from British, Spanish and Italian leaders since they felt that their leaderships were downplayed (Hughes 2003; Gaffney 2004).

In late January and early February, altogether eighteen European countries publicly expressed their solidarity with the Anglo-Saxon camp. Afraid of being isolated in the UNSC, France and Germany sought Russia's support. On 10 February, Russian President Vladimir Putin started his three-day visit to Paris. At a press conference that evening, President Chirac read out the France-Germany-Russia joint statement in which the three countries emphasized that force could only be used after all peaceful means had been exhausted (Lichfield and Penketh 2003). Despite the temporary concession made by the Franco-Germany axis in the extraordinary EU summit a week later, two subsequent joint statements with Russia in March with stronger rhetoric revealed that no way would France approve another UN resolution justifying war. The conflict got further intensified when Chirac made a controversial speech at a press conference after the summit, denouncing the choice of the acceding Eastern European states for their alliance with the pro-war camp. He admonished these countries for missing a good opportunity to remain silent and threatened that France might reconsider their accession to the EU.

As a counterweight to Washington and London's efforts to gather international support for military intervention, throughout February and March, France carried out active diplomatic activities to pressure the other UNSC members to reject a second resolution which could authorize a war against Iraq. For example, the French foreign minister on 9 March began a three-day tour to Angola, Guinea, and Cameroon to ensure that these African countries would not cast affirmative votes on a pro-war resolution. A day later, Chirac appeared in television and declared that France would use its veto "regardless of the circumstances" since there were "no grounds for waging war" (Peterson 2004). It became clear until that a second resolution would not be passed. The US, Spain and the UK dropped their attempt to secure a UN mandate and delivered an ultimatum to Iraq. On the same day, Chirac expressed his regret of Washington's decision to abandon diplomacy and resort to war. He reasserted that nothing justified a war that might cause heavy humanitarian disasters and negative repercussions for the stability of the region. Chirac even refused to commit France to economic aid to rebuild Iraq (Kampfner 2003). However, as the war was developing toward a victory of the "coalition of the willing", the anti-war camp softened their tones to remedy the fractured relations with the US. Both German Chancellor Schröder and French President Chirac expressed their hope for a swift US military victory with the toppling of Saddam Hussein but emphasized the importance for the UN to take the lead in the post-war reconstruction.

The softer approach on Iraq in the earlier days of the crisis was out of its diplomatic considerations to have more leeway in negotiations. As UN inspection teams were making progress in Iraq, and Washington could not provide decisive evidence of Iraqi possessions of WMD programmes, Paris began to harden its position and moved closer to Berlin's absolute anti-war orientation. French leaders shared the concerns of their German counterparts, worrying that a war in Iraq might further destabilize the region of the Middle East and exert a negative impact on the wider fight against terrorism. But its policy making on Iraq was mainly guided by national policy preferences and domestic political situations. First, Paris preferred the problem of Iraq to be solved in the UNSC where France as a permanent member could heavily influence the decision-making process. Second, France, considering itself as a great power, opposed unilateral US leadership in international affairs. Balancing the US and the UK had long been a principle in French foreign

policy since Charles de Gaulle. Core French leaderships were firm proponents of multipolarism which upholds a multipolar world order based on the primacy of international norms and multilateral cooperation. Moreover, the anti-war stance also enjoyed wide support across the political spectrum and among the French population. The massive demonstrations in mid-February demonstrated that the majority of the Europeans opposed the war. A poll published in April 2003 discovered that around 80 percent of the French population opposed an American-led invasion against Iraq and about 75 percent agreed with French foreign policy at the time (Wood 2003). Chirac's performance during the crisis showed certain opportunism in improving personal prestige, both international and national, by portraying himself as the true spokesman of European citizens and a counterweight of American hegemony in order to win more political popularity (Gaffney 2004; Styan 2006).

Some may argue that Paris and Berlin were driven by commercial and energy interests. Iraq is indeed rich in oil, but during the crisis international sanctions remained in place. It is also true that France tried to convince the international community to lift the sanctions on Iraq as the severed business ties had quietly started to resume after the mid-1990s. But during the crisis in 2002-2003, France did not have a considerable share of trade or oil interests that needed to be protected at the expense of damaging its relationship with the UK and the US. At the time of the crisis, French exports to Iraq only accounted for less than 0.3 percent of its overall exports and about 0.2 percent of its GDP (Copson 2003). Its imports from Iraq only accounted for 0.2 percent of overall imports and 0.05 percent of its GDP. As for Germany, its oil and gas companies were not part of drilling consortia or involved in pipeline projects in Iraq and its commercial share with Iraq was even smaller (Gordon and Shapiro 2004). If commercial and energy interests had been the main considerations of France and Germany, they would have aligned with the Anglo-Saxon camp in exchange for a fair share of oil and other spoils after the war. Their later shift to a softer rhetoric after the war began could be based on the concerns that they would be excluded from taking part in shaping a post-war Iraq and the fears that their companies would be barred from getting lucrative reconstruction contracts with Iraq.

Germany might take the false accusations for being the key of EU division because of the Chancellor's early positioning against Washington's appeal of regime change. Leaked documents of Downing Street

revealed more details of the decision process during early 2002. Britain in fact had identified itself as the loyalist ally of the US months earlier, without any prior coordination with other EU members. As early as in the beginning of April, British Prime Minister Tony Blair sent his policy adviser David Manning to Washington to find out Washington's attitude towards Iraq. Manning reported back that war was inevitable since Bush had made up his mind to topple Saddam by force. Bearing Manning's findings in mind, Blair told the President on 6 April that Britain would go along with the US in principle in a meeting in Crawford. Blair and his senior staff had examined specific invasion scenarios of an invasion of Iraq by the time of July (Mazarr 2007). For the Premier, the remaining question was on what terms the war would be fought. In order to maximise the case of military action, Blair suggested extending the Anglo-American coalition, preferably through the UN. On 10 April, Blair told the House of Commons that Saddam Hussein posed a threat to his own people, to the region and to Britain and thus could not be left unchecked (Kampfner 2003).

When Blair could not assemble the support as he had expected either from British political elites or the British public, he started to get "cold feet" about military intervention. Feeling that his career might be at stake, at the end of July Blair hinted in a personal letter to Bush that without a UN mandate, the UK might not be able to participate in the military operations against Iraq (Dunne 2012). Cheney's straightforward speech advocating for war on 29 August further strengthened his concerns that the US might be ready to bypass the UN. Blair decided to pay a personal visit to Camp David to persuade Bush to give diplomacy a chance before the scheduled speech of the President at the UNGA on 12 September (Gordon and Shapiro 2004). They reached an agreement in early September. Bush agreed to go back to the UN but reserved the right to go it alone if the UN failed to force Iraq's compliance while Blair promised that if a war was proven unavoidable London would be at Washington's side.

As the results of public opinion polls were negative and Blair's own Labour Party was increasingly divided, the Prime Minister felt that he had to provide hard evidence to save his declining popularity (Balabanova 2011). On 24 September, Blair presented to the House of Commons a dossier of Iraq's material breach of disarmament obligations. The document concluded that Iraq's WMD programme was active, detailed and growing, that Saddam had plans for the use of these weapons against his own Shia population

and Iraq's neighbours, and that he was actively trying to acquire nuclear weapons capability.<sup>127</sup> In the statement, Blair claimed that containment was failing and indicated his support for regime change by saying that "the region and the whole world would be better off without Saddam".<sup>128</sup> The statement was followed by a day-long Parliamentary debate. During the debate, the Liberal Democrats maintained that the focus should be re-launching UN inspections in Iraq and warned about the consequences of a "precipitate" military action without the backing of the UN. At the end, there were more than fifty Labour MPs who registered their opposition to Blair's stance. But it did not seriously jeopardise the decisive vote in the Parliament due to the unequivocal support by the Conservatives. Within the EU, both Germany and France's positions had indicated that their agreement to a unilateral military operation was impossible. Chirac called Blair later that day and expressed his view that the dossier had merely offered indications rather than proof of Iraq's defiance. The Prime Minister felt that the only way to win domestic approval and international support of a war against Iraq was a clear UN mandate that would authorize the use of force. However, Germany, France and Russia had made clear that they would not accept a resolution which included automaticity for the use of force. The US was hesitant to make a compromise on the other side. The British government had to spend months to make sure that the US stayed on the route of the UN. Believing the UK could act as a bridge between America and Europe, Blair was determined to reach an agreement within the UNSC. After eight weeks of intensive negotiations, the UNSC finally unanimously adopted Resolution 1441 which demanded the Iraqi government to fully accept and cooperate with the resumption of UN weapon inspections or face serious consequences. Both Blair and Foreign Secretary Jack Straw considered the resolution a British diplomatic victory, thinking that the UK had played a pivotal role in reconciling the differences between the US and the German-Franco axis. They had no idea at the time that they would be caught in a trap of their own making. UN inspectors never found the evidence of Iraq's possession of WMD stockpiles or nuclear capabilities. It became even worse when UN inspection chief Blix's reports let many, including French President Chirac, believe that inspection was workable and

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<sup>127</sup> The complete document "Iraq's Weapons of Mass Destruction: Assessment of the British Government" can be retrieved from the website: [http://news.bbc.co.uk/1/1/shared/spl/hi/middle\\_east/02/uk\\_dossier\\_on\\_iraq/pdf/iraqdossier.pdf](http://news.bbc.co.uk/1/1/shared/spl/hi/middle_east/02/uk_dossier_on_iraq/pdf/iraqdossier.pdf).

<sup>128</sup> The official report of the 24 September 2002 parliamentary debates can be seen on the website: <http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo020924/debtext/20924-01.htm>.

therefore shifted to stronger opposition of military intervention in Iraq. On 2 December, the British government published a second dossier documenting human rights abuses in Iraq, attempting to give its appeal for military action against Iraq one more moral ground.<sup>129</sup> On 18 December British defence officials disclosed that ships were being chartered to carry troops and heavy armour to the Gulf (Norton-Taylor and MacAskill 2002). Although the British Ministry of Defence insisted the substantial deployment of British force was only for a coercive effect, it was hardly convincing that the UK would just use a highly costly military deployment for a psychological purpose.

After the anti-terrorism UNSC meeting and the 40-year anniversary of the Elysée Treaty, it appeared that France and Germany had re-found their co-leadership of the EU on the issue of Iraq (Menon 2004). Washington had lost its remaining faith in Paris after French foreign minister De Villepin's speech when the session of UNSC was over. Any lingering hope of the UK for winning the support or acquiescence from Chirac for war was dashed to the ground. The true intention of the British government was not fully revealed until January 2003 (Peterson 2004). Seizing on that Blix's first progress report to the UNSC provided compelling proof of Iraq's further breach of UN resolutions, Blair expressed his unequivocal support for President Bush's position against Iraq. Regardless of the temporary agreement reached by the UK with other EU members on 27 January because of Greek's efforts, Blair had completely jumped into the pro-US camp and was determined to rally a coalition to counterbalance the Franco-German axis (Wood 2003).

On 30 January, the so-called "Letter of Eight", co-produced by Britain and Spain, appeared in the Wall Street Journal and the leading European newspaper of the signatories and publicly advocated a unity around the US position on Iraq. This letter, aiming to isolate Germany and France, not only highlighted the deep rift within the EU but also mirrored Rumsfeld's schism of the "new" and "old" Europe (Levy et al. 2005). Of course, Germany and France were not hinted about the existence of the letter in advance. Because of Blair's insistence, the letter was also kept secret from the HR/SG, Solana and the Greek presidency (Kampfner 2003). On the contrary, the US was informed about the letter a day before its publication. No coordination or any political solidarity prescribed by the EU's CFSP was displayed during the entire process.

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<sup>129</sup> The full text of the report "SADDAM HUSSEIN: crimes and human rights abuses" can be downloaded from the website: [http://news.bbc.co.uk/nol/shared/spl/hi/middle\\_east/02/uk\\_human\\_rights\\_dossier\\_on\\_iraq/pdf/iraq\\_human\\_rights.pdf](http://news.bbc.co.uk/nol/shared/spl/hi/middle_east/02/uk_human_rights_dossier_on_iraq/pdf/iraq_human_rights.pdf).

Despite the release of two governmental documents against Iraq, public opinion polls in Britain remained to be strongly war-averse (Balabanova 2011). A poll in 2003 suggested that about 77 percent of British citizens opposed invading Iraq without UN approval (Dunne 2012). Parliament members, including most members of Blair's own Labour Party and the Cabinet also shared this opinion. Blair, who had made his mind to go to war, still had considerable political interests in securing an explicit UN mandate of military action. Even though both London and Washington understood that the possibility of adopting a second resolution was small, Blair was able to convince Bush to stick to the UN route since it was important for the British government to be seen that they had exhausted diplomatic means before resorting to war. Blair even thought that a war would still be justified if the UNSC was paralyzed by an "unreasonable" veto (Hughes 2003). Sympathizing with the predicament of Blair, President Bush decided to help his loyalist friend out and agreed to submit another proposal of a resolution to the UNSC by the end of February.

On 24 February, America, Britain and Spain jointly submitted a resolution draft to the UNSC stating Iraq had failed to take the final opportunity to be disarmed peacefully afforded to it in Resolution 1441. Blair's popularity was further frustrated by a parliamentary revolt on 26 February evening when 198 rebels – of which 121 were Labour MPs – voted in the lower house against his strategy toward Iraq after an impassioned debate. Liberal Democrats constituted the majority of the remaining rebels. The scale of the revolt, the biggest within a governing party for more than a century, demonstrated Blair had failed to win public or political support at home (White et al. 2003). It also meant that the Prime Minister would have to press even harder to secure a second UNSC resolution legitimizing military action. Between February and March, British diplomats were zealously competing with their French counterparts for the support from other UN members respectively to their own coalitions. Both countries put their focus of lobbying on Latin American and African members.<sup>130</sup> Foreign Office Minister Valerie Amos travelled to African countries while David Manning was dispatched to persuade Mexico and Chile to get on board (Gordon and Shapiro 2004: 151). British diplomatic efforts turned out to be fruitless since these countries' attitude toward Iraq remained to be obscure. Realizing its diplomatic efforts were not going anywhere, Britain added to the draft

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<sup>130</sup> Pakistan had openly declared that it would not be open to influence from either camp (Kempfner 2003).

a list of new benchmarks for Iraqi compliance before the deadline of 17 March.<sup>131</sup> In response, Chirac said that he would consider the new benchmarks but would not alter his position against any resolution with automaticity of war. Britain's hope that the undecided states could turn to its side died on 14 March when Chile tabled a proposal suggesting giving UN inspectors more time to complete the task (Kampfner 2003). Blair, being disappointed, notified Bush that they should meet to discuss military operations for real. On 16 March, Bush, Blair and Spanish Premier José María Aznar met in the Azores. In the summit, they delivered an ultimatum to the UNSC to authorize the use of force against Iraq before the end of 17 March or they would go to war without a UN mandate (Reynolds 2003). When the deadline was passed, the British ambassador to the UN announced the withdrawal of the draft resolution. Two days later, the American-led coalition launched the military operations to “decapitate” Saddam. The UK actively participated in the fighting with around 40,000 British troops in action.

The basis on which the UK decided to go along with the US in military attacks of Iraq was British leaders' deep belief that an armed Iraq posed a consistent threat to regional and world security and needed to be dealt with. The 9/11 terrorist attack toughened Blair's stance to “rogue states” with WMD programmes (Bluth 2004). The UK's key policy makers were confident that Iraq possessed WMD and that Iraq and al-Qaeda were connected. It was believed that Iraq's biological and chemical weapons might be available to terrorists in the future. Blair and his inner circle were convinced that a rouge state like Iraq had to be confronted and the world would be safer with the removal of Saddam's regime. Years of sanctions were not able to force Iraq's compliance with UN resolutions but caused disastrous pain for ordinary Iraqi people. Considering the history of Saddam's propensity for aggression and disrespect of international norms, an extension of containment would not be efficient or effective. For the UK, diplomatic resolution might lead to a more undesirable result than military conflict. If UN inspections had been allowed to continue and eventually had brought Iraq's cooperation, sanctions against Saddam's regime would have been lifted. However, there would be no guarantee that Saddam would not reconstitute WMD capabilities. Moreover, according to the second dossier published by the British government, Saddam was considered an imminent threat to its own

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<sup>131</sup> The benchmarks for Iraq included arranging unmonitored interviews with Iraqi scientists, providing information on alleged inventories of nerve gas, anthrax, ballistic missiles, and remotely piloted aircrafts, and Saddam's appearance on television to admit lying about the weapons.

population due to the regime's long history of human rights violations. It was clear from the beginning to the British military intervention would be the least unattractive option compared with peaceful. However, Blair was forced to adhere to a UN route because his premiership was on the line of due to fierce domestic oppositions from both political elites and the British public. Although public opposition eventually failed to stop Britain from launching a war, they were indeed exerting a strong influence on Blair's choice to first seek a diplomatic solution of the problem of Iraq. The Bush administration persisted in seeking a second resolution of the UNSC largely because Blair pleaded that it was needed to sustain British public support.

Britain's rationale to align with the US was also rooted in its enduring Atlanticism. Since the Second World War, the UK and the US had maintained a special relationship which Britain considered to be a privilege. This closeness, coupled with the existing military cooperation of the two countries within NATO, gave impetus to Blair's decision to participate in the invasion against Iraq. Adopting an Atlanticist approach on security issues had been preferred by almost all former British prime ministers prior to Tony Blair. Contrary to Chirac's call for a new EU security strategy based on multipolarity independent from the US, Blair argued for an EU leadership in harmony with the US where the UK could play a significant role as the "transatlantic bridge" (Hughes 2003). Although the development of EU political integration had increasingly drawn Britain closer to the EU, close partnership with the US remained the priority for the UK. In the case of Iraq, the determination of the Bush administration to remove Saddam with force left Britain little choice but to choose sides between the US and the EU. Blair clearly chose the former. It was reported that he even told associates that his goal was to have a united Europe that was pro-America but if that proved impossible, he would rather have a divided Europe that was partly pro-American to a united Europe lined up against the US (Gordon and Shapiro 2004).

Because of the close Anglo-American relationship, it is frequently argued that Britain was dragged by the US into the war against Iraq. This argument was not entirely correct. It is true that Blair's decision to go to war was influenced by the American policy toward Iraq. But the prime minister himself truly believed that Iraq was a threat to Britain and its Western allies and played a pivotal role in facilitating the decision making to resort to war. As he explained to the Parliamentary Labour Party in February 2003: "People say

you are doing this because the Americans are telling you to do it. I keep telling them that it's worse than that. I believe in it" (Riddell 2003). A research using the leadership trait analysis showed that Blair's personality and leadership style was also an influential factor in British policy making during the Iraq crisis (Dyson 2006). Dyson identified that Blair had a high score of "belief in ability to control events", meaning that the prime minister was convinced that he could exercise considerable control over the developments of political events. An example was Blair's confidence that he could cut down the rebels down to 50 before he suffered a serious revolt in the Parliament (Kampfner 2003). It was this false perception that led to Blair's proactive foreign policy against Iraq. It is also found that Blair's lower "conceptual complexity" could explain his tendency to view the situation in Iraq as a moral issue between black and white. He was convinced that toppling Saddam was morally justified. Therefore, he eventually decided to go to war even without the blessing of the UN.

Since the "Big Three" were essentially divided on the Iraq issue, other EU member states had no choice but choose sides between the pro- and anti-war camps, triggering bitter rows and recriminations within the EU. As demonstrated by the "Letter of Eight" the "Vilnius Ten", this predicament also applied to the Central and Eastern European states, which were about to join the EU. Most of these countries quickly chose to stand side by side with the UK-led camp supporting the US, not least because the US was considered to be a more reliable ally against Russia compared to a divided EU (Serfaty 2006). Moreover, since these countries were also waiting to join NATO, it was important for them to appease the US at this critical moment. The problem of the two letters did not lie in their contents but rather in their appearances, which sent a signal of a divided and weak EU. The disagreement within the EU were also reflected at NATO headquarters, where France, Germany and Belgium were sparing no effort to block a plan to use NATO facilities to support Turkish defences in the event of an Iraq war, which was backed by the other sixteen NATO members of which fourteen holding memberships of the EU (Duke 2012).

Before the "Letter of Eight" was released, the HR/SG, Javier Solana had worked hard to push forward a common approach for the EU, and he succeeded during the Greek Presidency when a collective position was reached on 27 January. As the "diplomatic war" among EU member states was becoming increasingly

fierce, Solana began to realize that a common position was beyond reach and kept a low profile throughout the crisis (Hughes 2003). The letter was considered a further “insult” towards Solana, since Britain and Spain had not informed the HR/SG. Solana, who actually first heard about the publication on the radio, was reported to be furious to have been cut out (Gordon and Shapiro 2004: 131). Caught between the divergent interests of EU member states, the HR/SG’s role as an EU agent and a consensus-builder on matters of the CFSP was seriously weakened.

#### **6.2.4 An Assessment of EU Representation Coherence in the Iraq Crisis**

Regardless of the Union’s continuous efforts to strengthen the CFSP for almost a decade, the EU was in serious split over the crisis of Iraq. The lack of agreement among EU member states heavily damaged the Union’s presence at the UN as a collective organization. The credibility of the Union’s CFSP was undermined since there was rarely any prior consultation within the EU or concertation of the positions of EU member states at the UN. EU representatives, notably the Presidency, the HR/SG and the Commissioner of External Relations were made irrelevant in the impasse of conflicted member states. The analyses of EU decision making process at both horizontal and vertical level above have illustrated the structural deficit of EU representation in the field of the CFSP and the domestically-driven reactions of EU member states to the crisis. This summary section is planning to assess how the EU was represented at the UN on the issue of Iraq from a principal-agent perspective. But the role of the EU was doomed to be downplayed since it was unable to conclude a common position toward Iraq in the first place.

Prior to the adoption of the ToL, the alternate Presidency acted as the leading agent of EU external representation in issues falling into the CFSP. In the case of Iraq, Denmark and Greece in sequence were serving as the EU presidency at the time. Both Denmark and Greece avoided any early categorical positioning and tried to act as a moderator to facilitate collective decision-making of the EU. But their own policy preferences towards Iraq were not even consistent with each other. While Copenhagen embraced Washington’s appeal for military intervention, Athens as the successor preferred a peaceful disarmament of Iraq, a policy which was closer to the positions of Germany and France. Limited by their own national policy orientations, it was difficult for the Presidencies to remain impartial, let alone to be an honest

coordinator between the pro- and anti-war camps. The ambitions of the two Presidencies to represent the EU were also different. Before the succession actually took place, Greek Prime Minister Costas Simitis had marked a CFSP on the issue of Iraq as the core of their presidential work. The Greek Council Presidency tried to make the best of an impossible job and was successful in reaching a compromise agreement twice, even though the common stance was just temporary and largely ignored by both camps of EU members. The Greek Presidency's role was limited in merely delaying the rift within the EU rather than solving the intra-EU differences. It is worth mentioning that the common positions reached under the Greek Presidency were more desirable to Greece and the anti-war group, indicating that the Presidency might have tried to direct the coordination process towards its preference. As the conflicts within the EU became more intense and irreconcilable, both Presidencies eventually gave up their diplomatic efforts and joined the camp they preferred respectively.

Horizontal coherence in the EU's representation was astonishingly low during the crisis. The EU Presidency's role was rather limited because of EU member states' resistance to make genuine concessions. Although the HR/SG managed to assist the Greek Presidency in facilitating two tentative common statements, his role was quickly diminished by cutting out the preparation of the "Letter of Eight". Both the HR/SG and EU Commissioner of External Relations kept a low profile during the ferocious diplomatic war of EU members. Therefore, there was hardly any meaningful coordination between the two actors. Since a common EU position had never been made, Solana was never invited to address the UNSC regarding the issue of Iraq. The security crisis eventually was reserved for the US and NATO to deal with, while the EU, as a collective actor, was largely sidelined.

Since neither Denmark nor Greece was sitting in the UNSC at the time, the Union had to depend on those members that do serve on the UNSC, especially the two permanent members, i.e. the UK and France to ensure the defence of the Union's positions and interests. The risk of agent deviation was even higher since the UNSC had been considered as a state-centric forum to promote national priorities and interests. During the Iraq crisis, no substantial coordination or concertation among EU members at the level of the UNSC could be observed. A resolution to deal with the crisis through the EU's CFSP never existed. The problem of

“agent losses” was outstanding since EU members have divergent preferences within the EU, which was considered a collective principal. A lack of vertical consistency practically led to a lack of mandate for the agent of the EU to speak up on behalf of the Union. As the divergence between EU member states grew, Solana, Prodi and Patten gradually left the stage of debate and therefore shed little light on the perspectives of EU policy making over Iraq.

Among the EU members that were sitting in the UNSC, Germany and France were united in opposing the US and an invasion of Iraq without the authorization of the UN. German and French leaders were not convinced by America’s rationale for war and argued that a diplomatic solution should be given every chance. Both countries reversed their earlier pro-US policies to assist American-led military operations e.g. in the cases of Kosovo and Afghanistan. Their policy choices over Iraq were largely determined by domestic politics and national preferences. Both leaders of Germany and France were suspected to utilize the widespread war-averse and anti-America sentiment among the European public to win political popularity, both at home and at the international level. Their emphasis that the issue of Iraq should be strictly dealt within the framework of the UN was out of the consideration to constrain and counterbalance American’s sole dominance of issues involving international peace and security. Within the Franco-Germany axis, Chirac clearly played a more significant role than his counterpart Schröder, since France as the veto holder at the UNSC had more leverage to influence proceedings other than to antagonise the US. The French threat to use its veto power was also conceived as an abuse of its UNSC privilege by Britain, Spain and other EU members which were sympathetic to the American approach.

On the other side, the UK, Italy and Spain, along with several Eastern European states that were lining up to join the EU as well as NATO, aligned themselves with the US in support of military intervention. Believing that an Iraq in possession of WMD programmes posed a great threat to the Western world, these countries were determined to remove Saddam’s regime with the use of force, with or without a clear UN mandate. Unsurprisingly, the UK, as a permanent member of the UNSC and a special ally with the US took the lead within the pro-war camp in rallying international support for a US-led military invasion against Iraq.

The absence of cooperation appeared to be more serious when these countries decided to present a united front but excluded anti-war EU members and key figures at the supranational level.

In summary, the EU was largely marginalized during the Iraq crisis since the issue was preferred by EU member states to be tackled at the forum of the UNSC in terms of their relations with the US rather than within the framework of the Union's CFSP mechanism. Foreign policy making of individual EU member states was starkly coloured by domestic considerations rather than collective thinking of common EU interest. As the Iraq crisis has demonstrated, the representative system of the EU prior to the adoption of the ToL had been initially problematic. Furthermore, as the lack of horizontal consistence in EU representation – apart from the structural weaknesses – was largely due to the lack of vertical consistence of EU member states to stick to the agreed EU stance, the question of whether the Union would be able to speak with one voice would depend on whether EU member states could comply with the spirit of the Union's CFSP and make necessary concessions in order to establish a common EU representation in international affairs.

### **6.3 The EU and the Libya Crisis**

The unrest that started in Benghazi in mid-February 2011 soon spread to other regions of Libya and eventually turned into a civil war. Many were killed or injured and thousands became refugees.<sup>132</sup> The worsening political and humanitarian situation raised international concern with many states and IOs, including the UN and the EU, condemning Gaddafi's violent attacks against the protestors. The crisis posed an early serious test for the CFSP-related institutional structures set up by the ToL. It broke out about 14 months after the ratification of the Treaty and just one and a half months after the EEAS was declared operational. It provided an opportunity for the HR and the EEAS to demonstrate leadership in crisis management and show their strength in representing the EU on the world stage. How the EU and its member states responded to this event provides real evidence for the effect of the ToL. Was the Union able to fully utilize the new instruments granted by the ToL and stand as one to handle the security crisis? Or did the remaining weaknesses in its external representation hold the EU back? In this sub-chapter, following a brief account of the background of the Libya crisis, we will examine how EU institutions and EU member states

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<sup>132</sup> Estimates of the casualties have widely varied. Human Rights Watch estimated that 230 people were killed in the first five days of unrest. But according to Amnesty International, earlier estimates of the initial clashes in February were exaggerated.

responded to the Libyan crisis and make an assessment of the level of coherence of EU reactions to the incident, especially of whether the structural instruments invented by the ToL had a positive effect on EU external representation in crisis management, which is an inherent part of the EU's CFSP.

### 6.3.1 Background

The story behind the Libyan crisis is not an unfamiliar one. Decades of dictatorship and political repression combined with low development, corruption, nepotism and mismanagement had fuelled the grievances and rage of Libyans which were waiting to explode. The Tunisian and Egyptian revolution certainly provided the inspiring sparks and the government's arrest of human rights activist Fathi Terbil released the trigger (Chorin 2012:192). On 15 February 2011 hundreds of demonstrators gathered in Benghazi, protesting the arrest and demanding for reform and the step-down of Muammar Gaddafi, who had been ruling the country over 40 years. After confrontations with national security forces, the protests soon escalated into an armed anti-Gaddafi rebellion and later a full-scale civil war. The opposition forged an interim governing body, the National Transitional Council (NTC), claiming to be the sole representative of the Libyan people. But Gaddafi made it clear that he would rather "die a martyr" than hand over the power (Black 2011a). In response, the government deployed lethal means and excessive force, trying to crack down the unrest.

Considering the widespread and systematic attacks against civilians, on 26 February the UNSC reacted with "unprecedented speed and unanimity" and issued Resolution 1970, which recalled the Libyan authorities' "Responsibility to Protect (R2P)" its citizens, imposed sanctions on Gaddafi and his inner circle. The Resolution also decided to refer the Libyan situation to the International Criminal Court (ICC) for investigation.<sup>133</sup> On 1 March the UNGA suspended Libya's membership of the Human Rights Council. Given that the Libyan authorities failed to comply with Resolution 1970 and the situation in Libya was deteriorating on a daily basis, on 17 March the UNSC adopted Resolution 1973 through which it established a no-fly zone and authorized UN member states to "take all necessary measures" to protect civilians and enforce compliance with the ban on flights. Two days later, in order to implement Resolution 1973,

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<sup>133</sup> On 27 June 2011, the ICC issued an arrest warrant for Gaddafi, accusing him of crimes against humanity.

“Operation Odyssey Dawn” – a multinational military operation led by the US, the UK and France – waged a campaign of air strikes against Gaddafi’s forces. The US soon withdrew its fighter jets and NATO stepped in on 31 March taking full command of the mission “Operation United Protector” (OUP) under a UN mandate. On 29 March, an international conference of more than thirty-five countries plus the UN and NATO was convened in London to discuss the Libya conflict and world leaders agreed to set up the Libya Contact Group to support the NTC’s efforts to overthrow the Gaddafi’s regime (The Telegraph 2011).<sup>134</sup> On 15 July, the Libya Contact group recognized the NTC as the legitimate authority of Libya (Black 2011a). Afterward, there was a period of stalemate concerning the military action. Tripoli finally fell on 20 August. After months of intense fighting between the two sides, the conflict ended up with Gaddafi’s death on 20 October. He was captured in the Battle of Sirte and was confirmed to be dead shortly.<sup>135</sup> Three days later, the NTC declared the official liberation of Libya and the end of the civil war.

### **6.3.2 Horizontal Coherence: EU-level Response to the Libya Crisis**

The first EU-level response came from the HR, who had been appointed the leadership of EU external representation since the adoption of the ToL. It took five days for the HR to issue a declaration on behalf of the EU expressing her extreme concern of the events unfolding in Libya. She condemned the repression against peaceful demonstrators and urged the Libyan authorities to immediately refrain from further use of violence (European Union 2011a). On 23 February, Ashton issued a second declaration with tougher rhetoric in which she “strongly” condemned the “unacceptable” repression against civilians. The HR declared that the EU was ready to supply humanitarian aid and to take further restrictive measures on the Libyan authorities (European Union 2011b). Later on 6 March the HR sent a fact-finding team to Libya, led by Agostino Miozzo, the EEAS Managing Director for Crisis Response and Operational Coordination – the first international mission of its kind since the violence – to assess humanitarian and evacuation efforts in Libya (European Union 2011c). On 9 March in her speech at the EP, Ashton said that she had asked her Services to look at possible CSDP engagement to support current evacuation and humanitarian efforts

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<sup>134</sup> Attendees included foreign ministers and leaders from the UN, the Arab League, the Organization of Islamic Cooperation, the EU and NATO.

<sup>135</sup> Gaddafi’s death raised questions about whether he was killed in crossfire when loyalist forces attempted to free him as claimed by the NTC or deliberately executed. Later there was evidence suggesting that Gaddafi was beaten to death by the rebel fighters.

(Europa Press Releases 2011). Unfortunately, a serious proposal on launching a military CSDP mission under the Petersberg tasks to enforce the Libyan no-fly-zone was never put on the table (Brattberg 2011). The bright side is that on 22 May the HR established a liaison office in Benghazi under the management of the EEAS to support the NTC and to bring more efficiency to EU actions. It could be interpreted as a *de facto* recognition of the interim government.

On 23 February, the same day when the HR delivered her second declaration on Libya, the President of the European Council also made a statement addressing the developments in Libya (European Council 2011a). Though the condemnations and demands for the stop of using violence against civilians was similar to the HR's declarations, President Van Rompuy seemed to suggest regime change and democratic transition with the help of the EU when the HR at the time still counted on the Libyan government to "meet its responsibility to protect its population". On 11 March, the President convened an extraordinary European Council meeting to set the strategic direction for future EU policy and action to the situation in Libya. The leaders of EU member states agreed that the Gaddafi's regime had lost legitimacy while the NTC should be considered a "political interlocutor" (European Council 2011b). The Summit also agreed to examine "all necessary options" to protect civilians but failed to approve the enforcement of a no-fly zone proposed by British Prime Minister Cameron, with the joint support of French President Sarkozy. Both German Chancellor Merkel and the HR Ashton were strong opponents to military option with the former emphasizing the lack of a legal basis for a no-fly zone while the latter warning about the risk of "collateral damage" of civilian casualties (Traynor and Watt 2011). The HR, however, did not take a clear position on a military intervention at the beginning nor did she recognize or even publicly meet the NTC (Helwig 2013: 241). The lack of reference of a no-fly zone at the end of the Summit indicated a one-round victory of Ashton but the dispute itself reflected the vertical inconsistency of EU foreign policy over Libya.

In view of the gravity of the situation in Libya, the EU took the initiative to implement restrictive measures against the Libyan authorities that went beyond the UN sanctions. The Council played an important role in establishing EU sanction regime against Libya despite the impasse in the first week of the crisis. On 21 February, at the meeting of FAC, foreign ministers demanded an immediate end of the

violence in Libya. It was the first collective EU reaction since the uprising began. But foreign ministers could not reach a common approach on the subject of imposing sanctions. Italy, Malta and Cyprus found that they were quarrelling with other pro-sanction EU members, notably France, Germany, Finland and the Netherlands. Yet the Council managed to agree on the suspension of the negotiations of EU-Libya framework agreement and other ongoing cooperation contracts with the country as of 22 February.<sup>136</sup> On 28 February the Union marched forward and adopted Decision 2011/137/CFSP, which decided to impose additional restrictive measures beyond UN sanctions. The measures include an arms embargo, an assets freeze and a visa ban on Gaddafi, his family and his closest associates, who were involved in the brutal attacks against the population. Since then the decision has been amended numerous times to modify the coverage and targets of the list. On 10 March, the EU extended the sanctions to key Libyan financial entities. Following Resolution 1973, the EU imposed further sanctions on 21 and 24 March, extending the asset freeze to additional persons and Libyan entities, including the National Oil Corporation and five of its subsidiaries. On 12 April, the Union included 26 energy firms accused of financing Gaddafi's regime to the list of asset freeze, and thereby imposed a de facto oil and gas embargo. On 7 June the EU extended the assets freeze to six Libyan port authorities (Council 2011b).<sup>137</sup>

The EU made a considerable contribution to alleviating the humanitarian emergency during the Libyan crisis. The EU had been at the forefront of the humanitarian response in Libya since the outburst of the conflict. As a whole the Union is the biggest humanitarian donor to Libya. Together with its member states the Union has provided over €150 million for humanitarian aid and civil protection, of which €80 million is contributed by the Commission alone (Balfour et al. 2012: 14). On 20 February, the EU launched the Frontex Joint Operation Hermes 2011 as a response to Italy's formal request for assistance with the massive influx of migrants. Commission President Barroso on 23 February indicated that the EU would support "the aspirations of the Libyan people" (Commission 2011a). On the same day, following the request from the Hungarian Presidency and the HR, the Commission activated the Civil Protection Mechanism to facilitate

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<sup>136</sup> Negotiations on the EU-Libya Framework Agreement were officially launched in November 2008. It would have established a comprehensive cooperation in a wide range of areas, including free trade, economic issues, foreign policy, security and other sectoral issues, such as energy, environment, tourism, agriculture, technology and education, etc.

<sup>137</sup> For an overview of EU sanctions on Libya, see <http://www.omm.com/newsroom/publication.aspx?pub=1101>.

the evacuation of EU citizens and other foreigners from Libya. The Commission also sent two teams of ECHO experts to the borders of Libya with Tunisia and Egypt to analyze the humanitarian needs. Moreover, Minister of State Enik Gyri and Kristalina Georgieva, Commissioner for International Cooperation, Humanitarian Aid and Crisis Response paid personal visits to the Tunisian-Libyan border on 2 and 3 March to show EU engagement and gather first-hand information. The Commission submitted a document of new guidelines to the 11 March meeting of the European Council of the EU's policy toward the Southern Mediterranean. The proposal aimed to help spur the progress of the region on political reform and civil-society building (Commission 2011b). On 1 April, the Council adopted a decision on the establishment of European Union Force (EUFOR) Libya to contribute to the safe movement and evacuation of displaced persons and to support the humanitarian agencies in their activities with specific capabilities to support humanitarian assistance operations, if requested by the UN (Council 2011c). Ashton originally had wanted the EU to authorize a military operation without waiting for the UN's request. However, UN humanitarian chief Valerie Amos was iterated that EUFOR Libya would only be considered as the last resort due to her reservations about using military means to support humanitarian missions (Gottwald 2012). EUFOR Libya turned out to be nothing more than a symbolic gesture.

Regardless of the limited role of the Parliament in the CFSP/CSDP area, the EP managed to play a facilitating function by urging the EU to take actions and supporting efficient spending accordingly in dealing with the Libya crisis. On 21 February, then Parliament President Jerzy Buzek made an early statement condemning the brutal use of force against protestors and warned the Libyan authorities that those who carried out atrocities would be held accountable (European Parliament 2011b). On 23 February, the President declared that Gaddafi's regime had lost legitimacy and the Libyan dictator had to go. On 8 March NTC representatives visited the EP and called for the EU's recognition as well as a no-fly zone. In response, Buzek made a speech three days later on the extraordinary European Council suggesting a stronger EU presence in Libya and the recognition of the NTC (European Parliament 2011c). He said at the end of his speech: "We have a rendezvous with history, so let us not miss it this time!" The EP is also well known for its role as a fervent critic toward the EU's response to Libya and the Arab Spring in general (Koenig 2011).

The harsh critiques from the parliament offered the EU, particularly the HR, an opportunity to adjust its strategies in accordance to the dramatic development of the Union's southern neighbourhood, and formed a certain pressure on EU member states to better coordinate their national policies in resolving the crisis.

### **6.3.3 Vertical Coherence: Divergent Reactions from EU Member States**

It must be acknowledged that Brussels' reactions to the Libya crisis were, though not swift or consistent enough, appropriate in general. The Union's overall contribution to supplying humanitarian aid and evacuation of EU citizens was considerable. However, EU leaderships in foreign policy, the HR and the EEAS in particular could have played a bigger role if they were not trapped in the tensions between EU member states. Just like in the case of the Balkans in the 1990s and the Iraq crisis analyzed above, national leaders once again put national interests and domestic politics on top of EU common interest over Libya and openly criticised each other over how the EU should react to the crisis. The inconsistency undermined the Union's credibility and the HR's leadership over EU foreign policy. There are experts who commented that EU splits over Libya were nowhere as high as over Iraq (e.g. Rosemberg 2011), while others sharply criticised its lack of leadership and coherence in crisis management (e.g. Brattberg 2011; Santini and Varvelli 2011). Some analysts even believed that the EU "hit rock bottom on Libya" and came up with the conclusion that the high expectations for the ToL were premature since the EU failed to speak with one voice and to get its act together during the Libyan crisis (Asseburg 2013). From a certain perspective, the divergence of the Union this time even exceeded that of Iraq, given that people would have higher expectations for a more coherent EU foreign policy after the ToL entered into force.

The situation in Libya posted another humanitarian crisis at the EU's doorstep. It reminded Europeans of the bitter memories of the inaction of Western countries in the Srebrenica and Rwanda massacre. It seemed that European leaders were determined to correct their misdeeds in the past and uphold the UN's policy of R2P. EU member states were among the first countries to condemn the use of force of the Libyan authorities and to call for the immediate stop of violent repression. Their attitudes toward supplying humanitarian aid to Libya and imposing sanctions against Gaddafi's regime were generally consistent with EU-level responses. But the harmony did not last long. EU members soon found that they were poles apart when national

interests and domestic politics were factored into the cost-benefit calculations. They were mainly in discord with each other over four matters: (1) military intervention; (2) the role of NATO; (3) the status of the NTC; (4) migrants and refugees.

### **(1) *Military Intervention***

Military intervention was the most contentious issue among EU member states. The EU repeated its failure in the cases of Kosovo and Iraq by splitting into two camps when the “Big Three” became divided. France and the UK were enthusiastic about the military operation against Gaddafi’s regime, while Germany held eminent skepticism on military engagement. The divergence within the EU had become open and obvious at the G8 meeting held in Paris in mid-March, during which France, the UK and Canada advocated enforcing a no-fly zone in Libya while Germany, the US and Russia tended to disagree. When French Foreign Minister Alain Juppé claimed that their plan of implementing a no-fly zone had got a broad support, his German colleague Westerwelle even intervened and corrected that notion (Rinke 2011). The divergence peaked when Germany sided with China, Russia, Brazil and India (the so-called BRICs) and abstained in the vote on UNSC Resolution 1973, which lent legitimacy to military intervention of Libya. Germany’s abstention caused storms of debate and criticism across the EU. While the abstentions of Russia and China were understood as a *de facto* affirmative vote since they could have simply vetoed the resolution, Germany’s abstention was perceived as a “no” by its allies and EU peers. It was considered a grave damage to the EU’s credibility as a collective actor, not to mention that Paris and London were rather irritated and disappointed by Berlin’s absence in the military alliance. Germany was not the only one to blame though. During the Libya crisis, national interests and domestic politics were dominant concerns for EU members.

Activism could be ascertained all along the decision-making process of France on the Libya crisis. Together with Britain, France assumed a leading role in pushing for the adoption of Resolution 1973 and spearheaded in the coalition military operation. As early as 23 February, Sarkozy had called for a no-fly zone over Libya. On 19 March, France was the first to initiate the airstrike campaign against Gaddafi’s forces. During that time, an international conference on Libya was being held in Paris, with attendees including the leaders of allied countries plus EU HR Ashton and UN Secretary-General Ban Ki-moon. The

fact that France had started the attacks even before the end of this meeting caused widespread irritation among other allies and EU countries. Some critics pointed out that it appeared that Sarkozy was trying to steal the thunder and raise personal profile. Paris argued that they only acted hastily as time seemed to be running out since Gaddafi's troops were advancing toward Benghazi despite a ceasefire and the risk the city would be taken was high. But some diplomats said that it was French insistence on the meeting that had delayed the coalition's military action.

This activism of France toward Libya was rooted in its colonial history of the Magreb Africa (Santini and Varvelli 2011). History has demonstrated that France did not hesitate to take military actions to intervene the affairs of its former colonies, such as in the cases of the Ivory Coast in 2001 and Chad in 2008. Its privileged status in the UNSC gives France more leverage to bypass the EU when necessary. The operation thus provided France with an opportunity to show its sense of responsibility as a permanent UNSC member.

National interests and domestic politics played a decisive role in French decision-making on the issue of Libya. It is firstly seen as a correction of the mistake committed in the case of Tunisia, which cost the job of the former Foreign Minister Michèle Alliot-Marie.<sup>138</sup> During the crisis, there was a pro-intervention tendency among the French public. As the 2012 French presidential election approached, it is believed that Sarkozy was trying to gain voters through a tough position on Libya at a time of decreased domestic popularity. Energy and economic interests were certainly considered in the decision-making. Libya is Africa's second largest crude oil producer and has the largest proven reserves in Africa. In 2010, Europe received over 85 percent of Libya's crude exports. Before the uprising, it was the third largest external supplier of oil and the fifth largest external supplier of gas to the EU (Bosse 2011). It contributed France's 16 percent of total crude imports (IEA 2011). Since it was commonly agreed that Gaddafi would have to go, it was crucial to "invest" the winning party to ensure future energy interest through an advantageous presence in Libya and a pro-NTC stance. The French newspaper *Libération* on 3 April published a letter referring to a secret deal, in which the NTC agreed to reserve "35 percent of total crude oil" in exchange for the full support of France. The French foreign ministry denied the existence of such a letter. But it is true that

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<sup>138</sup> When the Tunisian revolution started, then Foreign Minister Michèle Alliot-Marie was taking a holiday in Tunisia. It was reported that the Minister had even offered the Tunisian dictator Ben Ali to send France's security forces to assist in quelling the uprising. Facing strong criticism she resigned in February 2011.

rebel leaders had already indicated that countries active in supporting their revolution, especially France and the UK, should expect to be treated favourably once the war was over (Lutterbeck 2009).

Additionally, President Sarkozy himself was a key factor behind the decision to militarily intervene. From the very beginning, the French President had been seeing the Libyan crisis in personal terms. It offered an opportunity for him to mark the history and outperform his predecessors as a man of action. He also hoped for the regain of reputation by resetting the strategy toward the Arab Spring and by wiping away the embarrassment after Gaddafi's notorious visit in 2007. Besides, Sarkozy held resentment toward Gaddafi, the man who openly criticised or even humiliated him multiple times (Asseburg 2013).

Like France, Britain was a firm advocate of the military intervention in Libya. While initially hoping that sanctions would be sufficient to force Gaddafi to surrender, Prime Minister David Cameron on 28 February instructed the British Ministry of Defence to draw up plans for a no-fly zone, as Gaddafi showed no intention to stop attacks against the rebels or cede his power. On 10 March in a letter jointly sent by Sarkozy and Cameron to President Van Rompuy of the European Council, they proposed to their European partners and allies to provide support for "all possible contingencies" in Libya, including a no-fly zone or other options against air attacks. Concurrently, French and British delegations to the UN were working together on a UNSC draft, which was later adopted as Resolution 1973. Two days later, the UK, along with France and the US, co-led the military strikes against Gaddafi's regime. Albeit Cameron had secured a cross-party support for the military operation, he had an open breach during the process with his defence chief over the aim of the action when Cameron said the tyrant could be a legitimate target while Sir Richards said Gaddafi was "absolutely not" (Chorin 2012). Until mid-April, it turned out to be crystal clear that regime change was going to be one of the objectives of the military operation. Sarkozy, Cameron and US President Barack Obama jointly stated in a letter that it would be impossible to imagine Libya's future with Gaddafi in power or even playing a part of it. The letter also reassured that the dictator would be held accountable for his crimes. This position was sharply demarcated from some previous options that opted for a peaceful solution through political dialogue or granting exile for Gaddafi, once supported by Italy and Germany (Shipman 2011).

The motivation behind the UK's decision in Libya was a combination of many factors. As other European leaders, addressing the humanitarian need was obviously one concern of British leaderships. R2P was a core concept behind British decision-making, at least in British official statements. Undoubtedly domestic-related interests were involved. Strategically speaking, a stable Libya would be more preferable for the UK. But Gaddafi's autocratic rule in Libya, his involvement in the Lockerbie bombing and his support for the Irish Republican Army convinced the UK that it would be less risky to have him toppled down. Energy interests were seriously considered in the UK's decision-making. The UK had not benefited from Libya's rich oil reserves as much as other EU countries did. Up to 2010, Libya's crude exports merely accounted for 8.5 percent of total British oil imports (Europa 2011). Prior to the uprising, British major energy corporation BP had no production in Libya. Though the company had started drilling in the west of Libya, the project was suspended when the turmoil burst. Recalling the precedent that the Labour government once acquiesced in the release of the Lockerbie bomber Abdelbaset al-Megrahi in exchange for massive oil concessions to British major energy corporation BP (Chappell 2011), it was highly possible that Cameron's government wanted to secure more energy and commercial benefits by supporting the opposition, which was expected to win with some "help". For Cameron, intervention was an easy decision to make since he did not face the pressure of elections at the time. Moreover, military intervention was welcome among the British public and across political lines. Taking an assertive position was actually helpful in adding to the reputation of Cameron personally as a political leader as well as that of the UK as an international power with considerable military ability.

One day before the vote on Resolution 1973, Chancellor Angela Merkel made it clear in an interview that she remained sceptical of an outside military intervention and thus could not lead Germany into a mission with an uncertain ending (Brockmeier 2012). Berlin's abstention certainly caused unpleasantness and disappointment for its allies. But its initial reaction to the crisis was by no means neutral or passive. As a matter of fact, Germany stood at the fore of the first wave of condemnation of the atrocities that perpetrated the Libyan government and called for far-reaching sanctions against Gaddafi's regime. Berlin also played a significant role in urging for a clearer and united EU stance against the tyrant. German delegations to the UN

were actively involved in drafting and pushing for the passing of Resolution 1970. But when it came to military intervention, Germany became rather sceptical and its reaction appeared to be inconsistent. At first, it seemed if the three conditions set up at the extraordinary EU summit – namely a demonstrable need, a clear legal basis and support from the region – were met, Berlin would agree to enforce the no-fly zone in terms of military action (Traynor and Watt 2011). Yet when the Arab League’s support had been confirmed<sup>139</sup> and a UN mandate was within reach, even when a phrase “excluding an occupation force” was included in the resolution, Germany still opted for abstention and non-participation. From the view of Germany however, “the question of military intervention and German participation in it was quite a separate matter” (Federal Foreign Office 2011b). Instead, Berlin preferred a solution through political dialogue and tightened sanctions. Major concerns shared by German policy-makers, including the Chancellor, Foreign Minister Guido Westerwelle and Defence Minister Thomas de Maizière, were the uncertainty of military instruments for humanitarian cause, the danger of fuelling terrorists or Islamic radicals in a Libya of political vacuum, the possibility of large casualties as well as the risk of a protracted war. These concerns sounded well-grounded but one could not rule out the possibility that they were exaggerated to deemphasize other domestic factors.

Germany’s reluctance to resort to military action was deeply rooted in its longstanding non-interventionist tradition in foreign policy. The legacy of World War II made military action a very controversial subject in Germany. Unlike the French and British counterparts who could gain politically from an intervention, German politicians faced a population much more critical towards the use of force. Due to large domestic opposition, Germany did not join the US and the UK in the Iraq war. Even its military participation in Afghanistan was becoming increasingly unpopular. At the time of the crisis, an Emnid poll showed that 66 percent of Germans opposed German participation in military action in Libya (Pidd 2011). The nuclear calamity that happened on 11 March in Fukushima triggered fierce criticism against the government’s nuclear energy policy. It was speculated that both the Christian Democratic Union (CDU) and the Free Democratic Party (FDP) were suffering a fall in popularity. As leaders of these two parties

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<sup>139</sup> The Arab League called on 12 March for imposing immediately a no-fly zone in Libya.

respectively, the last thing Merkel and Westerwelle would want was to further lose voters on this sensitive matter in the upcoming state elections (Reguly 2011). Unfortunately, the cautious stance taken by the coalition government did not save them from the fiasco of state elections. In Baden-Württemberg, the FDP barely passed the 5 percent constitutional barrier to get into the parliament, while the CDU suffered great loss to the Greens in this region, which had been its historical base for about sixty years. The FDP were voted out of the regional parliament in Rheinland-Pfalz (Dempsey 2011).

Berlin's steadfast stance on abstaining from the Resolution could also be partially attributed to its miscalculation of Washington's intention. The whole time Berlin believed that a military intervention was also an undesirable result for Washington. Only on 16 March, Germany's Ambassador to the UN, Peter Wittig, was notified by his American counterpart Susan Rice via the phone about the dramatic change of US position (Brockmeier 2012). With absent knowledge that the position of the US was about to change, Westerwelle had just given a speech on the morning of that day at *Bundestag* in which he reaffirmed Germany's great scepticism of a military intervention in the form of a no-fly zone. The sudden shift of Washington's attitude left Berlin little room to reconsider its position otherwise it might cost the credibility and consistency of German foreign policy. Besides, there was not enough time to consult with parliamentarians for other options, let alone to get their approval for military action. The remaining question for the German Chancellery was what to do with the vote. Voting "no" was obviously not an option since Germany would not want to take the blame for blocking the Resolution when Berlin was informed that neither Russia nor China would veto against it. It was considered impossible for Germany to vote "yes" on the resolution without making actual military commitments. Berlin decided to abstain once Germany was ensured that Portugal<sup>140</sup> would vote for the resolution, an action which would secure the majority for the resolution to be adopted (Rinke 2011).

Moreover, the influence of Westerwelle as Foreign Minister was crucial during the decision-making process. He was personally devoted to pushing for Germany's abstention on the resolution. As a staunch adherent of "military restraint", Westerwelle had openly upheld this principle in many occasions since

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<sup>140</sup> Portugal was serving on the UNSC during the time.

assuming office. For example, a month prior to the Libya crisis, in his statement on 2 January following the start of Germany's two-year term of a non-permanent member in the UNSC, Westerwelle said that Germany would shoulder its special international responsibilities but in the meantime stand for a culture of military restraint (Federal Foreign Office 2011a). Those who believe that Germany's abstention was a mistake tend to blame Westerwelle's incompetence and inexperience in foreign policy. To a certain degree it makes sense since the German Foreign Office did fail to capture the signal that the US would reverse their tune. It could be true that the Foreign Minister did not fully understand the consequences of the abstention for Germany's external relations. As the leader of the FDP simultaneously, the Foreign Minister was suffering a lot of pressure from his own party because of the imminent state elections, the disastrous result of which later nearly cost his entire career. On 3 April, Westerwelle was forced to resign his position as the leader of the FDP as the Deputy Chancellor as well. But he was able to keep the job as the Foreign Minister.

Another explanation for Germany's scepticism could be that Berlin thought that Paris and London's obsession with military intervention was questionable. Sarkozy's enthusiasm toward military intervention really put Berlin on alert, especially considering his plan in 2007 to establish a Union of the Mediterranean, which would involve all Mediterranean littoral countries while excluding Germany. The Federal government had reason to worry if France was planning to isolate Germany again in the case of Libya. Berlin also had concerns whether London and Paris were purely after Libya's oil, commercial interests and other potential spoils. German Development Minister Dirk Niebel once accused the military alliance of hypocrisy by pointing out that those countries which were dropping bombings in Libya were still drawing oil there (Lindström and Zetterlund 2012: 26). On 24 March, Merkel proposed for a complete oil embargo against Libya at the EU Summit and called on the international community to stop doing business with Gaddafi's regime. It seemed to be a *de facto* confirmation of Niebel's accusation. However, Germany is not exceptional in this regard. It is true that Germany, during the time of the crisis, had fewer economic interests at stake in Libya, compared to other EU countries, e.g. Italy or France. Libya only contributed 7.7 percent of total crude German imports at the time (IEA 2011). But it could be that Berlin was thinking about long-term interests in Libya, which required prudence not to so quickly take sides when the outcome was yet uncertain.

Some even wonder if Berlin's choice to abstain on the resolution together with the BRICs implied a strategic change of foreign policy, since Germany happened to have particularly strong commercial interests in these countries (Nethery 2011).

What is worth mentioning is that although Berlin made it clear that no German troops would take part in the military operation against Libya, Germany switched their tune slightly a day after Resolution 1973 was approved. Both the Foreign Minister and the Chancellor were careful not to accuse those who had voted for the Resolution. While Westerwelle said in this declaration at *Bundestag* "respect and understand" those who chose to support a military intervention in Libya (Federal Foreign Office 2011b), Merkel went further by saying that Germany unreservedly "shared the goals" of the Resolution (Peel 2011). This change may explain why Germany was actively engaged in providing assistance to the coalition operation. A week after the vote, it sent 300 troops to assist Airborne Warning and Control System (AWACS) mission in Afghanistan to relieve the burden of NATO and free up NATO capacities for the operation in Libya. German Defense Minister Thomas de Maizière expressed in June Germany's intention to provide troops to EU missions for reconstruction and humanitarian purposes in Libya. It was also found that over a hundred German soldiers were actually involved in selecting bombing targets for alliance airstrikes. It appeared that Berlin attempted to repair the wound done by the abstention to its ties with its traditional allies.

As the "Big Three" could not reach a common ground on the issue of military intervention, it was not surprising that the EU became sidelined when the operation started. The fact that other EU members also held diverse opinions on the issue further "stirred up" the trouble, indicating the harsh truth that a coherent EU foreign policy that the ToL wished to establish had not been established yet, at least in the case of Libya.

Italy, like other EU countries, rapidly offered humanitarian help to the Libyan people by sending food and health kits in the earliest days of the crisis. Italy also assisted evacuating EU citizens and other people who wanted to leave Libya (Miranda 2011). But unlike other EU members, Italy had most interests at stake in case of an anarchic Libya because of its decades of a cultivated relationship with the country. It explains why Italy's initial response to the upheaval in Libya was slow and soft. Its view on intervening by military terms was even more ambiguous. A few days after the eruption of the turmoil in Libya, when asked whether

he had contacted Gaddafi with regard to the uprising, Prime Minister Berlusconi replied that he did not want to “disturb” anyone when the situation was still in flux (Babington 2011). Such a reaction was clearly not in line with the prevailing condemnation from Brussels and other EU capitals. Berlusconi’s failure to timely deplore Gaddafi’s bloody repression encountered furious criticism of his indulgence of brutality. Oppositions argued that Berlusconi could have used his personal ties with Gaddafi to press for a halt of the violence rather than standing idle (Human Rights Watch 2011).

In the face of heavy accusations, the Prime Minister turned “alarmed” on 21 February at the escalation of the clashes in Libya. He finally broke the silence by describing the use of force as “unacceptable” (Babington 2011). On the same day, Foreign Minister Franco Frattini made an identical speech at EU foreign ministers meeting. Yet it seemed that back then Rome still had hope Tripoli taking the responsibility to terminate the bloodshed and protect its own people. At the meeting, a number of EU countries, notably Germany and Finland, proposed a visa ban and asset freeze on Gaddafi along with his closest associates. Italy on the contrary declined to impose strict sanctions on Libya due to the fear – a common concern shared by Malta – that the collapse of Gaddafi’ regime would lead to a mass exodus of refugees and an Islamic emirate on EU borders. Frattini even warned that the EU should not export democracy to the region. As a result, no decision was reached on the particular issue that day. Frattini instead proposed a “new Marshall plan” as an alternative, which would mobilize funds to assist the democratic transition and social construction of Libya.

In the first few weeks of the unrest, Rome was indeed struggling in a dilemma between its longstanding close relationship with Tripoli and its due loyalties to its Western allies. As the situation unfolded, Italy was going through a transition of its attitudes toward Libya. On 22 February, Berlusconi called Gaddafi one last time following the Colonel’s frightening television appearance that afternoon in which he swore that he would remain in power and fight until “the last drop of his blood”. He also lambasted Italy and the US for having supplied arms to the opponents. In their conversation, Berlusconi rejected the charges and urged Gaddafi to seek a peaceful solution for the revolt. His advice failed to serve its purpose when the Libyan leader informed him that “everything was going fine” in Tripoli (Black 2011b). Ironically, merely four days

later, Berlusconi claimed that Gaddafi had lost effective control of events. It was no coincidence that on the same day Italy announced the suspension of the Treaty of Friendship, Partnership and Cooperation with Libya, a bilateral agreement signed in 2008 which included a non-aggression clause forbidding the use of the territories of the two countries for any hostile act against each other (Miranda 2011). The abolishment of this treaty paved the way for Italy's military contribution to the operation against Libya later. Under the pressing requests of its allies and the NTC, and most importantly realizing that Gaddafi's days were numbered, Italian leaders felt that they could no longer remain a spectator but had to jump on board with their traditional allies to impose sanctions, and later the no-fly zone over Libya, no matter how uncomfortable it was.

In early March Italy imposed a freeze on Gaddafi-related assets as a support for wider EU and UN sanctions. Shortly after the adoption of Resolution 1973, Italy agreed to make its seven air bases available for the implementation of the no-fly zone and provide logistic support for the OUP. Yet its military contribution was subject to strict restrictions on engaging in combat. It revealed Italy's hesitation to completely sever the ties with Tripoli. But when April was approaching, Italy once again adjusted its line. It looked like Rome was preparing to discard Gaddafi's regime when Frattini met the NTC's representatives on 29 March at the London Conference on Libya. He later commented that Gaddafi's departure was the precondition for a solution to the conflict (Rizzo and Lucas 2011). It took only a few days for Italy to officially recognize the NTC as the "only legitimate interlocutor" of Libya. Until mid-April, it was reported that Rome no longer held official relations with the Libyan government. Moreover, Italy was thought to be a significant contributor to EUFOR Libya for the purpose of humanitarian aid since the mission would be put under the command of an Italian Admiral, Claudio Gaudiosi. On 20 April, Defence Minister Ignazio La Russa announced that Italy would join France and Britain in dispatching military advisors to assist the Benghazi-based rebels. He affirmed that the advisors were only for training purposes and would not be deployed on the battlefield (Cowell and Samaiya 2011). It was consistent with Italy's earlier declaration that it would not participate in the air raids. However, on 25 April Berlusconi called Obama and expressed that Italy was ready to increase the military pressure on Gaddafi's regime by authorizing the use of Italian air

force to take targeted military action. Italy later deployed eight combat aircraft for airstrikes on 27 April with additional aircrafts patrolling the no-fly zone.

Meanwhile, Berlusconi's behaviour was "awkward". On one hand, he approved both UNSC resolutions over Libya and joined the allies to impose sanctions and no-fly zone. On the other, during the same time when Italy was assisting NATO-led airstrikes against Gaddafi's forces, the Prime Minister was sending confusing messages that he felt uncomfortable with Italy's involvement in the military intervention yet had no choice but go along with it. It was reported that Rome once hoped to seal a deal with Gaddafi for his "honourable exit" in exchange for a peaceful settlement (e.g. Nadeau 2011). But Gaddafi had repeatedly rejected any suggestion that he should relinquish power and leave the country. As the situation developed dramatically, Berlusconi eventually had to admit that the momentum of persuading Gaddafi to accept an exile had been lost. He blamed that the referral of Gaddafi to the ICC left the Libyan leader no room to compromise but therefore had to fight until the bitter end.

Italy's decision-making process in respect to the military intervention in Libya was far from swift or coherent. But on the other side, Rome's course can also be defined as cautious and adaptive based on considerations of national priorities. As Berlusconi said, the events in Libya, "affect our trade relations, our energy supplies and our own security" (Lombardi 2011: 35). Italy's earlier inaction had everything to do with its concern not to jeopardize these interests.

Before the conflict, Italy was Libya's largest trading partner. According to the data provided by Eurostat, the volume of Italo-Libyan commerce was nearly four times the size of that with Libya's next biggest EU trading partner Germany (Picardi 2011). Italy provided almost 20 percent of Libyan imports and consumed over 40 percent of Libyan exports, of which energy took the largest proportion. It obtained around a quarter of its crude oil and about 13 percent of its natural gas from Libya (IEA 2011), making Tripoli its top oil supplier and third largest gas provider. The Italian energy giant ENI played a dominant role of oil production in Libya. It also operated the subsea pipeline Greenstream, which delivered natural gas from Libya to Sicily across the Mediterranean Sea. But on 22 February, ENI had to cut its gas supplies due to the interruption by the riot. Italy had all kinds of investments worth an estimated \$11 billion in Libya, mostly

concentrating on energy or infrastructure construction projects (Varvelli 2010). Italy was supposed to seal a number of large defense deals with Libya in 2011. Libya, vice versa, purchased a large amount of stakes from Italy's major economic entities. Together Libya's Central Bank and the Libyan Investment Authority (LIA) owned about 7.5 percent stake in Unicredit, the largest banking system of Italy. There were other Libyan investments spanning various sectors, such as energy (e.g. ENI), telecommunications (e.g. Retelit), automobile manufacture (e.g. FIAT), and aircraft manufacture (e.g. Finmeccanica). The LIA even had a 7.5 percent stake in Juventus, a famous football club (Dionisi 2011). Until 2010, Libya had become an influential shareholder of Italy's economy. The economies of the two countries were so intertwined that the Italian stock market declined by 3.6 percent following the first weekend of the crisis (Picardi 2011). Besides, the Euro-zone crisis that erupted in late 2009 had already made Italy's economy very vulnerable. If Libya were to withdraw all of its investments, it could be a lethal blow to Italy's already broken economy. Therefore, it was of great importance for Italy to secure its economic interests in Libya.

The lucrative businesses Italy had in Libya were built on a long-established rapprochement of the two countries. Italy had adopted an inclusive strategy toward the West when Libya was still considered a pariah by the Western world. During that period, Rome was the only Western interlocutor for Tripoli. Not only had Italy been playing a bridge role between Libya and the West, but it also had been trying to reintegrate Libya to the international community. In 2004, international sanctions on Libya were lifted because of Gaddafi's promises to give up the pursuit of weapons of mass destruction and to halt the sponsorship of terrorism. With this obstacle removed, Italo-Libyan businesses and other forms of cooperation began to boom. Their bilateral relations were consummated in 2008 when Berlusconi and Gaddafi signed the Friendship Treaty, according to which Italy, as Libya's former colonial ruler, agreed to pay \$5 billion compensations for its past wrongdoings and in return Libya would assist Italy in controlling migration flows. The collapse of the Libyan government could mean years of efforts going in vain. It was understandable that Italy found it difficult to just throw the privileged ties away, especially when it was unsure whether the NTC, which was also known too little by Rome at that time, had the capability to overthrow Gaddafi or not.

Italo-Libyan “friendship” went beyond commercial, energy and strategic interests. Personal contacts have been an indispensable part of Berlusconi’s charisma. Without exception, the Prime Minister had cultivated intimate personal ties with the Libyan tyrant. The two leaders had paid multiple visits to each other. Each time, Gaddafi was treated with warm hospitality. Berlusconi once even kissed Gaddafi's hand when they met at the meeting of the Arab League, an honour usually reserved for the Pope (Nadeau 2011). Five months before the outbreak of uprising, Berlusconi had just hosted a flamboyant celebration ceremony for Gaddafi of the second anniversary of the signing of the Friendship Treaty. The Prime Minister also openly declared several times that what was happening in Libya hit him personally. When it appeared that the conflict had fallen into a stalemate as months of airstrikes were not able to topple Gaddafi, Berlusconi tried to broker a deal of a “quite exit” for Gaddafi to avoid the trial of the ICC. Even after Italy’s participation in the OUP operations, Berlusconi confessed that the decision to get involved entailed personal difficulties for him and he felt saddened for his “friend” Gaddafi (Dionisi 2011).

Domestic politics were amid influential determinants of Italy’s decision-making. During the crisis, Italian leaderships were paying extreme attention to the repercussions on the migration flows from North Africa if Gaddafi was going to fall, a growing problem that had been given the Italian government headaches for years. The core of the 2008 Italo-Libyan Friendship Treaty lied in their bilateral cooperation on migration control. Berlusconi justified its deal with the “devil” by fulfilling his election promise of combating illegal immigration, which appeared to have bought him some domestic support. Since the riots burst out, coast controls on the side of Libya were basically paralyzed because of the war. The sudden arrival of over 5,000 Tunisians at Lampedusa caused a panic in Italy that the threat of a “biblical exodus” of refugees was real and imminent. What was more terrifying was the possible infiltration of Islamic fundamentalists and terrorists along with the migrants. Even though the Prime Minister was not facing an upcoming election, he had to properly address these domestic concerns to earn or maintain popularity, especially when his personal reputation was already declining. In addition, the Northern League (*Lega Nord*), a key partner of Berlusconi’s ruling coalition, was well-known for its anti-immigration policy. It was Italian Interior Minister Roberto Maroni, a leading member of the Northern League, who first spoke about

the “catastrophic influx” of immigrants. The Northern League intensely objected to Italy’s engagement in a military intervention. Berlusconi’s hands were tied from taking an active role in the OUP operation as he was under the pressure of the Northern League to withdraw. The charges against Berlusconi of paying for sex with an underage girl made the Prime Minister more than ever need the support from the Northern League. The combination of these elements explains why Italy appeared to be cold to the idea of military intervention. It was the focus on migration and refugees that diverted Italy’s attention.

It is fair to say that Paris and London’s enthusiasm about intervention in military terms and Washington’s turnabout to support the Anglo-French plan must have contributed to the transformation of Rome’s course toward Libya. The same could be said about the pressing requests from the NTC and the appeal for humanitarian aid from the international community. However, it was national interests and domestic politics that were truly decisive in determining Italy’s pendulous reaction to the crisis. No matter how different it appeared to be from Britain’s or France’s approaches, Italy merely followed their steps in prioritizing national interests ahead of the collective ones of the EU. From this point of view, the logic behind Italy’s ambiguity in its policy over Libya becomes simpler to comprehend: in case Gaddafi survived this war, Italy could have resumed its business with Libya as usual and might even get more profitable contracts because of Rome’s sympathy toward the Colonel; in contrast, if the NTC won, Rome would also be in a better position to refresh the deals with the new Libyan government because of its support to the sanctions and military intervention, as well as its support to the NTC. Either way, Italy would be able to reduce its loss caused by the turmoil to the minimum.

Following Germany, Poland was the second EU member that caught the alliance by surprise on the issue of the military intervention in Libya. Traditionally being an Atlanticist, Poland had participated in the military missions in both Iraq and Afghanistan. But this time Warsaw aligned with Berlin and refused to be militarily involved though it pledged to provide humanitarian aid and help with a post-Gaddafi democratic transition. For Warsaw, the situation in Libya was an “internal problem” that did not particularly interest Poland since it barely had any direct business ties with Tripoli. Polish leaders argued that a neutral position would improve the mediation room for Poland as the EU Presidency between the EU and the Arab world.

Besides, its participation in Afghanistan left Poland no extra military capabilities to get involved in Libya as well. Neither the Polish public nor its main political parties supported Poland's engagement in the military operation. The Polish government had to be careful with this sensitive issue because the parliamentary elections were approaching (Dylla 2011).

Divisions of EU member states on military intervention were further exemplified in their disagreements over the Concept of Operations (CONOPS) for EUFOR Libya. The CONOPS was one of the stages of planning the EUFOR Libya mission, which consisted of a military deployment for humanitarian purposes (V. A. Schmidt 2012). The FAC on 12 April failed to adopt the CONOPS, however, due to the reservations of Sweden and Finland. Swedish Foreign Minister Carl Bildt thought that the CONOPS plan was too premature and too military. Finland, as another contributor of the Nordic Battle Group, shared the idea. Finnish Foreign Minister Alexander Stubb warned the risk of getting into a "stalemate" as in the Kosovo situation (Gottwald 2012). EUFOR Libya, from the outset of its creation, was not fully supported by all EU members or was considered seriously by the UN. Eventually, EUFOR Libya was nothing more than a mere "skeleton".

Last but not least, even those EU countries that did participate in the multinational military intervention were not exactly on the same page in terms of contributions. Of the twenty-one EU member states of NATO, only ten committed militarily to the mission. Bulgaria and Romania clarified that they would only take part in the naval dimension of the arms embargo. There were initially four EU countries, namely the UK, France, Belgium and Denmark, that participated in the airstrikes of targets on the ground. Italy joined them only in late April with limited contributions. The Netherlands, Spain, Greece and Sweden all set strict restrictions preventing themselves of getting involved on the battlefield. It was reported that at the FAC meeting on 12 April, Spain even rejected the requests straightforward from France and Britain for greater military commitments (Asseburg 2013). No wonder that the Anglo-French alliance was deeply frustrated during the whole operation because they felt that they were doing all the heavy work. The military operation was carried out under the joint leadership of France, the UK and the US from the beginning. Later the US stepped back to allow NATO to assume the control of military operations. A collective EU presence was

invisible the whole time since member states never came close to agree on a proposal of military mission within the CSDP framework.

## **(2) *The Role of NATO***

Official military intervention in Libya began with a multinational campaign under a three-pronged leadership of France, the UK and the US. As mentioned earlier, Obama's administration was hesitant about getting involved militarily at the onset of the uprising. Albeit the US changed its mind at the eleven hour and swung around to supporting the no-fly zone, Washington made sure that the engagement would be limited both in scope and time within a multinational framework. The US was so anxious to hand over the command of military operations to the alliance that the US reduced its involvement and took on a sort of supporting role less than two weeks after the first offensive. NATO was considered a preferable option. By bringing NATO on board not only could Washington lead from behind but also could shift the responsibilities to its European allies. This proposition however raised internal disputes inside the alliance, except that this time the deepest rift was within the Anglo-French coalition.

The first reaction of France had been strong resistance to letting NATO lead the operation. Paris argued that NATO-leadership would give the Arab world a wrong impression that the alliance was dominated by the US. France had a history of a bittersweet relationship with NATO. During Charles de Gaulle's presidency, France removed all its armed forces out of NATO's integrated command in 1966. Although Sarkozy himself championed a campaign in 2009 to reintegrate French military forces into the NATO structure, the inclination to have independent defence was ingrained in French policy-makers. NATO was also afraid that other NATO members, Germany and Turkey in particular, would hinder NATO's action. Instead, France suggested a Franco-British joint command. Sarkozy saw the Libyan crisis a perfect opportunity to test the bilateral defense treaty signed with the UK in November 2010 and to present France as a capable military power independent of the US. When the suggestion was refused by the UK, which favoured a NATO command, France finally gave in but made sure that political control would fall under a separate body other than the North Atlantic Council (NAC). Insisted by France, the Libya Contact Group was charged with political coordination. The NAC turned out to be a secondary forum while important

operation decisions were taking place in Paris, London and Washington as well as the capitals of participating allies, not least the other five countries contributing to airstrike missions (Johnson and Mueen 2012).<sup>141</sup>

Both the UK and Italy preferred a NATO command of the Libyan operation. After it heard about the US intention to surrender leadership to NATO, London started right away to gather support for it to happen. The UK was “absolutely in line” with the US in preparing a no-fly zone over Libya (BBC News 2011). The close collaboration with France did not change Britain’s perception about the importance of the transatlantic relationship in its security policy. Cameron’s preference for NATO over the EU was clearly expressed when he said that he did not expect the EU to become a military alliance, and NATO would be the UK’s alliance in this respect after his suggestion of a NATO-led enforcement of a no-fly zone in Libya was rebuffed by other EU member states at the emergency EU Summit on 11 March (Traynor and Watt 2011). Besides, NATO was believed to be more experienced in dealing with military operations given its previous experiences in Bosnia and Kosovo in the 1990s, in comparison with the new-established Anglo-French defense cooperation. Italy saw NATO heading the mission as the sole option; otherwise it would withdraw its authorization for the use of Italian military bases (Lombardi 2011). Italy’s preference FOR NATO lied in its deep concern that otherwise France would subsequently take the lead. It would mitigate Italy’s influence in the region and endanger its chances to win more lucrative contracts when the war was over. Luxembourg also present NATO’s command as a precondition of its participation in the coalition operations.

Germany and Turkey had opposed a NATO participation in air strikes against Gaddafi’s forces because it would go beyond the UN mandate according to their perceptions. But after the passage of Resolution 1973, both countries softened their tones and decided to back or at least not to block NATO’s leadership of the mission. Trying to make amends for its abstention on the UNSC Resolution, Germany also agreed to dispatch 300 German troops to support the AWACS operation in Afghanistan, thus freeing up NATO capacities for the Libyan operation. Turkey at first chose a cautious path because it had concerns about its

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<sup>141</sup> Of the 28 NATO members, only eight countries contributed to airstrike missions, including the US, the UK, France, Belgium, Canada, Denmark, Norway and Italy.

standing in the Muslim world. But Turkey considered that it would be worse if France was going to lead the operation. France had been impeding Turkey's accession to the EU for years. Ankara was irritated when Sarkozy did not invite Turkey to the 19 March summit on Libya held in Paris. In the end, Turkey made a decision not to block NATO from taking the lead in the airstrikes against Gaddafi's forces.

On 31 March NATO took full control of military operations in Libya. As one looks back, it was only natural that NATO instead of the EU stepped in and took charge of the intervention. The EU did not possess the capability to conduct a complicated military intervention on short notice. For instance, it took only two weeks for NATO to come up with possible operational plans for the Libyan crisis, while it took the EU two months to reach the same planning stage (Koenig 2012). But most importantly, the EU was not able to reach a common approach among its member states of how to best address the Libyan crisis in the first place.

### **(3) *The Status of the NTC***

EU members further split over, *inter alia*, the status of the Benghazi-based rebels. With no exception, their policies toward the rebels and the NTC were based on a cost-benefit analysis of the potential commercial and energy interests they could obtain in a post-Gaddafi Libya.

France and Britain in particular advocated early on for assisting the anti-Gaddafi rebels in Libya. In their joint letter addressed to Van Rompuy on 10 March, Sarkozy and Cameron expressed their support to the interim government and called on the EU to send a "clear political signal" that the NTC would be seen as a valid political interlocutor. On the same day, France took the lead becoming the first country to recognise the NTC as the sole legitimate authority of Libya without consulting other EU members beforehand, not even Britain. At the extraordinary European Council meeting the following day, the entire group of EU members was irritated by the French unilateral move, arguing that it prevented the evolution of a common EU strategy towards the NTC. The European Council then merely recognized the TNC as "a political interlocutor".

Both France and the UK were initiators of the Libya Contact Group, which was created in the London conference on Libya chaired by British Foreign Secretary William Hague. The UK also co-chaired the Group's first meeting in Doha on 13 April. In late April, Britain, along with France and Italy, sent military

advisors to Benghazi to help the Libyan rebels improve their military organization, communications and logistics. During the visit of the NTC's Mustafa Abdul Jalil to London, Hague welcomed him as the head of the legitimate representative of the Libyan people. Cameron also invited the NTC to establish an office at London when he met with Jalil that day. It was the first such offer made by a foreign government. But the British Foreign Office waited only until July 27 to give its formal recognition to the NTC as the sole governmental authority in Libya.

Germany approached the rebels' interim authority with prudence, making sure that German forces would not be entangled into an uncertain internal conflict on behalf of a group of insurgents without knowing whom they represented and what their goals were. Merkel was particularly annoyed when Sarkozy rushed into the recognition of the NTC without consulting with Berlin in advance. Therefore, the visit of Foreign Minister Westerwelle to Benghazi on 13 June came rather unexpected. In company with Development Minister Dirk Niebel, Westerwelle made a stop in Libya while on his way to a planned trip to Israel and the Palestinian territories. After a three-hour talk with rebel leaders, the Foreign Minister recognized the NTC as the legitimate representative of the Libyan people. Germany then became the thirteenth nation that recognized the NTC. Germany would also open a small mission in Benghazi.

Given Italy's compassion for Gaddafi's regime and its duplicitous attitude toward military intervention, it was shocking that Italy was the third country after France and Qatar that recognized the NTC as the sole legitimate government of Libya. Early on Rome had sincere doubts about the rebels and the NTC. On 21 February, Foreign Minister Frattini voiced the potential threat of having an Islamic Arab Emirate at EU borders. But once the NTC was seen as a valid political interlocutor by the West, it started drawing the blueprint about Tripoli's future foreign relations in a post-Gaddafi era. The documents issued by the NTC inferred that those countries that had helped them would be granted preferential treatment in a post-war Libya. Italy certainly would not want to lose its leverage to France or Britain. Therefore, Rome sped up the contact with the rebels. In late March Frattini met with representatives of the NTC at the London Conference. A few days later, ENI CEO Paolo Scaroni paid a visit to the NTC's leadership. According to the feedback he brought back from Benghazi, it appeared that the NTC was willing to respect the business

contracts with Italian firms, including those with ENI (Lombardi 2011). Swiftly after Scaroni's visit, Frattini announced the recognition of the NTC on 4 April after a meeting with the NTC's foreign envoy, Ali al-Essawi in Rome. Italy also agreed to host the upcoming meeting of the Libya Contact Group in May. On 17 June, Italy reached an agreement with the NTC in which the latter promised to honour Libya's previous agreements with Italy and to co-manage with Italy the problem of illegal immigration (Maccanico 2011). On 25 August, Berlusconi announced the release of frozen assets worth €350 million to the NTC for the reconstruction of Libya. The Prime Minister also confirmed that the ENI firm would soon sign an accord with the NTC to supply a large amount of gasoline and diesel fuel for the needs of the Libyan people (Farnesina 2011). Despite its initial vacillation Italy's quick decision to turn away from Gaddafi and support the NTC finally got paid.

#### **(4) *Migrants and Refugees***

Coping with the problem of irregular migration from North Africa had been identified as a priority of the EU since 2009 by the European Council (Europa 2011). Yet the Libya crisis marked another failed test of EU solidarity on migration flows. As the security situation in Libya was deteriorating, hundreds of thousands of people were fleeing out of the country and seeking their way to the shores of Europe. Early on Gaddafi threatened that Tripoli would stop the cooperation with the EU on controlling illegal migration from North Africa if the Union continued to support anti-government protesters. Brussels rejected Gaddafi's blackmail right away. But the same determination could not be attributed to Italy, which was at the frontline due to its geographic proximity. While most EU countries were busy condemning Gaddafi's bloody repression against civilians and proposing possible sanctions against the Libyan authority, Italy, foreseeing a catastrophic influx underway, aligned with Malta and Cyprus and insisted that the imminent threat of large migratory movements must be prioritized.

A couple of days before the eruption of the Libyan crisis, over 5,000 Tunisian illegal immigrants had landed on Italy's small island Lampedusa, leading to a declared humanitarian emergency by the government. When Libya fell into turmoil, Foreign Minister Frattini estimated that up to 300,000 of migrants would swarm into Europe since anti-immigrant controls on the coasts of Libya had become nonexistent. Interior

Minister Maroni warned about the numbers of refugees and asylum seekers could reach 1.5 million and the situation could get even worse (Maccanico 2011). Italy's concerns about the repercussions of African refugees partially explained its ambiguity toward Gaddafi's regime. The Friendship Treaty the two countries signed in 2008 included a secret deal according to which Italy and Libya had established joint patrolling and electronic surveillance of the Libyan coasts to prevent illegal migration. Although this "pushback" practice was harshly criticised by the Catholic Church and human rights groups, the Italian government considered it a success since the number of illegal immigrants had dropped by 98 percent between 2008 and 2010 (Lombardi 2011). Italy did not rush into advocating regime change because Rome was unwilling to see its migration control efforts fall into nothing in a collapsed Libya. By then it was uncertain whether the rebels could win the war and whether they would honour the previous Italo-Libyan agreement of migration control.

As the numbers of refugees mounted, Rome turned to Brussels for assistance in mid-February. Italy first asked the EU to set up a €100 million emergency solidarity fund to ease the burden of Italy and five other Mediterranean countries.<sup>142</sup> It then requested Frontex to strengthen its patrolling surveillance of the coasts of North Africa to detect and prevent illegal immigration. Italy also called for "a common asylum policy" to redistribute asylum seekers throughout the EU.

In response, the EU on 20 February launched Joint Operation Hermes, an Italy-led Frontex operation to monitor the migratory movements. The European Council on 11 March called for a rapid agreement among member states so that further human and technical resources could be provided to Frontex (European Council 2011b). However, northern and western EU members believed that Italy was just crying the wolf and refused to contribute to the funding or reallocate migrants across the EU. "There is no refugee influx right now", German Interior Minister Thomas de Maizière said on 24 February, "let's not provoke one by talking about it".<sup>143</sup> The notion was widely shared by his Hungarian, Belgian, Austrian and Swedish counterparts. Swedish Migration and Asylum Minister Tobias Billstrom even pointed out that other EU members had taken far more migrants in the past years without begging for help (Chaffin 2011). EU Home

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<sup>142</sup> The five countries are France, Spain, Greece, Malta and Cyprus.

<sup>143</sup> Thomas de Maizière later became Defence Minister on 3 March 2011 and he was succeeded by Hans-Peter Friedrich.

Affairs Commissioner Cecilia Malmström also echoed that it was too early to do anything additional for a situation that had not come yet.

Together with Malta and Cyprus, Italy tried to enact the Temporary Protective Directive of the EU, a directive set up in 2001 after the Kosovo war that would automatically allow free circulation of refugees across the EU (Mara 2011). The proposal was again turned down by other EU countries and the Commission as premature. Feeling very much isolated, Italy decided to act on its own to tackle the surge of immigrants. From 5 April, Rome began to issue temporary residence permits to roughly 25,000 refugees, which would allow them to move freely throughout the Schengen area. At the Justice and Home Affairs Council in Luxembourg on 11 April, a number of EU members rallied around France and Germany, accused Italy of violating the “Schengen spirit” and threatened to restore border controls. Italian leaderships in return accused other EU member states for their unwillingness to show solidarity and even questioned the value of EU membership (Pop 2011).

The discords within the EU on migration influx culminated after mid-April, when France blocked the trains coming from Italy carrying North African migrants and subsequently declared that it would consider the suspension of its Schengen obligations. Paris was furious about Rome’s decision to grant the migrants temporary travel visas with full acknowledgement that many of the French-speaking refugees were heading to France. After ten days of recriminations, the two countries finally overcame the tensions because of a compromise made by Italy. On 26 April, one day following Italy’s approval of commitments to the NATO-led airstrikes in Libya, France and Italy agreed on a joint initiative – during a visit to Rome by Sarkozy – calling the EU to allow member states to tighten Schengen controls in exceptional circumstances such as the Libya crisis.

#### **6.3.4 An Assessment of EU Representation Coherence in the Libya Crisis**

The unrest of Libya posed a security threat in the southern backyard of the EU and triggered an unprecedented surge of migration to Europe. But it also offered a precious opportunity to have the new institutional instruments brought by the ToL tested in the CFSP/CSDP field. It could be a chance for the HR and the EEAS to demonstrate their representative capabilities and their leadership in the EU’s foreign policy

to the world. It was expected that the EU would be better fitted to take action than it was during the Iraq war and the Balkan crisis because of the implementation of the ToL. However, the performance of the EU and its member states during this crisis once again revealed how difficult it was for the Union to shape a common foreign policy so that it could tackle foreign policy challenges as a united collective organization. Despite its generous humanitarian assistance and swift action to evacuate EU citizens, the Union was sharply criticised for its lack of leadership and coherence in crisis management. EU member states clashed on various aspects about how to best address the crisis, leading to the absence of a common EU strategy toward Libya and a marginalized EU presence during the progress of conflict management.

The newly established joint agent of EU external representation, namely the HR and the President, took the leadership in expressing the Union over the developments unfolding in Libya. With the competences granted by the ToL, both representatives were able to show a high profile on the world stage by issuing a series of declarations on behalf of the Union in the early stages of the riots and by condemning Gaddafi's use of forces against civilians and calling for an immediate halt of the violence. There was no evidence that either the HR or the President was by any means compromised by domestic politics or national interests. However it appeared that the declarations released by the two leaderships were not well coordinated. For instance, in one of his statements of early February, Van Rompuy talked about regime change while the HR was obviously not ready to accept that course. Small as the dissonance was, it however demonstrated that a continual divided EU representation between the HR and the President could cause contradictions in EU foreign policy if the two leaderships were lacking communication.

Indeed, Ashton deserved some credit for the dispatch of an EEAS-led fact-finding team to Libya and the opening of a liaison office in Benghazi. But the HR was under fire by presenting a low-profile stand rather than taking the initiative. As the foreign policy chief, Ashton did not take the lead in calling for sanctions against Gaddafi's regime. Nor was she able to push forward a common approach fast enough on imposing sanctions as the head of the FAC. EU foreign ministers spent a whole week debating the subject, while the HR seemed to be satisfied that at lowest denominator there was a consensus on providing humanitarian support (Asseburg 2013). Furthermore, by admitting that it was up to member states to implement sanctions,

the HR *de facto* gave up her responsibility to ensure compliance of member states with the Union's action in the CFSP area. Ashton was late to make a statement that Gaddafi should go and to make contact with the NTC (Helwig et al. 2013:22). Nor was she able to harmonize EU member states' divergent preferences on enforcing a no-fly zone under the UN mandate. In fact, the HR herself clashed with Cameron and Sarkozy on this particular matter. Therefore, she was not invited to play a part when France and the UK were jointly pushing forward the adoption of Resolution 1973 at the UNSC. Most important of all, as EU representative in the CFSP field, she failed to foster a joint EU mission within the framework of CSDP, despite the two EU countries, i.e. the UK and France were spearheading the military operation against Libya.

The new-launched EEAS did not contribute to an increase in inter-institutional coherence either. Its relationship with the Commission, especially the ECHO, was not as smooth as it should have been due to the different working cultures. The EEAS was responsible for strategic guidance and coordination, but financial instruments and their implementation remained in the hands of the Commission. The EEAS also lacked experience in dealing with the crisis since crisis management structures used to function under the Council Secretariat and were only transferred to the EEAS in 2010.

Apart from the reason of capacity deficit, the agent was paralyzed due to the high preference heterogeneity among the actors of the collective principal, in this case, the EU. In other words, the HR was not able to better represent the Union because she was trapped in the cost-benefit calculations of member states based on divergent national interests and policy preferences. In other words, EU countries disagreed with each other on various aspects of how to handle the Libya crisis. The requirement of unanimity for decision-making in CFSP/CSDP matters made a common EU position on the military intervention in Libya impossible.

France and Britain, with stronger military capabilities, were proactive in enforcing a no-fly zone over Libya in terms of military intervention. When it appeared hopeless to reach a common EU position on this issue due to the strong opposition from Germany and the initial scepticism of Italy, the two countries decided to circumvent the Union and align with the US to conduct the airstrikes anyway. France even started the campaign against Gaddafi's forces ahead of the UK. As the two EU countries that enjoy permanent seats

in the UNSC, France and the UK were supposed to defend the EU's position and interests in concert with other EU members sitting in the UNSC, i.e. Germany and Portugal at that moment. However, there was no coordination or concertation at this level whatsoever when the France and the UK aligned themselves with Lebanon rather than their EU peers on draft Resolution 1973, which was later supported by the US as well. The HR was not involved in the process or invited to present the Union's position because a joint position was never defined. Portugal, as expected, chose to support the Franco-British initiative, while Germany decided to abstain in the vote on this resolution. Agent deviation was obvious in this case. These countries tended to focus on their national preferences rather than representing the Union.

The problem of "dual loyalty" can be detected with the P2. As permanent members of the UNSC, they also share the obligation to maintain international peace and security, especially when it matches their national interests. After Resolution 1973 was adopted, Paris and London perceived their joint military actions along with Washington as their duty under the UN mandate. The appearance of NATO further complicated the principal-agent relationships. As most EU members were also members of NATO, the loyalty problem became more salient. When NATO agreed to take full command of military operations in Libya, EU members also had to fulfil their commitments to NATO, although in reality they contributed to the mission to widely differing extents. For France and the UK, when they saw the EU's lack of readiness to get involved in military intervention, it was only natural that they chose to side with a more preferable principal, which is NATO. Not only was the EU sidelined in preparing Resolution 1973, it was also marginalized in its enforcement. The EU could be an ideal structure through which to deal with a crisis at its doorstep, as the US was adjusting its security strategy and would have liked to see the Union shoulder more responsibilities. But instead, the Union could only concentrate on tightening sanctions against Gaddafi's regime and organizing humanitarian efforts.

It must be pointed out that two new EU members, Malta and Cyprus, did align themselves with Italy and contributed to the postponement of the EU's sanctions against Gaddafi and his inner circle due to their concerns of a migration exodus. But like Italy, their concerns were mainly based on geographic proximity, not their new membership. No similar issue were found with other new EU members that joined the Union

in the last wave of EU enlargement. Therefore, it would be too assertive to jump to the conclusion that enlargement caused incoherence of EU representation in dealing with the Libya crisis.

In a nutshell, the EU stood little more coherent and unified than it was prior to the ToL. The institutional instruments created by the ToL were not sufficient to bring a common EU foreign policy or a unified crisis management. It still largely depends on if EU member states are willing to put their national interests and domestic politics aside and work genuinely with each other on a common ground. The Libya crisis once again demonstrated the incoherence and inefficiency in EU representation. But meanwhile it offered an opportunity for the Union to establish new initiatives to improve the leadership capacity of the HR and the EEAS under her authority. Most importantly, it offered an opportunity for EU member states to allow a common EU policy to work in the reconstruction of a post-Gaddafi Libya.

#### **6.4 A Cross-Case Comparison**

During the Iraq war, the rotating Presidency was acting as the Union's leading agent. As analyzed in the previous section, neither the Danish nor the Greek Presidency was able to keep a high profile in representing the EU. Both Presidencies were generally reluctant to make clear positions at an earlier stage, not until they had figured out the preferences of other EU member states. In comparison, the refashioned HR, with extensive competences granted by the ToL, was willing to take the lead from the very beginning and issued various statements on behalf of the Union. In this sense, the collective presence of the EU on the world stage was somewhat improved. However, as the conflict, especially the possibility of military intervention, became further politicized, the role of the HR as the Union's representative started to be overshadowed by national leaders. EU delegation structure was more streamlined in the case of Libya crisis, since the rotating Presidency had been replaced by fixed posts, namely the President and the HR. The problem of discontinuity was to a certain degree reduced. But the ToL continued to divide EU representation between different foreign policy actors. There was a risk of inconsistent representation across different EU institutions. Agent capacity was also strengthened in a limited way. During the Iraq war, both Presidencies eventually yielded to national preferences and joined different camps, rather than fulfil their responsibilities in coordinating and facilitating common EU approaches. By choosing different sides, they actually

contributed to the split of the EU, which further reduced the vertical coherence. On the contrary, there was no evidence suggesting deliberate agent slack from the HR or the President during the Libya crisis. However, the autonomy enjoyed by the HR, was still to a large degree confined by the preference heterogeneity among EU member states. Moreover, it appeared that EU member states remained to be reluctant about the competence transfer when foreign policy and security issue were involved. In other words, when it came to sensitive issues, such as the use of force in third countries, EU member states still felt uncomfortable to entrust the HR to represent their national interests. All in all, the limited reform brought by the ToL to the EU's representation structure might have improved some aspects of EU representation coherence, especially in the terms of format and articulation. But at the end of the day, it will depend on the willingness of EU member states to allow the HR and EU representatives to fully act within their competences, not least when there are still some agency problems left unsolved, as explained earlier in Chapter 4.

Whereas the case studies are conducted under the "most similar system" design, some differences can still be identified between the Iraq war and the Libya crisis: first, although for both conflicts, foreign military interventions contributed to the overthrow of the dictators, for the case of Iraq, the justification was based on the assumption that Saddam possessed considerable amount of WMD, whereas for the case of Libya, intervention was mainly for the purpose of assisting the rebels; second, the action in Libya was authorized by the UNSC, while the military action conducted by the US-led coalition did not get a clear UN mandate; moreover, the Libya crisis started with an unrest against Gaddafi's regime, whereas in 2002-2003, there was no such massive popular demonstration against Saddam; fourth, the Arab League opposed US-led invasion against Iraq, it actually welcomed the military action in Libya; fifth, the military intervention in Iraq led to a long-term occupation whereas the Libya civil war was subject to strict military missions that did not lead to occupation; finally, the US took the lead in the invasion against Saddam's regime while during the Libya crisis, it was France and the UK, and later the NATO that was leading the action implementing the no-fly zone, whereas the US was sitting behind the scene. These differences are by no means exclusive and it would be interesting to see how these factors may influence EU representation coherence in the future.

## Chapter 7 Conclusions

Both the UN and the EU are important actors in the realm of global governance. The commitment to multilateral solutions remains a central stand of the EU's general external strategy. The ToL has confirmed the Union's support for effective multilateralism and its firm attachment to the UN. The set of institutional reforms introduced by the ToL aims to strengthen the EU's international clout on the global stage. However, few exiting studies have systematically assessed its effects on EU representation in the domain of the CFSP. This dissertation represents an effort of exploring the question whether the expectation of the ToL in improving EU external representation has been fulfilled in two main UN bodies, namely the UNGA and the UNSC. These two institutions together provide appropriate frameworks to examine EU representation and to draw more complete conclusions of the impact of the ToL. Inspired by the principal-agent theory, EU representation are theorized into different delegation relationships where the EU and its entire membership are considered collective principals, while the actors that play the role of the agent(s) of the Union and the specific delegation structures been different under different circumstances.

It is argued that the ToL has the potential to improve the coherence of EU external representation if certain conditions are met, especially if EU member states are willing to genuinely implement its provisions to improve their internal coordination. A mixed approach is adopted to combine both quantitative and qualitative methods to detect the pre- and post-Lisbon coherence variation in EU representation. At the UNGA, EU representation coherence is measured in terms of EU voting cohesion. At the UNSC, some descriptive statistics are first presented to describe and summarize the voting behaviour of the EU member states sitting on the UNSC, based on which the cases of Iraq and Libya are selected for further investigation. Subsequently, the coherence of the EU's representation during these two conflicts – both horizontal and vertical – is examined and compared by in order to detect the ToL's effect on EU representation coherence.

This conclusive chapter is split into three sections: the first section summarizes and revisits the central empirical findings of this dissertation; the second section makes some recommendations concerning EU representation coherence based on the lessons that are learned; the final section points out the main contributions and remaining limitations of the present study, and prospects the directions for future research.

## 7.1 Revisiting the Main Findings

At the UNGA, in terms of agents, the ToL has replaced the rotating Presidency with the newly established President and the HR, which are supported by the EU delegation to the UN. The statistical results reveal that EU voting cohesion is generally higher than that of the entire UNGA and has been increasing gradually over time. This finding is important in the sense that it fits the traditional pattern of incrementalism that has characterised the evolution of the CFSP over the past two decades. It implies that the effects of institutional adaption and socialization process emphasized by the principal-agent theory and the new institutionalism may be slow and subtle, but indeed bear promising power in explaining the variety and complexity of EU external representation.

However, a somewhat troubled trend was identified with the ToL, since there seemed to be a small decline in EU voting cohesion after the ToL was adopted. But it would be arbitrary to jump to the conclusion that the ToL has negative effects on EU representation coherence. Suffice it to say that the ToL has not made the EU a more coherent actor at the UNGA yet. A possible cause could be the agency problems left unsolved by the ToL: e.g., the risk of horse-trading in agent selection, the potential of competitions between EU foreign policy actors, such as the President, the HR, the President of the Commission; the remaining influence that can be exerted by the rotating Presidency through its chairmanship over various Council working groups, the overwhelming mandates granted to the HR, the absence of deputising system, the dominance of unanimity in CFSP decision making, and the lack of enforceable means. However, it would be too arbitrary to jump to the conclusion that the ToL. As institutions and social learning process work very slowly, time is still needed, for EU representatives, especially for the HR, to adjust their capabilities so that they can truly stand as a fully-fledged EU agent. But as explained before, it largely depends on the willingness of EU members to coordinate their different policy preferences and to allow EU representatives to take the lead.

The statistical tests also shed lights on the relationship between EU representation coherence and some alternative variables, e.g., membership size, enlargement, issue areas and the degree of regional integration. Contrary to conventional wisdom, it is found that enlargement does not necessarily lead to lower voting cohesion, as far as the UNGA is concerned. In fact, EU voting cohesion appeared to have increased a little

after each round of enlargement that was discussed in this dissertation. One possible explanation could be that the effect of enlargement has been diminished when the errant member states were willing to act coherently with the majority of the EU. It may suggest that the current EU enlargement system, including the association agreements and the SAP, were well functioning and may need to be further exploited to meet the needs of further enlargements. This finding may contribute to silencing the arguments that are against EU enlargements.

Contrary to the common sense that larger group would exhibit lower coherence, the findings that involve membership size suggest there is no significant relationship between these two variables. It implies that other variables, e.g., integration degree may prevail. However, by comparing the EU and other regional organizations at the UNGA, it is found that the Union, which is commonly considered a successful model of regional integration, does not outperform other regional organizations at the UNGA in terms of voting cohesion. It suggests that either the idea of using the EU as a model for regional integration may need to be adapted or further research should be conducted to investigate why these less integrated groups were able to show high degree of voting cohesion at the UNGA.

Finally, the statistical results indicate that EU voting cohesion varies across issue areas, a finding that is consistent with the existing literature in this field. But its cohesion in more contested fields, i.e., “International Security” and “Decolonization” has not been improved by the ToL. A potential problematic trend is that voting cohesion in the area “Human Rights” displayed somewhat decline. But it remains to be seen how exactly the ToL is going to influence EU decision making in different areas. These hypotheses, while only exploring part of potential effects of the ToL on EU voting cohesion at the UNGA, can reveal some interesting developments as to the extent of EU representation coherence in global politics over time, and notably after the adoption of the ToL.

It has to be kept in mind, however, that analyzing voting records of EU member states in the UNGA has some potential drawbacks. First, voting only reflects the last stage of a process of coordination and does not reveal what happened in the phases before. Nonetheless, the analysis of these records provides an assessment of how ‘unified’ the EU is in the international realm, assessed here in terms of voting in the

context of the UNGA. Second, the analysis conducted here cannot account for the moderating effect of UN reform on the influence of the ToL system as far as foreign relations of the EU are concerned. Further efforts should be devoted to the analysis of the presence of the EU in UN programmes, specialized agencies, and other IOs.

At the UNSC, the ToL strengthened the role of the HR and the EU delegation. It also narrowed the competence gap between permanent and non-permanent EU member states in defending the Union's common interests. Following the quantitative analysis, two in-depth case studies of the conflicts in Iraq and Libya were conducted. These two cases first caught our attention in light of the guidance of the descriptive statistics of EU voting in the UNSC. Topics surrounding the situations in Iraq and Libya stood out even in the rare occasion of EU voting deviation at the UNSC. The 2002-2003 Iraq crisis and the 2011 Libya crisis were selected not only because these two cases resemble each other in many perspectives but also because the factor of the adoption of the ToL marks a difference between them, which allows us to detect whether the ToL has affected EU voting cohesion in qualitative terms. The case studies find that the adoption of the ToL offers an opportunity to improve the EU's representation coherence, at both horizontal and vertical levels. Although there is a possibility to establish a *de facto* EU common presence in the UNSC, so far the HR's role as the Union's agents is still very limited, since its autonomy to a large degree is confined by EU member states. As of today, EU representation is still mainly delivered through its member states sitting in the UNSC, especially the permanent members, i.e. the UK and France, given that a profound reform to include regional organizations in the UN's membership is unlikely in the foreseeable future.

The weak representation of the EU at the UNSC has a lot to do with the remaining agency problems, including, *inter alia*, the lack of formal EU representation, the predominant role of France and Britain as EU agents, the absence of control over agent selection, or the unsolved puzzles left by the ToL, e.g., the risk of agent slack due to the unanimity rule in the CFSP and the absence of enforceable instruments. The ToL risks becoming irrelevant, if these problems continue to be left unaddressed,

## **7.2 Recommendations: Towards a More Coherent EU?**

Although there was no significant empirical evidence of improved EU representation after the adoption of the ToL either in the statistical results or in case studies, it is believed that if EU institutions and member states can act in concert, implementing the spirits of coordination, consultation and solidarity prescribed by the treaty, the EU can become a more effective and influential actor in the international community. This chapter goes through the possible scenarios of the EU's future status at the UN and makes some recommendations from both academic and practical perspectives

Despite the recent contributions brought by the Lisbon Treaty, flaws continue to exist in the institutional design of the Union, affecting its representation abroad and at home. Since the procedure of treaty revision is too complicated and would certainly take considerable time, more punctual, specific technical solutions are advised. Firstly, the role of the HR as head of EU foreign policy could be further strengthened. The critiques regarding the absence of Lady Ashton from different working meetings, her inadequate presence in the media and her lack of action must be addressed institutionally. The office of HR must take a leading role in setting policy priorities and should act as the contact agent on behalf of the EU when it comes to relations with third countries. Arguably, the way in which the mandate is imagined today, with so many roles that the HR must fulfill (vice-president of the Commission, head of the European Defense Agency, head of the EEAS, chair of the Foreign Affairs Council etc.), makes it rather an impossible mission than a proper job (Marangoni 2012). Therefore, granting more flexibility and space of manoeuvre by putting at its disposal more (manpower) resources could help the HR in carrying out its mandate efficiently.

Secondly, in order to better assist the HR and other EU bodies in their activity, the EEAS should act as a comprehensive and proactive policy entrepreneur, capable of developing EU foreign policy strategies, providing accurate analysis regarding current issues of world politics, and of submitting proposals on how the EU should react to any given situation. Impartiality and professionalism should be the guiding principles when providing the EU institutions and the member states with the information they need. To ensure these two 'golden principles', a careful selection process must be conducted so as to recruit personnel with different background and expertise in diverse areas. Regular and intense training programmes will improve

daily working skills, and – more importantly – will enable shared understandings of EEAS working approaches.

Moreover, connecting the EEAS to national diplomatic services can consolidate the relations with the member states and would nevertheless make the EEAS much more visible and present inside the EU. National embassies could transfer some of their competencies to the EEAS to avoid duplication fatigue and unnecessary costs. Just as in the European and Euro-Atlantic military sphere, concepts such as “pooling and sharing” or “smart defense” have been elaborated and implemented precisely to save costs, particularly in times of economic crisis, so too the diplomatic sector of the EU can adopt similar concepts for the same pragmatic purposes. On the other hand, should the economic crisis come to an end in the near future, thus making resources available once again, the EEAS could benefit greatly from this context.

Thirdly, to increase the external cohesion of the EU, further convergence of policy preferences and better internal coordination among the Member States are required in the long-run. The process of coordination must be more streamlined and less time-consuming. In order to make decision-making more efficient, QMV could be applied to more areas, including even some issues related to CFSP. A more transparent policy-making system is also needed to promote mutual understanding among EU member states. Mutual understanding would be achieved easier if information sharing becomes more frequent. In this sense, the formal processes of exchanging information among member states and EU institutions could be complemented by informal channels of communication.

More specifically, in terms of EU voting, the reality that EU cohesion ranks very high in some issue areas, such as “Middle East” or human rights should be cultivated in the direction of moving towards full consensus. In other cases where cohesion has been traditionally low, such as nuclear or decolonization issues, there is probably not too much that can be done to achieve consensus in the short-run. However, by setting up early warning mechanisms and dispute settlement procedures, deep voting fractures may be avoided. France and the UK are more likely to deviate from the common position, not necessarily only because of divergent interests, but especially because of their privileged status in the UNSC. The institutional design of this body favours such separate attitudes. Therefore, a solution must be conceived so

as to bring these two states on board. Fear of isolation alone may not suffice. The EU still needs to enforce a system not only of ‘carrots’ but also of ‘sticks’ so that serious errant members can be held responsible.

Finally, the EU should continue to seek an enhanced status at the UN, including within the Security Council. The EU could campaign for its own seat in the UNSC; however, extensive disagreements already exist among the EU member states. Even if the member states can reach an agreement on this, the other UN members could vote against the proposal on the grounds that the EU is already over-represented in the UNSC. Apart from France and the UK which are permanent members, there are also two seats for Western Europe and 1 seat for Eastern Europe. One single EU seat would probably be an acceptable solution to the other UN members but it is doubtful that France and the UK will agree to terminate their privileged positions. Another attempt could be a UNSC resolution inspired from the UNGA resolution that granted the EU an enhanced status. However, if it aspires to increase its influence at the UN, the EU first has to demonstrate that it is able to speak with one voice and act coherently in its external relations.

### **7.3 Contributions, Limitations and Future Prospects**

This dissertation aims to contribute to a better understanding of the EU’s role in international fora in general and at the UN in particular, by providing a clearer conceptualization of EU representation coherence – distinguished from other related concepts, e.g., actorness and effectiveness – and concrete measurements of coherence in both quantitative (voting cohesion) and qualitative terms (horizontal and vertical coherence). It strengthens the analyses on EU voting behaviour at the UNGA in the form of a sophisticated statistical investigation of EU voting cohesion within a relatively broader time frame. In the meantime, this research is able to reassess some alternative explanatory variables, including *inter alia*, membership size, socialization and issue areas on voting cohesion, based on a more complete data collection that includes the resolutions of the latest two UNGA sessions. It also adds creative values to the studies of the EU’s presence at the UNSC by applying a mixed approach that combines descriptive statistics and case studies. The examinations of a classic case concerning the Iraq war and a timely case regarding the Libya crisis against the background of the Arab Spring are going to enrich the empirical observations on the EU’s representation at the forum. Moreover, the current study contributes to the accumulation of interpreting the legal, political and policy

implications of the ToL and conducts a systematic empirical test of its effects on EU representation coherence, which steers the discussions surrounding the ToL away from legal and theoretical perspectives to real-world evidence. Finally, this dissertation bridges the research traditions emphasizing the importance of outcomes and the approaches emphasizing the process of decision making that accounts for the international role of the EU.

The current study has some limitations regardless of the great efforts and large amount of time spared on the research: first, it is not generally possible to specify the causality of the variation of EU voting cohesion based on the principal-agent model; second, it is difficult to assess the relative importance of various factors on EU representation. Future research should be conducted to identify a more sophisticated combination of determining factors that influence the effectiveness of EU representatives. Incorporating the external context, such as the influence of the US, could be a worthwhile attempt. Efforts could also be devoted to study the presence of the EU and the quality of EU agency relationships in UN programmes, specialized agencies, or in other IOs. A thorough content analysis of EU statements and documents could also be considered to be applied in future research how the EU and its member states behave in the UN.

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## Summary

This dissertation explores the effects of the Treaty of Lisbon (ToL) on the coherence of the external representation of the European Union (EU) in the field of Common Foreign and Security Policy (CFSP) at two main UN bodies, i.e., the UN General Assembly (UNGA) and the Security Council (UNSC). It theorizes EU representation into a principal-agent relationship and assesses the developments of the EU delegation relationship since the adoption of the ToL. In both contexts the EU and its entire membership are considered a collective principal while the actors that play the role of the agent(s) have been different through different historical periods.

A mixed approach is adopted to combine both quantitative and qualitative methods to detect the pre- and post-Lisbon coherence variation in EU representation. At the UNGA, EU representation coherence is measured in terms of EU voting cohesion. At the UNSC, some descriptive statistics are first presented to describe and summarize the voting behaviour of the EU member states sitting on the UNSC, based on which the cases of Iraq and Libya are selected for further investigation. Subsequently, the coherence of the EU's representation during these two conflicts – both horizontal and vertical – is examined and compared by looking at the coordination mechanisms and articulation consistency of the EU and its member states.

The empirical evidence suggests that EU representation coherence, in general, has increased in parallel with the developments of the CFSP over time. The reformed delegation structure introduced by the ToL, however, has not yet contributed to greater EU representation coherence at the UN. Whereas the ToL offers an opportunity to strengthen agent capabilities and control mechanisms, coherent EU representation appears to be unlikely in the near future, if the remaining agency problems are left unaddressed. Especially it depends on the genuine willingness of EU member states to overcome diverging preferences and support common EU positions. Only until their declaratory commitments lead to real cooperation can the Union truly stand united and speak coherently on foreign affairs. Of equal importance is the demand for closer coordination among different EU institutions for the sake of consistent and complementary representation. Time is still needed for EU representatives, namely the President of the European Council, the Commission President and the refashioned High Representative – the External Action Service under her authority as well – to develop into fully-fledged agents with more autonomy and clearer delimitation of representation competences.

The chapters of this dissertation are organized as follows:

Following an overview of the status of the EU's presence at the UN, Chapter 1 considers the conceptual and methodological issues of this research. It firstly defines EU representation coherence and distinguishes the fundamental concept of coherence from other prominent themes in the studies in respect to the EU's role or performance in external relations. Then it continues to introduce how EU representation coherence is going to be measured within the two contexts of the UN and the corresponding analytical methods that will be adopted. The third section lays out the structure for the rest of chapters in this dissertation.

Chapter 2 reviews the existing bodies of literature with reference to the EU's representation in the international system, notably at the UNGA and the UNSC, and explains how this dissertation contributes to the relevant fields of studies.

Chapter 3 first lays out the fundamental assumptions of the principal-agent theory and argues that this theoretical mode bears promising power in explaining the complexity and variety in the EU's external representation. Within this framework, the situations of EU representation in multilateral organizations are theorized into different types of delegation relationships, in which the EU and its member states are considered collective principals, while the actors that play the role of agents and the delegation structures are conditioned by the division of EU competences and the status of EU in particular international institutions. This section develops the typologies of EU competences and EU status models, and then specifies the agents and delegation structures under different (combinations of) circumstances within selected IOs. The final section of Chapter 3 places the principal-agent theory in a broader theoretical framework of new institutionalism. It compares the principal-agent theory with historical and sociological institutionalisms, and indicates that an extended and adapted model of the principal-agent theory that absorbs the strengths of the other two approaches of new institutionalism will serve as the theoretical foundation for this dissertation.

Chapter 4 is divided into two sections, which respectively draw a panorama for the evolution of EU representation at the UNGA and the UNSC from an adapted principal-agent point of view. Following a brief introduction of the institutional structures the UNGA, the first section takes a look back at the "problematic" delegation relationship of the EU's external representation at this forum in the pre-Lisbon era. Then it describes the reformed representation structure of the Union established by the ToL and points out the remaining agency problems. Based on the post-Lisbon developments in EU representation, and drawing on the insights of the extended principal-agent theory outlined in Chapter 3, six hypotheses regarding the coherence of EU representation – measured by the voting cohesion of EU member states at the UNGA – are proposed to be tested using a quantitative method in Chapter 5. The second section briefly describes the *sui generis* institutional structure of the UNSC and examines the horizontal coherence of EU representation within this context in the pre- and post-Lisbon eras. It also examines the vertical representation coherence by looking at the implications of the ToL on the Union's coordination and concertation mechanisms on UN matters. It is proposed that the innovations of the ToL – although limited – would contribute to an increase in the Union's representation coherence at the UNSC. The final section touches upon the inevitable question about the reform of the UNSC and explores the EU dimension in the ongoing debate.

Chapter 5 tests the hypotheses formulated in Chapter 4 on EU representation coherence at the UNGA, with systematic statistical analyses of the voting behaviour of EU member states. This chapter also presents the descriptive statistics of voting in the UNSC, which not only demonstrate the unique decision-making methods within this body but also identify both general and unusual patterns of EU voting behaviour.

Guided by the descriptive statistics in the previous chapter, Chapter 6 assesses EU representation coherence in two case studies, i.e., the 2002-2003 Iraq war and the 2011 Libya crisis, which are divided by the entry into force of the ToL. In each case, EU representation coherence is examined at both horizontal and vertical levels. In order to uncover the variation in coherence after the implementation of the ToL, a follow-up cross-case comparison is conducted.

The conclusionary chapter, Chapter 7, is split into three sections: the first section summarizes and revisits the central empirical findings of this dissertation; the second section makes some recommendations concerning EU representation coherence based on the lessons that are learned; the final section points out the main contributions and remaining limitations of the present study, and prospects the directions for future research.

## Samenvatting

Dit proefschrift onderzoekt de gevolgen van het Verdrag van Lissabon (ToL) op de coherentie van de externe vertegenwoordiging van de Europese Unie (EU), op het gebied van het gemeenschappelijke buitenlandse beleid en veiligheidsbeleid (CFSP) bij twee belangrijke VN-organen, namelijk, de Algemene Vergadering van de VN (UNGA) en de Veiligheidsraad (UNSC). EU-vertegenwoordiging wordt gezien in termen van een principal-agent relatie en dit theoretisch kader wordt toegepast voor de beoordeling van de ontwikkelingen sinds de vaststelling van de ToL. In beide contexten wordt de EU en haar gehele lidmaatschap beschouwd als een collectieve opdrachtgever, terwijl verschillende acteurs de rol van de agent(en) spelen gedurende de verschillende historische perioden.

Er wordt een “mixed-methods design” toegepast door kwantitatieve als kwalitatieve methoden te combineren om veranderingen in de pre- en post-Lissabon fase in EU-vertegenwoordiging te kunnen detecteren. In de UNGA is cohesie in vertegenwoordiging van de EU gemeten in termen van samenhang bij stemprocedures. Voor de VN-Veiligheidsraad wordt eerst beschrijvende statistiek gepresenteerd dat het stemgedrag van de EU-lidstaten die in de VN-Veiligheidsraad vertegenwoordigd zijn beschrijft en samenvat, op basis waarvan de gevallen Irak en Libië worden geselecteerd voor verder onderzoek. Vervolgens wordt de cohesie van de vertegenwoordiging van de EU tijdens deze twee conflicten - zowel horizontale als verticale cohesie - onderzocht en vergeleken, door te kijken naar de coördinatiemechanismen en de consistentie van uitspraken van de EU en haar lidstaten.

Uit empirische gegevens blijkt dat, door de jaren heen, de cohesie in de vertegenwoordiging van de EU in het algemeen is toegenomen in lijn met de ontwikkelingen van de CFSP. De hervormde delegatiestructuur, die werd geïntroduceerd door de ToL, heeft echter nog niet bijgedragen aan een grotere coherentie bij de EU-vertegenwoordiging van de VN. Terwijl de ToL daarentegen een kans biedt om de vertegenwoordigingsmogelijkheden en controlemechanismen te versterken, lijkt coherente vertegenwoordiging van de EU niet waarschijnlijk in de nabije toekomst, indien de overige ‘agency’-problemen niet worden aangepakt. Het hangt vooral af van de daadwerkelijke bereidheid van de EU-lidstaten om uiteenlopende voorkeuren te overwinnen en gemeenschappelijke EU-standpunten te ondersteunen. Slechts wanneer de aangegeven toezeggingen leiden tot echte samenwerking, kan de Unie zich daadwerkelijk verenigd opstellen en coherent spreken in het kader van buitenlands beleid. Van evengroot belang is de vraag naar een nauwere coördinatie tussen de verschillende EU-instellingen in het belang van een consistente en complementaire vertegenwoordiging. Het zal nog tijd kosten voordat de vertegenwoordigers van de EU, namelijk de voorzitter van de Europese Raad, de voorzitter van de Commissie en de vernieuwde rol van High Representative – alsmede de European External Action Service onder haar gezag – zich kunnen ontwikkelen tot volwaardige ‘agents’ met meer autonomie en een duidelijkere afbakening van de vertegenwoordigingscompetenties.

## Curriculum Vitae

Xi JIN was born on 24 December 1985 in Weinan, China. She went to Xi'an No. 83 Middle School between September 2001 and July 2004. In 2008, she obtained a LLB degree at the China University of Political Science and Law. In 2010, she graduated *cum laude* from the two-year Master Programme in International Relations and Diplomacy, which was offered jointly by the Institute of Political Science of Leiden University and the Netherlands Institute of International Relations "Clingendael" in the Hague. Starting from September 2010, she was registered as a PhD candidate at the same institute, under the research program on "Institutions of Politics: Design, Workings, and Implications", supervised by Prof. Dr. Madeleine O. Hosli. Between 2010 and 2012, Xi also worked as a research assistant with Dr. Daniela Stockmann.