The Lisbon Treaty and the Emergence of Third Generation Regional Integration

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Abstract

The purpose of this article is to assess the development of the EU as an international actor in foreign and security policy and to analyse the possible impact of the innovations introduced by the 2007 Lisbon Treaty. The article adopts the conceptual framework of 'three-generational' regionalism, which distinguishes regional organizations according to the area of governance that they cover. While it becomes increasingly active towards the outside world, the EU is conceptualized as a 'third generation' regional organisation, engaging in relationships with other states, regions and international organizations. The question is then, whether and to what extent, the Lisbon Treaty is likely to strengthen the EU as a global actor. In the first part, the study looks at the typology of three-generational regionalism and at how the EU fits into this scheme. The second part focuses on the challenges for the EU's foreign and security policy and looks at the implications of the Lisbon Treaty in this field. In particular, the paper assesses the case of the EU's role in the United Nations. It is argued that the Lisbon Treaty could constitute an institutional opportunity for the EU to become a more coherent and visible player on the international stage. This opportunity, however, is limited by the ambiguities in the EU Member States' visions on the EU and by the persisting divide between intergovernmental and supranational strategies. These ambiguities, in turn, preserve the originality of the EU as a new type of global actor, different from a state.

A. Introduction

European integration can be regarded as the most advanced and successful regional integration experience accomplished so far.[1] Among the numerous integration schemes that have mushroomed in Europe since the end of World War II, the European Union (EU) has emerged as a unique process and as a prototype of what can been defined as a 'third generation' of regionalism.[2] In this view, the EU has developed beyond a mainly economic integration process (first generation regionalism), to a deeply institutionalized and politicized union

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[1]   R. Baldwin & P. Thornton, Multilateralising Regionalism (2008).
[2]   L. Van Langenhove & A. C. Costea, *The EU as a Global Actor and the Emergence of 'Third Generation' Regionalism*, *in* P. Foradori, P. Rosa & R. Scartezzini (Eds), Managing a Multilevel Foreign Policy – the EU in International Affairs (2007).

with many competences in an all-encompassing spectrum of internal policies (second generation or 'new regionalism'). In this process of widening/deepening of policies, structures and membership, the EU has become a global actor present in the international forums where once only states operated (third generation).

When ratified, the 2007 Lisbon Treaty promises to represent an additional episode of this incremental integrative process, through which the EU is progressively becoming a global actor. Following the last 2004 and 2007 enlargements that brought the membership to 27, the Treaty carries with it a number of structural reforms that are supposed to make the Union more efficient and more democratic. Among these reforms are a new mechanism of qualified majority voting, a clearer distinction in the division of competencies, an expansion of codecision, which becomes the ordinary decision making procedure, and the end of the formal pillar structure, as well as an enhanced role for national parliaments, especially in safeguarding the principle of subsidiarity. Regarding external relations, some major innovations would be introduced, such as the legal personality for the EU, the new President of the European Council and the High Representative and Vice President of the Commission, assisted by an External Action Service. This article explores the implications of these new institutional developments for the emergence of the EU as a 'third generation regional organization', i.e. becoming a fully-fledged actor in international relations, engaging proactively and in a unitary way with other regions and at the multilateral level.

The article tackles this issue in two parts. The first part will look at the typology of three-generational regionalism and at how the EU fits into this scheme. The second part focuses on the challenges for the EU's foreign policy and looks at the implications of the Lisbon Treaty for the Common Foreign and Security Policy (CFSP). In particular, the paper assesses the case of the EU's role in the United Nations. As a regional actor the presence of the EU in the temple of national sovereignty should reveal the extent to which it is developing as a 'third-generation' regional organization.

By doing so, the article hopes also to shed further light on the interrelation and possible synergies between regionalism studies and European studies in order to understand the EU as an international actor. It will be argued that the Lisbon Treaty could provide an institutional opportunity for the EU to develop into a more coherent and visible player on the international stage. This opportunity, however, is limited by the UN structure itself – which is still impervious to regional organizations – and by the ambiguities in the EU Member States' strategies and motivations. These ambiguities, in turn, preserve the originality of the EU as a new type of global actor, different from a state.

B. Third Generation Regionalism and the European Union

The study of the phenomenon of regionalism has been intrinsically linked to the study of the process of European integration following World War II. As a regional scheme, the European Communities and then the European Union have provided an advanced example of institutionalized regionalism. At the same time,

European integration as a project has been perceived as a clear political success in terms of achieving prosperity and stability in a given territory where war and violence had once been the rule. This led to the partial identification of the process of regionalism with the European experience in two ways. On the one hand, it was implied that the global process of regionalism had to take Europe as a model. On the other hand, regionalism in itself came to be considered a political project, and regional integration around the world was viewed as a desirable outcome to complement and support global governance.[3]

This view has now been widely criticized both academically and politically. Academically, as Hurrell puts it, "the most important 'lesson' of Europe is that there are so few good grounds for believing that Europe is the future of other regions."[4] In other words, the specific circumstances and factors that characterized the emergence of the European integration experience can hardly be found in other parts of the world.[5] And in fact every regionalism is somewhat different from another, ranging from highly institutionalized schemes such as the EU, to instances of soft regionalism, as seen, for example in South East Asia with ASEAN. Politically, regionalism has been criticized as a Eurocentric project, which risks undermining the wider multilateral system, in particular concerning trade liberalization and the WTO. What is clear is that regionalism is becoming more and more a new and additional layer in the governance of globalization both at the micro, intra-state level, and at the macro, inter-state level.[6]

I.   Generations of Regionalism

In an attempt to clarify the problem of comparing the different existing forms of regional integration, the typology of the three-generations of regional integration can serve as a useful tool to go beyond the traditional chronological and qualitative dichotomy between old and new regionalism.[7]

The argument typifies regional schemes in three main ideal-typical cohorts or generations, according to the following aspects of state governance around which they are primarily built: (i) the operation of a state territory as a 'single' market with a related economic policy; (ii) the governance of public goods and the control over resources and power and (iii) the external sovereignty that allows them to be an 'actor' in international relations. Each cohort is driven by

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[3]   For a discussion *see* L. Fawcett, *Regionalism from an Historical Perspective*, *in* M. Farrell, B. Hettne & L. Van Langenhove (Eds.), Global Politics of Regionalism: Theory and Practice 21 (2005).

[4]   A. Hurrell, *The Regional Dimension in International Relations Theory*, *in* M. Farrell, B. Hettne & L. Van Langenhove (Eds.), Global Politics of Regionalism: Theory and Practice 40 (2005). *See also* K. E. Smith European Union Foreign Policy in a Changing World 72 (2003).

[5]   Smith lists among these circumstances: the functionalist (economy first) strategy, the democratic political systems of the participating states, the strong security concerns (Germany, USSR), the benevolence of the US and the security umbrella offered by NATO, *id.*, at 71.

[6]   L. Van Langenhove, *Globalization and the Rise of Neo-Westphalian World Order of States and Regions*, *in* Proceedings International Conference 'Globalization Challenges and New Trends of Governance', Centre of European Studies, University of Economics, Prague, 20 November 2007.

[7]   Van Langenhove & Costea, *supra* note 2, at 64.

a specific objective or *telos* – the ideal end-point of integration in that aspect of governance – and materializes into a concrete development process that will not necessarily reach its culmination. Importantly, the three generations coexist and influence each other, often within the same organization. Each regional scheme and organization follows its own integration trajectory and can remain insulated within one dimension of governance or, alternatively, spill-over and cumulate the characteristics from the other generations/cohorts of regional integration.

The development of each specific regional scheme can, thus, also be benchmarked in relation to the three *teloi* of complete integration. For each cohort, the development will depend on the level of comprehensiveness (in terms of competencies), capacity (in terms of tools), cohesiveness (in terms of identity) and autonomy (from the national level). In theory, a complete and simultaneous integration in all three governance domain would result in the creation of a new supranational polity.

More specifically, the first generation of regional integration is characterized by mainly economic integration leading to free trade agreements, custom unions, or common markets. These schemes are characterized mainly by 'negative integration' – a process of removing the barriers to the free flow of economic factors – and by the widening of the membership included in the process. Actual transfer or pooling of sovereignty, though, can occur, as in the case of custom unions, where a common external tariff is put in place, as well as in the case of monetary unions. The *telos* of first generation integration is thus the creation of a new single market that comprises the old national markets of each of the participating states.[8]

Second-generation regionalism describes regional schemes where the focus of cooperation is not purely economic but concerns mainly the political sphere, including regulation in non-economic areas, redistribution of resources or providing of security. Regional schemes of this second generation proliferated, particularly following the end of the Cold War, in a complex process to which the all-encompassing notion of 'new regionalism' was then attributed.

The *telos* of 'second-generation' schemes is to establish a common approach towards what is usually referred to as 'internal affairs': this includes infrastructure, energy and environment policy, as well as security policy, social policy, health, employment, research, etc. Here also the level of integration can vary from superficial political dialogue and coordination to actual binding regulation and common policies. Further, the process of policy expansion can be accompanied by considerable institutionalization and a process of democratization of the supranational level, through the creation of parliamentary assemblies, the concentration of interest representation and other instances of input legitimacy and participation.

In the specific EU case, political (second-generation) cooperation and 'positive integration' emerged as a consequence – for instance through functional 'spill over' – of the previous negative integration (first-generation), which was failing to achieve a functioning common market. As a broader concept, however,

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[8]   B. Balassa, The Theory of Economic Integration (1961).

second-generation regionalism can also be an original project not stemming from an economic integration dynamic or anticipating economic integration. Finally, second-generation regionalism is conceptually introspective, focussing on managing problems that are internal to the regional area. This is not to say that this regionalism is cut off from the outside world. On the contrary, both first and second-generation regionalisms are in many ways responses to the wider globalization process and to the problems and challenges that derive from it. Furthermore, these types of regionalisms have a presence and impact on the wider international context.[9] On the one hand, they can be seen as favouring or hindering global multilateralism; on the other hand, by their mere existence they contribute, to a general process of 'contagion'[10] of regionalism around the world. Finally, their full accomplishment as internal dynamics creates pressure for external action (e.g. where a custom union calls for a common trade policy or where a strong common policy on environment has to be promoted globally).

As the first two cohorts of regional schemes does not exist in a geopolitical vacuum, external action towards the outside world is the most specific characteristic of 'Third-generation' regionalism. In this case, the *tèlos* is a single, unified, foreign policy, together with the ambition to operate as one actor on the international scene and thus also outside its own territory. This implies the willingness and capacity to deal at the regional level of governance with 'out of area' challenges.[11] Regional organizations, then, develop a strong sense of identity (cohesiveness) and assume an ever more confident external profile (actorness) in interacting with third states, with other regions, and within multilateral institutions. A strong institutionalization distinguishes 'third-generation' regional integration from a mere alliance of countries or a 'coalition of the willing', which are both schemes that can be rather active externally. The organization tends to become autonomous or at least distinguishable from its members and develops its own identity, interests and institutions across a wide range of issues, not circumscribed within a single policy area (comprehensiveness).

In sum, these three cohorts of regional integration typify different characteristics and different *tèloi* of complete integration. In the real world, however, a clear distinction is much more difficult. Numerous dynamics such as functional and political spill-over across policies or between the internal and external dimensions of policies can facilitate the accumulation and overlap of the various generations of regionalism in one region or on one regional organization, beyond the initial project of the Member States. The case of the European Union is emblematic of this accumulation, which makes the European Union a fully-fledged first-generation regional scheme (e.g. internal market, competition policy and monetary union); a partly accomplished second-generation regional polity (e.g. shared or exclusive competences in almost all policy areas and a developing supranational democratic structure); and an emerging third-generation regional actor (almost autonomous in economic external relations, and increasingly active

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9 For an influential characterization of EU actorness *see* C. Bretherton & J. Vogler, The European Union as a Global Actor (2006).
10 Fawcett, *supra* note 3, at 21.
11 Van Langenhove & Costea, *supra* note 2, at 78.

in the political and security domain). The next pages will focus specifically on the third generation dimension and on how the conceptual approach can be applied to the study of the EU and of the potential impact of the Lisbon Treaty.

II.   Third Generation Regionalism as a Political Objective

As compared with the first two cohorts/generations of regionalism, the concept is more normatively political than a mere description of reality.[12] The European Union is a developed prototype in this sense: no other regional scheme has the same degree of comprehensiveness, cohesiveness, capacity and autonomy. No other organization, with the exclusion of NATO, has the same ambition to deploy 'out of area' operations. However, the EU is by no means unique in this trend towards an enhanced role of regional groups in global governance.[13] Van Langenhove and Costea specify three key features that are specific to the third-generation organization: first, the institutional environment providing the capacity to have an external action; second, the political willingness to be proactive in engaging in bilateral relations with states and, especially, in inter-regionalism with other regions, and; third, the engagement within the multilateral system, particularly the UN. The first characteristic is related to the structure of a third-generation organization and will be analysed further below. The second two features, by contrast, relate to the goals of such organizations, which tend to pursue inter-regionalism, on the one hand, and multilateralism on the other.

1.   Promoting Inter-regionalism

Among the objectives of the EU as a foreign policy actor, that of promoting regional cooperation in its relations with third countries is the one most EU-specific, as it is an integral part of its very nature.[14] The EC started dealing with third countries by grouping them in regions in the 1960s when it launched its preferential policy towards the African countries, then ACP.[15] Since then the EU has promoted regionalism both in its economic and political relations, in Africa, Asia, Latin America, North Africa and the Gulf, in the Balkans and more recently in the Black Sea region.[16] Smith identified various reasons for this predilection for regionalism, as an objective and as an approach: the independent external

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[12]   B. Hettne, *Regionalism and World Order*, *in* M. Farrell, B. Hettne & L. Van Langenhove (Eds.), Global Politics of Regionalism: Theory and Practice 277 (2005); L. Van Langenhove, *Towards a Multiregionalism World Order*, XLI(3) UN Chronicle 12 (2004); and L. Van Langenhove, *From a World of States to a World of Regions*, *in* E. Cihelková *et al.* (Eds.) Nový Regionalismus, Teorie a Prípadová Studie, at ix-xi (2007).

[13]   Regional organizations that have expressed the ambition to become active internationally are proliferating also at the UN. *See, for instance*, the high-level meetings with regional organizations held regularly by the UN Secretary General and by the UN Security Council.

[14]   Smith, *supra* note 5, at 69-96 and F. Söderbaum & L. Van Langenhove (Eds.), The Politics of Interregionalism (2005).

[15]   Smith, *supra* note 5, at 69

[16]   *See* for all the Commission's, Communication on EC support for regional economic integration in developing countries, COM (95)219, 16 June 1995. At the time of writing the Commission

demand coming from new regional groupings to have a relationship with the EU; the belief, coming from experience, that regional integration can bring stability and growth; the recognition that neighbouring countries are interdependent; the pragmatic simplification of external strategies (the sheer number of states now in the multilateral system makes it impossible for each one to have separate relationships with everyone else); finally, the competition for economic influence with other actors, e.g. the US in Latin America and Asia.[17] One can also identify a pro-integration agenda promoted opportunistically by some Member States and EU institutions, particularly the Commission. Overall, though, much of this tendency has been purely instinctive and, as a consequence, not always completely rational. Smith defines it as a form of narcissism, while others see it as a search for affinity, and ultimately for identity and legitimacy in constructing a new post-Westphalian order based on inter-regionalism.[18]

The 'value' of regional integration would seem to be an instance of Europe's 'normative power.'[19] However, there are three important pitfalls with this regionalist inclination. First, 'mechanical iso-morphism': the EU's tendency to impose regional integration, just by establishing copycat institutions and routines and losing sight of the functional policy need.[20] This can undermine the legitimacy of and the general support for regionalism. Second, 'strategic schizophrenia': the tendency, which is now increasingly noticeable, of somewhat inconsistently juxtaposing region-to-region dialogue with bilateral relations between so-called 'strategic partners', such as Brazil, that are also deeply involved in regional groupings. Third, 'disguised Eurocentrism': is third-generation regionalism an exclusively Europe-driven endeavour? If so, is the EU really serious about creating a 'European world order' made up of interacting regions?[21] This last question is linked to a second objective, which is crucial to third-generation regionalism: the relationship with the multilateral system. In the EU this relationship is subsumed in the concept of 'effective multilateralism'.

2.   Promoting Multilateralism

The term 'effective multilateralism' was introduced as a strategic objective of the Union in the European Security Strategy.[22] Simply put, it refers to the alleged propensity of the EU to work through and for multilateral institutions (including the WTO, the UN, NATO and other regional organizations) and, at

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was holding an online open consultation with development stakeholders with a view to a new Communication on regional integration in the ACP region, closed on 9 May 2008.

[17]   Smith, *supra* note 5, at 83.

[18]   F. Söderbaum, P. Stålgren & L. Van Langenhove, *The EU as a Global Actor and the Dynamics of Interregionalism: a Comparative Analysis*, 27 European Integration 365 (2005).

[19]   I. Manners, *Normative Power Europe: A Contradiction in Terms?*, 40/2 JCMS 234 (2002).

[20]   For the specific case of the Mediterranean *see*, F. Bicchi, *'Our Size Fits All': Normative Power Europe and the Mediterranean*, 13 Journal of European Public Policy 286 (2006).

[21]   Hettne, *supra* note 12.

[22]   Council of the European Union, European Security Strategy 9-10 (2003). Importantly, promoting relations with regional organizations is considered part of the effort to strengthen global governance under the heading of "effective multilateralism."

the same time, its commitment to contribute to the reform of the multilateral structure with a view to making it more effective and more legitimate. There is no doubt that the concept principally served the identity objective of reasserting unity of purpose, following the 'unilateralist turn' of the United States and the subsequent crisis of CFSP over the war in Iraq.[23] Beyond the rhetoric, two aspects have to be taken into account. On the one hand, the EU has indeed increased its substantial cooperation with the UN, both strategically and operationally on all issues, and particularly in the field of security.[24] Militarily, for instance, the EU has equipped itself with the Battle Groups, designed specifically for operations under UN mandate. The UN has also welcomed this process, as it needs regional organizations, and particularly the EU to share the burden of global governance.[25] However a generally positive assessment is nuanced by two considerations. Firstly, the EU does not fit perfectly into the vision of the UN Charter of Regional Arrangements as 'Chapter VIII' organizations, as it has a global ambition that goes beyond Europe (typical of third-generation regionalism).[26] This can produce an overt clash in the long run within the current set-up and calls for an active participation and a coherent strategy in the reform of the multilateral system. Yet, secondly, the EU has maintained a visible division over the central issue of the reform of the multilateral system, and particularly of the UN Security Council (UNSC). The African Union, for instance, has been much more open in promoting a new regional approach to the reform. This internal EU division reveals the still uncertain stance of some Member States towards the meaning of effective multilateralism, and towards the role of the EU and the states within it. Thus although there is a certain tendency towards promoting a 'world of regions', an authentic political commitment is still lacking to translate it in the multilateral structure.

In what follows, focus will be placed on the structural aspects of the EU as a third-generation organization and, in particular, on the plausible impact of the Lisbon Treaty in making the EU increasingly comprehensive, capable, cohesive and active externally.

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[23]   S. Keukeleire & J. MacNaughtan, The Foreign Policy of the European Union (2008) and D. Marchesi, *The EU CFSP in the UN Security Council: Between Coordination and Representation*, BRIGG papers, College of Europe and UNU-CRIS, 3/2008.

[24]   *See in particular* the 2003 UN-EU Joint Declaration on Crisis Management.

[25]   For an interesting discussion: T. Tardy, *L'ONU et les organizations régionales: de la compatibilité entre multilatéralismes global et régional dans le maintien de la paix. Le cas de l'Union européenne*, 9ième Congrès AFSP, Toulouse, 5-7 September 2007.

[26]   K. Graham & T. Felício, Regional Security and Global Governance: A Study of Interaction Between Regional Agencies and the UN Security Council – With a Proposal for a Regional-Global Security Mechanism (2006). *See also* the statement on behalf of the European Union by H. E. Mr. Erkki Tuomioja, Minister for Foreign Affairs of Finland, Seventh High-Level Meeting between the United Nations and Regional and other Intergovernmental Organizations, New York 22/9/2006:

> the EU supports the development of the co-operation between the United Nations and relevant regional organizations as a way to strengthen effective multilateralism. However, we strongly advocate a pragmatic and action-oriented approach, both for the EU-UN cooperation and for the broader context of cooperation between the UN and regional and other organizations.

C. Reforming the EU as a Global Actor

I.   The Two Main Challenges for the CFSP

The idea of continuous reform has always been enshrined in the elusive project of a European Common Foreign and Security Policy (CFSP) and, before that, in European Political Cooperation. Integration in this field is so crucial to national sovereignty that it immediately raises questions such as: Is the EU acquiring a state-like foreign policy? How can one conceptualize the EU as a foreign policy actor? What is the impact of the specificities and *sui generis* nature of the EU's political system on the EU's external relations?

Academic discussion has focused on two main dilemmas: (1) the different models of the EU on the civilian/military power spectrum and (2) the opposing intergovernmental and supranational tendencies, between which the EU's foreign policy profile is torn.

This theoretical debate reflected, however, the very practical consciousness of the limitations of the EU foreign policy's capabilities and political clout, as well as that of the related failures in policy terms, particularly in the Balkans. This, in turn, has led to identifying two major shortcomings to be addressed in order to transform the EU from an affluent payer into an influential player. These were the lack of military power and the insufficient institutional coherence, which makes it difficult to concentrate political authority towards common policies. Before focusing on how the Lisbon Treaty tackles the institutional problems, a first brief look at the problem of military power is called for.

Since the 1998 Franco-British agreement in Saint-Malo, important and relatively quick steps were taken to set up a European Security and Defence Policy (ESDP), designed to grant more autonomy to the EU from the US in the use of force and the capacity to carry out even robust missions in the field of peace and security.[27] These efforts were not seriously undercut by the 2003 crisis over the second US intervention in Iraq.[28] In fact, by deploying its first autonomous mission in Congo in 2003, the EU immediately made it clear that it was committed to engaging in 'out of area' interventions, in order to burnish its image as a global actor. Since the end of the nineties, therefore, the EU has transformed itself from an authentically 'civilian power' into what as been defined a 'civilising power' or as a 'military power in the making.'[29] This build-up has been tangible in terms of capabilities, institutional structures in Brussels and operations. All this, nevertheless, has been done while attempting not to sacrifice the positive image and the soft power of attraction of the EU as a new type of 'post-modern' global actor.[30] Therefore, the EU has tried to combine traditional foreign policy goals and tools with more far-sighted and comprehensive 'structural' foreign

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[27]   J. Howorth, Security and Defence Policy in the European Union (2007).
[28]   A. Menon, *From Crisis to Catharsis: ESDP After Iraq*, 80 International Affairs 631 (2004).
[29]   For a discussion: K. E. Smith, *Beyond the Civilian Power EU Debate*, 17 Politique Européenne 63 (2005).
[30]   R. Cooper, *The New Liberal Imperialism*, The Observer, 7 April 2003.

policies,[31] designed not only to benefit states but also to have a deeper influence on the structure of the societies of the recipient countries and on the very nature of international relations. In this sense, the first pillar of external relations, including development policy, humanitarian aid, trade, enlargement and the neighbourhood policy (ENP), play a crucial role.

The quite impressive development of ESDP, however, has been undermined by the much less fructiferous attempts to tackle the second, institutional, shortcoming of EU foreign policy. This has led some commentators to speak about a defence policy, without a truly 'common' foreign policy, although there has been considerable progress since the late nineties.[32] The main institutional problems can be summarized in the multilevel and multi-pillar structure of the EU, leading to incoherence and lack of leadership; as well as in the resilience of the unanimity rule in the Council of Ministers on CFSP matters, leading to lack of strategy and paralysis. Unlike for the problem of the deficit of military force, these two institutional shortcomings were accentuated by enlargement. This promised to increase the complexity of the EU system, the diversity between Member States and the time needed to take decisions. As a consequence, since the beginning of the Convention on the future of Europe in 2002, it was widely accepted among academics as well as policy-makers that some far-reaching reforms had to be agreed, particularly in the domain of foreign policy. What, however, remained highly disputed was whether the reforms had to enhance supranationalism and 'communitarize' CFSP, or whether its intergovernmental character should be maintained.

This debate reflected the deeply rooted visions on the future of the EU as a political system, including its further development as a 'second-generation' regional scheme. Interestingly however, this division did not dent the actual pragmatic perception of the need to increase the overall efficiency of the foreign policy mechanisms. In fact, even following the rejection of the referenda on the Constitutional Treaty in 2005 in France and the Netherlands, some of the agreed changes were experimented in practice, e.g. the double-hatting of some heads of delegations. Furthermore, the EU undoubtedly increased its external activity in the period of crisis or 'reflection' in an effort to "act itself into being."[33] All this shows the broad support for reform in external relations present in the Member States, including in the public opinion.[34]

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[31]   S. Keukeleire, *The European Union as a Diplomatic Actor: Internal, Traditional and Structural Diplomacy*, 14/3 Diplomacy and Statecraft 31 (2003).

[32]   Keukeleire & MacNaughtan, *supra* note 23.

[33]   This term is borrowed from Gilson, in Söderbaum, Stålgren & Van Langenhove, *supra* note 18, at 373.

[34]   European Commission, *Standard Eurobarometer 68 / autumn 2007 – TNS Opinion & Social*, December 2007. 67 percent of EU citizens think that defence and foreign policy should be made jointly within the EU, at 28.

II.   The Implications of the Lisbon Treaty

The EU cumulates features of all three generations/cohorts of regionalism, in terms of economic, political and external sovereignty. The Lisbon Treaty[35] touches on all three dimensions especially, the second and third, pertaining to internal political integration and external actorness. Overall, most of the institutional reforms contained in the 2005 Constitutional Treaty were substantially preserved. Analyses done on that compromise showed a limited but tangible deepening of integration in terms of second-generation regionalism. Some important innovations were agreed, such as: the new mechanism for qualified majority voting (QMV); the general expansion of QMV and co-decision to most policy areas; a clearer distinction in the division of competencies; an increased role for the European Parliament and the Court of Justice; the end of the formal pillar structure as well as an enhanced role for national parliaments, especially in safeguarding the principle of subsidiarity.[36] What went lost in the 2005-2007 period, were mainly symbols and state-like labels such as the words 'Constitution' and 'Minister of Foreign Affairs'. A major change was adopted in the process of choosing the text, where the participative and inclusive approach of the 2002-2003 Convention on the Future of Europe and of the referenda, was sacrificed to the more traditional closed-door diplomatic style of the IGC and of parliamentary ratification.[37]

This article, however, focuses on the third-generation perspective and consequently on the contribution that the reform could bring to the EU's external actorness. The major changes introduced in external relations are the following. A new High Representative for Foreign Affairs and Security Policy (art. 18 and 27 TEU), who will also be the Vice President of the Commission for external relations (HR/VP); the end of the rotating presidency (and 'troika') in external representation, with a permanent and full-time President of the European Council, representing the EU abroad at the level of heads of states (art. 15 TEU); the end of the pillar structure and of the EC/EU distinction, although CFSP will maintain its specific procedures, e.g. unanimity (art.31 TEU); the legal personality conferred to the EU (art. 47 TEU); a European External Action Service (EEAS) supporting the HR/VP (art. 27 TEU); the possibility for 'Permanent Structured Cooperation' in the field of defence policy, which would allow states willing and able to meet certain standards to move forward in military cooperation and integration (art. 42.6 and 46 TEU); a mutual assistance clause for defence (art. 42.7 TEU) and a solidarity clause for the reaction to terrorist attacks and disasters (art.188R TFEU); a new legal basis for the ENP (art. 8 TEU). To these one should add

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[35]   Formally signed on 13 December 2007, the Treaty Amending the Treaty on European Union (TEU) and the Treaty Establishing the European Community (TEC) Lisbon Treaty: Henceforth known as the Lisbon Treaty. Most of the TEC would now be renamed into the Treaty on the Functioning of the European Union (TFEU).

[36]   D. Phinnemore, *The Treaty Establishing Constitution for Europe: An Overview*, Chatham House Briefing Note, June 2004. *See also* W. Wessels, *Keynote Article: The Constitutional Treaty – Three Readings From a Fusion Perspective*, 43 JCMS 11 (2005).

[37]   For a discussion *see* C. Skach, *We the People? Constitutionalising the European Union*, 43 JCMS 149 (2005).

a considerable expansion in the internal policies and competencies (second-generation dimension) that have an impact on external relations, such as energy policy (Title XXI TFEU), environment/climate change (Title XX TFEU).

These innovations attempt to tackle some of the problems outlined above. The new double-hatted HR/VP linking first and second pillar competences should partially improve the problem of institutional incoherence (between the Council and the Commission) and of horizontal incoherence (between policies).[38] Further, he or she would contribute to the easing of the leadership deficit, and together with the president of the European Council, the provision on legal personality, and the end of the troika structure should simplify EU external representation. Although the policy processes and structures between second and first pillar remain distinct, overall, the innovation is considerable and there are some expectations of the possible impact, particularly in terms of visibility.[39] As the Convention had already noted, a unified figure dealing with CFSP would definitely "improve the visibility, clarity and continuity of the Union on the global stage."[40]

On the other hand, vertical incoherence (between the member state and EU level) is likely to remain a fatal characteristic of EU foreign policy making, due to the unanimity in the Council and to the intergovernmental approach in CFSP. This is true particularly for big Member States, who want to maintain an independent foreign policy and an international role and to resist the convergence of foreign policy preferences. In this sense, the EU will remain a polity very different from a state. This ambiguity reflects the eternal overarching division between intergovernmental and federal strategies. The result is an indisputably incremental process of integration, where the equilibrium lies somewhat in the middle between the call for effectiveness on the one hand, and the maintenance of a strong member state participation on the other.[41]

III. The EU Reform and the UN

As was shown above, inter-regionalism and enhanced presence and actorness in the multilateral system are crucial aspects in identifying the EU as a third-generation regional organization. In engaging with international organizations and institutions and in promoting a rule-based international system, regional schemes translate their own internal procedures globally, seek common solutions to global problems and receive external recognition. The EU and its Member States engage with a vast variety of international organizations and arrangements at different levels and with different intensity and impact. Research shows that the level of actorness of the EU, within international organizations, varies considerably depending on the institutional structures, the interests and the issues

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[38]   For the typology of EU coherence used here (institutional, horizontal and vertical), S. Nuttal, *Coherence*, *in* C. Hill & M. Smith (Eds.), International Relations and the European Union (2005).
[39]   Interviews in the Council and Commission. 2005, 2007 and 2008.
[40]   European Convention. Final report of Working Group VII on External Action CONV 459/02, Brussels, 16 December 2002, para. 67.
[41]   This is the fusion argument. *See* Wessels, *supra* note 35, at 14.

involved.[42] Generally, for instance, the role of the EU will be related to its internal competence in the particular policy area, varying across trade and agriculture, regulatory standards, development aid, security. This article focuses specifically on the impact of the Lisbon reform on the EU's role in the UN system. As stated in Article 21 of the TEU, following the Lisbon Treaty:

> The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations […]. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

The broad scope of activities, the universality and the relevance of the UN, make it a crucial challenge for an accomplished third-generation regional organization. The UN, in fact, is at once the realm of traditional nation states – with their sovereign prerogatives and relationships – and the centre of a reforming multilateral system – opening to regional organizations as well as civil society. The presence of regional organizations here carries, therefore, also a symbolic meaning. The following sections will pick some key issues in the foreign and security sphere where Lisbon is likely to have an impact.

1.   EU Seat in the Security Council

The UN, therefore, represents an important stage on which to assess the credibility of the EU as a foreign policy actor. And within this context, it is relevant to discuss the issue of the 'EU seat' in the UNSC. This 'EU seat' problem has been at the centre of CFSP development, as it constitutes one of the most noticeable points of friction between intergovernmental and supranational thinking on the future of the EU integration.[43] Considerations on the opportunity of establishing an EU seat were already part of the IGC on a Political Union that prepared the Maastricht Treaty.[44] Subsequently, during the 2002-2003 Convention on the Future of Europe, the issue of the representation of the EU at the UN was debated extensively in the working group VIII on external action and III on legal personality.[45] The concept of a European seat was finally turned down both for legal (only states can be members of the UNSC) and political considerations (including the firm opposition of the UK and France). The discussion was further complicated by the bid of Germany to obtain a national permanent seat, which

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[42]   S. Gstöhl, *'Patchwork Europe'? The EU's Representation in International Institutions*, BRIGG papers College of Europe and UNU-CRIS, 2/2008.

[43]   The European Parliament supports this solution, at least in the long term. *See* European Parliament Resolution of 9 June 2005 on the Reform of the United Nations (P6_TA(2005)0237), OJ 2006 C 124/549, at 552. But also the Commissioner for External Relations Benita Ferrero-Waldner and the High Representative for the CFSP Javier Solana have expressed similar opinions, though less vocally.

[44]   P. Tsakaloyannis & D. Bourantonis, *The EU's CFSP and the Reform of the Security Council*, 2 European Foreign Affairs Review 197 (1996).

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

divided the EU.[46] It was agreed that it was more realistic in the short-term to only moderately enhance the capability of the EU to speak with a single voice in the UNSC, without reforming drastically the provisions of article 19 TEU, which regulate this delicate issue. This course was kept also with the Lisbon Treaty.

Yet, from a third-generation regionalism perspective, a common seat in the UNSC would certainly increase the visibility, the recognition and ultimately the identity of the EU. It would pave the way for other regions to seek representation in that forum and would enhance the standing of the EU as a frontrunner in both multilateralism and inter-regionalism. In the UNSC, a strong single voice, coupled with the willingness to act, would be an improvement as compared to the current broad but fragmented presence. Finally, beyond the cosmetics of the single voice, the seat would also induce further coordination and integration upstream in foreign policy-making, as the EU would need to produce flexible and meaningful common positions and negotiate them with other actors. On the contrary, in the absence of structural transformation and 'communitarization' of EU foreign policy (e.g. for instance through the introduction of some limited majority voting), the single seat would be detrimental. It would reduce the sheer number of votes and bargaining power of the EU without increasing its capacity to propose solutions and assume responsibilities. It would conduce to lame positions presented in the UNSC or constant abstention. In addition, the coexistence in the UNSC of regional actors and states would increase fragmentation, internal diversity and tensions and could eventually persuade some key Member States to avoid it and focus elsewhere.

2.   Legal Personality

Certainly, a (small) part of the arguments used against the EU seat was undercut by the legal personality that the Lisbon Treaty finally conferred on the EU.[47] Resisted for years by France and the UK, this provision could in the long term have had a beneficial effect for the EU in the UN and not only in the UNSC. The EU, in fact, can now assume obligations and sign treaties with the UN and other international organizations. The innovation will not have all its effects until the UN reforms itself to accept the full membership of regional organizations. Yet, there is no question that, at least in principle, this is a major step forward from a legal and institutional point of view.[48] In turn, the EU personality could lead to major developments in various UN bodies, and notably in the General Assembly. Here, the EU will have to apply for an enhanced observer status, as the simple succession to the EC would relegate it to speaking at the end of every debate, after all the Member States.[49] The Lisbon Treaty in fact, also eliminates the rotating presidency, which has until now constituted an easy way for the EU to present

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[46]   Marchesi, *supra* note 23.
[47]   New article 47 TEU.
[48]   I. Govaere, J. Capiau & A. Vermeersch, *In-Between Seats: The Participation of the European Union in International Organizations*, 9 European Foreign Affairs Review 155 (2004).
[49]   Politically, however applying for enhanced status could have a domino effect on other regional organizations with observer status in the General Assembly.

common positions through the mouthpiece of an actual UN member. Interestingly, at the UNGA level the discussion on the single seat has been less intensive than for the UNSC. On the one hand the structure and the procedures of the UNGA clearly give an advantage to large groups of states (rather than to single actors, such as the US) in creating large coalitions and promoting resolutions. On the other hand, the EU has been rather successful in coordinating its positions in this (mainly declaratory) forum and voicing them through the rotating presidency, with considerable visibility gains. This raises questions on whether the General Assembly as such is the ideal venue of third-generation regional organizations.

Concerning the UNSC, since neither the new permanent president of the European Council nor the double-hatted HR/VP will be representing a member state, they will have to comply with article 39 of UNSC provisional rules procedure (observers and other parties), when addressing the Council. Until now, on the other hand, the EU presidency was able to speak following article 37 (for Member States). This should not constitute in itself a big hurdle, as long as the HR/VP is invited and supported by the Member States. Article 39 could even constitute an advantage in terms of visibility/identity, as the EU would speak behind its own nameplate instead of a member state's one.

3.   Coordination in the Security Council

Looking at the innovations introduced with the reformulation of article 19 (now article 34), it is impossible not to recognize the very limited will amongst key Member States, to improve EU coordination and representation in the UNSC. The article now states:

> Member States which are also members of the United Nations Security Council will concert and keep the other Member States and the High Representative fully informed. Member States which are members of the Security Council will, in the execution of their functions, defend the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter.

The previous distinction between non-permanent and permanent members has disappeared. Although in the European context this change of formulation is supposed to re-establish the equality among the EU Member States serving in the UNSC, it does not have any effect on the prerogatives of France and UK as veto holders in the UN framework. Fassbender minimizes both the *raison d'être* and the implications of this amendment. This view is supported by the preservation of art. 19's last sentence that prioritizes the UN responsibilities over EU membership.[50] Nevertheless, even this minor change in the formulation is a further acknowledgement of a gradual evolution from the initial national perspective and testifies to the great pressure to enhance the European dimension of art. 19, both during the Convention and the IGCs.

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[50]   B. Fassbender, *The Better Peoples of the United Nations? Europe's Practice and the United Nations*, 15 European Journal of International Law 881 (2004).

4.   The High Representative

The most important change for EU foreign policy comes clearly from the establishment of the double-hatted HR/VP.[51] At the UN, this innovation was long awaited so as to tackle the problem of the dispersive representation of the EU. This is currently voiced by the troika (e.g. meetings with third countries or the UN Secretariat), by the Commission for EC exclusive competences, by the Presidency for mixed competences, and by the Member States, who often reiterate a common position. The HR/VP could give the EU a single voice in New York and in the UNSC, especially in combination with the new provision of article 34.3 third paragraph that states:

> When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the High Representative be invited to present the Union's position.

The insertion of this provision should not create too much excitement. It is the codification of an already established practice of inviting the High Representative Javier Solana to the UNSC open meetings to express CFSP common positions. In short, the presence of the HR/VP or of his/her representative in the Security Council will continue to be dependent on the goodwill and invitation of the Member States. Obviously, when such a common position has been agreed in unanimity among the capitals and in Brussels, the EU members in the UNSC are by definition bound to it. In order to change the quality of EU coordination in the UNSC, the role of the HR/VP should be also enhanced in the ascending phase of the decision-making process, in the closed-door meetings, at least to allow him/her to be well informed of the situation.

5.   Personalities and Practice and the External Action Service

In sum, there is some evidence that the provisions of the Lisbon Treaty, if ratified, would establish some incremental improvements in the institutional context of the EU presence at the UN. Some innovations do open institutional opportunities that could be taken if the political will emerges. The HR/VP would be equipped with the necessary status and tools to play a role in the current configuration, if the Member States support (or at least avoid boycotting!) him or her. If we may indulge in some speculation, the HR/VP could also play a role in case the idea of an EU seat or other more conservative proposals, such as that to include a representative of the EU institutions in one of the national delegation in the Security Council, see the light.[52] So far, however, this innovation has been vetoed by the two EU permanent members, who have an interest in limiting the EU presence in order to retain their autonomy in the UNSC.[53]

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[51]   *See, in particular*, new art. 18 and 27 TEU
[52]   For a discussion of the proposal *see* F. P. Fulci, *L'Unione Europea alle Nazioni Unite*, 269 Rivista di studi politici internazionali 32 (2001) and E. Drieskens, D. Marchesi & B. Kerremans, *In Search of a European Dimension in the UN Security Council*, 42 International Spectator 421 (2007).
[53]   In this context, the position of the UK is also informed by the public opinion's scepticism

Yet, if the Member States' grip is still firm on the single provisions contained in the treaty, less strong is their control on the day-to-day implementation. In this sense, personalities and practice will play a crucial role in determining the actual impact of the structural reforms agreed in Lisbon.[54]

Concerning the first factor, the choice of the person who will serve in the position of HR/VP will be extremely important in determining, from the start, the ambition, the independence and the scope of action of this new institution. In fact, the Treaty has not relieved the tensions between the intergovernmental and supranational poles, which are so typical of the EU. In a way, it has just transferred them onto the shoulders of one person. As an institutional agent, the HR/VP will have to be loyal both to the Commission and to the Member States, via the Council. He/she will have huge responsibilities and duties and will have to prioritize his or her resources and time, leading to potential clashes between its two principals. In this sense, the prestige, background and authority of the HR/VP and the manner in which he or she will get along with the President of the Commission and the President of the European Council will be critical. This is particularly true for the first period of the mandate, which will constitute the political precedent for the following years.

The institutional struggle over the configuration of the External Action Service (EAS) provides an example of the current uncertainty and of the importance of the first years of implementation and practice. This will be a first test of the equilibrium struck by the text.[55] The service is to include elements of the Commission staff, of the Council Secretariat and seconded staff from the Member States. However, the final dimension of the service, its overall autonomy and the actual proportion of the various component parts, are under negotiation. According to the Treaty, the final deal will have to be rubberstamped by all the Member States, the Council Secretariat and the European Commission. The European Parliament also wants to have a strong word. The conflict between effectiveness and Member States' participation is particularly prominent here and consequently even after the formal agreement, the tension on day-to-day practice will persist.

Overall, however, the EAS has the potential to 'lubricate' the EU external relations machinery, including in New York. Having single EU delegations around the world, with coherent political guidance from unified desks in Brussels and incorporating Member States' preferences and expertise will rationalize and streamline the external and diplomatic action of the EU. Eventually, this could

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towards the EU and towards the Lisbon Treaty in particular. The Foreign and Commonwealth Office, for instance, included in its website the idea that the Lisbon Treaty would lead it to eventually relinquish its permanent seat in the UNSC as one of the "myths" on the new Treaty. *See* FCO website http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1184758750520.

[54]   Aware of this risk, the UK pushed for the inclusion of declarations 13 and 14 annexed to the final act of the intergovernmental conference adopting the Treaty of Lisbon, that try to limit the potential of the new provisions, particularly in the UNSC. Drieskens, Marchesi & Kerremans, *supra* note 52, at 425.

[55]   For discussion *see* The European Policy Centre, *The EU Foreign Service: How to Build a More Effective Common Policy*, EPC report (2007).

increase its capacity to concentrate authority strategically (and perhaps financially) and could improve coherence at all levels, including vertically, between Member States and the EU.

D. Conclusions

The case study of CFSP in the United Nations offers a crucial but limited view of the impact of the Lisbon Treaty on the development of the EU as a 'third-generation' regional organization. Offering a summary of the main arguments and findings presented above, the aim of this final section is to elaborate on the possibility to generalize this study to the wider problem of the EU as an international actor.

The concept of three-generation regionalism provides some interesting insights on the European Union's reform process, by bridging regional integration studies with EU studies. While recognising the uniqueness of the EU, the three-generation typology will offer a useful conceptual framework to compare and assess its development as one regional integration scheme among others. First (economic sovereignty), second (internal sovereignty) and third (external sovereignty) generation features all coexist and cumulate within the EU as in other organizations, but are not equally developed. While a review of the whole scope of European external relations was outside the reach of this article, further research could use the third-generation concept to assess external economic policies such as development and trade, which stand at the crossroads of various generations of regional integration. Within this conceptual framework, it is also possible to locate the EU in the context of the global trend towards third-generation regionalism witnessed around the world, in Asia, Africa and Latin America.

We have specifically focused on the third, external dimension of regional integration and looked at the foreign policy goals of the EU and at the development of its institutional structure in this domain. From this distinction between goals and structure stems another consideration that could be explored further through international relations theory. It appears that the two key European foreign policy agendas of 'multilateralism' and 'interregionalism' are a function of the nature of the EU as a third-generation regional project. First, they can be ascribed to the ideas and vision that Europe has of the future of global governance as a multipolar world of coexisting states and regions. Second, they respond to the specific interest of the EU to promote its experience and to foster a rule-based international system where it can benefit from its comparative advantages in terms of soft power, diplomatic network, development aid, trade and economics. Finally, institutionally, the EU has a tendency towards pursuing these goals by default.

Special focus was given to this last, institutional dimension, as the study tackled the implications of the Lisbon Treaty. The crucial question here was whether the Lisbon Treaty would improve the EU institutional structure for external action. Without a doubt, this Treaty is particularly important from a third-

generation perspective. From the point of view of the process, the sheer number of amendments related to external relations as a fraction of the whole Treaty, proves that the EU Member States wanted a clear acceleration in this domain. The willingness to experiment on some innovations pending the entry into force of the Treaty reinforces this impression. The establishment of the European Defence Agency or the appointment of an EU/EC double-hatted head of delegation to the African Union are clear cases in point. On the other hand, from the point of view of the substance, there is a general, albeit largely cosmetic,[56] attempt to address the traditional problems of EU foreign policy (unanimity rule, lack of leadership and authority). This is done by increasing the visibility, the capabilities, the coherence and the comprehensiveness of the EU's external relations machinery.

However, these efforts are marked by ambiguity: the EU addresses some of the problems with the High Representative, the President of the Council and the External Action Service; but much is left open for interpretation and day-to-day practice. This feeling emerges clearly when analysing the stand of the EU in the UN. Some very limited institutional opportunities could provide for a more unified EU foreign policy here, but there is no decisive break-through towards a communitarized approach. Not only do the Member States maintain full control of EU foreign policy but, in some cases, they also continue to carry out their own parallel policies. A similar picture would probably surface from the analysis of other international forums as well, whether they are impervious or not to third-generation regionalism. In short, the EU has raised further the standing of external relations in the spectrum of its competences, without embarking on a qualitative transformation towards a state-like foreign policy. The EU has done much to shift away from exclusively civilian power status, becoming increasingly willing and able to use force. However, most of the key tensions between federal and intergovernmental strategies and between effectiveness and Member States' control, linger. This division among Member States' visions about the future of the EU will continue to hamper the capacity of Europe to concentrate authority and power in its foreign policy. As a fully-fledged 'third-generation' regional organization, the EU remains incomplete.

Rather, the EU continues to muddle through towards a new type of global actor: different from a state and in equilibrium between intergovernmental and supranational/federal pressures. It will, therefore, remain misleading to "measure its success" against mythical images of world super-power.[57] Although military force continues to be a major factor in a world still inhabited by modern Westphalian logics and even pre-modern (non-state or failed states) actors,[58] the EU is largely preserving its post-modern character. This is not a bad thing. Comprehensive and structural foreign policy seems a more suitable strategy to tackle today's global challenges, which are largely non-military: global warming,

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[56]   R. G. Whitman, *Foreign, Security and Defence Policy and the Lisbon Treaty: Significant or Cosmetic Reforms?*, 2008 EUSA Review Forum: Europe's Evolving Framework for External Action.
[57]   K. E. Jorgensen, *The European Union's Performance in World Politics: How Should We Measure Success?*, *in* J. Zielonka (Ed.), Paradoxes of European Foreign Policy, Ch. VI (1998).
[58]   Cooper, *supra* note 30.

sustainable development, energy security, migration, terrorism. The Lisbon Treaty has recognized these challenges as new objectives to be dealt with both at the regional and multilateral level. Thus, as it fosters regional cooperation and integration around the world, the EU promotes a new 'European world order',[59] in which regional actors contribute to sharing the burden of the UN in global governance.

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[59]　Hettne, *supra* note 12.