

# The United Nations & the European Union: Partners in Multilateralism

## EU Diplomacy Papers

4 / 2007

Jan Wouters

Department of EU International  
Relations and Diplomacy Studies

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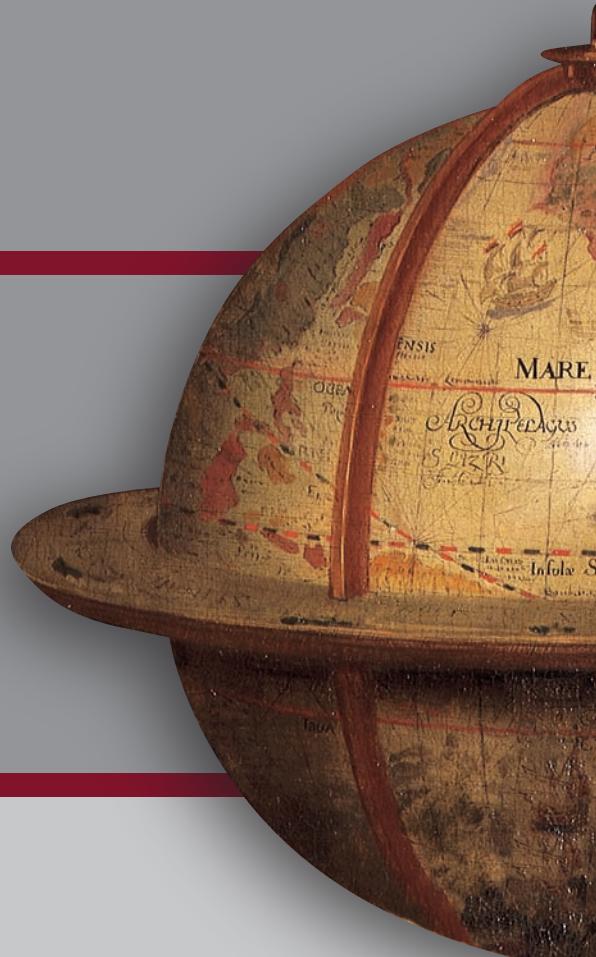


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## **About the Author**

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## **Abstract<sup>1</sup>**

In recent years, cooperation between the United Nations (UN) and the European Union (EU) has grown exponentially. In this contribution I consider the motivations of the EU's choice for the UN and the institutional complexities involved in the UN-EU relationship, both internally in the EU in order to obtain a better coordination among its 27 Member States, and externally, concerning the status of the EU within the UN system. After a brief overview of EU-UN cooperation in the areas of human development and security, I point to the uncertainties which both organizations face in their current reform processes, in particular the as of yet unresolved fate of the EU's Constitutional Treaty, which contains provisions that could lead to a more unified EU representation in the UN.

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<sup>1</sup> The present contribution builds on J. Wouters, F. Hoffmeister and T. Ruys (eds.), *The United Nations and the European Union: An Ever Closer Partnership* (T.M.C. Asser Press, 2006).

*"There is no reason why a regional organisation of Europe should in any way conflict with the world organisation of the United Nations. On the contrary, I believe the larger synthesis will only survive if it is founded upon coherent natural groupings."<sup>2</sup>*

## Introduction

For several years, high-ranking officials from the European Union have been saying that the EU and the UN are 'natural partners' in multilateralism.<sup>3</sup> Numerous factors feed this opinion. Both organizations find their origins in the same desire to eliminate 'the scourge of war'. A comparison of the principles and purposes moreover affirms the fundamental like-mindedness of the two institutions. The Treaty on European Union (TEU) explicitly refers to conformity with the principles of the United Nations Charter<sup>4</sup>, whereas, under the Treaty establishing a Constitution for Europe (hereafter 'EU Constitution'), "respect for the principles of the United Nations Charter" constitutes one of the objectives of the Union's external actions<sup>5</sup> and the EU is committed to "promote multilateral solutions to common problems, in particular in the framework of the United Nations"<sup>6</sup>. Last but not least, the European Union has presented itself as a reliable and even a vital partner for the workings of the United Nations. The figures are telling: together the 27 EU Member States contribute more than 38 % of the UN's regular budget (compared to some 22 % by the United States and some 20 % by Japan), more than two-fifths of the UN peacekeeping budget and around half of all UN Member States' contributions to UN

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<sup>2</sup> Winston Churchill, "A 'United States of Europe'", 19 September 1946, Zürich University, Switzerland, from W.S. Churchill (ed.), *Winston Churchill's speeches. Never give in!*, Pimlico, 2003, 428.

<sup>3</sup> See e.g. Commissioner Ferrero-Waldner's notes on the UN World Summit 2005, press conference, 12 September 2005, available at [http://www.europa-eu-un.org/articles/en/article\\_5011\\_en.htm](http://www.europa-eu-un.org/articles/en/article_5011_en.htm). All downloads as of 20 May 2007.

<sup>4</sup> Article 11(1), first and third indent, Treaty on European Union, Consolidated Version of the Treaty on European Union, O.J. (24 December 2002) C-325/5.

<sup>5</sup> Article I-4(4) Treaty establishing a Constitution for Europe, O.J. (16 December 2004) C-310/1. See also Article I-41(1) and (7) as well as III-292(1), first para., and (2)(c) EU Constitution. Specifically as far as development cooperation is concerned, see Article III-316(2) EU Constitution; as far as humanitarian aid is concerned, see III-321(5) EU Constitution.

<sup>6</sup> Article III-292(1), second para., EU Constitution.

funds and programmes.<sup>7</sup> The EU is also the largest provider of Official Development Assistance (ODA), accounting for some 54 %.<sup>8</sup>

Over the last years, EU-UN cooperation has gained new impetus as common ground between the two organizations has expanded – notably through the rapid development of the EU's Common Foreign and Security Policy (CFSP) and European Security and Defense Policy (ESDP) – to cover matters concerning not only trade and development, humanitarian aid and protection of the environment, but also the promotion of human rights, the fight against terrorism, conflict prevention, crisis management and peacebuilding. In this context, the EU has adopted a new credo of 'effective multilateralism', firmly enshrined in the European Security Strategy of December 2003, which declares that "strengthening the United Nations, equipping it to fulfil its responsibilities and to act effectively, is a European priority".<sup>9</sup>

The United Nations has generally responded positively to this *rapprochement*. Given the present workload of the world organization, it can well use an able and willing regional partner to alleviate its financial and logistical burdens, to provide political/diplomatic support for the implementation of the Millennium Development Goals or the environmental agenda, or to assist in crisis management (at present, some 100.000 blue helmets are deployed worldwide). This is also evident from the 2005 World Summit Outcome Document, in which heads of State suggested the expansion of consultation and cooperation between the United Nations and regional and subregional organizations through formalized agreements.<sup>10</sup>

The strengthened emphasis from EU side on supporting the UN stems not just from a noble desire to further UN goals, but also – and probably more – from the ambition to establish the European Union as a 'global actor' in the international sphere. Both aims,

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<sup>7</sup> See "The enlarging European Union at the United Nations: making multilateralism matter", January 2004, available at [http://ec.europa.eu/comm/external\\_relations/un/docs/brochure0104.pdf](http://ec.europa.eu/comm/external_relations/un/docs/brochure0104.pdf), 6.

<sup>8</sup> *Ibid.*, 4.

<sup>9</sup> "'A Secure Europe in a Better World' - a European Security Strategy", adopted by the European Council on 12 December 2003, available at <http://ue.eu.int/uedocs/cmsUpload/78367.pdf>.

<sup>10</sup> United Nations, "2005 World Summit Outcome", UNGA Res. 60/1, 16 September 2005, para. 170.

however, require that EU Member States coordinate their actions so as to speak with one European voice, regardless of the entity or person that ultimately presents this position. Although in recent years considerable efforts have been made for closer *intra*-EU and *inter* EU-UN coordination, one should not underestimate the many challenges to the EU's presence and participation in the UN system. These are both internal to the EU and its Member States and external, relating to the UN and non-EU UN Member States.

## A Variety of Statuses within the UN and UN Family

A first finding is the variety of EU statuses at various UN bodies. In 1964, the European Commission first established an information office in New York. Ten years later, this office was upgraded to the official European Community (EC) delegation to the United Nations following the granting of observer status to the European Community in the General Assembly. Presently, six such EC delegations exist: one in New York (accredited *inter alia* to the General Assembly, the Economic and Social Council, UNDP and UNICEF), one in Geneva (accredited to specialized bodies such as OCHCHR, UNHCR, ILO, WHO), one in Vienna (accredited to IAEA, UNODC), one in Paris (accredited to UNESCO), one in Rome (accredited to the FAO, WFP and IFAD), and one in Nairobi (accredited to UNEP and Habitat).<sup>11</sup> Moreover, the EU Council has established Liaison Offices in New York and Geneva. These offices have no autonomous political function, but serve first and foremost to support the Member States, in particular the EU Presidency, in the day-to-day running of EU business at the United Nations. This includes the provision of information and the circulation of documents (through the electronic mailing network CIREU) as well as the facilitation of coordination among EU Member States.

Further to this proliferation of EU delegations at the various UN seats, there is a trend of upgrading the formal status of the EU within certain UN bodies, ranging from a mere observer over an active participant to a full member. Next to the observer status of the European Community in the General Assembly since 1974, the Community became a member of the FAO in 1991. Since 2002, the Community has acted as a Member in the

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<sup>11</sup> Information on all these delegations is available at the website of EU@UN, see [http://www.europa-eu-un.org/home/index\\_en.htm](http://www.europa-eu-un.org/home/index_en.htm).

context of the World Food Summit, and in 2003, following lengthy negotiations, the Community became a Member of the Codex Alimentarius Commission, established under FAO auspices. Furthermore, throughout the entire UN system, remarkable developments have taken place as regards the granting of full participant (or enhanced observer) status to the Community. Such status was granted during many UN Conferences, for example the United Nations Conference on Environment and Development (Rio, 1992) or the World Summit on Sustainable Development (Johannesburg, 2002). The Community also enjoys full participant status in the Commission for Sustainable Development since 1993, and last but not least, in the context of recent international negotiations under the auspices of the WHO (1999, 2003) and UNESCO (2005). With regard to UNHCR, an EC request for full participation is pending.

### **Much Coordination, Yet Still Not Enough**

It is a commonplace that coordination between EU Member States at the UN is increasing. However, the mere frequency and the variety of the covered fields is astounding. For example, for the New York office alone it is estimated that around 1.300 coordination meetings take place every year. These meetings cover all six main committees of the General Assembly and its subordinate bodies, as well as ECOSOC and its functional commissions. With regard to the activities of the Security Council, weekly Article 19-meetings (named after the coordination obligation laid down in Article 19 TEU) are organized. Even though the latter meetings cannot be said to constitute a genuine consultation process, they do supply EU Member States that are not members of the Security Council with valuable inside information on what was discussed in closed consultations of the Council and provide some insight into the Council's future activities. Another 1.000 EU coordination meetings are organized each year in Geneva.

Although policy formulation and positioning on UN decision-making is principally done in national capitals and Brussels-based EU institutions, these coordination meetings nevertheless play an important complementary and corrective role, allowing the EU to cope with the time difference between Brussels and New York as well as with the dynamism of activities 'on the ground'.

The coordination process has intensified over the years and has now become well-entrenched in the practice of EU Member States. The net result has been twofold. On the one hand, there has been an increase in voting alignment, evidenced by the fact that EU cohesion now stands around 95 % of all resolutions adopted by the General Assembly, which is significantly higher than the general voting cohesion of circa 76 %. This means that EU Member States vote unanimously on four out of five General Assembly resolutions that are actually voted on. Split votes mainly concern dossiers that are politically (e.g. nuclear disarmament, decolonization or the Middle East) or ethically sensitive (e.g. human cloning). Although such split votes have become rather rare, they still tend to undermine the credibility of the EU as an international actor.

On the other hand, the number of common EU and EC statements has grown considerably. Common positions mainly deal with peace and security matters, followed by economic and development issues, and are mostly presented by the EU Presidency. Common statements in the General Assembly are rarely delivered by the European Commission, even on areas for which it is directly responsible. This is partially due to the fact that the European Commission, because of its observer status, can only speak after all UN Member States. Thus, the Commission presents only some 5-7 statements a year to the Assembly, compared to the hundreds issued by the EU Presidency. This, however, does not withhold the Commission from playing an active role in informal Assembly sessions or in the drafting of common positions presented by the Presidency.

The presentation of common statements is now a widespread practice, whether in open debates of the Security Council (in the form of EU Presidency statements with which the EU members of the Security Council will usually align), in General Assembly sessions or in the many UN conferences and summits. Often candidate countries which are expected to gradually align their foreign policy with the EU's CFSP and other non-EU

countries with treaty links subscribe to the EU statement. This renders support to the voice of the EU Presidency to sometimes up to 37-38 States.<sup>12</sup>

Both the upgrading of the EU status at various UN entities and the increase of EU coordination reflect the increased competences of the Community in a wide range of policy areas *viz.* the important evolution of the Union's CFSP and ESDP and contribute to the visibility and influence of the European Union at the United Nations. Despite these positive trends, however, a lot of work remains to be done, both with regard to EU status and EU coordination.

Firstly, the EC status remains unsatisfactory in a variety of UN bodies and agencies, such as the ILO or the Bretton Woods organizations, often undermining the efficient exercise of Community powers. Sometimes, the refusal to grant the EC adequate status is based on non-EU countries' fear of an increase in EU power, or their unfamiliarity with the division of competences between EU Member States and the European Commission. Thus, in the context of the recent UNESCO Convention on Cultural Diversity, States stressed the exceptional basis of the EC's active participation in the negotiation process. On other occasions, poor EC status stems from political resistance from its own Member States to hand over important representational tasks to Brussels. Such an attitude is hard to reconcile with the duty of loyal cooperation enshrined in Article 10 EC Treaty, which may include an obligation for Member States to promote EC membership within international organizations.

Furthermore, the coordination process still suffers from a number of shortfalls. Firstly, coordination is not always pursued with the same vigour. For the Security Council, for example, where the EU has no formal status, the Article 19-meetings are rather an exchange of information than a true discussion. Admittedly, the quality of these meetings has improved in recent years, turning from largely retrospective to more

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<sup>12</sup> Apart from the 27 EU Member States, up to eleven other States may align themselves with EU Presidency Statements. These are first and foremost the candidate countries Turkey, Croatia and the Former Yugoslav Republic of Macedonia. Other possible subscribers are the countries of the Stabilization and Association Process and potential candidates: Albania, Bosnia-Herzegovina, Montenegro and Serbia. A third category consists of the EFTA countries Iceland, Norway and Liechtenstein. Last but not least, alignment is common for Ukraine and the Republic of Moldova.

prospective and more interactive briefings. Still, several improvements, such as the inclusion of representatives from the EU Presidency or the Council Secretariat in the delegations of EU Security Council Members, remain possible. Moreover, EU coordination in many UN specialized agencies remains very restricted. Only recently have ‘information rounds’ been introduced and then only for the New York-based agencies. With regard to the ILO, for instance, although EU Member States have been more and more recognizing the added value of timely upstream and on-the-spot coordination, EU coordination has not yet reached its full potential. Indeed, often EU Member States tend to give priority to preparatory discussion and statements in informal groups. In several other bodies, including the Bretton-Woods organizations, coordination remains very restricted or even absent, due to EU Member States’ prioritization of national positions.

Apart from the aforementioned ‘gaps’ in the process, coordination also comes at a price. Obtaining consensus among 27 States requires an enormous amount of time and energy, taking up a large share of the workload of national representations of EU Member States. Moreover, this investment does not always guarantee a productive outcome. Indeed, often coordination only results in a least-common-denominator position, contributing little to the substantive debate at the UN and leaving individual EU Member States frustrated. The time and energy needed to reach agreement may also lead to rather rigid positions, difficult to adapt to the dynamism of the diplomatic process, and thus acting as a brake on negotiations. With regard to EU positions concerning human rights protection, these drawbacks could be remedied if the EU were to ‘pick its battles’ selectively, so as to make better use of its diversity and resources, instead of attempting a common position on every single issue. It may also be more effective to grant the EU Presidency greater flexibility to negotiate with third parties, instead of binding it to detailed EU statements.<sup>13</sup> All in all, however, the EU coordination process has become a key feature of EU-UN relations, allowing the EU to speak with a more unified voice.

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<sup>13</sup> European Commission, Communication on “The European Union and the United Nations: the choice of multilateralism”, 10 September 2003, COM (2003)526.

The recognition of full participant status in several UN agencies and conferences, and the increase in EU coordination have allowed the EU to pragmatically improve its visibility and influence at the United Nations in spite of its inherent institutional complexities. In the longer term, however, these complexities, due to the variety of EU actors and the intransparency and ever-evolving nature of its division of competence, have to be addressed.

Recent years have witnessed increased consultation between the UN and the EU to improve areas of actual cooperation. For example, EU representatives now meet the UN Secretary-General at ministerial level annually in New York. Moreover, the UN Deputy Secretary-General and other senior UN officials regularly visit EU institutions in Brussels, Strasbourg and Luxembourg. Other examples include meetings between senior UN officials and the EU Political and Security Committee or increased participation by Members of the European Parliament. Daily working contacts between the EU Council and Commission on the one hand and the UN Secretariat on the other hand have likewise developed considerably. Two areas have seen a particular rise of EU-UN cooperation and consultation: human development and security issues.

### **UN-EU Cooperation on Human Development Issues**

In the field of human development, one cannot ignore the vital financial EC contribution to the workings of the UN, or the recent surge in EC funding to UN programmes and specialized agencies. As a member of FAO, the EC's record on supporting worldwide programming and projects on food security, food safety and quality as well as rural development has led to a close relationship between the two organizations, a relationship that can be labelled a partnership rather than mere donorship. Moreover, the EU has frequently acted as a front-runner with regard to environmental protection, the protection and promotion of human rights, international labour standards or support for the International Criminal Court. In the context of the Commission on Sustainable Development, the EU has generally a positive and progressive image, allowing the EU to build bridges whose positions are far apart. Furthermore, the EU's support for the UNESCO Convention on Cultural Diversity and the WHO Tobacco Framework Convention was vital for their successful adoption.

On the other hand, some areas of cooperation show a mixed result. The EU's role as a driving force behind many environmental treaties and as the main donor to UNEP, cannot hide the fact that European countries still figure among the world's largest polluters. Furthermore, as regards asylum policy, the EC and EU Member States tend to keep UNHCR at arm's length, making it hard for the latter body to monitor compliance with refugee instruments, without biting the hand that feeds it. It also remains unclear whether the EU's concept of sustainable development copes with the one advocated by different UN bodies. Finally, the internal lack of financial discipline of EU Member States seems to hamper firm EU positions in the Bretton Woods institutions to revitalize the world economy.

EU-UN cooperation in the broader field of development and humanitarian affairs is another topic that needs further research. The European Union has long been an important provider of Official Development Assistance. In 2004, for example, EU Member States and the European Commission together provided some € 35 billion in ODA, accounting for 54 % of worldwide development aid (compared to circa 20 % by the United States and 9 % by Japan). This figure is bound to rise in the future as EU donors have subscribed to the long-standing target of 0,7 % of GNP by 2015 and have set an interim target of 0,56 % of GNP to be implemented by 2010. Whether this target will be achieved remains to be seen; at present only five EU Member States have reached the said level of ODA (Denmark, Luxembourg, Sweden, the Netherlands and Portugal). If all EU donors would implement the target, this would imply an increase in EU ODA from the present € 35 billion to € 55 billion by 2010, a figure which is estimated to represent some 63 % of ODA in that year.<sup>14</sup>

A large share of the EU's development aid and humanitarian assistance is borne by the European Community. In 2002, for example, the European Community provided € 6,5 billion in ODA, or roughly one fifth of the total ODA of EU Member States, and € 538 million for humanitarian assistance, or some 45 % of all EU humanitarian assistance (EC

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<sup>14</sup> See European Commission and OECD, *EU Donor Atlas 2006: Volume I*, February 2006, available at [http://ec.europa.eu/comm/development/body/publications/docs/eu\\_donor\\_atlas\\_2006.pdf#zoom=100](http://ec.europa.eu/comm/development/body/publications/docs/eu_donor_atlas_2006.pdf#zoom=100), at 2.

aid included).<sup>15</sup> Of the latter amount, which is distributed through the European Commission's Humanitarian Aid Office (ECHO), almost a third is devoted to UN projects, especially those run by UNHCR. Similarly, of the development aid funded by the European Community (mainly distributed through EuropeAid), a considerable share flows to UN programmes, funds and specialized agencies, especially to the United Nations Development Programme (UNDP), the World Food Programme (WFP) and the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). It is remarkable how EC contributions to UN programmes and agencies have grown since 2002. With regard to the WFP, for instance, EC contributions have gone from \$ 179 million in 2002 to \$ 264 million in 2005, thus firmly establishing the European Community as the second largest contributor (after the United States).<sup>16</sup> EC contributions to UNDP have also increased from \$ 226,5 million in 2004 to \$ 427 million in 2005.<sup>17</sup> Another illustration is the increase of funding to UNHCR from \$ 71 million in 2002 to \$ 86 million in 2005, making the European Community the third largest donor (after the United States and Japan).<sup>18</sup>

Since the EC is a major contributor to UN funds and agencies, the European Commission has in past years attempted to use this financial leverage to improve coordination with the various UN agencies involved. In this regard, the European Commission in 2001 issued a Communication in which it criticized the existing case-by-case cooperation between the EC and UN agencies, funds and programmes, and called for a more effective partnership with the United Nations in the fields of development and humanitarian affairs.<sup>19</sup> The Communication deplored the lack of a clear overall approach to cooperation, and of a general evaluation of that cooperation. The document also complained of difficulties in reaching agreement on principles for financial control and audit, as well as of inadequate reporting by UN entities. Last but not least, it criticized the lack of visibility of EC financing for UN operations. Indeed, if one looks at the pre-2005 Annual Reports of UNDP for example, the European Commission is

<sup>15</sup> Loc. cit., *supra* n. 9, at 14, 33.

<sup>16</sup> Information on WFP funding is available at [http://www.wfp.org/appeals/Wfp\\_donors](http://www.wfp.org/appeals/Wfp_donors).

<sup>17</sup> See UNDP Annual Reports of 2006 and 2005, available at <http://www.undp.org/publications/annualreport2006/index.shtml>.

<sup>18</sup> Data on UNHCR funding is available at <http://www.unhcr.org/cgi-bin/texis/vtx/partners?id=3b963b874>.

<sup>19</sup> Communication from the Commission to the Council and the European Parliament, "Building an effective partnership with the United Nations in the fields of development and humanitarian affairs", Brussels, 2 May 2001, COM(1002)231 final.

not included in the ranking of top contributors. Instead, a footnote merely declares that the Commission "is a major source of non-core funding to UNDP".<sup>20</sup> In order to "improve the effectiveness of [the EC's] development and humanitarian assistance as well as the quality of UN delivery", the Communication contained a number of proposals, such as the identification of "strategic UN partners" or the improving of operational guidelines for cooperation with UN entities.<sup>21</sup> Several of these recommendations have been implemented in the meantime, leading to an intensification of UN-EC cooperation in development and humanitarian affairs.<sup>22</sup>

An important step was taken on 29 April 2003, when UN Deputy Secretary-General Fréchette and European Commissioner for Development and Humanitarian Aid Nielson signed the Financial and Administrative Framework Agreement between the EC and the UN (FAFA).<sup>23</sup> This agreement addresses procedures and conditions regarding EC funding to the United Nations. It focuses on a results-oriented approach, based on objective indicators of achievement and provides for the participation of Commission representatives in the main monitoring and evaluation missions relating to the performance of EC-funded actions. The agreement regulates UN reporting requirements, deals with the issue of EC visibility and stresses that UN procedures should conform to internationally accepted standards. The FAFA applies to all contribution-specific agreements with the UN secretariat and UN funds and programmes (e.g. UNICEF, UNDP). Moreover, as foreseen in the FAFA, numerous UN specialized agencies (ILO, FAO, UNIDO, WHO, WMO, UNESCO, IAEA, IFAD and ICAO) have acceded to the Agreement through an exchange of letters. As a result, a single set of rules now applies to a whole array of EC-UN projects, thus facilitating cooperation and disbursement. In accordance with the Agreement, a Working Group was established to oversee

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<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> In February 2007, the UN published a brochure *The Partnership between the UN and the EU*, which details the cooperation between the UN and the European Commission in development and humanitarian cooperation. It is both available on the UN and European Commission websites: see <http://www.unric.org/html/english/pdf/UN-EC%20Report.pdf> and [http://ec.europa.eu/europeaid/reports/un\\_ec\\_report\\_final\\_march\\_2007\\_en.pdf](http://ec.europa.eu/europeaid/reports/un_ec_report_final_march_2007_en.pdf).

<sup>23</sup> "Financial and Administrative Framework Agreement between the European Community and the United Nations", 29 April 2003, at [http://ec.europa.eu/comm/europeaid/tender/gestion/cont\\_typ/onu/un\\_ec\\_fwc\\_en.pdf](http://ec.europa.eu/comm/europeaid/tender/gestion/cont_typ/onu/un_ec_fwc_en.pdf).

implementation and agreement through yearly meetings. These meetings have allowed to clarify and supplement the FAFA rules.

Another novelty is the conclusion of Memoranda of Understanding (MOU) establishing Strategic Partnerships between the EC and selected UN partners. An example hereof is the MOU concluded on 28 June 2004 between the EC and UNDP.<sup>24</sup> This (legally non-binding) document sets out possible areas of cooperation, which may be used for elaborating a commonly agreed multi-annual work programme. It also provides for regular policy dialogue, *inter alia* through regular high-level bilateral meetings or yearly senior level meetings. Furthermore, the two parties agreed on a number of working principles, for example with regard to exchange of information or informal consultation on a desk-to-desk basis and between representatives at the field level. Similar partnerships were set up with WHO, FAO, ILO and UNCHR, leading to an intensification of cooperation and consultation, both on the strategic and operational levels.

The conclusion of the FAFA and the creation of strategic partnerships have fuelled a closer, more uniform and more efficient cooperation between the EC and the UN with regard to development and humanitarian assistance. Both developments have moreover strengthened the EC's influence and visibility. However, they do not remedy the weak status of the Community in most UN agencies or the low-key EU coordination on development and humanitarian issues.

## **UN-EU Cooperation on Security Issues**

Crisis management is arguably the area where UN-EU relations have made most progress in recent years: it has transcended mere statements like the September 2003 Joint Declaration on UN-EU cooperation in crisis management, covering both civilian and military operations<sup>25</sup>, and practical cooperation on the basis of an institutionalized

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<sup>24</sup> "Memorandum of Understanding concerning the establishment of a strategic partnership between the European Commission and the United Nations Development Programme", 28 June 2004, available at [http://europeandcis.undp.org/WaterWiki/images/8/88/MoU\\_EC\\_UNDP.pdf](http://europeandcis.undp.org/WaterWiki/images/8/88/MoU_EC_UNDP.pdf).

<sup>25</sup> "Joint Declaration on UN-EU Cooperation in Crisis Management", New York, 24 September 2003, available at [http://europa-eu-un.org/articles/lt/article\\_2768\\_lt.htm](http://europa-eu-un.org/articles/lt/article_2768_lt.htm).

but unbureaucratic framework has become routine business by now. The beginning of this important development can be traced back to the 1997 Amsterdam Treaty, which incorporated the so-called Petersberg Tasks in the EU's Common Foreign and Security Policy (Article 17(2) TEU). These tasks concern humanitarian tasks, peace-keeping tasks, and tasks for combat forces in crisis management, including peacemaking. In subsequent years, EU Member States engaged in an ambitious capability-building programme on the basis of consecutive Headline Goals. This led to the creation of a 60.000-strong Rapid Reaction Force (RRF), consisting of pools of national units and of a number of smaller rapidly deployable battlegroups. Likewise, on the civilian crisis management side, EU Member States contributed to a reserve pool of police officers, judges, prison officers, etc. Since 2003, as the initial capability targets were achieved, the EU has engaged in a growing number of military and police operations, both in the European region (e.g. Bosnia-Herzegovina, the former Yugoslav Republic of Macedonia) and elsewhere (e.g. Democratic Republic of Congo, Aceh). These operations have gradually established the EU's reputation as a security provider and peacebuilder. Moreover, CFSP crisis operations have rendered important support to UN peacekeeping activities. EU-led operations bear some of the UN's logistical and financial burden – currently stretched to its limits as a result of the deployment of some 75.000 troops in 15 different peacekeeping operations –, especially in areas where UN peacekeeping is traditionally weaker (e.g. rapid deployment). In Bosnia-Herzegovina, for example, the EU Police Mission (EUPM) took over from the International Police Task Force, thus allowing the UN to redeploy elsewhere. In the Democratic Republic of Congo, the EU sent troops to Bunya when violence in the region escalated, thus allowing the UN operation in the DRC (MONUC) the necessary time to beef up its presence. Most recently, the European Union sent troops to the DRC (EUFOR RD Congo) to support MONUC in its functions during the election process. Finally, as regards peace building, the EU's contribution to the civil UN Interim Mission in Kosovo since 1999 may serve as an example of a joint nation-building process, where institutional and personal intertwining between the two organizations reached an unprecedented peak. This mission serves as an illustration both of the potential benefits of UN-EU cooperation and the challenges thereof, allowing important lessons to be drawn for future cooperation on the ground.

These examples illustrate the important contribution that EU crisis management can make to UN peacekeeping and peacebuilding. It can assist UN peacekeeping in important ways, while strengthening EU visibility as a global actor. It can also set a precedent for closer relations between the UN and other regional, sub-regional or 'quasi-regional' organizations, such as the African Union or ECOWAS, especially in light of the World Summit Outcome's call for more formalized cooperation with partner organizations.<sup>26</sup> On the other hand, some caution is needed when assessing this evolution. Firstly, it should be emphasized that most EU-led operations have been of modest size and that EU capabilities are still rather limited (the latter is *a fortiori* true for the African Union and ECOWAS). Furthermore, the creation of numerous EU-led operations should not divert attention from the fact that EU personnel contributions to UN-led peacekeeping operations are extremely low. Indeed, although EU Member States account for two fifths of UN peacekeeping funding, at present only one out of fifteen blue helmets comes from an EU country. In this regard, EU Member States should carefully consider the UN Secretariat's plea for participation of EU battlegroups in a UN 'Strategic Reserve' and for cooperation in the establishment of a UN Standing Police Force.<sup>27</sup> On a broader level, the growing role of regional, sub-regional organizations and the like (e.g. the EU, NATO, AU) in crisis management raises the fundamental question as to where the appropriate division of tasks between the latter organizations and the UN lies. In this regard, there is a growing need for constitutional clarity, which will have to be addressed in the years to come.

Another important milestone for EU-UN cooperation on security issues was the adoption of the European Security Strategy in December 2003 with its emphasis on comprehensive security. By putting the strengthening of the international rule of law and the UN at the centre of EU foreign policy objectives and seeing the UN as "*the* fundamental framework for international relations", it reassured the UN in a rough post-9-11 climate.<sup>28</sup>

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<sup>26</sup> United Nations, "2005 World Summit Outcome", *op.cit.*, para. 170.

<sup>27</sup> See UN Under-Secretary-General for Peacekeeping Operations J.-M. Guéhenno in M. Ortega (ed.), *The European Union and the United Nations: Partners in Effective Multilateralism*, EU-ISS Chaillot Paper No. 78, June 2005, available at <http://www.iss-eu.org/chaillot/chai78.pdf>, 7-12.

<sup>28</sup> "'A Secure Europe in a Better World' - a European Security Strategy", *op.cit.* (emphasis added).

Furthermore, as the European Security Strategy identified the threats arising out of terrorism as one of the key challenges for the international system, the European Union put its means at the disposal of the UN to implement relevant Security Council resolutions. In this regard, the European weight is also important in shaping further normative UN standards and in fine-tuning UN targeted sanctions against individuals. It may also well be the case that European Courts will be among the first to balance the need to comply with UN Security Council resolutions with fundamental human rights, including the right to judicial review and a fair trial.<sup>29</sup>

### Crisis, Reform and EU Enlargement

A final, more contextual finding concerns the fact that both the EU and the UN are currently experiencing rather critical moments in their respective histories, a fact which should be kept in mind when examining UN-EU relations. On the UN side, the loss of credibility of a number of organs such as the (now-abolished) Commission on Human Rights, sexual abuse by blue helmets, mismanagement evidenced most amply as a result of the oil-for-food scandal, the divisions created by the Iraq war in 2003 and profound dissatisfaction with the lack of representativeness and transparency of the Security Council have fuelled a call for fundamental reform of the world organization. The European Union, on the other hand, is struggling to cope with the arrival of twelve new Member States. Whereas the EU has thus 'widened' considerably and is set to further enlarge in upcoming years, the 'deepening' of EU integration has grinded to a painful and unpromising halt as a result of the negative outcome of referenda on the EU Constitution in France and the Netherlands in June 2005. For the time being, the EU is still considering a way out of this constitutional crisis, which may be by means of a more concise treaty that incorporates most of the institutional changes brought about by the EU Constitution.

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<sup>29</sup> See notably Court of First Instance, judgments of 21 September 2005 in Cases T-306/01 *Yusuf and Al-Barakaat International Foundation v. Council and Commission* and T-315/01 *Kadi v. Council and Commission*, not yet published in the ECR ; judgments of 12 July 2006 in Cases T-253/02 *Ayadi v. Council* and T49/04 *Hassan v. Council and Commission*, not yet published in the ECR.

Some progress has been made on UN reform as a result of the World Summit in September 2005 and subsequent implementation of its recommendations. With significant input from the EU a Peacebuilding Commission was created<sup>30</sup>, and a Human Rights Council replaced the discredited Commission on Human Rights.<sup>31</sup> However, UN reform is far from complete. Thus, whereas the two new bodies were almost universally welcomed, both have very high expectations to live up to. If anything, the disappointing first sessions of the Human Rights Council illustrate the challenges for EU coordination and the need for vigilance with regard to the operation and output of this new organ. Secondly, implementation of several other aspects of the World Summit Outcome has given rise to considerable disagreement mainly between western and developing States. This was most evident in the General Assembly's Fifth Committee, dealing with budgetary and administrative matters, where a six-month spending cap was imposed on the UN budget in order to increase pressure for management reform, the latter being opposed by developing States. Only at the very last minute was the spending cap lifted, thus averting a major financial crisis at the United Nations. Furthermore, several controversial issues (e.g. nuclear proliferation, a definition of terrorism) were not addressed in the World Summit Outcome. The most remarkable lacuna in the Outcome Document is the lack of proposals on Security Council reform. This matter has for decades given rise to fierce debates among UN Member States and continues to hang over the United Nations like the sword of Damocles. It is also a highly divisive issue for the European Union (mainly because Italy opposes a permanent seat for Germany), hindering a comprehensive unified EU position on UN reform.

On the EU side, the enlargement to 27 Member States has arguably strengthened the EU's influence and voting power, without substantially undermining EU coordination at the United Nations. Indeed, coordination meetings have continued as usual. Moreover, voting cohesion remains high, given the fact that the ten newcomers already aligned with EU voting in the vast majority of cases in the years preceding their actual

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<sup>30</sup> Established by UNGA Res. 60/180 and SC Res. 1645 (2005), 20 December 2005. As to the EU's position in the Peacebuilding Commission, see F. Hoffmeister, "Outsider or Frontrunner? Recent Developments under International and European Law on the Status of the European Union in International Organizations and Treaty Bodies", *Common Market Law Review* (2007), 41, at 53.

<sup>31</sup> Established by UNGA Res. 60/251, adopted on 15 March 2006.

accession. Still, enlargement implies that coordination becomes more time-consuming and inevitably increases the potential for split votes on politically or ethically sensitive dossiers. Furthermore, the negative referenda on the EU Constitution have dramatically exposed the uncertainty on the future course of European integration. This also affects UN-EU relations in several ways. For instance, the EU Constitution contains several provisions on the appointment of an EU Minister for Foreign Affairs and the establishment of a European External Action Service.<sup>32</sup> In cases where the EU has defined a position on an item which is on the agenda of the Security Council, the EU Constitution states that "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".<sup>33</sup> Article III-196(1) moreover declares that the EU Council, on a proposal from the Commission, shall, by qualified majority, adopt common positions within the competent international financial institutions and conferences on matters of particular interest for the economic and monetary union. The Council may also, again by qualified majority vote, adopt 'appropriate measures to ensure unified representation' within these institutions (Article III-196(2)). These measures could assist the EU in speaking with a unified voice and would certainly further EU visibility at the United Nations. Moreover, the EU Constitution explicitly endows the EU with legal personality.<sup>34</sup> Such a development would obviously have far-reaching consequences for EU participation in the UN's principal organs, funds, programmes and specialized agencies. This again illustrates that underlying linkages exist between the two dossiers of UN reform and EU reform and enlargement; linkages that have repercussions for UN-EU relations. This being said, the EU Constitution should not be seen as a panacea for the EU's position and role in the UN. The introduction of a 'double-hatted' EU Minister for Foreign Affairs, sitting in the Commission as well as in the Council, carries a number of complexities and uncertainties with it,<sup>35</sup> and the decision-making procedures for CFSP matters remain largely based on unanimity. One should not forget either that, even if the institutional mechanisms at the EU side become better

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<sup>32</sup> E.g. Articles I-28 and III-296(1) and (2) (EU Minister for Foreign Affairs), Article III-296(3) (the European External Action Service) EU Constitution.

<sup>33</sup> Article III-305 EU Constitution.

<sup>34</sup> Article I-7 EU Constitution.

<sup>35</sup> See J. Wouters, "The Union Minister for Foreign Affairs: Europe's Single Voice or Trojan Horse?", in J.W. de Zwaan, J.H. Jans and F.A. Nelissen (eds.), *The European Union. An Ongoing Process of Integration. Liber Amicorum Alfred E. Kellermann* (T.M.C. Asser Press, 2004), 77-86.

attuned to an efficient coordination and representation in the UN and UN family of organizations, the EU's position and role in the latter will remain subject to constraints proper to the work of intergovernmental bodies and organizations, including the need for acceptance of an enhanced EU position by the other Member States of these bodies and organizations.

## Concluding Remarks

In recent years, the EU has affirmed its wish to become a world actor through a multilateral policy, which puts the United Nations at its very heart. But does the European Union also live up to its commitments in its actual practice? This question can be seen from two angles of incidence: firstly, to what extent does the growing EU-UN partnership further the aims and activities of the United Nations, and secondly, to what extent does the EU manage to speak with one voice and influence UN decision-making?

The former question is fairly easy to answer. True, in some areas the EU still suffers from a lack of credibility. Thus, despite the surge in Official Development Assistance, EU Member States still dump massive amounts of subsidized agricultural products on the world market, to the detriment of developing countries' national economies. Likewise, continuous lip service to the UN Charter cannot hide the fact that some EU Member States participated in recent military campaigns against the Federal Republic of Yugoslavia and Iraq without authorization from the UN Security Council. However, when looking at the whole picture of EU-UN cooperation in areas such as environmental protection, human rights promotion, counterterrorism etc., the EU's support for the principles and purposes of the UN outweighs the more questionable effects of some of its policies and of the military actions of some of its Member States.<sup>36</sup> It is therefore safe to assert that the EU and the UN are, indeed, true partners in multilateralism.

The second question is harder to tackle. On the one hand, the EU constitutes a Union of 27 States, covering 492 million people, producing a quarter of the world's GNP. On the

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<sup>36</sup> B. Fassbender, "The better peoples of the United Nations? Europe's practice and the United Nations", *European Journal of International Law* (2004), 857, at 883.

other hand, it is generally acknowledged that the EU's influence on the world stage falls short of its economic and political weight. This is probably true as regards international security issues, where the EU is only just establishing itself as a 'global actor'. However, in other areas, the EU has achieved significant successes (e.g. the entry into force of the Rome Statute on the International Criminal Court or the Kyoto Protocol) and is generally perceived as a key player. This holds first and foremost for the economic sphere, but also in the environmental and aid-related arenas.<sup>37</sup>

The key to EU influence on UN decision-making lies in speaking with a single voice –even though it is probably overoptimistic to believe that "if the EU is united, they cannot be defeated".<sup>38</sup> In this regard, it should be welcomed that EU coordination in UN fora has increased significantly over the past years. The UN reform process serves as a good example hereof where EU Member States facilitated through close intra-EU coordination the establishment of the Human Rights Council and the Peacebuilding Commission.

EU influence and visibility would further increase if the coordination process, which is now firmly entrenched at the UN's main bodies, would spread consistently to the activities of all of the UN's funds, programmes and specialized agencies. In this regard, there certainly remains room for improvement. EU Member States must also do better in 'selling' the EU and the EC to non-members. This means first and foremost that the EU must abide by its own rules on who is to represent the EU/EC in different circumstances and that EU Member Status must promote EU accession to international organizations where appropriate. In the longer term, the EU must provide an answer to Kissinger's question as to 'who to call when I want to speak with Europe?'. The EU must work for a more transparent division of competences and a clearer external representation. The EU Constitution does offer a step in the right direction. It remains to be seen whether some of the Constitution's novelties cannot be realized through formal inter-institutional agreements, informal codes of conduct or constant practice.

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<sup>37</sup> See e.g. N. Chaban, O. Elgström and M. Holland, "The European Union as others see it", *European Foreign Affairs Review* (2006), 245, at 262.

<sup>38</sup> See K.V. Laatikainen and K.E. Smith, "Introduction – The European Union at the United Nations: leader, partner or failure?", in K.V. Laatikainen and K.E. Smith, *op. cit.*, 16.

In the end, it would be wrong to explain the limits and shortcomings of current EU-UN relations solely in the light of the aforementioned crises and lack of institutional reforms. At least as important, it is submitted, is the lack of political will, leadership and vision of the EU's current leaders. Thus, the lack of an EU position on such a central issue of the UN's architecture as Security Council reform painfully shows the severe limits of the EU's role in the UN. Much more political courage and vision will be needed to strengthen the role of the EU in the UN system and fill the 'leadership gap' that currently enfeebles and undermines the UN and the accomplishment of its objectives.

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