

The EU and the reform of the UN Security Council

Assessing the Impact on CFSP

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This paper explores the links between the reform of the United Nations Security Council (UNSC), and the process of transformation of the European Union. Its purpose is to assess the impact of a possible future reform on the development of the Common Foreign and Security Policy.

The reform of the UN has reached a crucial phase during the Millennium Summit of September 2005, but a decision on the problem of the UNSC has been postponed indefinitely. Negotiations continue without result, with the usual opposition between states wanting an expansion in new permanent members and states wanting only non-permanent new seats. Yet, the Council needs to be reformed urgently as it is losing both its legitimacy and effectiveness as the institution having primary responsibility for the maintenance of international peace and security. As the German ambassador to the UN put it, in the context of the overall effort to restructure the UN in the new post-Cold War order, the unreformed UNSC “sticks out like a sore thumb”¹

With the strategic objective of promoting an “effective multilateralism”, the EU is profoundly involved in this process and is one of the most active promoters of reform on all issues but the Security Council, where it does not have a common position. On this matter, member states split in two opposing camps: France and the UK give their support to Germany in its bid for a permanent seat; Italy, Spain and other smaller states strenuously oppose such a development and, so far, were able to build a global coalition that prevented any reform of the UNSC from taking place. This division, in Europe, reflects the opposing views on what European foreign policy is and should become: a European common and integrated policy or a more flexible intergovernmental cooperation under the leadership of a vanguard of states. This teleological question underlies the disagreement on the UNSC but is at the core of every important issue on the European foreign policy agenda.

The discussion on the reform of the UN has run parallel to the institutionalization of European foreign policy in the TEU. Since Maastricht, CFSP began raising expectations inside and outside Europe about the possible role of the European Union in the UN. The building of CFSP and the UN reform became somewhat intertwined and related issues as

¹ Nations General Assembly, “General Assembly resumes debate on Security Council reform with several divergent proposals still under consideration”, Press Release, 20 July 2006. Available on www.un.org/news/press/docs/2006/ga10484.doc.htm (10/9/2006)

integrationists started to see in the long-term perspective of a single seat for Europe at the UN the natural culmination of the process of integration in foreign policy.² Today, this perspective remains largely theoretical and this capability-expectation gap has added to the disappointment towards CFSP.³ Yet, since Maastricht, the institutional development of the CFSP machinery and, in particular, the progressive expansion of the meaning of article 19 TEU have indeed allowed for an increasing coordination of the EU member states in the Security Council. Moreover, the growing role of regional organizations, and notably the EU, in the UN is one of the most relevant innovations in the international relations system increasing the pressure to reform the UN. Many, for example, are arguing that the new UNSC should take this process of regional integration into account.

This paper will argue that the reform of the United Nations and that of the EU are mutually reinforcing as further European integration pressures the UN to reform, and UN reform opens new venues for European integration in foreign policy. The structure of the new UNSC could have a strong impact on the future of CFSP, either strengthening the current trend towards flexible forms of cooperation, or encouraging new patterns of integration and coordination. The UNSC can provide the ideal venue for the EU to express its CFSP in two ways, through a common representation, or through an effective coordination. This paper will analyse these two paths.

The first chapter will provide the theoretical and conceptual framework of this work, which draws on the insight of different approaches. In particular, the paper wants to temperate the traditional realist perspective towards the UNSC reform debate, with insights from historical and sociological institutionalism. A clearer definition of coordination is also given.

The second part will look at how the EU coordinates on UNSC, and at how is this coordination evolving towards a more forward looking, integrating dynamic that could, in turn, provide some very interesting opportunities for European common representation at the UN. The third part analyses briefly the possible synergies toward this direction, coming from the Constitutional Treaty.

The fourth part will pick up on the latest phases of the UN Reform process (February-March 2007), and will concentrate on the two models for UNSC expansion that have been proposed in December 2004 by the Secretary General's High Level Panel on Threats, Challenges and Change. Broadly speaking, one model calls for the expansion of permanent membership while the other opens new spaces for regional coordination and integration. Around these two models many others have been proposed and elaborated, taking also stock of the prolonged and fruitless debate on this issue in the General Assembly.

Finally, the last part puts the various elements of analysis together while the two views of the opposing camps in Europe are scrutinized to understand how and if it will be possible to reconcile them. Two scenarios will be drafted of how the EU would stand on the world stage, depending on the type of reform actually implemented: one scenario draws a vanguard of states leading the rest of the membership. The other scenario prospects further integration in CFSP and leaves the institutional door open for a future extension of majority voting, a gradual convergence in national foreign policy visions and a single voice on the world stage.

² See for example Italian foreign minister Gianni De Michelis in 1990. Panos Tsakaloyannis. and Dimitris Bourantonis , "The EU's CFSP and the reform of the Security Council", *European Foreign Affairs Review*, Vol 2, 1997, p.198.

³ Christopher Hill, "The Capability-Expectations Gap, or Conceptualising Europe's International Role", *JCMS* Vol. 31, No. 3, 1993.

1. Theoretical and Conceptual Framework

Foreign and security policy constitutes the realm of high politics. Therefore, member states are still the dominant actors and realist and liberal intergovernmentalism have provided useful accounts of the development of European cooperation and integration in this field. This paper will adopt an eclectic approach and its purpose is not to explore a particular theoretical school but to analyse the major developments in European coordination in the field of security at the UN and to link them to the parallel debate on the reform of the UNSC. By so doing, it aims also to cast light on the more general nature of CFSP. The key assumption behind this work is that the UN Security Council offers a good representation of the difficulties surrounding European foreign policy and that this case can provide an interesting empirical ground to understand the general prospects.

The question will be then, to what extent UN institutional structures influence European integration in the field of foreign and security policy?

To answer this question, this paper will adopt a dual and diachronic perspective, analysing the European and UN structures in their evolution in time. The focus will be on the debate on UN Security Council reform that started in the nineties.

Since European Political Cooperation in 1970, European coordination in foreign policy has remained largely intergovernmental in character and the 'second pillar' still displays a very limited transfer or spill-over of competences to the supranational level. Although, the European Parliament, and in particular, the Commission do play an increasing role in European foreign policy, mainly through their wide range of normative, institutional and financial instruments, the member states remain the key actors in foreign and security policy. This is definitely the case for the matters discussed in the UNSC. As a consequence, it is tempting to adopt a realist approach to these matters and to focus only on member states preferences. This approach, which took stock of the ample and detailed material produced by the interminable debate on UNSC membership expansion within the General Assembly, was very useful in two main ways. On the one side, it has helped elucidating in detail the interests of member states on the problem of reforming the UNSC. On the other hand, it has shown that these preferences have been particularly stable in the last fifteen years and that there is little evidence of convergence or of socialisation on this issue. Realist analysis has also concentrated inevitably on the big players, the UK, France, Germany and Italy. Indeed, the interplay of this quartet on the issue of the reform of the UNSC, offers plenty of material for classical rationalist analysis. Germany, following reunification has started claiming an equal status in the UNSC as the other permanent members. Italy has immediately opposed this eventuality fearing a loss of status as the only big EU member states without such privileged position on the world stage. The UK and France, have slowly but surely realised that the entrance of Germany in its national capacity was the only way to legitimise their own permanent seats, which were seen increasingly by the wider UN membership as relics of their colonial past. For this reason, they have progressively supported Germany in order to diminish the pressure inside and outside Europe to relinquish their own seats in favour of a common European representation.

However, even in the domain of UNSC, a purely rationalist analysis that only takes into account member states interests offers an insufficient explanation of the problem. It will be instead useful to adopt the insights coming from historical and sociological institutionalism in order to both understand member state behaviour and grasp the complexities of European coordination in the UNSC. In particular, the backdrop of the debate on the UNSC reform, which has intensified in the early 1990 with the new security environment following the end of the Cold War, will serve to understand the evolution of EU coordination. In fact, both the process of European political integration and of UN reform have largely proceeded hand in

hand, informing each other. This paper tries to identify in what way the UN existing institutional setup conditioned the development of CFSP. In this sense, the concepts of path-dependency and of appropriateness can temper the rationalist realist claims in explaining the current situation and constructing plausible scenarios for the future.

Before entering the core of the analysis a further conceptual clarification is needed. Why is it important for the EU to coordinate within the UN? This question has become more relevant after 2003, when the EU has elevated the concept of ‘effective multilateralism’ to its key strategic objective. The promotion of this elusive concept constitutes today the backbone of the European action on the global scene and notably within the United Nations, which represent in itself the icon of multilateralism.⁴

In their attempt to analyse the nature of CFSP as an emerging foreign policy, Keukeleire and MacNaughtan distinguish between different categories of member states objectives that are always present in the history of European foreign policy integration.⁵ On the one hand, there are external objectives, which have to do with the classical foreign policy goal of being effective in a determined area or issue. On the other hand, there are inter-relational objectives (aiming at increasing cooperation and socialisation with the other member states) integration objectives (aiming at promoting the process of European integration) and identity objectives (aiming at asserting the European identity vs. the other). In this sense, then, it is possible to explain the emergence of the concept of ‘effective multilateralism’ as a response to the objective of some EU member states to assert European identity in contrast to American foreign policy, and not necessarily as an attempt to increase the European effectiveness in the United Nations, or the effectiveness of the UN itself. This is shown also by the very minor improvements on this topic agreed in the Constitutional Treaty as compared with those suggested by the Commission in its 2003 paper on “The Choice of Multilateralism”.

This ambiguity is reflected also on coordination with and within the UN, which in itself can be seen as an institutional instrument designed to increase internal effectiveness (that is the capacity of the EU to reach a common position and to speak with a common voice in the United Nations) and external effectiveness (that is the capacity of the EU to actually promote this position in the United Nations).⁶ These two dimensions of coordination, which are not necessarily mutually reinforcing, are perceived in very different ways by the member states. Some, for instance will give priority to internal effectiveness as a means to foster inter-relational, integration and identity objectives, for instance by a common representation in the Security Council (inviting the High Representative or the Presidency to speak for the EU, is already a common practice). Others will give priority to external effectiveness and will prefer flexible arrangements or core groups to promote Europe’s external objectives and power more pragmatically towards the outside world. However, also here, some member states will claim that external effectiveness can be better promoted through a stronger integration and identity and hence a common representation.

⁴ For interesting studies on EU coordination in the Security Council see: H. Young, “How to Unravel the Spider’s Web: EU Coordination at the United Nations”, Presented to the “EU Political Multilateralism and Interaction with the UN” Garnet PhD School, United Nations University, Bruges, 10-14 December, 2006, J. Verbeke, “EU-coordination on UN Security Council matters”, in Wouters J and al., (eds.), *The United Nations and the European Union: An Ever Stronger Partnership*, T.M.C. Asser Press, 2006 and E. Drieskens, “EU Actorness in the UN Security Council, A Conceptual and Theoretical Framework”, Presented to the “EU Political Multilateralism and Interaction with the UN” Garnet PhD School, op.cit., 2006

⁵ Stephan Keukeleire and Jennifer MacNaughtan *The Foreign Policy of the European Union*, (Basingstoke: Palgrave Macmillan - The European Union Series), Forthcoming 2008, manuscript chapter 2

⁶ Katie Laatikainen and Karen Smith (eds) “The European Union at the United Nations, Intersecting Multilateralisms”, Palgrave MacMillan, New York, 2006, introduction.

In addition to this, for big member states this divergence of interests and of rhetoric is further complicated by the UNSC reform, where the European arena is intertwined with the global one. This paper will show how the debate on ameliorating European coordination and effectiveness at the UN is largely informed by the international problem of UNSC reform and the related issue of European representation in that body.

Objective	EU Coordination	EU Representation
Integration	Stronger role for common institutions. Possibility of taking decisions by qualified majority.	Presence of institutional actors in the UNSC, presidency, CS and Commission. Single seat
Identity	Common positions and coherence among members	Position voiced by EU actors or representatives of EU actors. EU Single.
Inter-relational	More accountability for the members of the UNSC to the other members	Inclusiveness. Common representation or effective rotation of seats among EU members.
External	More flexibility, more rapid coordination, more power	Major EU members in the Security Council. More discretion for negotiation. Rapid availability of Community tools.

Taking stock of this complex conceptual framework, the main hypothesis of this paper is that the different UNSC reform options under discussion at the UN would have a different impact on the future development of CFSP, creating new institutional opportunities for integration or cooperation. In order to test this hypothesis, the paper will provide an overview of the development of EU coordination and representation mechanisms within the UN Security Council to show how these adapt to the opportunity structures offered by the UN's institutional set-ups.

2. The EU Coordination on UN Security Council

A single and coherent voice of the EU member states on the matters under discussion in the UNSC is crucial to the credibility of CFSP and of the EU as a whole. Consequently, there is a strong pressure to enhance coordination inside and outside the UNSC. Yet, this dimension of EU foreign policy cooperation has developed rather slowly, for two deeply interrelated reasons. On the one hand, through UNSC coordination, the CFSP penetrates into the core of the prerogatives of France and the UK, and inevitably limits their autonomy as UN permanent members.⁷ On the other hand, while the EU has proven capable to design long term and comprehensive foreign policy approaches, it has a structural difficulty in coordinating on crisis management, which is the principal domain of competence of the UNSC. This is why

⁷ Christopher Hill., *The European Powers in the Security Council: Differing Interests, Differing Arenas*, in LAATIKAINEN K.V. and SMITH K. (Eds.), 2006

Security Council coordination is a crucial and challenging dimension of the development of European foreign policy.

The EU in the Security Council

Article 19 is the pivotal element of EU cooperation at the United Nations and represents the codification of a practice that was already established in New York through the slow development of European Political Cooperation since 1970. Today Article 19 of the TEU states:

“1. Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the common positions in such forums.

In international organisations and at international conferences where not all the Member States participate, those which do take part shall uphold the common positions.

2. Without prejudice to paragraph 1 and Article 14(3), Member States represented in international organisations or international conferences where not all the Member States participate shall keep the latter informed of any matter of common interest.

*Member States which are also members of the United Nations Security Council will concert and keep the other Member States fully informed. Member States which are permanent members of the Security Council will, in the execution of their functions, ensure the defence of the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter”.*⁸

The institutionalization of this article in New York acquires different formats according to the actors involved and the importance of the question under exam. Cooperation started with meetings on Friday mornings at the Heads of Mission level, already before the TEU. At this stage the issues discussed were the general on the agenda of the UN, while absolutely “taboo” were the issues discussed in the UNSC.⁹ The two permanent members were jealous of their privilege in the Council and forced also the non-permanent members not to speak about such issues. Gradually this has changed with increasingly more venues of cooperation. On November 13, 1993, the UK ambassador Lord David Hannay (then a member of the High Level Panel of the Secretary General on UN reform) was the first to bring a Community position to the UNSC during a public meeting on the situation of Yugoslavia.¹⁰ However, today there are many meetings dealing with each UN organ and not only the UNSC. In fact, although the EU is not legally a member of the UN, it is generally able to present common positions and amendments in the General Assembly, ECOSOC and the other permanent agencies and conferences. The level and pattern of coordination, and the actors involved will vary depending on the subject and its positioning within the EU’s pillar structure.¹¹

⁸ TEU, art.19

⁹ Francesco Paolo Fulci, “L’Unione Europea alle Nazioni Unite”, *Rivista di studi politici internazionali*, No.269, Gennaio-Marzo, 2001, p.39.

¹⁰ Ibid.

¹¹ See also: In the EU@UN website: The EU and how it works at the UN, 2004. Available at http://www.europa-eu-un.org/articles/en/article_1002_en.htm

The “Art 19 coordination Meetings”

Coming back to the UNSC, a major breakthrough for the internal dynamic of CFSP was realised in the year 2000 when, under the French Presidency, Spain presented a paper on a “briefing” to be held weekly on issues debated in the UNSC. This pragmatic and informal solution assumed later the definition of “Art. 19 coordination meetings”. The letter of article 19 calls for consultation and information, however there was a strong pressure by the members states excluded from the Council to develop the practice of the *briefing* into that of more meaningful *meetings*. The format has been standardized.¹² “Article 19 meetings” are held on Thursdays afternoon in the Commission delegation building, where, since 1995, is installed a Liaison Office of the Council Secretariat, which attends the reunion together with a representative of the Commission delegation. Chairing the meeting is a diplomat of the member state holding the Presidency, supported by an official of the Secretariat while on the other side of the table seats a representative of the Commission.

The content of discussion at these meetings is probably the most dynamic dimension in CFSP coordination in New York. The Presidency circulates among the European missions the agenda of the meeting, which can be modified by the member states and remains quite informally drafted and open to new points. First, the members that are sitting inside the Council brief the other EU members on what has been discussed during the week. Secondly, the monthly agenda of the UNSC is informally “debated”, with delegates from the various member states raising questions to the members sitting in the Council. This practice was strongly sponsored under the Swedish Presidency in 2001 when the meetings became increasingly forward-looking. The states that want to maintain a higher profile in the UN, but that are not permanent members and especially Germany, Italy and Spain, are those that are keener towards this practice. The idea is to institutionalize it to transform it in a real preparation to the Council meetings. This would allow them to “keep a foot” in the Council even when they are excluded from it.

As a member of the Commission delegation noted “the instrument of article 19 meetings, even if limited, is something that is absolutely advantageous for the EU member states.”¹³ While the EU members are allowed to ask questions, the other UN members have to wait outside the informal UNSC meeting room and rely on information leaking out, or on the statements of the President of the Security Council, which are watered down, available also to the press and do not assess the different national positions inside the UNSC. Of course, coordination on the topics debated in the UNSC takes place also earlier and common positions are built in the capitals and in Brussels in the CONUN working group, at Directors level, and in COPS, both providing strategic guidance and steering on UN issues.¹⁴ A key institutional problem here, is actually in having an alignment between these various meetings, both for what concerns the timing and the agenda. This is another reason why New York remains critical both for the day to day follow up of the negotiations and for the response to crises.

There has been progress also on the representation side. When on a particular issue debated in the Council there is consensus, the EU can put forward the common position in the UNSC. This has a double impact on the visibility of the EU in the world stage. Firstly, the Presidency (or in specific ESDP issues, the High Representative) is invited to speak in the public meetings of the UNSC on behalf of the European Union. Secondly, the EU members

¹² See the internal working paper adopted by the Council of Minister on the implementation of article 19 TEU, 16 July 2002, SN 3133/02

¹³ Interview, Commission Delegation in New York. Cit.

¹⁴ European Union, European Commission, *The European Union and the United Nations: The choice of multilateralism*, COM(2003) 526 final, Brussels, 10.September.2003. Available at: <http://www.europa-eu-un.org/documents/en/COM%202003-526%20EN%20FINAL%20PDF1.pdf>, p.18

seating in the UNSC give their statement after expressing their alignment to the EU position. It follows that the European Union gets to speak for as many times as are the member states seating in the UNSC. As a consequence many argue that the interest of the Union in this phase is in having as many members as possible in the UNSC, which can bring the representation of the EU up to 5 members.¹⁵

The European laboratory in New York

After the first diplomatic confrontation of Italy and Germany on the issue of UNSC reform ended with a resolution of the General Assembly in 1998, the debate on reform was internalized in the EU. The events that led to the NATO intervention in Kosovo, with the bypass of the UNSC, had probably a strong impact in the determination of some member states to better coordinate their action in the Council, and to raise the profile of the EU. The Kohl German government was divided and criticized at home for having pushed too much for a national seat, so at least until the end of 2001 there was an attempt to Europeanize the approach to UN reform.¹⁶ The left to center Schroeder government and in particular the Foreign Minister Fischer was favorable to a EU seat in the Council as a long term goal.¹⁷ This had a dual consequence on the German strategy: externally Germany proposed to devote its possible permanent seat to the European interest; internally it supported the possibility of a “European embryonic seat” or “European Laboratory.”¹⁸ The diplomatic services of Germany, Spain and Italy worked intensively between the capitals and New York for about 2 years in preparation for the German and Spanish elective membership to the Council for 2002-2004.

The idea came from Italy that wanted to tame the German changed attitude by Europeanizing the debate with a concrete proposal. This consisted in having the delegation of one of the European non-permanent members “hosting”, a delegate from the European Presidency and one from the High Representative Secretary General for CFSP.¹⁹ The idea varied from that of simply assisting to the Council meetings and collecting information to that, eventually, of the national delegate leaving the floor to let the EU delegates intervene in the debate. This project would have not necessitated any amendment of the Charter and would have granted the EU with greater visibility and a better knowledge of the international situation. Even the High Representative for CFSP Solana supported this initiative in a briefing to the European Parliament in November 1999.²⁰ However, the two permanent members are

¹⁵ Currently, for example together with UK and France, Belgium and Italy are sitting in the Council for the WEOG group, while Slovakia was elected for the EES group.

¹⁶ For an home critic to the German bid see for example Former German Chancellor Helmut Schmidt, quoted in German UN Aspirations Backed by Europe , Deutsche Welle, 24/09/2004, Available at <http://dw-world.de> , 22/3/2005.

¹⁷ Asked on whether the claim for a German seat was realistic the neo-elected Foreign Minister said. “For me, a European seat would be preferable, to best fit the logic of European unification. But this is not in sight. That is doubtless why the issue of a permanent seat for Japan or Germany is so significant. Both are non-nuclear powers and both play a key role in the global economy. But this will also be very, very difficult” Interview with the German Foreign Minister Joscha Fischer, *Die Zeit*, 12.November 1998. Available at:

<http://www.globalpolicy.org/security/docs/fischer.htm> . Fischer has never abandoned the idea that a European seat would be the best solution : “The decisive question is whether or not there will be a European seat. I am very much in favour of this. However, we cannot realistically expect this to be achieved quickly ...” in Interview with Federal Foreign Minister Fischer on current political issues on n-tv television, 28.July.2004, available at: http://www.auswaertigesamt.de/www/en/ausgabe_archiv?archiv_id=6026

¹⁸ For a brief discussion and critic of this proposal see: Fulci, 2001, op. cit., p.41 and S. Blavoukos and D. Bourantonis, op. cit., p. 18-41.

¹⁹ Fulci, op. cit, p.41.

²⁰ Michael Mann, Solana Backs Fixed EU Seat on the Security Council, Reuters, November 17, 1999. Available at <http://www.globalpolicy.org/security/reform/solana.htm>

not ready to accept the presence of a representative of the EU in the UNSC by default. Their view is that it is not desirable to maintain in the Security Council a too cohesive profile among the European members. This would be interpreted as a sort of ‘blockism’ by the other UNSC members, who would then probably also try to create among themselves artificial groups paralyzing the Council.²¹ A common position requires an effort of internal negotiation among the EU member states, and once specified, it does imply a static contractual profile in the Council. That is why the permanent members currently prefer negotiating informally among themselves in the UNSC, with the United States, Russia and increasingly with China. They define in this way their national position, and then impress it upon the rest of the EU member states. This strategy is advantageous because it allows them to maintain a more autonomous profile in the Council and as international powers. Once the decision is made, if there is consensus among the EU member states the EU Presidency, or increasingly the HR/SG is invited to the Security Council open meeting to rap up the pre-cooked meal.

Yet, arguing that any EU presence in the informal meetings of the Council would constitute a too drastic move forward is an exaggeration of the scope of the Italian Spanish and German proposal of a “laboratory” of integration in foreign policy in the UNSC. The proposal, in fact, is designed to enhance the “presence” of the EU in the Council, not to impose it. The delegates from the HR/SG and the Presidency would remain in a listening mode, and this would allow them to have a better view of the issues under discussion to then coordinate outside the Council in New York and eventually in Brussels with the member states. This could be beneficial to the CFSP, at the present stage of development.

So far, the opposition of France and the UK was invincible on this issue, and with the entrance of Germany and Spain in the Security Council in 2002, the proposal eventually declined and was not re-proposed explicitly even with the election of Italy in 2006. As a consequence, other proposals for EU coordination in the UNSC are being explored by Italy and Belgium, during their term as rotating members. These are more pragmatic and result-driven and include increasing the coordination among the EU 5 members seating in the Council, in the capitals, in Brussels and in New York. The presidency is also invited in these meetings and serves as a link with the rest of the EU membership. Clearly, though, these efforts are not institutionalized and can vary depending on the EU members actually elected in the UNSC and on whether they are interested in EU coordination.

Franco-German seat

Evidence that the structural-institutional critique of the Italian and Spanish proposal is actually driven by purely national interests comes from the offer made by France to Germany to “include a German diplomat in Paris’ delegation to the UN”.²² In practice France, in homage to its ever closer cooperation with the European partner, would have accorded to Germany the way to remain in the Council after the end of the term as non-permanent member in December 2004. Apparently the pact was proposed by France already in 2003 as a fall back position in case of a failure to reform the UN. As the governmental source of the *Financial Times* commented, it would mean the “sharing” of the permanent seat²³ between the two countries forming the “Europe motor”. Germany refused, to avoid diluting the pressure on UNSC reform, something that instead is in the interest of France to do. If this possibility shows that there is no obstacle “in principle” to the “hosting” of another delegation by a Council member, it is enlightening to what could be the developments in the next years. The implications of this proposal will be explored further in the last part.

²¹ A. Mählmann, *Op. Cit.*, p. 27

²² Hugh Williamson, “Germany to fight for seat on Security Council”, *Financial Times*, 9.November.2004.

²³ *Ibid.*

Obstacles to coordination and Prospects: realist, institutional and sociological perspectives

There are three main factors that limit the positive trend of EU cooperation on security issues and that make this a very incremental and gradual process. First, from a realist point of view, there is the resistance of the two permanent members to any attempt to interfere with their exclusive prerogatives as permanent members. The EU is invited in public meetings of the UNSC when basically the decisions have already been taken and the states are just formalizing their positions. The Presidency is kept out of the most important moment of negotiation and deliberation, which takes place within the closed doors of the small room of informal consultations, the “*sancta sanctorum*” of Security Council’s exclusiveness.²⁴

Secondly, from an institutionalist perspective, the caution of France and the UK is historically safeguarded by the letter of the Treaty provision that at the very last sentence of article 19 prioritizes their interest and responsibility towards the UN as permanent members, over their membership of the European Union.²⁵ Indeed, it is the temporary rotating members that put most effort in cooperating with the other EU member states, although this effort varies.²⁶ All of them, comprising Germany, see in the EU coordination meetings an anticipation of the EU presence in the Security Council (integration objective) or an occasion to access this organ from the outside. On the contrary, as Mählmann notes, the permanent members use it to dilute the pressure toward reforming the composition (inter-relation objective).²⁷

Finally, from a sociological perspective, the practices and norms surrounding Security Council membership hinder the capacity of member states to push for change. Even the most reformist and integrationist member states are limited by what is ‘appropriate’ in the UNSC,²⁸ and once they actually enter the UNSC they have to act in symphony with the permanent members, if they don’t want to be marginalised. There is no way to ‘force the hand’ in the Security Council or to impose a solution that is not shared by the rest.

Some prospects towards upstream coordination are opened by the current persistent deadlock on UNSC reform, in the context of the otherwise notable progress made since the 2005 Millennium Summit on other issues of UN reform. As was shown above, this integration dynamic has already occurred after the first failure to reform the Council in 1998, and lasted until 2002. There are various considerations that could reinforce this positive conjuncture. First, the so-called ‘reform fatigue’, mentioned in various documents during the last round of negotiations on UNSC reform, and inevitable notwithstanding the current attempts to create new momentum in the General Assembly.²⁹ Secondly, the election of Italy and Belgium as non-permanent member of the UNSC from 2007 to 2009. Being one of the main proponents of an enhanced role of the EU as such in the UNSC, Italy and Belgium are working to strengthen the practice and possibly the structure of EU coordination in New York and in Brussels. Finally, while Germany has not given up campaigning for a national seat, under the CDU Chancellor Angela Merkel it is keener towards strengthening the European profile.

²⁴ Francesco P. Fulci, op. cit., p.38.

²⁵ Panos Tsakaloyannis. and Dimitris Bourantonis claim that this sentence was introduced to “foreclose” the debate on a EU representation”, op. cit., note 25, p.200.

²⁶ Interview in the Commission Delegation in New York, April 2005.

²⁷ Anja Mählmann, Brussels goes New York : the EU and its institutions as actors on the United Nations stage, College of Europe, 2002. For the terms Keukeleire and MacNaughtan, op.cit.

²⁸ Interview, Council Secretariat, December 2006

²⁹ United Nations, Report Of The Facilitators To The President Of The General Assembly On The Consultations Regarding “The Question Of Equitable Representation On And Increase In The Membership Of The Security Council And Other Matters Related To The Security Council” April 19, 2007, New York

Once again, this shows the link between the two processes, as the institutional paralysis at the UN level, with the impossibility to obtain permanent membership, pushes Germany to increase European coordination to increase its access to the UNSC.

We can then turn briefly to the European reform process, which is arguably parallel to the one taking place at the UN. Although, the future of the Constitutional Treaty is quite grim, it is still worthwhile looking at this text as a political agreement, and to analyse what modification it introduces that are more interesting for EU's role in the UN Security Council.

3. Developments with the Constitutional Treaty

It has been argued that, as a consequence of the 2004 enlargement, the EU CFSP is currently at a crucial crossroad.³⁰ The option on the table is either pushing forward the process of supranational integration, and in a way, *communitarizing* the foreign policy of the member states or, on the other hand, exploiting the mechanisms of enhanced cooperation that were set up by the Treaties. The latter alternative is the most probable at this stage and entails exploring more consistently the diversified patterns of flexible integration.³¹ The question is whether the two paths are mutually reinforcing or there is no way back. The reform of the UN Security Council could play in this difficult context the role of a catalyst, building momentum towards one or the other direction of CFSP development.

Although the Constitutional Treaty will most likely never enter into force, the institutional reforms that it contains in the domain of external relations will be probably maintained by the next intergovernmental conference. Therefore, this text still traces a path for future institutional development. Already during the Convention the issue of the representation of the EU at the UN was extensively debated in the working group VIII on external action and III on legal personality.³² The spectrum of a European seat in the Council was put forward and then turned down both for legal and political considerations. It was agreed that it was more "realistic" for now to only moderately enhance the capability of the EU members of speaking with a single voice in the UNSC. Many, nonetheless, among which the European Parliament has been a forerunner,³³ consider the European constitutional development as a slow process that necessarily will lead to a common representation at the UN.³⁴ This would rationalize the EU action in that forum, although it will definitely reduce the European numerical representation in that forum.

The most important institutional element to be agreed upon for such a development to unfold in a meaningful way remains the passage to qualified majority decision-making in CFSP. Such an occurrence is unlikely to happen for the time being. In addition to this, the

³⁰ Heinz Gartner, Adrian Hyde-Price, Erich Reiter (ed.), "Europe's New Security Challenges", *Rienner Publishers*, London, 2002.

³¹ Peter Schmidt, "The Compatibility of Security Organizations and Policies in Europe", In Heinz Gartner, Adrian Hyde-Price, Erich Reiter (ed.), *ibid.* p.161 and Jan Zielonka, *Europe as Empire: The Nature of the Enlarged European Union*, Oxford University Press, Oxford 2006

³² European Convention, Working group VII 10, CONV 385/02, 5 November 2002, par.7 <http://register.consilium.eu.int/pdf/en/02/cv00/00385en2.pdf>, and the Revised draft final report, Working document 21 REV 1, Working Group VII, Brussels, 22 November 2002, par. 68. <http://european-convention.eu.int/docs/wd7/5573.pdf>

³³ See the Resolution of the European Parliament on the Reform of the United Nations, PE 357.491\ 1 6 June 2005 (Rapporteur Armin Laschet). The resolution sees a European Seat as the only desirable development, although it acknowledges the necessity of a provisional reform that would not hinder this long term goal.

³⁴ Also the Relex Commissioner Benita Ferrero-Waldner spoke in favour of a EU seat in New York. Honor Mahony, "External relations Commissioner calls for EU seat in UN", *EU Observer*, 25.January.2005.

strategic cultures and national interests still diverge a lot among member states. If this does not change, the ideal situation of a common seat in the Council would have dreadful consequences of ineffectiveness, with the whole EU condemned to constant abstention.³⁵ Although the achievement of common positions on matters of war and peace happens increasingly more often within the EU, a fracture such as that happened in the case of Iraq is enlightening of what could happen in the Council if the EU had a seat. The result was disastrous for the credibility of European Union CFSP.³⁶ Similar divisions are far from being solved and constantly reoccur.³⁷

Legal personality and Article III-305

The first positive development coming from the Constitution is that the Union finally assumes legal personality.³⁸ This provision, resisted for years by France and the UK, could have in the long term a beneficial effect to the EU in the UN and not only in the UNSC. The EU in fact can now as such assume obligations and sign treaties with the United Nations. Also here though, the innovation would not have all its effect until the United Nations reforms itself to accept the membership also of regional organizations. The simple European provision granting personality to the EU would not be sufficient for the Union to take a seat as such in the UNSC and in the General Assembly, which shows once again how the two reform processes are linked. Notwithstanding these doubts, there is no question that, at least in principle, the granting to the EU of international personality is a major step forward at least from a legal and institutional point of view.³⁹

A second interesting aspect comes from the reformulation of article 19 in the new article III-305 that now states:

*“Member States which are also members of the United Nations Security Council shall concert and keep the other Member States and the Union Minister for Foreign Affairs fully informed. Member States which are members of the Security Council will, in the execution of their functions, defend the positions and the interests of the Union, without prejudice to their responsibilities under the United Nations Charter”.*⁴⁰

The reference to the “permanent members” is therefore deleted. Though in the European context this change of formulation could help re-establish the equality among EU member states inside the Council, it does not have any effect on the prerogatives of France and UK as veto holders in the UN framework. Fassbender minimizes both the *raison d’être* and the implications of this amendment. This view is supported by the preservation of art.19’s last sentence that prioritizes the UN responsibilities over EU membership.⁴¹ Nevertheless, even this minor change in the formulation is a further acknowledgement of a gradual evolution

³⁵ Bardo Fassbender, “The Better Peoples of the United Nations? Europe’s Practice and the United Nations”, *The European Journal of International Law*, Vol.15, No.5, .2004, 882.

³⁶ “While in the past the practical implications of such split votes have generally been marginal, their impact on the EU’s credibility is disproportionate – particularly in cases where there are established CFSP Common Positions on the issues in question”. European Commission, *The choice of multilateralism*, 2003, Op. Cit., p.4

³⁷ F. Venturini, “Iran e il Nucleare”, *Affari Esteri*, Anno XXXVIII, n.151, Summer 2006, p. 515-521

³⁸ Constitutional Treaty. Art. I-7

³⁹ Inge Govaere, Jeroen Capiiau and An Vermeersch, “In-Between Seats: The Participation of the European Union in International Organizations” *European Foreign Affairs Review* 9: 155–187, 2004.

⁴⁰ C.T. , Article III-305.

⁴¹ Bardo Fassbender, op. cit., p.881.

from the initial national perspective and testifies of the great pressure for the modification of this article both during the Convention and the IGC.

The Union Minister of Foreign Affairs

The third and probably most important development coming from the Constitution in the CFSP domain is the establishment of the Union Minister of Foreign Affairs (UMFA).⁴² This together with the other new figure of the long-term European Council President is supposed to give consistency to the external action of the European Union.⁴³ This innovation was long awaited to tackle the problem of the dispersive representation of the EU, currently assured in the UN by the Commission in matters under its competence (i.e. ECOSOC), by the Troika in the bilateral relations with the UN Secretariat or with particular countries or group of countries and by the rotating Council Presidency in the General Assembly and in the UNSC, with the High Representative also increasingly intervening in that forum.

The UMFA could give the EU a single voice in New York, especially in combination with the new provision of article III-305.2 third paragraph that states:

“When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the Union Minister for Foreign Affairs be asked to present the Union’s position.”

The insertion of this provision should not mislead. It is the codification of an already established practice that has seen the High Representative Javier Solana invited more and more often in the UNSC open meetings to express a CFSP common position. Obviously, when such a common position has been negotiated by unanimity among the capitals and in Brussels, the EU members in the Council are by definition bound to it.

To change the quality of EU coordination in the Council the role of the UMFA should be also enhanced in the ascending phase of the decision making process, in the closed door meetings of the Council, at least to allow him/her to be well informed of the situation. Nevertheless, the innovation is considerable and great expectations were reposed on this new institution.⁴⁴ As the Convention noted, a unified figure dealing with CFSP would definitely “improve the visibility, clarity and continuity of the Union on the global stage”,⁴⁵ in particular for its responsibility in the growing EU capabilities in crisis management. In addition, the effectiveness of the UMFA would be greatly strengthened if the post is actually assisted by an *External Action Service* like the Constitution provides for. The creation of this service would have immediate spill-over effect on the whole EU machinery in New York, rationalizing and streamlining the external and diplomatic action by merging the Commission delegation with the Liaison Office of the EU Council.⁴⁶ The secondment of national diplomats in the service is necessary and useful to provide expertise on UNSC functioning and insight of national positions. It would seem natural that the figure of the Union Minister of Foreign Affairs and its delegates, would be the one entitled to represent the Union in a future European seat in the Council. Thus, there is some evidence, that the provisions of the Constitution created the

⁴² In particular see art. III-296.

⁴³ Article III-292.3

⁴⁴ Interviews in the Council and Commission. 2005.

⁴⁵ European Convention. Final report of Working Group VII on External Action CONV 459/02, Brussels, 16.December.2002. Par. 67

⁴⁶ Constitutional Treaty . Art. III-296.3. On the issue of merging the delegations of the Commission and of the Council, or at least of giving a “double hat” to the head of the Commission delegation, as it already happens in Macedonia, even without the adoption of the Constitution, there has been intense debate. See for example: C. Grant and M. Leonard, “How to Strengthen EU Foreign Policy”, *CER Policy Brief*, July 2006, p. 3-4

institutional conditions necessary to establish, in the future, some kind of EU common representation in the Council. However, the concept of EU seat today would be counterproductive as it would block the possibility of acting through flexible arrangements. In this sense, as Fowler puts it “several possibly contradictory seats could better serve the EU than one ineffectual seat”.⁴⁷

Non Ratification and Flexibility

In conclusion, the Constitution opens a wide range of institutional opportunities for the EU action in the United Nations. There remains the question mark of the adoption, which at the moment is not in sight. Even here though, there is room for manoeuvre for the member states that could agree on practical improvements that don't require ratification by the national parliaments⁴⁸. On the other hand, it is not improbable that the members that are determined to exploit the progress achieved by the Constitution establish some flexible terms of enhanced cooperation. This is true in particular on CFSP and ESDP domain⁴⁹, where the EU states have set some very ambitious goals. Although it is not in the purpose of this paper to explore the debate on the Constitution, there is ample evidence that at least in some member states there is the willingness to proceed and to avoid the logic of the lowest common denominator.⁵⁰

We are then entering a scenario of flexible integration,⁵¹ as a means to overcoming the paralyses in CFSP development. As the last part will show, the UN Security Council reform could reinforce this trend towards diversification and directories or it could encourage a more integrationist approach to foreign policy.

4. UN Security Council Reform

After the so-called “procedural battle” of 1997-1998, during which for the first time Germany and Italy confronted each other diplomatically on the issue of Security Council reform, the reform debate was put aside. However, while the structural driving factors to change remain the same (the Council's lack of legitimacy, representation and effectiveness), new elements progressively built up new momentum for reform at the turn of the century. During the Millennium Declaration at the 55th UNGA in September 2000 all the UN members committed to working for the process of reform.⁵² The Secretary General Kofi Annan in particular expressed several times that a reform of the UN and of the security order in the 21st century was unthinkable without a proper restructuring of the UNSC.⁵³ In the four following years the effort in the General Assembly through the OEWG continued to be vane and so in November 2003 the Secretary General nominated a Panel of Eminent Persons to propose recommendation on the reform of the UN and also on the UNSC. This High Level Panel on Threat Challenges and Changes was composed of 16 members all having an outstanding

⁴⁷ Fowler, Thesis, College of Europe, p.57

⁴⁸ C. Grant and M. Leonard, 2006, op. cit.

⁴⁹ A. Cagiati, “È possibile costruire un'avanguardia europea?”, *Affari Esteri*, Anno XXXVIII, n.151, Summer 2006, p. 541-550

⁵⁰ Romano Prodi, speech in Lisbon, 3 May 2007

⁵¹ Warleigh A., “Flexible Integration: What Model for Europe?”, *Sheffield University Press*, Sheffield, 2002.

⁵² United Nations General Assembly, *Millennium Declaration 55/2*, United Nations, 8.September.2000.

⁵³ See, for example Kofi Annan, “In larger freedom: towards development, security and human rights for all”, Report of the Secretary-General, 21 March 2005, United Nations General Assembly, A/59/2005, par.169, p.42

curriculum as former chiefs of state or foreign ministers.⁵⁴ Many of them had been involved in previously established expert committees on specific areas of reform, so that their recommendations, finally presented in December 2004, are considered highly valuable.

The 2005 Millennium Summit did produce some reforms of the UN structure, functioning and policies, contained in the Outcome Document⁵⁵ and latter discussed in the follow-up. Some of the innovations, as the Peace Building Commission and the new Human Rights Council are definitely worth noting, and could provide new venues for European representation. However for what concerns the UNSC the situation remained stalled, with discussion postponed repeatedly to December 2005, summer 2006⁵⁶, and February 2007.

The deadlock on Security Council does not depend only on the fracture inside Europe but is a genuinely global puzzle. The following pages will analyze the impact that the two models proposed in 2004 by the High Level Panel could have on European foreign policy mechanism, as these still represent the most relevant ideal-types of reform.⁵⁷

The High Level Panel alternatives

On the Security Council the High Level Panel on Threats Challenges and Changes could not find a compromise.⁵⁸ Perhaps it did not want to, since a clear cut proposal on this issue would have alienated a part of the membership also from the other recommendations of the report. The Panel instead chose to propose an option between two alternative models for reforming the Council. The same two models were endorsed in March by the Report of the Secretary General, "In Larger Freedom".⁵⁹

Both models propose an increase of 9 members, up to 24, with a more equitable representation of the developing countries and, at the same time, without excessively affecting the efficiency of the Council. In fact, veto would not be accorded to any of the new members. Instead, a mechanism of "indicative voting" is designed to limit the use of the existing veto rights. This would precede the actual voting in giving a "public indication of the positions on a proposed action".⁶⁰

Another important element in common is the distribution of the seats in the Council in four "major regional areas": Africa, Asia and Pacific, America and Europe. For the Security Council, then, there would be a rationalization of the electoral groups, with a major impact on the European states, that would see the current two regional groups WEOG and EES merged in a single entity. Every one of the four regions would get 6 members in the Council comprising both permanent, non permanent or other categories of members (6 X 4 = 24).

⁵⁴ European members of the Panel were, Robert Badinter (France) Former Minister of Justice that spoke in favour of a European seat at the UNSC, "Une constitution pour l'Europe", Entretien avec Rober Badinter, Esprit, January 2003, p.40. And David Hannay (United Kingdom) former Permanent Representative at the UN and before at the EC, and the first one to release a statement on behalf of the European Union in a public session of the Security Council in 13 November 1992. Another European member was Gro Harlem Brundtland, Former Norwegian Prime Minister and Director General of WHO. For the Panel members and terms of reference see United Nations, High Level Panel on Threats Challenges and Changes, *Report, A More Secure World*, December 2004, p.114

⁵⁵ United Nations General Assembly, 2005 World Summit Outcome, 15 September 2005, A/60/L.1

⁵⁶ For a good summary of the last UN meeting on the issue of Security Council Reform see: United Nations General Assembly, General Assembly resumes debate on Security Council reform with several divergent proposals still under consideration, Press Release, 20 July 2006. Available on www.un.org/news/press/docs/2006/ga10484.doc.htm

⁵⁷ For the position of the UN membership on the issue see, www.reformtheun.org/index.php?module=uploads&func=download&fileId=1732 14/09/2006

⁵⁸ High Level Panel report, Op. Cit., Pp.79-83, paragraphs 244-260.

⁵⁹ Kofi Annan. *In larger freedom*, op. cit.

⁶⁰ High Level Panel Report, Op. Cit., par. 257.

Two models and impact on the EU

As appears in the table below, the distribution of seats in Model A “provides for six new permanent seats (...) and three new two-year term non-permanent seats”.⁶¹

MODEL A

REGIONAL AREA	Number of States	Permanent seats (Continuing)	Proposed new permanent seats	Non-permanent seats (Continuing)	Proposed two-year seats (non-renewable)	TOTAL
Africa	53	0	2	3 ⁶²	1	6
Asia and Pacific	56	1	2	2	2	6
Europe	47	3	1	3	- 1	6
America	35	1	1	2	2	6
TOTAL	191	5	6	10	3	24

The second option, Model B, “provides for no new permanent seat but creates a new category of eight four-year renewable-term seats and one new two-year non-permanent (and non-renewable) seat”.⁶³ The seat distribution in this case can be seen below.

MODEL B⁶⁴

REGIONAL AREA	Number of States	Permanent seats (Continuing)	Proposed four-year renewable seats	Non-permanent seats (Continuing)	Proposed two-year seats (non-renewable)
Africa	53	0	2	3	1
Asia and Pacific	56	1	2	2	1
Europe	47	3	2	3	-2
America	35	1	2	2	1
TOTAL	191	5	8	10	1

⁶¹ Ibid., par. 252

⁶² Currently one of the non-permanent members alternates from Africa to Asia, in order to allow an Arab state (either from Asia or from Africa) to be always in the Security Council

⁶³ Ibid., par. 253

⁶⁴ The two tables reported are a synthesis of the tables of the High Level Panel Report Op. Cit., p 81 and the tables reproduced in Francesco P. Fulci, “All’ONU l’Italia non merita di essere declassata”, *Affari Esteri*, No.145, 2005, p.75.

Model A: new permanent and non permanent members

The two proposals would have completely different meanings and opposed impacts on the EU CFSP. In Europe, Model A was immediately embraced by Germany. At the 59th UNGA in September 2004, Germany, Japan, Brazil and India signed a common declaration stating that they would have supported each other's bid to a permanent seat in the Council. In order to avoid criticism, they also launched an appeal to the African states to determine among themselves two suitable African candidates for permanent membership.⁶⁵ In July 2005, right before the Millennium Summit, the four countries presented the proposal as a draft resolution, but were not able to count on the support of the African Union, which at the end presented an alternative resolution with the main difference being the expansion of the veto right to the new permanent members.⁶⁶

An analysis of the evolution of the German position is relevant at this point. Germany had become increasingly more assertive in campaigning for a seat since the beginning of 2004 when the end of its term as non-permanent member in the Council was approaching. Chancellor Schroeder gave speeches at the Security Academy in Berlin and then in front of the Federal Parliament on March 25th 2004 in which he expressed the will of Germany to become a permanent member, in consideration of its contribution and commitment to the UN. Schroeder mentioned the support of France, Japan and Russia. The campaign escalated when, on the 14th of July, Germany and France circulated a common paper to all the delegations in New York demanding the support for an enlargement of the Council in a way very similar to the proposed Razali plan, also known as the quick fix (expansion of non permanent and permanent members with incorporation of Germany and Japan among the latter group)⁶⁷. France expressly supported the German ambition.⁶⁸ Shortly after the Joint Declaration, in his Statement to the General Assembly, Foreign Minister of the UK Jack Straw said the UK also supported Germany, Japan, Brazil and India (which were themselves campaigning in their respective areas of influence) to becoming permanent members.⁶⁹ A large majority of countries support the principle of Model A, of expanding permanent and non-permanent members. The trouble is that, as former Italian UN ambassador Fulci argues, this wide support is only in principle, spurred by the will of all the developing countries to have a representative of the Southern hemisphere permanently seating in the Council, possibly with veto (see, in fact the Position of the African Union). This type of support tends to disappear rapidly when it is time to choose which state would actually seat in the Council. This is why for many states the only acceptable "fall-back" position is an enlargement of only non-permanent members, as was recognized by the Non Aligned Movement and by the African Union.⁷⁰

⁶⁵ Joint Brazilian-German-Indian-Japanese Statement, Press release, 21 September 2004, available on the homepage of the German Mission to the UN: <http://www.germany-info.org/UN>

⁶⁶ All the reform proposals are easily accessible at the web page of the Global Policy Forum. In particular: <http://www.globalpolicy.org/security/reform/cluster1index.htm>

⁶⁷ The Razali proposal, named after the Malaysian Ambassador then President of the GA, was presented in March 1997 and is available at <http://www.globalpolicy.org/security/reform/raz-497.htm>, 15/4/2005

⁶⁸ Interestingly the paper said "France and Germany believe that the question of the veto should not stand in the way of reform and that a satisfactory approach can be found." Franco-German Paper on Security Council Reform, German UN-Mission, New York, 14 July 2004, par.7.

⁶⁹ Speech by the Foreign Secretary, Global Security is our Shared Responsibility, New York, 23.September.2004.

http://www.ukun.org/articles_show.asp?SarticleType=17&Article_ID=768

⁷⁰ See for example, NAM XII Summit, Final document, Durban, 2-3 September, 1998, chap.66 <http://www.nam.gov.za/xiisummit/index.html> 5/4/2005

Model B: new four-year renewable seats (Blue Model)

Model B's structure is instead more congenial to states that don't want an expansion of permanent members. It takes out the prohibition of re-eligibility for a certain category of states that are prominent in their region for their contribution to the United Nations according to Article 23.⁷¹ Interestingly, the Panel extends this aspect to both models, recommending that the contribution criteria be applied to all the states aspiring to permanent membership (model A) or to the four-year renewable seats (model B). Until July-August 2004, model B was the only one discussed inside the Panel of wise men.⁷² Afterwards the G-4 states were then able to lobby the Panel to add the alternative model A by threatening to trash the whole report if an alternative was not presented

Model B's main difference with Model A is that this new category of seats will still be elective, and, as argued by the proponents, would enhance the accountability of the members elected to the Council to their regional constituency. It would therefore also entail the setting up of some kind of regional mechanism for electing the rotating member. While this seems an easy task for Europe, it could create some difficulties in the other regions. What if a region is not able to elect a long-term member? In this sense, Model B is complicated, and the concept of renewable or rotating seats, on which it stands, has been criticized for creating another category of membership, without clear cut understanding of what would be the criteria of eligibility. Nevertheless, as an expert of this question put it, while Model A creates members, Model B creates seats, therefore avoiding establishing new status quo situations that would not be flexible and adaptive to the changing world.⁷³ For this reason, today like it has been for fifteen years now, the debate on UNSC membership expansion is really a debate on whether to have new permanent members, or whether to only expand non-permanent seat. In this sense it is worth to briefly mention the "Green Model" proposal presented by the movement 'Uniting for Consensus', led by Italy, Spain and other traditional members of the so-called 'Coffee Club', and that is trying to rally consensus towards only non-permanent member expansion as a fall-back on everybody's "dream solution"⁷⁴

The Green model⁷⁵ would add 10 new non-permanent seats. The seats would be equally distributed to the regional areas and would leave the possibility of re-election. This model would avoid the third category states of Model B (blue) while at the same time obtaining a similar result. All states would be eligible to the new 20 non-permanent seats, without preconditions, but regional groups would be free to develop their own rotation mechanisms for these seats, in order to have some states achieving membership more often than others. This model would then also channel a potentially growing role for regional organizations and

⁷¹ Paragraph 254 of the HLP Report states that in electing the new permanent members or the longer-term members, preference should be given by the General Assembly to those States that are among the top three financial contributors, or voluntary contributors or troop contributors, in their relevant regional area. Op. Cit. p. 82. Such a provision, appreciable per se, was immediately criticized by everybody for model B, in the sense of not institutionalizing such a "preference" and to make every state eligible for the longer-term seats. See for example, Marcello Spatafora, Statement Permanent Representative of Italy to the UN, UN General Assembly, Informal consultations on Cluster IV "the imperative for collective action : strengthening the united nations" NEW YORK May 2, 2005, available at: http://www.italyun.org/docs/statemen/2005_05_02_CLUSTER4.htm, 5/5/2005

⁷² "The United Nations. A winning recipe for reform? After Iraq, some ideas for rescuing the UN", *The Economist*, 22.July.2004.

⁷³ Diplomat 2, Interview via electronic correspondence, 25 April 2005

⁷⁴ M. Spatafora, Speech by H.E. Ambassador, Permanent Representative of Italy, on Security Council Reform United Nations General Assembly, New york, july 20, 2006, available www.italyun.org/docs/statemen/2006_07_20_Spatafora.html

⁷⁵ Global Policy Forum. Website. <http://www.globalpolicy.org/security/index.htm> 15/3/2007

it would leave the door open for more ambitious solutions that would need charter modifications, as that of regional representation.

Implications for the EU

In general, Model A is more simple to understand and to communicate to the media and probably more easy to implement, but it also has some serious shortcomings. In fact, while it is true that a permanent seat to Germany would enhance the voice of Europe in the world (especially considering the German commitment to CFSP and its continued assurances that the seat would be used “in the interest of the Union”), European states would lose an elective seat with the foreseen new regional distribution of seats. With France, the UK, Germany and Russia permanently in the UNSC, there would be 43 states from Western and Eastern Europe rotating between 2 two-year non renewable elective seats. Facing this lost opportunity to retain a seat frequently it is no wonder that countries such as Italy, Spain are not very enthusiastic about the proposal. An important attenuation of this prospect was wisely included by the Panel and is still under discussion, in order to decrease the “once and for all” feeling, that raises the resistance to reform: paragraph 255 recommends for a review in 2020 of the composition of the UNSC in order to possibly make some modifications. However, considering the difficulties encountered for this first reform it is unlikely that a review after fifteen years would have any success.⁷⁶

Notwithstanding this, according to positions expressed in the General Assembly, an important number of European states still sustain the German bid for a permanent seat. Though it is difficult to identify clearly these states, since in Europe the position on this issue are often maintained only implicitly, Belgium, the Czech Republic, Denmark, France, United Kingdom, Greece, Iceland, Latvia, Lithuania, Poland, Portugal and Ukraine) have all expressed their support for the position of the G-4. An interesting study would attempt a further explanation of such preferences, beyond the reasons underlying the French and British position, which are well known.⁷⁷ In general, we can note how on this issue the European players have carried exclusively national strategies are likely to continue doing so for the next years. Finding a consensus on the UNSC was impossible and, as Hill argues, the resistance of the two European Permanent Members to discuss a European seat has “backfired” inside the EU with the acrimonious competition between Italy and Germany as the latter decided to take the national path towards a seat.⁷⁸

All this seems to test the main hypothesis underlying this paper, that there is a link between UN reform and CFSP. On the one hand, the success of either one of the models, considered as ideal types, could have a lasting and different effect on the future development of European foreign policy.⁷⁹ On the other hand, it was shown how also the stalemate in reforming the UN level has had an impact on CFSP, as it has raised the willingness of the key EU member states to coordinate.

⁷⁶ High Level Panel Report. Op. Cit., p. 82.

⁷⁷ C. Hill, “The European Powers in the Security Council: Differing interests, Differing arenas”, in K.V. Laatikainen and K. Smith (Eds.), *The European Union at the United Nations, Intersecting Multilateralisms*, Palgrave MacMillan, New York, 2006 pp. 49-70

⁷⁸ Ibid, p.57

⁷⁹ For similar conclusion from a realist point of view see Christopher Hill, “The European Dimension of the UN Security Council Membership Debate”, *International Spectator*, Vol. XL, No 4, October-December 2005

5. Building CFSP and Reforming the UN Security Council

After having analyzed the “conundrums” of the reform of the UNSC,⁸⁰ and having discussed what are the challenges behind the internal coordination of the EU in the UN, it is possible to synthesize a sound assessment of what would be the impact of a possible reform of the UNSC on the development of CFSP. The question is, will the reform enhance Europe’s role as a single actor? Two models of reform have been proposed and are still under discussion in New York: Model A and Model B. The former could elevate Germany to permanent membership in the Council, in recognition of its impressive contribution to the United Nations. This new status would probably come deprived of the veto power but it would in any case greatly increase Germany’s ability to influence the Council’s decisions. The latter model instead would create for Europe as a region, two new national four-year elective seats, allowing the chosen members to be re-elected by the regional constituency. Any European state contributing prominently to the maintenance of peace and security and to the UN would be eligible for those seats. After this brief introduction it is convenient to elaborate on the two possible scenarios. This exercise implies a certain dose of speculation and should be taken only as an educated guess into possible future patterns.

Scenario A. Core Europe in CFSP

Model A must be analysed in the perspective of an enlarged EU. In this context it is inevitable that the EU member states endorse some kind of flexible engagement into foreign policy issues, so that those “willing and able” can take the lead.⁸¹ This pattern is already at test in Iran, where the so called EU-3, notably, Germany, France and the UK are running a concerted effort to manage the proliferation threat coming from Teheran.⁸² Started in 2003, this cooperation in CFSP appears quite effective, and in 2004 also the High Representative for CFSP Solana became part of the delegation, in order to maintain the link with the EU and the other member states. As the discussion was transferred at the UNSC level, Germany was associated to a contact group of the Permanent five (called P5 + 1 or G-6), which obviously raised many eyebrows in Rome, as it gave de facto permanent member status to Germany⁸³. At the European level though, this model of cooperation is not institutionalized, and can serve optimally the purpose of the EU in the various area of engagement, with different groups forming according to the issue, in a sort of division of labour.⁸⁴

With a reform of the type prospected in Model A, and with Germany as a permanent member, this flexible system would become more and more institutionalized and stabilized. The influence of the core of the big three member states would grow in Europe and in the world. Germany, as the biggest state in the EU should be able to triangulate between the interests of its closest partner, France and those of the UK, using its important relation with the United States.⁸⁵ Schmidt argues that this would entail a “pluralistic structure of the

⁸⁰ W. Zacher. Op.Cit

⁸¹ Marc Champion, EU Tries Again on Foreign Policy – Reinvigorated Drive for Unified Action Draws Notice in Washington, Wall Street Journal, 26 January 2005

⁸² Steven Everts, Engaging Iran: A test case for EU foreign policy, Center for European Reform, Working Paper, March 2005

⁸³ F. Venturini, op.cit.

⁸⁴ Stephan Keukeleire, ‘EU Core Groups - Specialization and division of labour in European Union foreign policy’, CEPS Working Document, No. 252 / October 2006

⁸⁵ Helga Haftendorn & Michael Kolkmann, “German Policy in a Strategic Triangle: Berlin, Paris, Washington ... and What about London?”, in: Cambridge Review of International Affairs, Vol. 17, No. 3, October 2004.

transatlantic liaison” that would see this European vanguard of states increasingly active in carrying out foreign policy.⁸⁶

The problem with this approach is twofold. First, it is static in nature. This is inherent in the concept of allotting a national permanent seat.⁸⁷ Even though the traditionally integrationist approach of Germany leaves room to believe that it would use its weight to enhance the EU interest and profile in the UN,⁸⁸ this attitude will probably not be sustainable in the long-run. Model A lacks intrinsically of accountability and this could lead to an inexorable drift of German foreign policy towards privileging national concerns. This is to be expected especially when taking into account the social-institutional logic of what is the appropriate behaviour within the UNSC. In short, even though in the rhetoric Germany appeals to a permanent seat as a temporary solution in view of a common EU representation, as Nuttall argues, there is a concrete risk that it will become itself part of the establishment.⁸⁹ Therefore, it is plausible that this reform would hinder the progress made by the EU in UNSC coordination, or at least it would deprive it of meaning by circumscribing and shifting the problem of coordination to the three member states having permanent membership in the UNSC. On the other hand the efforts to create ascending mechanisms in the EU towards the expression of a single voice (e.g. forward looking article 19 meetings, qualified majority voting) would be put in the backburner.

Secondly, the other EU member states would have to rely on the big three for information and leadership, as the possibility of being elected to the remaining Security Council seats would be reduced considerably. In the long-term this could reduce their sense of responsibility, diminish the overall activeness of the EU and overburden the directorate.

Scenario B. Enhancing the Regional Dimension of CFSP

It seems like the model B ideal type, avoiding the creation of new permanent seats would accommodate better a European Union willing to speak with a single voice. In effect, some of the members of the ‘Uniting for Consensus’ movement, went as far as to propose a ‘regional model’ in which new permanent seats would indeed be created, but would be allocated to states rotating in representing their regional group. In Europe, these ideas have been especially put forward by Italy and Spain.

There are some considerations to be made. First, the position of both the Italian and Spanish government is strongly informed by national interest. In this sense, the European integration and identity objectives also hide frustration of these member states for not being able to aim at permanent membership themselves. In addition, the ambitious project of regionalising the UNSC also serves the purpose of delaying a quick functional reform. The call for inclusiveness, legitimacy, and democracy, sounds hollow in the halls of the United Nations and there are some obvious interests behind the strive for equality among sovereign nations. However, these national interests happen to match those of an integrated approach toward CFSP.

In fact, this regional model has a clear potential to stimulate an integrated EU CFSP. The EU would be allotted one regional seat, while another (allocated to the EES) would probably be shared among all the European states that are not members of the EU. The member states would then establish some kind of mechanism of rotation or election of the state responsible for expressing the interest of the whole EU in the UN organization. The most

⁸⁶ Peter Schmidt, *Bowling by the same rules? EU-United Nations Relations and the Transatlantic Partnership*, Journal of Transatlantic Studies, Berlin, 2005, p. 8

⁸⁷ Very interest on the problems of permanent membership: J. Paul and C. Nahory, op.cit.

⁸⁸ Karl Kaiser, “A Security Council Seat for Germany” in: *Transatlantic Internationale Politik*, Vol. 5, No. 3, 2004, pp. 23-31

⁸⁹ Simon Nuttall, Compact seminar on EU CFSP, College of Europe, March 2005

positive aspect, for what concerns the EU, is that the elected member state to hold the regional permanent seat would be accountable to the membership and would therefore maintain strong links of information and coordination with the other member states.⁹⁰ Even the fall-back position, e.g. the 'Green model', would end up having similar effects. In fact, what is key to all these models is the removal of the prohibition to be immediately re-elected to the non-permanent seat. Logically, some member states would try to maintain their seat and would therefore enhance their accountability towards their regional constituency.

On the other hand, the regional model will clearly entail a lot of time to be negotiated and, as the Italian Ambassador still put it in July 2006, it is an ideal aspiration that cannot be easily achieved.⁹¹ In proposing it, the middle and small powers in the UN want to open a long debate about regionalism at the UN and cooperation of the UN with regional organizations. This risks further eroding the UNSC authority as the principal vehicle of multilateral action. For the process of building CFSP however, this possible redirection of the debate towards regionalism could have positive consequences. It would probably force the member states to explore new ways of carrying out foreign policy at the United Nations, while at the same time, the institutional instruments contained in the Constitutional treaty become available.

Conclusion

The purpose of this paper was to demonstrate that there exists a link between the process of reform of the UNSC and the development of CFSP. CFSP is driven mainly by domestic and external factors that transcend the institutional set-up at the UN level. However, it was argued, this also plays a role in establishing the institutional paths and venues that can catalyse or hinder the built up of a European foreign policy. Therefore, even in the domain of the Security Council, realist approaches can be usefully tempered by insights from other conceptual frameworks, notably historical and sociological institutionalism.

It was not possible to analyse in detail the complex web of reasons and cross-vetos that constantly paralyse a decision on reforming the UNSC. The paper just looked shortly at the current state of a reform process that is absolutely crucial to the future of international relations. The European Union is very much involved in this process. The focal point of its Security Strategy has been correctly identified in the fostering of an 'effective multilateralism'. The fact that today, Europe is not capable of taking a common stand on this issue is probably the most instructive lesson that the UN reform has to teach to CFSP.

What would be the implications for the European foreign policy if a reform was to be approved? This study has flagged out some areas of development: there is some dynamism in the way the EU coordinates on UNSC issues, and there are some opportunities that would have been opened by the Constitutional Treaty. The structure of the future Security Council could then act as a catalyst towards these pre-existing trends inside the EU.

A reform granting UNSC permanent membership to Germany would probably act by strengthening the trend towards a *concentric circles* pattern of foreign policy. It would consolidate and institutionalise the inner core structure that the three big member states have already established in the case of Iran. Not surprisingly France and the UK support fully Germany in its ambition. Germany in the Council would paradoxically legitimize their

⁹⁰ Marcello Spatafora, op. cit.

⁹¹ The report of the facilitators of April 2007 still considers regional accountability as an interesting principle to be added to the global accountability of the members of the UNSC. UN, 2007, op.cit.

position as permanent members: in fact, France and the UK do not feel threatened in their special status by the accession of another European state, acting from a national perspective. Notably, in the first phase of the reform, in the mid nineties, their support had been a lot less enthusiastic: the situation in Europe, with the newly established EU, was perceived as too fluid to allow such a development. The German reunification was too close in time, and the Union had not yet embarked the endeavour of the enlargement to the East. The evolvement of the international situation, with Europe powerless over a collapsing Yugoslavia, convinced the two big states that it was time to forge a smaller club inside the Union, providing leadership and steering and effective in projecting Europe as a power in the world scene.

The other trend of CFSP goes towards further integration, towards more coordination and ultimately towards qualified majority voting. This trend is the most vulnerable to the reform of the UNSC. A reform as that proposed by the G-4 would have a double effect. In the short term, it would be strongly divisive of the membership. On the longer term, the institutionalization of the core could either produce the rallying of the states behind the positions of France, Germany and the UK in a flying geese kind of pattern; or more simply re-launch national foreign policies, in a pattern of dispersion and sporadic cooperation on a 'coalition of the willing' basis. Model B, which does not create new permanent members would not be ideal either. It is far from sure whether the EU would be ready to take advantage of the opportunity, as the key member states are resistant to relinquish their sovereignty and status. However, this model would maintain some institutional venues open for future development.

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