

Linking Global and Regional Organizations: the Case of the United Nations and the European Union

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1. Introduction

There was a time in which the main contacts between global and regional intergovernmental organizations took place through the Member States participating in both organizations. Nowadays, however, global and regional organizations increasingly cooperate and interlink directly. The present paper discusses, as an example of this process, the fastly developing relationship between the United Nations (UN) and the European Union (EU),¹ especially in the field of international peace and security. This process is in two respects of importance to practitioners: (i) First of all, the enhanced EU-UN cooperation increasingly entails a significant number of joint programs and operations, in which knowledge of both organizations and their cooperation is a significant asset; (ii) secondly, the development of this cooperation may well serve as an example for closer cooperation between the UN and other regional organizations. Practitioners dealing with these relations could therefore learn valuable lessons from EU-UN cooperation.

Although the Member States of the Euran Communities (EC) have coordinated their points of view in the UN for a long time,² the relationship between both organizations has undergone a qualitative change with the establishment of the EU, endowed with a Common Foreign and Security Policy (CFSP), in 1992. The potential for cooperation was further enhanced by the changes introduced by the Treaty of Amsterdam (1997), which enabled the development of a European Security and Defence Policy (ESDP), effectively developed since 1999, and by the Treaty of Nice (2000), which consolidated this process. In light of the preamble of the EU Treaty, which inter alia provides that the implementation of the CFSP/ESDP aims “to promote peace, security and progress in Europe and in the world”³, the UN is the natural partner for the EU. In this contribution, we will first address the institutional framework for EU-UN cooperation under the UN Charter (2) and the EU and EC Treaties (3). We will then analyse the evolution of EU-UN cooperation since the 1990s (4) and the need for a more structured cooperation (5), to conclude with some implications for practitioners (6).

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¹ For an excellent overview, see <http://www.europa-eu-un.org>, http://europa.eu.int/comm/external_relations/un/index.htm and EU, *The Enlarging European Union and the United Nations: Making Multilateralism Matter*, January 2004, http://europa.eu.int/comm/external_relations/un/docs/brochure0104.pdf.

² See for this coordination within the UN General Assembly, J. Wouters, “The European Union as an Actor within the United Nations General Assembly”, in V. Kronenberger (ed.), *The EU and the International Legal Order: Discord or Harmony?*, The Hague, T.M.C. Asser Press, 2001, 375-404.

³ 10th recital. See also the 3rd recital of the preamble of the Draft Treaty establishing a Constitution for Europe, 2003 OJ C 169/1 (“reunited Europe intends to [...] strive for peace, justice and solidarity throughout the world”).

2. The UN constitutional framework

The UN Charter does not say much about the role of regional organizations, except to some extent in the field of international peace and security (mainly Chapter VIII), where such agencies or arrangements may play a role in implementing Security Council decisions (Art. 48(2)) and may deal with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the purposes and principles of the UN (Art. 52(1)). In essence, the Charter limits their actions to the pacific settlement of local disputes (Art. 52(2)-(3)) and provides that the Security Council may resort to regional arrangements or agencies for enforcement action under its authority but that no such enforcement action shall be taken without the authorization of the Security Council (Art. 53(1)).

For a long time, a restrictive view was taken on what arrangements and agencies were covered by Chapter VIII. However, since the 1990s the UN increasingly cooperates on a practical level with a great number of regional organizations irrespective of this debate.⁴ In addition, a number of international organizations participate in the UN as observers. This also applies to the EC: since 1974 it has been observer in the General Assembly.

3. The EU constitutional framework

The relevant provisions in the EU Treaty can be found in Title V (the CFSP). Art. 11(1) EU Treaty *inter alia* states that the CFSP is aimed at safeguarding “the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the [UN] Charter” and at “preserv[ing] peace and strengthen[ing] international security, in accordance with the principles of the United Nations Charter [...]”. This is also expressed quite strongly in the EU’s Draft Constitution, which is currently being negotiated: “In its relations with the wider world, the Union shall [...] contribute to peace, security, the sustainable development of the earth [...] as well as to strict observance and development of international law, including respect for the principles of the United Nations Charter”.⁵ Consequently, the EU is obliged, under its present (and future) constitutive treaty, to develop and implement its CFSP, including its ESDP, in conformity with the UN Charter. Moreover, the Draft Constitution instructs the EU to “establish all appropriate forms of cooperation” with the UN.⁶

However, unlike the EC Treaty, article 302 of which directs the European Commission to “ensure the maintenance of all appropriate relations with the organs of the United Nations and of its specialised agencies”, the EU Treaty does not provide for a single institution to represent the EU at the UN in CFSP matters. Instead, the representation is shared by several actors (Arts. 18-20 EU Treaty). In principle, the EU is represented by the Presidency of the Council, assisted by the Secretary-General / High Representative (SG/HR) (J. Solana) and, where necessary, the incoming Presidency, with the involvement of the Commission. Hence, the permanent representative to the UN of the EU Member State holding the EU Presidency increasingly makes statements in that capacity. The impact thereof is enhanced when (as is often the case) such statements are also made on behalf of the accession countries (i.e. States currently negotiating accession with the EU) as well as the EFTA Member States. Furthermore, the EU Member States represented in UN organs must defend EU common positions there. This also applies to EU Member States represented in the Security Council, although in respect of the (two: France and the UK) EU permanent members it is added “without prejudice to their responsibilities under the provisions of the United Nations Charter”. The latter provision is somewhat puzzling and one may wonder why it applies only

⁴ E.g., in July 2003 there was the fifth High-Level Meeting between the UN and Regional Organizations and the Security Council’s Counterterrorism Committee also collaborates closely with many regional organizations; see, for the EC/EU, Commission staff working paper, *EC external assistance facilitating the implementation of UN Security Council Resolution 1373: an overview*, SEC(2002)231, 25 February 2002.

⁵ Art. 3(4) Draft Constitution, *supra* note 3. See also Art. III-193.

⁶ *Id.*, Art. III-229.

to the permanent members.⁷ Nevertheless, it looks like the EU is increasingly speaking as one in the Security Council, at least where there are no fundamental divisions between Member States, mostly through the EU Presidency,⁸ but occasionally also through the SG/HR.⁹ Finally, Commission and Member State representations to international organizations, including the UN, must “cooperate in ensuring that the common positions and joint actions adopted by the Council are complied with and implemented”. In pursuance of this, these permanent representations consult on an almost daily basis.¹⁰ This system will improve significantly if the Draft Constitution is adopted, but, even though the function of “Union Minister for Foreign Affairs”¹¹ will be created, multiple actors will still be involved and the Commission will still represent the EU on matters within its competence.¹²

4. The evolution of the EU-UN relationship since the 1990s

The EU-UN relationship has undergone important changes since the 1990s. At the occasion of the 50th anniversary of the UN in 1995, the EU strongly reaffirmed its attachment to the UN Charter and pledged to support the UN in a Declaration adopted at the Cannes European Council in June 1995, where it also stated that in the field of preventive diplomacy capacities and peacekeeping “the UN plays an irreplaceable role, since only the UN may decide on the use of force in international relations”.

Especially the development of the ESDP since 1999 and the practical cooperation on the field, particularly in Bosnia,¹³ Kosovo¹⁴ and East-Timor,¹⁵ have contributed to an ever closer relationship between the EU and the UN. The development of the ESDP was made possible by the insertion of the ‘Petersberg’ crisis management tasks¹⁶ in Article 17 EU Treaty by the Treaty of Amsterdam. The decision to concretely launch ESDP was taken at the June 1999 Cologne European Council and the operational and institutional features thereof were further specified mainly at the December 1999 Helsinki European Council (the military component) and at the June 2000 Santa Maria da Feira European Council (civilian component), explicitly noting the possibility of deployment in the framework of UN operations). In Helsinki, the European Council explicitly stated: “The Union will contribute to international peace and security in accordance with the principles of the United Nations Charter. The Union recognises the primary responsibility of the United Nations Security Council for the maintenance of international peace and security”.¹⁷ The ESDP was declared operational, within limits, by the December 2001 Laken European Council¹⁸ and the June

⁷ This may mean that these Member States can deviate from EU common positions when this is required by the urgency of the situation, see W. Devroe and J. Wouters, *De Europese Unie. Het Verdrag van Maastricht en zijn uitvoering: analyse en perspectieven*, Leuven, Peeters, 1996, 636, No. 731.

⁸ See e.g. the statements of Inocencio F. Arias, the Spanish permanent representative to the UN on behalf of the EU in the Security Council on 30 March and 3 April 2002. For a list of Presidency statements at the Security Council, see <http://europa-eu-un.org/articleslist.asp?section=52>.

⁹ E.g., the SG/HR briefed the Security Council on operation Artemis on 18 July 2003 and spoke on Bosnia to the Security Council on 5 March 2003.

¹⁰ See J. Wouters, *supra* note 2.

¹¹ See Art. I-27 Draft Constitution, *supra* note 3. On his functions, see mainly Arts. I-39, III-197, III-202-203 and III-205-207 Draft Constitution. Under Art. III-206(2) *in fine*, where a defined EU position exists on an issue addressed in the Security Council, the EU Security Council members shall request that the Union Foreign Minister be asked to present the EU’s position.

¹² *Supra* note 3, Art. III-229(3).

¹³ On the EU’s and the UN’s role there, see J. Wouters and F. Naert, “How Effective is the European Security Architecture? Lessons from Bosnia and Kosovo,” 50 *I.C.L.Q.* (2001), 540-576.

¹⁴ *Id.* See also the reference to the EU in § 17 of UN Security Council resolution 1244 (10 June 1999).

¹⁵ Commission, *Communication on Conflict Prevention*, 11 April 2001, COM(2001)211, 26.

¹⁶ I.e. “humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking”.

¹⁷ Annex IV, final paragraph. This was repeated several times, see the Presidency conclusions of the December 2000 Nice European Council, Annex VI and of the June 2001 Göteborg European Council, § 47. All European Council conclusions since 1994 are available at <http://ue.eu.int/presid/conclusions.htm> and in the *Bulletin EU*, since 1996 available at <http://europa.eu.int/abc/doc/off/bull/en/bullset.htm>.

¹⁸ Presidency conclusions, § 6 and Annex II.

2003 Thessaloniki European Council declared that the EU “has operational capability across the full range of Petersberg tasks, limited and constrained by recognised shortfalls, which can be alleviated by the further development of the EU's military capabilities”.¹⁹ Finally, in the course of 2003 ESDP was put into practice and the EU conducted four crisis management operations.²⁰ It also adopted a European Security Strategy, in which effective multilateralism, with the UN at the core, is a strategic objective.²¹

More systematic EU-UN relations in the field of peace and security were set in motion by a speech of the then French Presidency at the UN General Assembly in 2000, *inter alia* inviting Kofi Annan to meet with EU institutions,²² which he did that very month. The call for exploring cooperation in crisis management was taken up by the December 2000 Nice European Council. Subsequently, concrete arrangements were agreed in this field and approved by the EU General Affairs Council on 11 June 2001²³ and by the Göteborg European Council later that month.²⁴ These arrangements spell out three priorities: conflict prevention, civilian and military aspects of crisis management and particular regional issues (Western Balkans, Middle East and Africa, in particular the Great Lakes, Horn of Africa and West Africa). On a practical level, measures were adopted to ensure a more continuous and coherent cooperation. They include meetings of the EU Ministers with the UN Secretary-General, contacts between the SG/HR, the external relations Commissioner (Chris Patten) and the UN Secretary-General and Deputy Secretary-General, meetings of the EU's Political and Security Committee (a key CFSP body) with the UN Deputy Secretary-General and Under Secretaries-General and at other levels as appropriate (including with the UN Department of Peacekeeping Operations) and contacts between the EU Council Secretariat and the Commission's services on the one hand, and the UN Secretariat on the other hand.

The EU and its Member States envisage three possible ways of contributing civilian capabilities to UN operations: (i) national contributions following EU consultations aimed at e.g. identifying opportunities to pool resources, (ii) a coordinated EU contribution or (iii) a whole EU component in an operation under the overall lead of an international organization. The EU will systematically assess whether it can contribute in one of these ways to every UN peacekeeping and political and peacebuilding mission. For contributions by way of a whole EU component under overall UN lead, the Council invited the Presidency to make proposals for a comprehensive Memorandum of Understanding with the UN.²⁵ The next step was the adoption of the EU-UN Joint Declaration on cooperation in crisis management of 24 September 2003.²⁶ On 29 September 2003 the Council asked the SG/HR to continue talks with the UN to “ensure that the cooperation mechanisms envisaged in the declaration [...] are swiftly put into practice”.

In parallel, cooperation in the field increased. Two examples stand out. Firstly, on 1 January 2003, the EU took over the UN's police mission in Bosnia.²⁷ Secondly, in June - September 2003 the EU helped bridge a gap in UN capabilities in the Congo by conducting

¹⁹ Presidency conclusions, § 56.

²⁰ The EU Police Mission in Bosnia (*infra*), the Concordia military operation in FYROM (see <http://ue.eu.int/arym/>) and its follow up Proximus police mission (see <http://ue.eu.int/pesd/proxima/>) and the military operation Artemis in the DRC (*infra*).

²¹ Presidency conclusions of the December 2003 Brussels European Council, § 84-87.

²² Speech of 12 September 2000, <http://www.un.int/france/eu/speeches/debat/0912F.htm>.

²³ *Bull. EU*, 6-2001, § I.31.53. For details, see the Draft Council conclusions on EU-UN cooperation in conflict prevention and crisis management, Doc. 9528/2/01 REV 2, 7 June 2001. See also Council Secretariat, Relations between the European Union and the United Nations in crisis management and conflict prevention, Doc. 12969/01, 7 November 2001. Both available at <http://register.consilium.eu.int>.

²⁴ Conclusions, § 53.

²⁵ EU cooperation with the UN, Practical aspects of EU contributions to civilian crisis management operations and activities led by the UN, Doc. 11022/1/03, 4 July 2003, available at <http://register.consilium.eu.int>. On the – different – options for military assets, see Doc. 12969/01, *supra* note 23.

²⁶ Text at <http://europa-eu-un.org/article.asp?id=2768>. Originally, a treaty had been envisaged rather than a mere declaration, see Documents 12338/03, 8 September 2003 and 12466/03, 11 September 2003, both available at <http://register.consilium.eu.int>.

²⁷ See <http://www.eupm.org/>.

operation Artemis until the UN was able to reinforce its peacekeeping operation there.²⁸ On the Middle East too, the EU cooperates with the UN, in particular in the ‘Quartet’, where both organizations are joined by the US and Russia.²⁹

In other areas, especially development and humanitarian affairs, but also human rights,³⁰ the EU (or rather: the EC³¹) has started to step up cooperation with the UN as well. For instance, the EC concluded a framework agreement with the UN in July 1999 on EC (co-)financing of UN programs,³² updated on 29 April 2003,³³ and the European Commission and EU Member States cooperated with the UN in drafting the UN Guidelines on the Use of Military and Civil Defence Assets in June 2003.³⁴

Finally, the increased cooperation in the area of peace and security and that between the Commission and the UN has stimulated efforts at enhancing more comprehensive EU-UN relations.³⁵ In this context, it must be noted that the EU will take over the EC’s observer status in the UN General Assembly (*supra*) when the Draft Constitution enters into force.³⁶

5. Toward a more structural cooperation?

In light of the above developments, after some initial hesitations,³⁷ the EC/EU-UN relationship, both in the field of security and more generally, is good and getting even better.

Nevertheless, in some respects improvements are still possible. For instance, it is regrettable that, even under the Draft Constitution, the UN will not have one single EU contact point and the EU will still speak through several voices in the UN. While a single seat for the EU as such in the Security Council remains wishful thinking for the time being, less far-reaching structural arrangements could certainly have been provided for. Also, the general legal framework for cooperation is still underdeveloped, relying mostly on soft instruments such as the Joint Declaration on cooperation in crisis management.³⁸

Perhaps it is time for the EU to consider claiming the status of a regional agency in the sense of Chapter VIII UN Charter, in order to institutionalize the EU’s attachment to the UN and to contribute to a more structured and organized relationship between regional organizations and the UN. Not everybody will agree on the usefulness, desirability, or even possibility, of such a move. In particular, the EU may not meet all the necessary conditions to qualify as a regional agency because it is not a collective security organization that could militarily sanction its own Member States. Moreover, the consequences would in any event be limited: apart from a reporting duty (Art. 54 UN Charter) the main significance would be an obligation for the EU to use all available means to settle European conflicts peacefully (something it is already doing to a considerable extent anyway).³⁹

²⁸ See <http://ue.eu.int/pesd/congo/index.asp?lang=EN>.

²⁹ A role *inter alia* recognized in Security Council resolutions 1403 (4 April 2002) and 1515 (19 November 2003).

³⁰ Commission, *Communication on the European Union’s Role in Promoting Human Rights and Democratisation in Third Countries*, COM(2001)252, 8 May 2001, 18-19.

³¹ Since these matters fall within EC competences.

³² Bull. EU, 7-8-1999, § 1.4.28 (not published in the EU OJ). See also the Commission communication of 2 May 2001, *Building an effective partnership with the United Nations in the fields of Development and Humanitarian Affairs*, COM(2001) 231, 6-7.

³³ See <http://europa-eu-un.org/article.asp?id=2275>.

³⁴ See <http://europa-eu-un.org/article.asp?id=2480>.

³⁵ See especially European Commission, *The European Union and the United Nations: The Choice of Multilateralism*, COM(2003)526, 10 September 2003 and the Council conclusions of 8 December 2003 on EU-UN relations. The December 2003 Brussels European Council welcomed this Commission communication and these Council conclusions, reaffirmed the EU’s commitment to “making effective multilateralism a central element of its external action, with at its heart a strong UN” and stressed the need for these conclusions, as well as the Joint Declaration on crisis management, to be translated into operative action (§ 91-93).

³⁶ Pursuant to Art. IV-3 Draft Constitution, *supra* note 3.

³⁷ T. Tardy, Limits and opportunities of UN-EU relations in peace operations: implications for DPKO, September 2003, http://www.gcsp.ch/e/about/News/Faculty-articles/Tardy_UN_EU_Peac_Ops.pdf, 3-4.

³⁸ Also, the envisaged Memorandum of Understanding on contributions by way of a whole EU component under overall UN lead (see *supra*) appears not yet to have been concluded.

³⁹ Enforcement action would remain subject to a Security Council mandate (see *supra*).