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Factors and Parameters of the EU Performance in
International Organisations: A Theoretical Framework

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Abstract

The formulation of a distinctive and visible profile on the international stage is one of the central, challenging issues that the European Union has faced over recent decades. Developing this profile is essentially determined by (a) *how* the EU negotiates in diverse international contexts and (b) what are the *outcomes* of these negotiations. This paper aims to unravel the negotiating approach the EU follows in different circumstances. To do so, we employ an inductive approach, examining the EU's negotiating behaviour in: (a) the Commission on the Status of Women (CSW) and (b) the Third Committee of the United Nations General Assembly (UNGA). The case-studies pertain to the EU's involvement in international human rights negotiations, thus offering valuable input both to the specific literature and to the literature on the EU's international performance. We propose an *ex post* theoretical framework on the EU negotiating tactics in the United Nations (UN), identifying the factors and the parameters which condition its negotiating strategy and its international performance.

Keywords

EU Performance, Negotiating Strategy, Human Rights, United Nations, International Organisations

The opinions of the authors expressed in this paper represent personal opinions and do not reflect the opinions of the organisations and institutions within which they work.

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Introduction

The formulation of a distinctive and visible profile on the international stage is one of the central, challenging issues that the European Union (EU) has faced over recent decades.¹ Developing this profile is essentially determined by (a) *how* the EU negotiates in diverse international contexts and (b) what are the *outcomes* of these negotiations. With the adoption of the Lisbon Treaty, the EU has partially attempted to come closer to this goal with the unification of its external representation system.² However, the articulation of an effective and successful presence in international negotiations is still conditional on the intergovernmental nature of the Union's foreign policy apparatus.³

The scholarly literature concerning these issues is certainly broad, but it is also remarkably divided in terms of theoretical building. On the one hand, there is a bulk of academic papers that deal with the formulation of the EU's negotiating strategy in specific international organisations (IOs) and/or within the EU itself.⁴ This literature examines the determining factors that form the EU's negotiating scheme, without scrutinizing in depth the outcomes of these negotiations and, therefore, whether or not the EU had been successful in these cases, notably in the area of goal achieving or of making profound changes to the international order. On the other hand, there is a major strand of literature studying the outcomes of the EU's participation in international negotiations and, consequently, the effectiveness and/or performance of the EU in these negotiating contexts.⁵ This scholarly work pays little attention to the shaping of the EU's negotiating blueprint. We have identified some significant exceptions, striving to fill these gaps through the development of analytical frameworks that attempt to grasp the determinants of the EU's negotiating methodology and, at the same time, to analyse the performance of the EU in international negotiations.⁶

The goal of this paper is to make a contribution to this literature in two ways. First, we argue that studying the behaviour of the EU in international negotiations *ex ante* makes it possible to both identify the factors and parameters that determine the EU negotiating strategy and to assess its international performance. Secondly, to do so, we employ an inductive approach, examining carefully the EU's negotiating behaviour in two instances at the United Nations (UN): (a) in the Commission on the Status of Women (CSW) of the Economic and Social Council (ECOSOC) and (b) in the United Nations General Assembly (UNGA) Third Committee. Finally, we form a theoretical framework concerning the EU negotiating strategy in the UN, based on the empirical analysis of the aforementioned case-studies. The broader perspective is to provide a theoretical approach on how the EU negotiates in the international arena and which factors and/or parameters condition its negotiating performance. Our research is based on in-depth analysis of primary sources and existing academic literature on the EU as an international actor, as well as on valuable information collected via semi-structured interviews with EU and UN officials.

Based on the traditional approach of political scientists when examining socially complex phenomena, the majority of academic scholars working on these issues usually adhere to deductive approaches in their examination and assessment of the EU's negotiating performance in IOs.⁷ Our findings suggest that an inductive approach to the study of the EU negotiating strategy in the UN provides remarkable theoretical information on how the EU composes its negotiating plan within international contexts. At the same time, the identification of the factors and parameters shaping the EU negotiating presence sheds light on the EU's international performance in these negotiating arenas. In the human rights international context, we identify the particular factors on which the EU was based

¹ See Allen and Smith 1998; Bretherton and Vogler, 2006; Howorth 2010.

² See Ashton 2010; Burke 2012; Duke 2012; Gstohl 2012.

³ See Hill and Smith 2005; Larsen 2009.

⁴ See Bailer 2010; Dür and Mateo 2010.

⁵ See Torney 2014; Oberthür and Groen 2015; Romanyshyn 2015.

⁶ See Meunier 2000; Rhinard and Kaeding 2006; Blavoukos 2015.

⁷ For an exception, see Panke 2014.

in order to synthesise its master plan. These factors present a stable pace in both examined case-studies; the EU follows a constant negotiating pattern in its international interactions in the human rights realm. What is also identifiable, however, is that in each international negotiating context diverse parameters closely related to this negotiating context condition the international performance of the EU. In order to secure a positive international performance, the EU has to adjust its negotiating policy in each international negotiation, given the specific context, circumstances and restrictions under which this negotiation takes place.

The selection of our case-studies is not random; it is based on our strong belief that we need to examine a case with a successful outcome for the EU and one that could be considered a failure. We follow this methodological approach in order to identify how factors and parameters have a positive or negative effect on the EU's negotiating performance. In addition, we have selected these cases because they have two ontological similarities: a) they are both situated within a negotiating context of human rights and b) the two cases occurred only a few months apart. Regarding the former, this is extremely relevant, because the main actor (i.e. the EU) performs with relative ease in this realm.⁸ So staying in the same structural - within the same international organisation -, contextual - the agenda of human rights - and time framework, we intend to trace which are the main factors of the EU's performance capacity. Without the ambition to determine the existence of a stable negotiating pattern, our effort is to highlight the ingredients that shape the European negotiating approach, whether successful or not. In the next section, we discuss and elaborate on the EU's negotiating strategy and international performance. Following that, we analyse carefully the selected case-studies. In our final section, we present our theoretical findings and provide a theoretical framework of analysis. The concluding section summarizes our findings and proposes further research tasks.

The EU's International Performance: The Quest for the Holy Grail

Is the EU an effective and significant international actor in terms of its negotiating capacities? Numerous International Relations (IR) and EU scholars focus on this recurring question.⁹ Yet, even though the literature on the issue is extensive and growing, no one is in the position to offer a single, affirmative answer, for the simple reason that the EU is not a static organisation. Being in constant movement since its formation, the European Community (EC)/EU discovers and defines itself along the way. And it is exactly this dynamic approach of the European integration project that allows the EU to react, to adapt and to revitalize itself time and again.

For over more than sixty years, European leaders have been trying to identify the best possible path for the EC/EU to become a globally prominent player.¹⁰ In the beginning, this meant the development of a discernible European identity vis-à-vis *the others*, i.e. the USA.¹¹ Yet, gradually, the EU came to realize that it could not only be defined in relation to other international powers, but also by its choices and actions in the global arena. The EU's positioning on the international scene has been associated with certain notions, such as 'presence', 'actorness' or 'performance', which aim at unraveling its action.¹²

In the 1970s, academic studies looked into the possibility of the EC acting independently, based upon specific strategic priorities, in the same way that nation states do. Cosgrove and Twitchett (1970) were the first to distance themselves from traditional IR approaches and look into the activities of international actors. In this respect, their work constituted a solid basis for looking at the EU as an international actor, focusing not only on its actual capacities but also upon how other international

⁸ See Smith 2006; Smith 2010.

⁹ See Allen 1998; Conceição-Heldt 2014; Telo 2009.

¹⁰ See Elgstrom and Smith 2006; Howorth 2010; White 2001.

¹¹ See Allen et al 1982.

¹² See Delreux 2014.

players perceived it.¹³ Other academics, like Sjostedt (1977), further clarified the notion of ‘actorness’ by focusing on certain specific characteristics, such as cohesion and/or autonomy.¹⁴

In the 1990s, following the collapse of the Soviet Union and the rise in concern about security, the creation of the Common Foreign and Security Policy (CFSP) shifted attention to the EU’s ‘presence’ on the international scene, placing focus on how and whether the EU’s action is based upon the prerequisite of collective will and its aptitude to proact.¹⁵ International developments in the 1990s revealed the emergence of novel challenges in the EU’s periphery and beyond. Academic research, thus, pinpointed the growing gap between the EU’s expectations and its actual capabilities¹⁶ or the lack of a military component that would enhance and complement its international political leverage.¹⁷ Moreover, many studies were oriented towards the actual ‘impact’ of the EU’s activities on the international scene, meaning ‘the effects or outcomes of actions’.¹⁸ In parallel to these analyses, some academics suggested that what is important is not only the repercussions of one’s actions, but also, how a certain International Organization (IO) ‘performs’, meaning the process that it chooses to achieve the agreed goals at an international level.¹⁹ Across the literature, the criteria for performance vary, from being effective to being efficient, relevant or financially viable.²⁰

Within this growing research field on the EU as a global player, a certain focus has been placed on the EU’s relations to other IOs, in particular to the UN.²¹ Obviously, the emergence of this branch of the EU/IR literature follows the increasing importance of multilateralism in the conduct of EU external affairs.²² At the same time, it supplies evidence of how the EU engages with certain IOs and how it perceives the global order in general.²³ In the 2003 European Security Strategy (ESS), effective multilateralism is actively linked to a system of well-functioning international institutions²⁴, recognizing the UN as the most eminent of all IOs.²⁵ Within this framework, research thus far attempts to reveal how the EU interacts with IOs and what precisely are its possibilities or limits of action as an active diplomatic actor. The margin of analysis is quite broad: from the EU’s role in the General Assembly (GA)²⁶ and the Security Council²⁷, to specialized UN agencies, such as the International Labour Organisation (ILO)²⁸ and specific thematic areas like human rights, security or the environment.²⁹

At the same time, EU performance relates to its ability – or not – to develop a sound and successful negotiating strategy. A certain strand of scholars points to the challenges the EU faces when it negotiates in multilateral contexts.³⁰ Analyses have focused upon identifying the necessary elements

13 See Cosgrove and Twitchett 1970, 12-14.

14 See Sjostedt 1977.

15 See Allen and Smith 1998.

16 See Hill 1993.

17 See Heisbourg 2000.

18 See Ginsberg 2001, 15.

19 See Gutner and Thompson 2010; Koops 2011; van Schaik 2013.

20 See Jørgensen *et al* 2011; Thomas 2012.

21 See Rasch 2008; Taylor 2006.

22 See Ruggie 1992.

23 See Jørgensen *et al* 2011, 1.

24 See European Security Strategy 2003, 9.

25 See EU Council 2008, 11.

26 See Luif 2003; Johansson-Nogués 2004; Laatikainen and Smith 2006.

27 See Hill 2006; Drieskens 2008; Pirozzi 2010.

28 See Kissack 2006; Taylor 2006.

29 See Vogler 1999; Smith 2006; Laatikainen and Smith 2006; Wouters 2007.

30 See Elsig 2013; Gehring *et al* 2013; Groen and Niemann 2013; Groenleer and van Schaik 2007; Jørgensen 2009; Jupille and Caporaso 1998; Macaj and Nicolaidis 2014; Vogler 1999.

of a strong negotiating approach. In this respect, cohesiveness, meaning the EU's ability to promote a common position even when preference homogeneity among member states is not completely achieved, is important,³¹ although a single voice does not, by definition, lead to more influence.³² By the same token, the chances of a successful outcome are higher when alliances are formed and when negotiating partners are approached via intensive bilateral lobbying.³³ Moreover, the EU's negotiating ability is, at times, conditional on the compelling external negotiating environment.³⁴ All of the above strongly suggest that different criteria need to be met simultaneously in order for the EU to develop a solid and successful negotiating strategy.³⁵

Most of the above-mentioned literature shares similar deductive methodological practices in order to extract knowledge on how the EU negotiates in diverse international contexts and whether (or not) its performance is positive. The mechanics of these methodological approaches consist in two steps of analysis. First, scholars construct analytical frameworks containing factors and parameters that influence and/or constrain the negotiating behaviour of the EU in international contexts. The research design of these analytical frameworks is being formed without prior empirical knowledge (*ex ante*). Secondly, scholars test their analytical frameworks on various case-studies in which the EU has participated in order to make inferences regarding the role of the EU in the respective negotiations (i.e. its actorness, presence, effectiveness and performance). Similar to that, a large number of studies employ existing analytical frameworks in order to test the performance of the EU in various negotiating contexts.

The problem with those approaches is that they identify factors and parameters of the EU's negotiating strategy without taking into consideration 'what the data say'. Moreover, a large number of these academic writers are trying to adhere to 'successful' cases in order to demonstrate an argument with regard to the negotiating strategy of the EU in international fora. 'Unsuccessful' cases are always out of the academic box, despite the fact that the EU, most probably, has used 'successful' tactics in its negotiating strategy. If EU negotiating failures in the international arena are left out of the equation, the literature is left with theoretical as well as methodological shortcomings. Certainly, a failure is a problematic component of each respective tactic or strategy in a specific field; that is why it is crucial to demonstrate which factors determine the EU's overall negotiating strategy in international contexts.

The important aspect of this debate is that the deductive approach obviously has its limitations and we cannot rely extensively on it to understand how the EU negotiates and performs at the international level. In this respect, and given the aforementioned problematic points and limitations for our analysis, we recognize the benefits that an inductive approach could offer in order to identify the key factors and/or parameters that frame the EU negotiating strategy in numerous international contexts. A strong element of such an approach is its reliance on available evidence that can be tested *ex post*. Secondly, the thorough investigation of a particular case gives us the advantage of being able to spot factors that become visible only with great difficulty in an *a priori* theoretical consideration of the issue under study.

Our analysis is driven by the following question: is there a negotiating pattern the EU could follow to establish itself as an effective negotiating actor in the international arena? Performance depends on many variables, ranging from coherent action – and its numerous interpretations – to political will, competence, third party perception, international conjuncture, economic leverage and personal skills, to name just a few. Performance is also case-sensitive. For example, on trade-related issues, the EU's international leverage is considerable. This is not, however, the case on issues relating to the EU's CFSP, which remains an intergovernmental policy field.³⁶ Consequently, we argue that the

31 See Conceição-Heldt & Meunier 2014.

32 See Kissack 2010.

33 See Panke 2014.

34 See Delreux 2014.

³⁵ See Niemann and Bretherton 2013.

³⁶ See Rhinard and Kaeding 2006, 1024.

EU develops a specific negotiating approach according to the issue at stake, while being prepared to fine-tune it should the circumstances of the international negotiating context allow for it.

The Commission on the Status of Women (CSW): Agreed conclusions on the elimination of violence against women

Background

One of the most groundbreaking texts in human history is the Declaration of the Rights of Man and of the Citizen³⁷. Elaborated by enlightened men in the midst of the French Revolution and shaped by the ideas of Jean Jacques Rousseau, Voltaire, Condorcet and Montesquieu, the Declaration laid the foundation for all human rights treaties to come in the following centuries. Its first Article states: ‘Men are born and remain free and equal in rights’³⁸. But, what about women? Although the French word for men, *les hommes*, can be interpreted both as men and human beings, the truth is that the members of the French Constituent Assembly considered only men when adopting the text. And, unfortunately, this is no surprise; women were not citizens in 1789. It took almost two centuries after the adoption of the Declaration for women to vote in the homeland of human rights, France. This was in 1945, just three years before the adoption by the UN of the Universal Declaration of Human Rights.

Although the establishment and the consolidation of universal women’s suffrage was an ongoing struggle worldwide during the twentieth century, the culmination of the tireless efforts to recognize women as equal human beings to men came with the signature in 1979, and its entry into force, of the Convention on the Elimination of Discrimination Against Women, the draft text of which was drawn up by the CSW. The CSW was created in 1946 as a functional Committee of the ECOSOC. As Resolution 11(II)³⁹ states in Article 1, “the functions of the Commission shall be to prepare recommendations and reports to the Economic and Social Council on promoting women’s rights in political, economic, social and educational fields”. Since then, CSW has managed to become progressively the main international organ within which women’s rights are to be assessed, codified and established.

Membership of this 45 person steering committee is based on an equitable geographical distribution, a sacrosanct principle at Turtle Bay, the UN neighborhood. A session of two weeks annually allows for the presentation of national records on women’s rights, a general discussion among member states on priorities and a review of themes, such as the access and participation of women and girls to education, training, science and technology, or the empowerment of rural women and their role in the eradication of hunger and poverty.⁴⁰ Additionally, it allows for the adoption of resolutions on ways to tackle challenging issues, such as eliminating maternal mortality, ending female genital mutilation, and gender equality and the empowerment of women in natural disasters.⁴¹

EU status at the CSW

In this arena, the EU has a privileged forum to underline its priorities, contribute to the debate to further promote the protection of women and girls’ rights and participate in the development of new standards, thus upholding women’s rights in an international perspective. However, it is to be noted that the EU presence in the CSW occurs without formally having the status and tools conferred upon it by Resolution A/65/276⁴², adopted in 2011.⁴³ This landmark resolution offers to the representatives of

³⁷ See ‘Declaration of the Rights of Man’.

³⁸ See ‘Declaration of the Rights of Man’.

³⁹Resolution adopted on 21 June 1946, (document E90 and document E84, paragraph 6), Journal of the Economic and Social Council, No 29.

⁴⁰ See Economic and Social Council 2011.

⁴¹ See Economic and Social Council 2011.

⁴² See United Nations General Assembly 2011b.

the EU, i.e. the diplomatic staff of the EU Delegation in New York, the possibility, among others, to deliver verbal statements, to table amendments and to have a right of reply. But this Resolution relates only to the works of the GA. The CSW, though, being a Committee of the ECOSOC, is thought to be outside of the scope of the implementation of Resolution A/65/276.

As a result, the EU's presence in the debates and negotiations that constitute the main core of the CSW's sessions had to be established through other means – that is mainly through the EU's member states, which was also the case before the adoption of Resolution A/65/276. Whether it is the State that exerts the six-month long rotating Presidency of the Council of the EU, or other member states that take the floor on behalf of the EU, the EU actively participates in the deliberations and contributes to the development of UN policies on women's rights.

The EU priorities and actions during the 57th session of the CSW

A paradigm of the EU's action in the CSW was its participation in the 57th session of the CSW, which was held in New York between 5th and 13th March 2013. According to its multi-year programme of work for the period 2010-2014⁴⁴, the theme prioritised for this session was the 'Elimination and prevention of all forms of violence against women and girls' (VAWG), undoubtedly one of the most critical topics in order to ensure dignity for women in our society. This session had an inherent difficulty because, in 2012, the CSW did not adopt any Agreed Conclusions (AC) on a reportedly less contentious issue, the empowerment of rural women and their role in the eradication of hunger and poverty. An example of how high the stakes were in March 2013 is the fact that the President of UN Women⁴⁵, and later President of Chile, Ms. Michelle Bachelet, spent long hours in the negotiating room, exchanging views with member states and assisting the CSW, thus putting a personal bet on the successful outcome of negotiations⁴⁶.

In order to assess whether the EU performance in the CSW was successful or not, we have to go back and look at EU priorities before the session began. According to the EU Strategic Framework and Action Plan on Human Rights and Democracy⁴⁷, the EU 'will continue to campaign for the rights and empowerment of women in all contexts through fighting discriminatory legislation, gender-based violence and marginalization'. Moreover, the EU guidelines on violence against women and girls⁴⁸ clearly set the tone of the EU's action on women's rights. The promotion of gender equality and the fight against women discrimination by devising effective strategies and by eliminating the impunity of perpetrators are some of the key objectives of the EU's presence in international fora. Among the specific priorities of the EU in the 57th session of the CSW and, more particularly, in the negotiations of the AC, were to adopt: a strong human rights language; an unequivocal definition of VAWG; language on women, peace and security; wording on the role of civil society and the engagement of men and boys. Moreover, the mandate contained guidelines to support the struggle against impunity, promote accountability and enhance sexual education language.

The EU negotiation strategy during the 57th session of the CSW

More often than not, the initial step of the EU negotiating mandate is shaped at COHOM⁴⁹, the working group of the Council that has the competence to deal with human rights in Brussels. It consists in the *early identification of priorities* that will guide the EU action in the specific session of the CSW. This process could start as early as six months before the CSW session. Once the 28 EU member states seated at the COHOM decide, through sometimes lengthy consultations, on the targets

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⁴³ See Serrano de Haro 2012; Brewer 2012.

⁴⁴ See Economic and Social Council 2009.

⁴⁵ The United Nations entity for gender equality and the empowerment of women

⁴⁶ See UN Women 2013a.

⁴⁷ See Council of the European Union 2012a.

⁴⁸ See Council of the European Union 2008.

⁴⁹ Working Party on Human Rights (COHOM), see: <http://www.consilium.europa.eu/en/council-eu/preparatory-bodies/working-party-human-rights/>.

of the EU in this forum, usually on an EEAS⁵⁰ draft, then this decision constitutes the road map of the experts who will defend it at an international level. This agreed *EU position paper* is also part of a greater target-setting exercise, which leads to the adoption of the annual Strategic Work Plan for EU action in UN human rights fora. Once the *internal Brussels coordination* is over, the next step takes us to the local level of the session.

In the case of the CSW, it is in New York and through the continuous assessment of the evolution of the draft AC, from day one to their final adoption, that the EU position is flexibly shaped to adapt itself to the dynamics of the negotiation. *EU coordination meetings in New York*, of at least an hour daily, before the beginning of the AC negotiations, allow for the establishment of an *EU common negotiation position*, not always an obvious task. But, in most cases, the EU negotiators are given a clear mandate on how to proceed. We should note that the negotiation position developed at a local level has, of course, to be in line with the Brussels road map; but the dynamics of the negotiation usually require a more adaptable approach in order to achieve the maximum impact.

The composition of the EU team in New York (or in Geneva when it comes to the HRC) is considered by some to be the cornerstone of a successful, consistent and efficient presence throughout the whole negotiation process, which, more often than not, extends beyond the two-week framework that the CSW is scheduled to last. This negotiation team is made up of three equally indispensable parts: first, the highly qualified staff of the EU delegation at the UN, mainly EU diplomats seconded to the EEAS from their respective diplomatic services, who have participated in consecutive human rights negotiations, thus acquiring a hands-on approach to the topics in question; next, the diplomats appointed to the permanent missions of the 28 EU member states who, through their continuous involvement, have reached an unparalleled familiarity with the human rights discourse; finally, the EU capitals' experts who, instead of elaborating their national position at home, actively participate in the consultations, making it easier to agree or disagree on specific proposals, without having to go back to their respective capitals for approval, unless on very contentious points.

Following this same flexibility, *the methods of work* – mainly a labour division system, called '*burden-sharing*' – entail the participation of a limited number of EU member states whose negotiators will be physically in the negotiating room and will take the floor on behalf of the EU, in order to put forward its position. In 2013, this team was composed of, besides the EU delegation staff, diplomats from Ireland (holding the EU Presidency in the first semester of 2013 but, at the same time, a country with a keen and genuine long-standing interest in human rights), France, the Netherlands, Germany, Spain and Austria. So, these six players were given different parts of the AC and, in constant consultation with the other EU member states, they negotiated with the wider membership of the CSW.

If there is something that needs to be stressed at this point, it is that the biggest difficulty in making substantial inclusion of progressive language on women's full enjoyment of human rights is the 'variation of perception', or the different angle from which each geopolitical area understands women's rights. Though the universality of human rights is a well-established principle, in practice we realise that it is a great challenge to agree on specific priorities and ways to implement them.

And it is at this moment that the EU strategy needs its *alliances* with like-minded countries, or other regional groupings and UN member states, in order to put forward its plan. Knowing that its negotiating positions and aims are shared by other countries outside the institutional and geographical European area⁵¹ can be a great bargaining asset for the EU. The Western European and Others Group (WEOG)⁵², one of the five informal regional groupings in the UN⁵³, is the place where the EU finds natural allies, given that more than half of its members belong to this group.

⁵⁰ European External Action Service.

⁵¹ Non-EU European countries such as Switzerland, Norway, Iceland etc, or European countries variously connected to the EU (candidate countries for accession as Turkey, or members of the EU stabilization process), usually, after appropriate consultations, align their stance or their negotiation strategy to the EU position (alignment countries).

⁵² WEOG is composed of 28 member states as of October 16, 2015, among which are 16 EU member states, and, among others, Canada, Israel, Turkey, Australia, and the United States as an observer.

Outside WEOG, it is inside the Latin American group that the EU manages to find UN member states that share common views on human rights. This comes as no surprise, since the EU and the Latin American and Caribbean Group (GRULAC) group have an across the UN board cooperation, and, more particularly in the human rights field; the annual UN Resolution on the Rights of the Child constitutes the epitome of this cooperation.

Finally, next to alliances, comes *outreach*. The EU engages in systematic capital-based outreach before and during the CSW. This outreach aims at specific countries with diverging views on various topics such as reproductive rights, sexual orientation, gender identity etc, but which could nevertheless come closer to an agreement on other topics. It consists in targeted action, at a high-level if necessary, by the local head of the EU delegation or by the European Union Special Representative for Human Rights. Outreach is a significant aspect of EU diplomacy at the UN, given the very diverse background of countries, negotiators and tactics. Moreover, we realise that, often, most countries that don't have a direct stake in a specific resolution may not have the situational awareness that it takes in order to take an informed decision.

So, this scheme starts by setting priorities at Brussels level to the New York internal coordination for the final shaping of the negotiating position, and via burden-sharing, alliances and outreach reaches the final phase of the negotiations. This is the EU strategic road map that guides its diplomats, as well as its partner countries, to achieve a result-oriented outcome, which, in this specific case, serves the purpose of promoting women and girls' rights around the globe.

The outcome of the consultations that led to the adoption of the AC displayed a high level of EU efficiency in the 57th session of the CSW, since the EU negotiators managed to secure that the EU priorities were mirrored in the final document.⁵⁴ Among many other significant insertions of language, the fight against impunity was inserted in Section A, (c) and (n) of the AC and the engagement of men and boys and civil society organisations, in Section B (II). The *inclusion of wording*, which reflects *pre-established priorities*, is the epitome of a successful performance by a negotiating player in a multilateral context.

However, it is to be noted that the EU in this diplomatic exercise moved on charted ground, since the biannual resolution in the Third Committee, 'Intensification of efforts to eliminate all forms of violence against women'⁵⁵, presented by France and the Netherlands and adopted by consensus on the 8th of November 2012, just four months before the CSW, provided the EU negotiators with a *topical familiarity*, based on a steadfast commitment to the cause. With the experience acquired during continuous engagement with partner countries leading to cross-regional support, the EU became familiar with the topic in question, thus acquiring a comparative advantage.

Performance can vary though. And, as in any kind of art, slight changes suffice to alter the outcome of an outstanding performance, the same goes for the diplomatic art. Even when all conditions seem to meet, i.e. distinct representation, issue-awareness, strong alliances, EU performance at an international level still remains highly case-sensitive. The following section offers an insight into the EU's incapacity to achieve a desired goal.

UNGA Third Committee (3C): The Human Rights Council (HRC) Report Resolution

Background

The Third Committee of the General Assembly deals with items on the global agenda relating to social, humanitarian and human rights issues. However, this description does not hint directly at the

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⁵³The other four being the African group, the Asian group, the Grulac (Latin-American) group and the Eastern European group, while the division between Western and Eastern Europe is an anachronistic remnant of the Cold War era, that, however, no one seems willing to change thus far.

⁵⁴ See http://www.un.org/womenwatch/daw/csw/csw57/CSW57_agreed_conclusions_advance_unedited_version_18_March_2013.pdf

⁵⁵ See United Nations General Assembly 2012.

impact, politicization and international visibility of its working sessions. The Third Committee is the most comprehensive human rights forum in the world, with regard to the number of member states, attending delegates, topics under discussion, resolutions endorsed and voting sessions recorded. In this intergovernmental context, the situation of human rights in specific countries, the protection of women's and children's rights, the right to development, the impact of globalisation on the enjoyment of human rights are just a few of the topics to appear on the agenda. In fall 2013, and in less than two months, the 3C adopted 63 resolutions – most by consensus and 14 by vote–, engaged in 46 interactive dialogues with special rapporteurs of the Human Rights Council, and held numerous thematic and general human rights debates.

Against this backdrop, the European Union, as well as its member states, performs like fish in water. This is not only because the defence and promotion of human rights worldwide constitutes one of the main aspects of the EU's foreign policy, but it is also related to the competence of EU member states when it comes to the human rights sphere; for instance, Spain has a leading role on resolutions tackling the issue of femicide, the Scandinavian countries have an expertise on the dissemination of the CEDAW, Greece with the safety of journalists etc. Moreover, EU initiatives in the 3C have great visibility, whether they deal with country specific resolutions, as in the case of Myanmar, or with topics that hit the international front page, such as freedom of religion and belief etc.

EU priorities in the 3C

Besides the core EU document that determines European priorities in the global human rights agenda, the Strategic Framework and Action Plan on Human Rights and Democracy,⁵⁶ the EU draws thematic guiding principles, the EU human rights guidelines, such as the Guidelines on the Rights of the Child (2007)⁵⁷, the Guidelines on Torture (2012)⁵⁸, the Guidelines on the death penalty⁵⁹ etc. These documents constitute a thematic road map of the EU involvement in international fora, including the United Nations, so whenever (some initiatives occur every two or three years) the Third Committee is seized to examine this topic, a specific course of action is put into practice. Moreover, every year, the EU determines, through an EEAS draft document, what its priorities will be in the UN human rights fora for a given calendar year. For example, on 15th February 2016, the Foreign Affairs Council of the EU adopted the Council Conclusions on EU priorities at the UN Human Rights Fora in 2016⁶⁰. Respectively, in 2013, the priorities of the EU at the UN Human Rights Fora⁶¹ consisted, among other things, in the commitment to a 'strong and effective multilateral human rights system'. This phrase, by itself, was sufficient for the EU to engage actively in the discussion on the HRC resolution and the defence of the existing inter-institutional equilibrium between the GA and the HRC.

Status of the EU in the 3C

Since the adoption of UNGA Resolution 65/276, the EU has received enhanced observer status in the UNGA. Primarily this means that the EU can be inscribed on the list of speakers among representatives of major groups in order to make interventions. Moreover, it granted the EU the right to participate in the general debate, without voting rights, to directly circulate documents, to present proposals and amendments agreed by the EU member states, and to exercise the right of reply. In essence, the EU's eagerness to apply the Lisbon rules in the UNGA setting was altogether linked to how the EU views and positions itself in a multilateral global order. By the same token, it casts doubt on the issue of shared competences between the EU central bureaucracy and its member states regarding external representation in international fora. As Emerson and Wouters note, the resolution

⁵⁶ See Council of the European Union 2012a.

⁵⁷ See European External Action Service 2011.

⁵⁸ See Council of the European Union 2012b.

⁵⁹ See Council of the European Union 2013a.

⁶⁰ See European Council 2016.

⁶¹ http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/135514.pdf

on the enhanced observer status raised the question of how Europe should be represented, and in what specific context, in all the multilateral treaties it is a party to in the post-Lisbon era.⁶²

Resolution 65/276 is applicable to the UNGA 3rd Committee. Consequently, there the EU acts as a coherent and unified actor, enhancing its possibility of becoming a discernible negotiating player. On this point, Blavoukos et al. (2016) suggest that the EU's upgraded status enhanced both its visibility and its coherence in terms of delivering a common single message via its official representatives.

The EU's approach to negotiation

Every year, the Human Rights Council, the UN human rights watchdog in Geneva, submits its annual report to the UNGA. This document⁶³ is the annual account of its activities. Leaving aside the inter-institutional ramifications of this arrangement⁶⁴, the report is presented both at the Third Committee and the Plenary of the UNGA, which take note of its content.⁶⁵ However, in November 2013, during the 68th session of the UNGA, the African group, represented by Gabon, presented a different version of the draft resolution under item 64 of the Third Committee agenda.

After the first paragraph, which took note of the report of the HRC, the draft resolution A/C.3/68/L.75 contained a second paragraph, which proposed to defer consideration of a Resolution that had been adopted less than two months earlier by the HRC, namely Resolution 24/24 (providing for the establishment of a focal point on reprisals against human rights defenders). The proposal reserved the right for the GA to reconsider the matter.⁶⁶ This proposal by the African Group seriously challenged the institutional relationship between the HRC and the GA. If this wording was to be adopted, it would mean that the HRC resolutions could be put under scrutiny by the GA, an interpretation rejected by the EU and its member states⁶⁷.

In this specific case, the EU's aim was to pause the adoption of the second paragraph. Through the introduction of an amendment to be debated during the adoption of the resolution, the EU attempted to prevent the approval of this text. A vote was cast and the amendment lost by only two votes at the Third Committee on 27th November 2013 (74 positive votes, 72 negative and 18 abstentions⁶⁸). Less than a month later, the same result was registered at the Plenary and the resolution was definitively adopted by the GA, thus sending Resolution 24/24 into uncharted waters.

⁶² See Emerson and Wouters 2010.

⁶³ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/164/03/PDF/G1316403.pdf?OpenElement> and www.ohchr.org/Documents/HRBodies/HRCouncil/A.68.53Add.1_en.doc

⁶⁴ Since the inception of the HRC, which replaced the now defunct Commission on Human Rights on grounds of inefficiency and ineffectiveness, a debate was launched on the institutional relationship between the GA and the HRC, see *The New Human Rights Council: the first two years*, Workshop organized by the European University Institute, Istituto Affari Internazionali, and the Institute for Human Rights at Abo Akademi University, p. 8-9, see European University Institute 2007. Given that the Human Rights Council is a subsidiary body of the General Assembly, some member states insist on its subordination to the GA, in order to reserve themselves the right to defer consideration of resolutions adopted by the HRC, while others, including the EU, defend a more autonomous role, suggesting that the HRC is independent, see the EU intervention at the Third Committee during the 70th session of the UNGA, see European Union Delegation to the United Nations.

⁶⁵ See, for instance, draft Resolution at the Third Committee of the 70th session of the General Assembly, See United Nations General Assembly 2015.

⁶⁶ 'Decides to defer consideration of and action on Human Rights Council resolution 24/24 of 27 September 2013 on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, in order to allow time for further consultations thereon';

⁶⁷ This has happened in the past when the GA with its Resolution 61/178 of 20 December 2006 had decided to defer consideration and action of the draft Declaration on the Rights of Indigenous Peoples recommended to the GA for adoption by HRC Resolution 1 / 2 of 29 June 2006.

⁶⁸ It is to be noted that HRC Resolution 24/24, which was the stumbling block in this case, has been co-sponsored by 66 member states in Geneva, among which eight African countries. This demonstrates that there is clearly a difference in the negotiation dynamic in New York and in Geneva.

The perplexing question is how the EU managed to lose these two votes in the Third Committee and at the Plenary. Some reasons are easier to discern than others. Time is always of essence and this was the case in this context as well. The African Group tabled the draft ten days before its adoption, surprising the UN membership. This sharply abridged the *useful time* for *internal coordination* among EU member states in order to establish a course of action. However we might argue that promotion of multilateralism and independence of human rights institutions are well determined goals for the EU's international action. Therefore, an EU strategy was swiftly agreed upon with the aim to bring back the resolution to the agreed language of consensus of previous years. Of additional value for the assessment of the EU performance in this context is the fact that the African Group did not organise the usual informal consultations; in practice the absence of discussion meant there was no negotiation on the text. So, the EU had to rely on its remaining negotiation tools, i.e. outreach and alliances.

Targeted demarches had been carried out in specific capitals around the world. *Outreach* took place in New York and in Geneva in order to engage more UN member states in support of the position that the EU and other likeminded⁶⁹ countries were defending, i.e. that the results of the deliberations of the HRC should not be reopened in the GA.

Regarding *the methods of work* and in particular *the burden-sharing mechanism* of labour division within the EU, which provides that one EU member state represents the Union on a given negotiation, *demonstrated their limits*. A single diplomat, no matter how skilful he or she was, or a single member state, could not counter the resolute efforts of a continent. Therefore, the EU momentarily abandoned the burden-sharing system and engaged fully with the African Group and proceeded with outreach and alliances-building. In this respect, every EU member state was allotted specific countries for outreach and lobbying.

However, the *outreach has not been as effective as to produce the desired results*; besides EU member states and likeminded countries, a few member states voted in favour of the EU amendment. The reason being that a significant number of states chose either to abstain (18 abstentions) or to be absent from the room during the vote. The question of whether or not a different outcome was possible is a difficult one to answer, because the outcome of the vote was not just the mere consequence of two or three states voting otherwise.

Another reason for failure in this case was the fact that the content of a negotiation sometimes presents a 'built-in' limitation to the negotiating effectiveness of a given negotiating player, since national or regional priorities define in advance each state's positioning on the negotiation field. Let us take as an example the resolution on the moratorium of the death penalty: the positions of most UN member states, with the exception of a few swing states, are known well in advance and this leaves limited space for manoeuvring and impressive performances. An additional argument on reopening the text was that, contrary to what was happening at the UN headquarters in New York, all states do not have diplomatic missions in Geneva and are not represented during the negotiations of a text in the HRC; this was one of the main arguments advanced by the African group in order to stress the need to review the text in New York. Moreover, African countries complained on the way the negotiation unfolded despite the fact that the consultation process on Resolution 24/24 in Geneva was an all-inclusive one.

And there, we believe, lies a hidden reason for the EU's unsuccessful attempt to change the resolution and to achieve its aim in the specific negotiation; *shortage of information-sharing between Geneva and New York*. EU experts in Geneva, who, more often than not, are assisted by seconded New York experts during the HRC sessions, did not detect the drifting apart of some African countries during the negotiation and therefore did not brief their counterparts in New York. An earlier evaluation of the situation would have allowed both EU and member-state experts to anticipate, in view of the then upcoming session of the Third Committee, and possibly, abort the African initiative before it was tabled.

⁶⁹ It is to be noted that likeminded countries like the US and Japan tabled similar amendments during the adoption of the draft resolution, but to no avail.

Additionally, after the adoption of this resolution by the GA, a discussion was opened in order to explore ways to improve interaction with the African Group at a local level. This probably means that these relations were not up to the level that they were with other UN member states. But there is a reason for this. Despite the affirmed universality of human rights, a 'variation of perception' still persists, based on cultural relativism theories. For instance in some countries, issues such as gender equality, sexual orientation and family planning are out of the public debate and, in some cases, punished by law. And in similar cases, the challenge for the EU is how to continue to improve relations when significant variations of approach exist at the starting point.

Finally, we could point out that it is analogically easier for any country, or a group of countries like the EU, to orchestrate the elaboration, negotiation and adoption of a text in the HRC, rather than doing exactly the same thing in the GA. According to UNGA Resolution 60/251, which created the HRC, this body is composed of 47 member states, while the GA contains, so far, 193 member states. So, it becomes clear that the negotiating framework, the forum within which the negotiation is taking place, determines, to a certain extent, the possibilities of success or failure.

Limited time for internal coordination either at headquarters or local level, the restrictions of the burden-sharing system, the limited impact of the outreach and lack of an early warning system and appropriate information sharing between Geneva and New York EU delegations, were the main reasons for the EU failure to counter the African group's proposal.

Factors and parameters determining the EU's negotiating performance in IOs:

A theoretical approach

The above-mentioned case-studies demonstrate that the EU, when negotiating in a specific international context or in particular policy areas, follows a specific model of action, here demonstrated within the international human rights context. But, what does a fixed pattern of EU negotiation strategy entail? The answer is: specific factors upon which the EU negotiating strategy is articulated. These factors are presented and explained below (see Table 1). In addition, given the intra-organisational rules of procedure under which each IO operates, the EU is always confronting particular parameters, which condition its negotiating strategy and, consequently, its international performance as a diplomatic actor. Moreover, the EU has to be able to adapt its negotiating strategy depending on the issues at stake and the negotiation framework in which it is obliged to operate.

Factors of the EU's negotiating performance

EU internal coordination at Brussels

The foundational factor upon which the EU forms its negotiating strategy is the internal coordination among EU institutions and member states at Brussels level. This relates to domestic preference formation.⁷⁰ At this initial level, the EU charts its objectives' map concerning particular policy areas. The articulation of common EU objectives comprises, per se, a difficult process in which diverse stakeholders are engaged. Normally, specific working groups participate in the determination of the EU policy objectives. For instance, the COHOM is the responsible EU working group with the appropriate competences to deal with the issues of human rights and, as a result, the basic initiator for the specific policy area at Brussels level. The EU objectives are evident as texts either from official conclusions of the Council documents or drafts from EU institutions, like the EEAS in the case of human rights. Once they have been finalised and are officially announced, they are conceived as the main road-maps to which the EU experts adhere in order to reach the goals of the EU. Of course, achieving internal coordination, sometimes, proves to be a delicate exercise. Even on human rights, where the EU has a strong and pro-active policy, divergences among member states are, at times, apparent. National sensitivities and preference heterogeneity among EU member states need to be

⁷⁰ See Panke 2013, 34.

taken into consideration. When it comes to the CSW, for instance, Scandinavian states have a different approach to Malta and Poland on issues of sexual and reproductive health and rights.

EU internal coordination at local level (e.g. New York and Geneva)

If the EU internal coordination at Brussels level constitutes the opening step for the formulation of any EU negotiating strategy, then the EU internal coordination in the city in which the negotiations take place is the fundamental pillar upon which all Brussels-based general guidelines are custom-tailored. For instance, the formulation of the EU negotiating team in New York can be qualified as the keystone for a successful and efficient performance of the EU throughout the whole negotiating process. The composition of the negotiating team contains diplomats from three different, but similar, paths: a) staff of the EU Delegation at the UN, mainly diplomats from member states seconded to the EEAS b) diplomats appointed to the permanent missions of the 28 EU member states, with expertise on the topic and c) EU capitals' experts from all EU member states, who actively participate in the consultations in order to bridge diverging views between EU proposed positions and national priorities.

Methods of work – the burden-sharing system

Because of the large number of issues negotiated every year in the IOs, the EU, like the UN, has systematically promoted an internal process of division of labour, namely the 'burden-sharing' system, in order to optimise its negotiating results. In essence, the 'burden-sharing' mechanism has been constantly put into practice for every negotiation procedure in which the EU participates. "Burden-sharing" ensures the maximum output in negotiation for the Union, given the complexity and the difficulties of real-time negotiations within international negotiations. Through informal procedures of coordination, the EU defines its external representatives, comprised of its experts who speak for the Union in the international meetings. Typically, in the context of the UN, the EU Delegation in town, in collaboration with the member states, decides on who will represent the Union in the negotiation arena. Hence, it is not just the diplomatic staff of the EU Delegations or the member state holding the EU rotating Council Presidency involved in the negotiations, but also the diplomatic force of the member states. This is a considerable asset for the EU because this systematically leads to the presence and participation of experts in technical negotiations and in various policy areas. This also explains the fact that numerous member states tend to *take the lead* on specific topics, such as women's rights, while simultaneously they assert their and the EU's place on the human rights stage.

Alliance building

Alliance politics constitutes the rule in today's complicated international landscape, resembling to a Wassily Kandinsky composition. And the EU is not an exception to the rule. For instance, within the UN context, the EU counts only 28 member states out of the total 193. The dynamics of international negotiations can turn out to be highly unpredictable if alliance politics are not actively and purposefully pursued. It is only through the proactive engagement with partner countries, in order to shape a cross regional like-minded group, that a broader consensus can be reached on the deliverables earlier identified. A productive and fruitful example of this approach is the diplomatic cooperation between the EU and GRULAC, who have together been tabling annual resolutions on the Rights of the Child for over fifteen years.

Outreach

Outreach is a factor related to alliance politics, but a distinctive one, on which the EU counts in order to improve its negotiating position in a given IO context. Outreach is aimed at specific countries, and/or geopolitical groups, that have diverging views on crucial topics under negotiation. In the case of the CSW under review, this was done systematically and proactively before the session both at capitals and New York level. Outreach is an essential element of EU diplomatic strategy in the UN, given the very diverse background of countries and negotiating contexts. For instance, in various negotiations, many countries do not have a vital national interest and, therefore, do not actively engage

in the process. Hence, outreach constitutes an essential tool for the EU to effectively communicate its objectives in these ‘middle ground’ countries.

Parameters conditioning EU performance

EU Status in IOs

When dealing with how the EU interacts with other IOs, especially the UN, we have to bear in mind the position of the Union in the IO and the legal framework within which it operates.⁷¹ The Lisbon Treaty states that, *inter alia*, the EU ‘shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies’.⁷² In this respect, the EU initiated all necessary procedures to upgrade its status in the UN. As a result, Resolution 65/276 was adopted in May 2011, offering the EU an enhanced observer status in the work of the UNGA. As of then, the EU Delegation represents the Union in the Plenary and the six main Committees. Of course, the Resolution 65/276 is not applicable to the other UN agencies/conferences, where EU representation can be undertaken either by member states or by the HR/VP. For example, as shown above, the EU has no formal right of representation in the CSW. It is represented through the EU member states that serve as members of the CSW. Among them, an informal division of labour is observed. The distribution of tasks is, as the case-study demonstrates, efficacious, confirming that a tacit understanding exists among them, given the lack of a single EU formal representation. Yet, our analysis reveals that, a single representation status – like the EU Delegation in UNGA – might offer the EU enhanced visibility and coherence⁷³ but it is not always relevant to the effectiveness of a negotiation strategy. Explicit representation prerogatives do not constitute a *sine qua non* of a successful negotiating diplomatic actor. This is furthermore demonstrated in the case of the UNGA Third Committee. There, the EU has an enhanced observer status, which grants it straightforward representation through the EU Delegation.⁷⁴ Nevertheless, its ability to achieve its goals through negotiation proved to be extremely fragile.

EU competence

One of the most important and recurring issues that concerns EU international activity relates to the clarification of competences among EU accredited actors.⁷⁵ The Lisbon Treaty does not explicitly divide competences between the EU and its member states when participating in IOs. Art. 211 TFEU, states that ‘[w]ithin their respective sphere of competence, the Union and the member states shall cooperate with third countries and with the competent IOs’. As far as human rights are concerned, both the EEAS and the 28 member states have competence. More explicitly, human rights constitute an integral part of the EU’s foreign policy apparatus. Since the adoption of the Lisbon Treaty, the HR/VP has the mandate to conduct the EU’s foreign policy, while the 28 member states constitute the undisputable holders of that mandate. This means that member states decide on human rights issues, except in cases of usual practice when the HR/VP proceeds according to custom. This practice is ‘uploaded’ to international negotiating frameworks. When it comes to the UNGA Third Committee, for example, member states are responsible for promoting the EU agreed position. In this respect, the EEAS’ role is limited to pushing for a coordinated EU position on each draft resolution both in Geneva (HRC) and in New York. This coordination is even more imperative because human rights constitute an EU priority of action in the UN.⁷⁶

⁷¹ See Hoffmeister and Jan Kuijper 2006; Wessel 2011, 621-624.

⁷² See Lisbon Treaty 2007. Art 220 (1), TFEU.

⁷³ See Blavoukos et al. 2016.

⁷⁴ See Serrano de Haro 2012.

⁷⁵ See Wessels 2011.

⁷⁶ Coordination is not sought regarding the Universal Periodic Review where EU member states reserve the right to have exclusive competence.

Negotiating framework

In any case, as the approach and the resonance of the Ode to Joy is sensibly different when performed at the ancient theatre of Epidaurus or at the Metropolitan Opera, it is the same for the output of the EU and its 28-strong symphonic orchestra when at an international conference, the HRC or the GA. The negotiating framework determines the way a topic needs to be approached, touched upon and dealt with. The Forum has an overarching impact on the negotiation, defined by the overall number of the participating actors, the rules of procedure and the geopolitical groupings. To borrow an expression from private international law, the *lex fori* has such an influence on the formation of the negotiating approach that, in order to set the appropriate tonality for the performance, we have to go all the way up to the initial group of discussion of the topic in Justus Lipsius (for instance, there is a specific Council working group for the UN, the CONUN). Bearing this in mind, we have to consider the fact that the EU is called upon to negotiate in complex negotiating frameworks that demand *a priori* elaboration of a concrete strategy.

Content of the negotiation

As we have outlined above, the content of the negotiation can prove of critical importance with regard to the successful outcome of a negotiation. For instance, the familiarity of a negotiator with the topic in question makes manoeuvring among multiple players much easier, as was the case of the EU in CSW; the fact that France and the Netherlands have the lead in the Third Committee on the issue of the elimination of violence against women, allowed the EU to have a thorough understanding of the stakes in the CSW negotiation. Beyond the familiarity, the content sometimes constitutes an inner limitation on how victorious a negotiation strategy can be. For instance, in the case of highly divisive issues, actors have little chance of convincing other member states to change their policy and come closer to a compromise. This explains that voting patterns in specific resolutions, such as the right to development or to the use of mercenaries (both tabled by Cuba every year), are repeated session after session.

Concluding remarks

The crucial question that this article has attempted to answer is whether (or not) the EU is able to follow an efficient, and rather permanent, negotiating model when participating in international contexts. It is fair to say that the negotiating platforms in which the EU participates are complex and diverse in nature; this is the reason why it is almost impossible for the EU to establish and follow a permanent negotiating approach. However, we argue that the EU approaches various negotiating frameworks on the basis of a set of cardinal factors that constitute the 'spine' of its strategy. On the other hand, the topics the EU negotiates in its everyday political agenda cover a wide range of issues. The international literature is informative on this matter, thoroughly examining cases in which the EU has a successful record – for instance, in the environmental field –, or a rather poor one – as in situations where it acts as a diplomatic or security actor (i.e. the Ukraine crisis or the Middle East or the immigration crisis). For this reason, to identify common patterns that make up a coherent negotiating mould of the EU in international negotiations is not only a demanding issue but also a matter of necessity, in order to understand what kind of negotiating actor the EU is in international politics.

Our analysis has highlighted the benefits of using an inductive approach in order to better comprehend the EU negotiating behaviour at an international level. Of course, we have to bear in mind that it is not possible to examine all possible negotiating environments in which the EU engages in order to extract sufficient empirical knowledge on how it negotiates and whether it is possible to observe common negotiating features and mechanisms. Moreover, the EU does not have the same legal status in all IOs (and/or their organs/committees/conferences) and, hence, its capacity to negotiate is limited to the rights conferred upon it in order to promote and/or support its objectives. An additional challenge is the fact that the EU external representation system has been shaped, at least for the time being, through a complex system of competence distribution. Depending on the policy area

under negotiation, the EU's negotiating capacities are conditional on the supranational/intergovernmental dichotomy. Despite the challenges, we share the view that an inductive approach could overcome these limitations and could be deemed a useful methodological technique to identify the key factors that frame the EU diplomatic strategy in international negotiations. A strong element of such an approach is its reliance on available evidence, which can be tested *ex post*.

Our analysis has demonstrated that the EU chooses thoroughly its negotiating stepping stones in order to achieve its proclaimed goals, even though these may lead to either positive or negative international performance. These steps constitute the 'EU negotiating constellation': (a) EU internal coordination at Brussels; (b) EU coordination at local level (e.g. New York and Geneva); (c) methods of work – the burden-sharing system; (d) alliances with regional groups; (e) outreach. To the extent that all these steps are followed, the EU enhances its chances of a successful outcome. At the same time, given the particularities of each context of negotiation, the EU's performance is equally conditioned by its status in the IO in question, its competence as defined by the treaties, the broader negotiating framework and the particular content of each negotiation. The case-studies have demonstrated that, in order for the EU to perform well, particular attention should be placed upon the mechanisms that allow on-time exchange of information and coordination among EU partners in order to build prompt and adequate responses to unexpected challenges. The HRC Resolution clearly demonstrated this necessity. At the same time, the EU should continue to push for alliances with regional groupings that do not necessarily constitute its traditional allies. In this respect, outreach to UN member states' capitals should be framed on a continuous basis, not only when a particular negotiation is under way. Moreover, the case-studies have demonstrated that, whether the EU has enhanced observer status, or is represented by its member states, hardly affects the equation. In the CSW, where the EU was successful, it is represented by its member states. *Au contraire* its enhanced observer status in the UNGA Third Committee proved to be irrelevant to its success.

The inductive reasoning we adhere to was also useful to demonstrate our hypothesis that a deductive methodological approach to the EU's negotiating action could prove to be short-sighted: even though the EU appears to enter negotiations with the appropriate apparatus for a successful outcome, the result is not positive in either case. This is most probably because the EU faces different negotiating contexts despite a similar IO framework (i.e. the UN). Our analysis has demonstrated the negotiating process that the EU followed in two particular cases: the CSW and the UNGA 3d Committee. Within this framework, the EU undertook specific steps in order to achieve its dedicated objectives. Yet, in order to complement our comprehension of the EU's negotiating mind-set, further analysis needs to be conducted on the basis of empirical evidence stemming from the EU's activity in diverse negotiating environments. Future research should focus on the EU's negotiating aptitude in other IOs, in order to shed light on how the EU acts in different contexts of negotiation and vis-à-vis different issues.

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Factors and parameters conditioning the EU performance in the United Nations

		CSW 57th Session/ Agreed Conclusions	UNGA 3rd Committee 68th Session/ HRC Annual Report
Factors	<i>EU coordination in Brussels</i>	strong	strong
	<i>EU coordination in New York</i>	strong	limited
	<i>Burden sharing</i>	strong	limited
	<i>Alliances with regional groupings</i>	strong	weak
	<i>Outreach</i>	strong	weak
Parameters	<i>EU status in IOs</i>	Via member states	EU enhanced observer status
	<i>EU competence</i>	EU/Member states	EU/Member States
	<i>Negotiating framework</i>	Medium-size forum	World forum
	<i>Content of negotiations</i>	Topical familiarity	Lack of familiarity
EU International Performance		Positive (+)	Negative (-)

