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From Lisbon to New York: The EU at the UN General Assembly

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>> On 3 May 2011, the European Union (EU) took a significant step on the route towards strengthening its profile as an international actor. With 180 votes in favour and only two abstentions, the General Assembly of the United Nations (UN) adopted resolution 65/276, upgrading the modalities of EU participation in the work of the UN.

At a time when the EU is hesitating over the Libya campaign, is struggling to infuse its strategic partnerships with emerging powers with political value and is further declining in importance as a military actor, adoption of this resolution may seem of relatively minor significance. But the evident travails of EU foreign policy should not overshadow the determination which drove the achievement of this result and the significance of the world assembly's acknowledgement of the EU's distinctive importance in the UN system.

EXPORTING LISBON

The Lisbon treaty equips the EU with a stronger institutional toolkit to perform on the international stage as an actor in its own right. It provides the Union with a legal personality under international law (Art. 47 Treaty on the European Union – TEU). In addition, it replaces the rotating Presidency of the Council with a permanent President of the European Council (Art. 15 TEU) and the High Representative of the Union for Foreign Affairs and Security Policy, who chairs the Foreign Affairs Council (Art. 18 TEU). These two positions are entrusted with the representation of the Union in the domain of the Common Foreign and Security Policy (CFSP) at, respectively, Head of State or Government and ministerial level. Aside from CFSP (and except where otherwise specified), the Treaty

HIGHLIGHTS

- The Treaty of Lisbon streamlines the external representation of the EU but its implementation meets reservations both inside and outside the Union.

- After months of difficult negotiations, UNGA resolution 65/276 was adopted on 3 May, granting the EU enhanced modalities for participation in the work of the UN.

- This achievement shows that concerted action between EU institutions and member states can work and that preventive engagement with EU partners is critical to export Lisbon in multilateral settings.

»»»»» attributes the external representation of the Union to the Commission (Art. 17 TEU). Such responsibility is to be exercised within the scope of the competences conferred upon the Union by member states, although they can mandate EU institutions to represent them and negotiate on their behalf in other domains.

At the very core of the UN system, namely at the UN Security Council (UNSC) and at the UN General Assembly (UNGA), significant progress has been achieved to put Lisbon in practice. In the latter case, however, the EU demand for an observer status with stronger procedural prerogatives proved highly contentious.

Article 34.2 TEU declares that when the EU has a position on a subject on the UNSC agenda, the member states sitting on the UNSC request that the High Representative be invited to present it. Since the beginning of 2010, the EU Delegation to the United Nations in New York has been invited to take the floor at the open debates of the UNSC when the EU has a common position, replacing the rotating Presidency and speaking on behalf of the 27 member states from behind an EU nameplate. Drawing on Article 39 of the UNSC rules of procedure (whereby the Security Council can invite members of the Secretariat or other persons to speak, as it sees relevant) the EU has delivered on average two or three statements per month, establishing a practice that has not been contested. High Representative Catherine Ashton addressed the UNSC in May 2010 on EU–UN cooperation in the domain of peace and security, and in February 2011 on the issue of cooperation between the UN and regional organisations.

The entry into force of the Lisbon Treaty created, however, a discrepancy between the new provisions on the external representation of the Union and the UNGA's procedural rules. As one of the 67 permanent observers to this body, the EU could only take the floor through its representatives after the intervention of all the member states wishing to speak. Before Lisbon, the country holding the rotating Presidency of the Council presented EU positions during the debates. Given the Lisbon

provisions tasking EU bodies with the representation of the Union, however, such a state of affairs was prejudicial to the visibility and effectiveness of the EU. This discrepancy needed to be rectified, yet when the EU made moves to do so in September 2010, it met with considerable resistance.

NAVIGATING TROUBLED UN WATERS

The EU presented a draft resolution establishing new modalities for its participation in the work of the UN at the 64th session of the UNGA on 13 September 2010. With a view to the upcoming general debate, the purpose was to flag the entry into force of the new Lisbon regime and allow the President of the European Council and the High Representative to address the Assembly and the EU to take the floor together with other representatives of major groups. Building on Lisbon, the case for upgrading the EU's role of observer in the UNGA rested on the distinct cases of the Holy See (non-member state) and Palestine (entity), both observers enjoying enhanced rights to participate in the work of the UN. As it is a regional organisation, the EU would not be assimilated to these two cases, but could aspire to similar enhanced modalities for participation. However, to the surprise and consternation of many in Europe, a motion was adopted by 76 votes in favour (with 71 against and 26 abstentions) to postpone the decision on the resolution, restricting the EU to pre-Lisbon arrangements.

The bulk of those opposing a rapid decision on the EU-backed resolution were developing countries from Africa, Latin America and Asia, with the Caribbean Community (CARICOM) playing a key role in conveying their dissent. Of the EU's 'strategic' partners, only three voted against the postponement (the US, Mexico and the Republic of Korea) while four (China, India, Russia and South Africa) supported deferring the decision and two (Canada and Brazil) abstained.

Various negative – and partially contradictory – factors determined this disappointing outcome. First, many small member states were very much attached

to the inter-governmental nature of the UNGA. As a result, they were suspicious of granting greater visibility and power to a large regional actor, potentially denting *de facto* if not *de jure* the principle whereby only states are members of the assembly. In particular, some feared that implementation of the resolution could trigger similar demands by other regional groupings, leading to a further dilution of their own influence. Second, members of other regional organisations objected that if the EU was to be given enhanced modalities for participation in the UNGA, then they too would be entitled to acquire them. This argument added confusion to the debate and alerted some heavyweights (including the BRIC countries), to the (rather remote) risk of a progressive regionalisation of the assembly, altering the internal balance of power. Third, traditional North-South divides –

When EU institutions and member states act in concert, the EU can be an effective actor on the global scene

and associated posturing – did not help the situation. In some corners, they corroborated the feeling that the EU aimed to acquire an undue privilege, differentiating its role from that of other observers.

In addition to these substantial reservations, however, there was a sense that the EU had not adequately engaged with its interlocutors in the UN body in order to pave the way for consensus on the important innovations that it sought to push through. The Lisbon reforms did not strike a majority in the UNGA as requiring an imperative adjustment to the modalities of the EU's participation in the proceedings of the Assembly. This is a useful –and sobering– lesson for the EU as it proceeds to implement the Lisbon Treaty at the UN and beyond.

ENGAGEMENT AND COMPROMISE

The September setback indeed prompted a lessons-learning process within the EU and the articulation of a new strategy to win hearts, minds and votes in

the UNGA. The chosen approach included a sort of 'strategic reassurance' directed to the various sets of countries that, for different reasons, felt uncomfortable with the EU's demands. This entailed a clarification of what the EU was actually seeking – modalities for participation as an observer, in line with the changes brought about by Lisbon – and what it was not – a formal change in, or exception to, the intergovernmental setting of the UN General Assembly.

On the European side, a concerted outreach effort was undertaken, with EU institutions and member states aiming to engage relevant countries in their respective capitals, in New York and in Brussels. This was a significant, if rather circumscribed example of how EU post-Lisbon foreign policy is supposed to work.

A task force was set up within the European External Action Service (EEAS) in Brussels, working in permanent liaison with the EU Delegation in New York. It functioned as the hub for consultation and coordination, issuing guidelines to EU delegations regarding diplomatic demarches and providing EU member states with a common message to be taken forward in their bilateral dealings. In third countries, EU member states have often been associated with the demarches of EU Delegations. In New York, the EU Delegation took a leading role, together with the successive Belgian and Hungarian presidencies of the Council and in association with other EU member states, while also coordinating their separate initiatives. In Brussels, contacts have been pursued with a number of countries, in particular those most critical to the negotiations such as the Caribbean and African ones. Within EU structures, developments have been regularly discussed at the Council working group on the UN and at the Political and Security Committee. The High Representative, the President of the European Council, the President of the Commission and various Commissioners have all raised the issue in their bilateral meetings with third parties.

This broad-based, multi-level diplomatic strategy helped narrow perceptions and positions but did not spare EU representatives tough negotiations with



»»»»» the leaders of the sceptical front, in particular CARICOM countries such as Jamaica and the Bahamas. Dealings with them became the benchmark of progress with others, such as the Africa group, as the latter broadly referred to the position of CARICOM to define their own. It follows that the Caribbean interlocutors could leverage considerable influence within the Assembly, potentially creating new obstacles for the EU. They came close to doing so in the final stage of the negotiations.

As crunch-time approached, EU negotiators opted to introduce some amendments to the draft resolution to meet the concerns of CARICOM and other countries. Faced with more demands, however, EU representatives were confronted with the difficult choice of whether to draw a line under their efforts and take the text to a vote in the Assembly, while adoption by consensus would have been their preferred option, or further dilute the draft.

At that point, the EU leadership mobilised fully. The High Representative decided to take a potentially risky trip to New York, putting her authority on the line and adding her weight to the final bargain in order to reach a deal. At the same time, the President of the European Council and the President of the Commission telephoned the leaders of key countries. Eventually, joint action proved successful. After some further adjustments to the text, resolution 65/276 was adopted on 3 May with 180 votes in favour and two abstentions, Zimbabwe and Syria. The resolution was implemented immediately, and the High Representative took the floor in the UNGA to thank UN member states for their support.

THE DEAL

Compared to earlier drafts, the concessions progressively introduced to the resolution by the EU erode its margin of manoeuvre in the UNGA. But the final text preserves the essential elements. The representatives of the European Union can speak at the UNGA together with representatives of other

major groups and interact with members of the assembly by presenting proposals and amendments and exercising the right of reply. Some EU member states questioned whether EU negotiators under pressure have conceded too much and could have taken a stronger text to the Assembly, perhaps losing a few supporters as a result. On the other hand, the EU could not afford the risk of a second setback and there is something to be said for gaining a practically unanimous endorsement for innovations carrying political and symbolic value for the Union.

At a closer look, three sets of amendments introduced between September and May stand out. First, the EU has met the demands of other regional groupings and accepted a rather loose clause whereby other regional organisations ‘whose member States have agreed arrangements that allow that organization’s representatives to speak on behalf of the organization and its member States’ can request and obtain modalities for participation analogous to those granted to the EU. Clearly, no other regional organisation approaches the level of integration and of overall foreign policy coordination achieved by the Union, or features comparable competences or institutional structures. That said, language effectively shutting the door of enhanced modalities of participation behind the EU was, politically, a non-starter. More or less credible candidates to acquire a stronger role in UNGA proceedings include the Arab League, the African Union and ASEAN. Ultimately, it will be up to these organisations to express the collective will and cohesion required to enhance their role as observers.

Second, new language has been introduced in the resolution referring to the agreement of EU member states as a necessary pre-requisite for the Union to take the floor and present positions or proposals. While rather tautological, these amendments reflect the intention of other UNGA members to make clear that the EU is not a new sort of actor in the UN system but remains a body whose statements express the collective voice of the 27 states which are members of the Assembly.

Third, the modalities for EU participation have been narrowed. In addition to not having the right

to vote and to put forward candidates, which was never foreseen, the final text excludes the EU's co-sponsorship of draft resolutions or decisions and its capacity to raise points of order. Also, the EU can only present proposals and amendments orally and the right of reply is further restricted compared to previous drafts. New wording concerning the EU's participation in the annual general debate of the UNGA establishes that, on this occasion, EU representatives speak according to the practice for participating observers – after other representatives at the same level have spoken within each session. On the other hand, although they do not sit with the member states in the main hall, EU representatives are now ensured seating among the observers rather than having to grab the few seats available with an EU nameplate.

The scope of application of the resolution has not yet been entirely defined. The text refers to the sessions and work of the General Assembly and its committees and working groups, to international meetings and conferences convened under the auspices of the Assembly and to UN conferences. Interpretation and precedents will shape customary practice over time. Since the adoption of the resolution, EU representatives have started implementing the resolution and replaced the Presidency at the Special Committee on Peacekeeping and at negotiations on small arms and light weapons in the Disarmament Committee.

WHY IT MATTERS

The acquisition of enhanced modalities for the Union's participation in the work of the UN will not be a game-changer for EU foreign policy. However, this is a politically important step since – despite overtly cautious language – the resolution acknowledges the nature of the Union as an international actor in its own right, within the scope of conferred competences, as provided for by the Lisbon Treaty. Besides, while achieving this result will not boost a common foreign and security policy per se, failing to do so would have dealt another blow to the ambition to develop one. The UNGA resolution is significant for four main reasons:

- It aligns the modalities of EU participation in the proceedings of the UNGA (and dependent entities), to the provisions of the Lisbon treaty, by and large attributing responsibility for the representation of the Union to EU bodies.
- The resolution enhances the political status of the EU at the UN, the organisation at the core of the multilateral system that the EU aims to make more effective.
- In politics, perceptions count. Lisbon reforms and their implications may be self-evident to Europeans but are not necessarily so to others, who may or may not have a stake in the strengthening of the Union. Implementing Lisbon in multilateral settings will require careful preventive diplomacy to clarify what the EU seeks and why.
- The resolution may pave the way for an evolution of the role of regional organisations with a high degree of political integration in the context of the UN. This is broadly consistent with the EU's support to regional cooperation.

The experience illustrated here conveys a final, important lesson: Lisbon works, if applied. When EU institutions and member states act in concert, implementing the principles of consultation, solidarity and convergence grounded in the Treaty, the EU can be an effective actor on the global scene. Crucially, member states must be on board. After all, Lisbon is all about empowering them better to cooperate in foreign and security policy issues, drawing collective strength from unity of purpose.

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