European Union representation at the United Nations towards more coherence after the Treaty of Lisbon
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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). [16] 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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[16] 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).[17] 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).[18] 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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[17] 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).
[18] 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 reformative 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).[19] 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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[19] 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).[20] 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.[21] 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).[22] It seems that the Presidency will continue to play a role in representation in the domain of shared competence.

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[20] 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.

[21] 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.

[22] 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

	Exclusive Competence	Shared Competence	Supporting Competence	CFSP
Decision Making	Council	Council	Council	FAC, European Council
Representatives (Agents)	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
Local Representation	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).[23] 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).[24] 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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[23] 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).
[24] 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.[25] 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 preeminent 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.[26] 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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[25] 15 out of 139 EU delegations are to multilateral organizations. For a list of these IOs, see Comelli and Matarazzo 2011: 6.
[26] 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).[27] The EU is considered a "virtual member" or *de factor* full participant within the OSCE, though its status has never been formally defined (Gstöhl 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 player 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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[27] 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).[28] 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).[29] 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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[28] Some scholars (e.g., Wouters et al. 2012) see the EU as a full member of the G20.
[29] 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.[30] 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.[31] 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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[30] Non-NATO EU members include Austria, Cyprus, Finland, Ireland, Malta and Sweden.
[31] 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).[32] There are three primary variants of new institutionalism: rational-choice institutionalism, historical institutionalism and sociological institutionalism. Originally applied to the

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[32] 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.[33] 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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[33] 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.[34] 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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[34] For representative works and commentaries on the debate between neo-functionalism and intergovernmentalism, see Tranholm-Mikkelson 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.[35] 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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[35] For a review of the works that construct explanations across different schools of new institutionalism, see Thelen 1999.