

The EEAS in Multilateral Fora: Impact on EU Coherence at the UN General Assembly

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The European External Action Service (EEAS) should coordinate the Union external action and, thus, enhance coherence in the EU's participation in multilateral fora. This article verifies the EEAS' practical impact on EU voting cohesion and unity of representation in multilateral fora over its first ten years of existence, through an analysis of empirical data regarding the EU's performance at the UN General Assembly. The data suggest that the EEAS has not had a significant impact on EU Member States' voting cohesion. However, the EEAS has promoted unity in the EU's international representation: indeed, EU delegations – which are part of the EEAS – have become the main Union representatives at the UN General Assembly and their representative role is unchallenged by EU institutions and Member States. Despite the persisting divisions in EU foreign policy, the EEAS is likely to ensure an effective Union representation in multilateral fora in the future.

Keywords: EEAS, international institutions, international organisations, diplomacy, coherence, coordination, cooperation, representation, votes, statements

1 INTRODUCTION

The European Union should ‘promote multilateral solutions to common problems’.¹ However, the EU’s effectiveness in multilateral fora – such as international organizations and conferences – is threatened by the constitutional allocation of competences and powers in the Union, which leads to a fragmentation of EU external actions and the division between Union and national foreign policies.

In multilateral fora, the Union may have several representatives, responsible for different policy areas (e.g. the European Commission and the High Representative).² EU representatives often operate alongside Member States’ delegations, as the issues discussed in multilateral fora frequently fall, at least partially, within the scope of national competences, as in the case of the Food and Agricultural Organization

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¹ Article 21(1) and (2) TEU. See further EEAS, *The European Union's Global Strategy: Three Years On, Looking Forward* 15 (2019).

² See Art. 17(1) and 27(2) TEU.

(FAO).³ Moreover, national representatives might represent the Union itself, when the rules of a multilateral forum prevent the participation of international organizations such as the EU (e.g. the International Monetary Fund) or grant them merely observer status (e.g. the UN General Assembly).⁴

The presence of multiple EU and national representatives in multilateral fora might question the coherence of the EU's action,⁵ intended as: (1) cohesion among the positions of Union and Member States' representatives (which might be termed as 'policy cohesion') and (2) unity in the presentation of such positions to the outside world ('unity of international representation').⁶ It is indeed possible that the EU and its Member States adopt coherent positions but present them in an incoherent manner; e.g. they might vote in the same way but make several uncoordinated statements. Vice versa, contradictory positions may be presented in ways that downplay internal divisions; e.g. opposing votes of the Member States might be accompanied by a single EU statement.⁷

EU primary law calls for cooperation among EU and national representatives⁸ and EU institutions regularly stress 'the necessity to further strengthen internal cooperation and cohesion within the EU [and] our strong commitment to the EU speaking with one voice in relevant international fora'.⁹ Nonetheless, the effectiveness of such cooperation in multilateral fora cannot be taken for granted. To address this issue, the Lisbon Treaty introduces institutional reforms; notably, the establishment of the European External Action Service (EEAS or Service). Despite its formal status as a mere 'service' of a Union office (the High Representative),¹⁰

³ See further J. Santos Vara, *EU Representation to International Organisations: A Challenging Task for the EEAS*, 65, 69 (Luis N. González Alonso ed., CLEER 2014).

⁴ On the EU's participation in the UN General Assembly see below, ss 2, 3, 4, and 5. On the EU's representation by the Member States, see e.g. judgment of the Court of Justice of 27 Mar. 2019, *Commission v. Germany*, C-620/16, EU:C:2019:256. For an early assessment, see also *Principles and Practices of EU External Representation*, CLEER Working Paper series (S. Blockmans & R. A. Wessel eds, The Hague 2012); *Research Handbook on the European Union and International Organisations* (R. A. Wessel & J. Odermatt eds, Edward Elgar Publishing 2019).

⁵ On the use of the word 'coherence' instead of 'consistency', see S. Blockmans, *Beyond Conferral: the Role of the European External Action Service in Decision-Shaping* 5, 7 (J. Larik & M. Moraru eds, EUI 2011); C. Tietje, *The Concept of Coherence in the Treaty on European Union and the Common Foreign and Security Policy*, 2 Eur. Foreign Aff. Rev. 211, 213 (1997).

⁶ The Court of Justice uses the concept of unity of international representation in a broader sense, including policy cohesion, see judgment of 20 Apr. 2010, *Commission v. Sweden*, C-246/07, EU:C:2010:203, para. 73 and the case-law cited.

⁷ See further S. Blavoukos et al., *How Consistent Is the EU in the General Assembly? Comparing EU Oral Interventions with Voting Behaviour*, Jean Monnet Working Papers on EU Multilateral Diplomacy #1 (2018).

⁸ See inter alia Art. 4(3), 32 and 34 TEU and Art. 221(2) TFEU; *Commission v. Germany*, supra n. 4, para. 93.

⁹ Council conclusions – EU action to strengthen rules-based multilateralism, 17 June 2019, Council doc. 10341/19, para. 5; some scholars have questioned the centrality of coherence in multilateral fora, see e.g. C. Monteleone, *The United Nations and the European Union*, Oxford Encyclopedia of Politics (2019); K. Verlin Laatikainen & K. E. Smith, *Introduction: The Multilateral Politics of UN Diplomacy*, 12 Hague J. Dipl. 95, 101–102 (2017).

¹⁰ Article 27(3) TEU.

the EEAS is expected to contribute to the ‘coordination necessary to ensure the coherence of the European Union’s external action as a whole’.¹¹

This article explores the EEAS’ contribution to the EU’s policy cohesion and representation in multilateral fora, through a legal assessment of the EEAS’ duties and an analysis of empirical data regarding the EU’s performance at UN General Assembly (UNGA). The EU coherence at the UNGA was chosen as a case study because of its relevance as a multilateral forum and the availability of data.¹² The UNGA is a peculiar forum, where the Union was granted by Resolution 65/276 (2011) rights normally reserved to States.¹³ The findings of this research, therefore, are not applicable *sic et simpliciter* to other multilateral fora (and, *a fortiori*, to bilateral relations) but arguably provide insight in the EEAS’ impact on the EU’s coordination in multilateral environments.

The analysis tests three hypotheses: (1) The Member States vote more consistently at the UNGA since the creation of the EEAS; (2) The EEAS is the Union body that speaks most frequently on the EU’s behalf at the UNGA; (3) The EEAS replaced the Council Presidency as the representative of the Union and ‘The Union and the Member States’ at the UNGA. This article suggests that the EEAS did not increase policy cohesion among EU Member States but reinforced the unity of EU representation. In the coming decade, the EEAS is likely to continue conveying an external image of unity for the Union, despite the persisting challenges for the establishment of a truly *Common* Foreign and Security Policy (CFSP).

The article is divided into five parts. Section 2 analyses the EEAS’ potential in terms of increasing EU coherence in multilateral fora, particularly at the UN General Assembly. Section 3 discusses the EU’s impact on policy cohesion at the UNGA, via an assessment of EU Member States’ voting patterns. The EEAS’ contribution to the unity of the EU’s representation at UNGA is evaluated in the subsequent sections, which verify whether EU statements are made by the EEAS or other Union bodies (section 4) or by the Council Presidency (section 5). The conclusion elucidates the EEAS’ contribution to coherence in multilateral fora and its prospects for the future (section 6).

¹¹ *European Council Conclusions*, EUCO 21 Jan. 2010 rev 1, Annex I, para. f (16 Sept. 2010); *see also Decision 2010/427*, Art. 2(1), 3(1), and 9(2).

¹² *See below*, s. 2.

¹³ UNGA Resolution 65/276, *Participation of the European Union in the work of the United Nations*, UN doc. A/RES/65/276 (10 May 2011). *See further below*, s. 2; *see also* P. A. Serrano de Haro, *Participation of the EU in the Work of the UN: General Assembly Resolution 65/276*, CLEER Working Paper 4 (2012).

2 THE EEAS AS A COHERENCE MAKER IN MULTILATERAL FORA

When decision-making powers are dispersed among several actors – as in EU external relations – public authorities often entrust ‘coordination’ tasks on specific bodies, which are expected to steer decision-making informally, despite having limited powers of their own.¹⁴ This is the case of the EEAS, which is a service of the High Representative, lacking institutional status¹⁵ and decision-making powers.¹⁶ The EEAS coordinates EU and national representatives in multilateral fora, by assisting the High Representative, the Council, and the Commission, and collaborating with the diplomatic services of the Member States.¹⁷ Through its integration and cooperation with EU and national organs, the EEAS can indeed influence decisions that are formally taken by different institutions, bodies and states. The EEAS may thus promote coherence in the form of (1) policy cohesion and (2) unity of international representation.

In the first place, the EEAS can promote *policy cohesion* in multilateral fora. The EEAS contributes to shaping the EU’s position from the beginning of the decision-making process, by drafting initiatives on behalf of the High Representative (in the CFSP area) and the Commission (in the non-CFSP field).¹⁸ Moreover, the EEAS facilitates consensus among the Member States by chairing several Council preparatory bodies (e.g. the United Nations Working Party, CONUN), on behalf of the High Representative.¹⁹ Such bodies contribute to defining common EU position in multilateral fora; for example, in May 2017 CONUN prepared guidelines regarding the EU’s position on the Global Compact on Migration.²⁰ Finally, the EEAS fosters consensus by coordinating diplomatic representations. The EU has eight delegations accredited to international organizations,²¹ which are part of the EEAS.²²

¹⁴ On such coordinating role of EU institutions see e.g. F. Terpan, *Soft Law in the European Union-The Changing Nature of EU Law*, 21 Eur. L. J. 68, 81 (2015); R. Baratta, *Art. 6 TFUE* 393 (Antonio Tizzano ed., Giuffrè 2014); on the coordinating functions of international organizations, see e.g. C. Baldoni, *Gli organi e gli istituti nelle unioni internazionali*, 23 Rivista di diritto internazionale 352, 369 (1931).

¹⁵ Court of Justice, Order of 29 July 2019, *Sequeros*, EU:C:2019:658, para. 7.

¹⁶ Except for administrative issues, which are not relevant for the present analysis.

¹⁷ Decision 2010/427, Art. 2(2) and 3(1).

¹⁸ *Ibid.*, Art. 2(1), 3(2), 9(3)(4), (5) and (6); see also TEU, Art. 17(2), 18(4), and Art. 27(1) and (3) TEU.

¹⁹ Council, List of Council preparatory bodies, 16 July 2020, Council doc. 9199/2/20. See further I. Galariotis & M. Gianniou, *Evidence from the EU Presence at UNGA: In Pursuit of Effective Performance* 61 (S. Blavoukos & Dimitrios Bourantonis eds, Palgrave 2017).

²⁰ The Guidelines are referred to in Draft EU Statement, Fourth informal thematic session on *Contributions of Migrants and Diasporas to all Dimensions of Sustainable Development, Including Remittances and Portability of Earned Benefits*, (24–25 July 2017), https://refugeesmigrants.un.org/sites/default/files/ts4_eu_panel1-4.pdf.

²¹ African Union (Addis Ababa), FAO, WFP and IFAD (Rome), IAEA, UNODC, UNIDO and OSCE (Vienna), ASEAN (Jakarta), Council of Europe (Strasbourg), UNESCO and OECD (Paris), UN and other organizations (Geneva), UN (New York).

²² See Art. 32(2) TEU, Art. 221(2) TFEU, and *Council Decision 2010/427/EU*, Art. 5; see also General Court, Order of 4 June 2012, *Elti*, T-395/11, EU:T:2012:274, para. 35.

Delegations work in cooperation with the representations of the Member States,²³ notably via EU missions' meetings chaired by the delegation.²⁴ These meetings foster coordination, in particular, by defining details or adapting the guidelines of Council Preparatory bodies to specific circumstances.²⁵ As in the case of Council preparatory bodies, delegation staff can facilitate consensus among the Member States' representatives during diplomatic coordination meetings.²⁶

None of these activities of the EEAS is new *per se*: before the Lisbon Treaty, they were performed by the Council Presidency.²⁷ However, it has been alleged that the EEAS is more effective than the Council Presidency at coordinating the Member States because it ensures 'improved continuity in the setting of priorities, in institutional memory, in negotiating know-how and in the overall handling of issues'.²⁸ Moreover, the EEAS is arguably independent of particularistic Member States' interests, at least up to a point, and is, therefore, more likely to be perceived as an honest broker amid the Member States.²⁹

The literature has concentrated, in particular, on the EEAS' impact on policy cohesion at the UN General Assembly. EU Member States tended to vote similarly in a majority of cases at the UNGA even before the Lisbon Treaty.³⁰ After the Lisbon reform, some authors argued that split votes at the UNGA 'have become rare',³¹ while others suggested that Lisbon Treaty arrangements do not influence the propensity to which the EU can operate as a unitary

²³ Articles 32 and 34 TEU.

²⁴ Compare I. Vraïlas, *Negotiating in the UN General Assembly: The European Union and the Other Major Groups*, 12 Hague J. Dipl. 249, 251 (2016): 'Every year, approximately 1,300 coordination meetings are held at the EU premises [in New York]'.

²⁵ See further E. Paasivirta & T. Ramopoulos, *UN General Assembly, UN Security Council and UN Human Rights Council* 58, in Wessel & Odermatt eds, *supra* n. 4, at 62–64; R. Gosalbo-Bono & F. Naert, *The Reluctant (Lisbon) Treaty and Its Implementation in the Practice of the Council* 13, 49–50 (P. Eeckhout & M. Lopez-Escudero eds, Hart 2016); J. Wouters & A.-L. Charné, *Brussels Meets Westphalia: The EU and the UN* 312–313 (P. Eeckhout & M. Lopez-Escudero eds, Hart 2016).

²⁶ See further Maximilian B. Rasch, *The European Union at the United Nations: The Functioning and Coherence of EU External Representation in a State-Centric Environment* 37 (Brill 2008).

²⁷ Except for bodies with elected or appointed chairs, see Council, List of Council preparatory bodies, *supra* n. 19.

²⁸ Vraïlas, *supra* n. 24, at 252. See also X. Jin & M. O. Hosli, *Pre- and Post-Lisbon: European Union Voting in the United Nations General Assembly*, 36 West Eur. Pol. 1274, 1277–1280 and 1288 (2013).

²⁹ Compare D. Panke, *Speaking with One Voice: Easier Said than Done? The EU in the UNGA* 27, 34 (S. Blavoukos & D. Bourantonis eds, Palgrave 2017); Jin & Hosli, *supra* n. 28.

³⁰ L. Hurwitz, *The EEC and Decolonization: The Voting Behaviour of the United Nations General Assembly*, 24 Pol. Stud. 435 (1976); B. Lindemann, *European Political Cooperation at the UN: A Challenge for the Nine* 110 (D. Allen, R. Rummel & W. Wessels eds, Butterworth 1982); M. Strömvik, *Fifteen Votes and One Voice? The CFSP and Changing Voter Alignment in the UN*, 101 Statsvetenskaplig Tidskrift 181 (1998); P. Luif, *EU Cohesion in the UN General Assembly*, Chaillot Occasional Papers (2003); E. Johansson-Nogués, *The Fifteen and the Accession States in the UN General Assembly: What Future for European Foreign Policy in the Coming Together of the 'Old' and the 'New' Europe?*, 9 Eur. Foreign Aff. Rev. 67 (2004); Rasch, *supra* n. 26.

³¹ Wouters & Charné, *supra* n. 25, at 319.

actor in the UNGA.³² These researches, at any rate, relate to the first years of existence of the EEAS, when it was arguably impossible to draw a complete picture of the impact of the EEAS on the EU's external performance.³³ Frictions were to be expected because of the transition to the post-Lisbon system.³⁴ The EEAS' impact throughout all its ten years of existence, therefore, remains to be charted.

Hypothesis 1: Since the creation of the EEAS in 2011, EU Member States tend to vote in an increasingly similar manner at the UNGA. This hypothesis is tested in section 3.

Secondly, the EEAS can foster coherence in multilateral fora by enhancing *the EU's unity of international representation*. The EU's representation is divided both horizontally and vertically. From a horizontal perspective, several EU institutions, offices and bodies might speak on behalf of the Union.³⁵ Under the Lisbon Treaty rules, the Commission generally represents the Union in non-CFSP matters, while the President of the European Council and the High Representative (hence the EEAS) represent the CFSP.³⁶ At the diplomatic level, though, the CFSP/non-CFSP duality is solved by EU delegations, which represent the Union in respect of all its policies (Article 221 Treaty on the Functioning of the European Union (TFEU)). While delegations have EEAS and Commission staff, they are part of the EEAS and are led by a member of the Service (the Head of delegation), who has authority on all the delegation personnel.³⁷ This suggests that the delegation should be the only EU body speaking on behalf of the Union in multilateral fora (except occasional interventions by high-ranking politicians, such as the President of the European Council or the President of the European Commission).

The literature seems to assume that the EU delegation is the only EU body that represents the Union at the UNGA.³⁸ It seems opportune to test this assumption. EU external relations law is not always applied to the letter³⁹ and the practical effects of Article 221 TFEU cannot be presumed. In fact, UNGA

³² Panke, *supra* n. 29; Jin & Hosli, *supra* n. 28; M. Gianniou, *EU Performance at the UN General Assembly: The Case of the Israeli-Palestinian Conflict*, Jean Monnet Working Papers on EU Multilateral Diplomacy #2 (2018).

³³ Jin & Hosli, *supra* n. 28, at 1288.

³⁴ On the challenges of the transition to the Lisbon system, see K. Verlin Laatikainen, *The EU Delegation in New York: A Debut of High Political Drama*, 195, 196–198 (D. Spence & J. Bátorá, Palgrave 2015); Vara, *supra* n. 3, at 66.

³⁵ For instance, both the Council Presidency (EU representative for the CFSP before the Lisbon Treaty) and the Commission (representative of the Community before the Lisbon Treaty) made statements at the UNGA about the implementation of the International Conference on Financing for Development in 2007, see UN documents A/62/PV.35 and A/62/PV.31.

³⁶ Article 17(1), 15(6) TEU, and Art. 27(2) TEU.

³⁷ Council Decision 2010/427/EU, Art. 5. See also the *Elti* case, *supra* n. 22.

³⁸ See e.g. Laatikainen, *supra* n. 34, at 204; see also inter alia, S. Blavoukos et al., *The European Union's Visibility and Coherence at the United Nations General Assembly*, Global Aff. 1, 4 (2016).

³⁹ See e.g. S. Adam, *The Legal Basis of International Agreements of the European Union in the Post-Lisbon Era* 65 (I. Govaere et al. eds, Martinus Nijhoff 2014).

Resolution 65/276 acknowledges that the Union might be represented by several institutions, offices, and bodies: ‘the President of the European Council, the High Representative of the Union for Foreign Affairs and Security Policy, the European Commission, and European Union delegations’.

Hypothesis 2: The EEAS (including EU delegations) is the EU body that speaks most frequently on behalf of the Union at the UNGA. This hypothesis is tested in section 4.

EU external representation in multilateral fora might be divided also vertically: the EU’s messages might indeed be delivered by representatives of the Member States. The Council Presidency, in particular, used to represent the European Union until 2009, but the Lisbon Treaty excluded this possibility, by making sure that only ‘EU actors should deliver statements on behalf of the EU’.⁴⁰ Nonetheless, the Presidency might still exercise a role of representation in practice because it may be difficult or even impossible for EU bodies to speak in the multilateral fora where the Union is not a full member. In these cases, the Union must entrust its representation on a Member State. For instance, before 2011 the rules of the UN General Assembly enabled the Union to speak only *after* all UN members. Therefore, the Union entrusted its representation to the Council Presidency,⁴¹ thus confusing third states: the State exercising the Presidency sometimes spoke in its national capacity and sometimes on behalf of the Union.⁴²

UNGA Resolution 65/276 (2011) addressed this problem, by giving the EU the possibility to intervene among representatives of major groups, exercise the right of reply, and present proposals and amendments. Thanks to Resolution 65/276, the EU delegation (or another Union body) can effectively represent the Union at the UNGA.⁴³ The delegation should arguably represent also ‘the Union and the Member States’ when they act jointly.⁴⁴ EU and national representatives often enter into practical arrangements ensuring that only one person speaks on

⁴⁰ Council, *EU Statements in Multilateral Organisations: General Arrangements*, Council doc. 15901/11, Annex, para. 3, 6th and 9th points (24 Oct. 2011); see also Art. 15(6), 17(1), 27(2) TEU and 221 TFEU.

⁴¹ See further C. Monteleone, *The United Nations and the European Union* (Oxford Encyclopedia of Politics 2019).

⁴² B. Sánchez Ramos, *La Unión Europea y las relaciones diplomáticas* 288 (Tirant lo Blanch 2004); S. Bay Rasmussen, *The Ideas and Practices of the European Union’s Structural Antidiplomacy* 119 (Brill 2018); Compare Blavoukos et al., *supra* n. 38, at 6.

⁴³ There are, however, limits the delegation’s ability to speak at the UNGA, e.g. in respect of vote explanations; they are explored in s. 5.

⁴⁴ This formula became contentious in 2011 when the UK blocked a series of EU statements because it insisted those statements should be delivered on behalf of the ‘EU and its member states’ rather than on behalf of the EU. The issue was solved through Council ‘General Arrangements’ that clarify, inter alia, that statements expressing a position common to the European Union and its Member States must be prefaced by ‘on behalf some of the EU and its Member States’, Council, General Arrangements, *supra* n. 40.

behalf of ‘the Union and its Member States’.⁴⁵ The Council Presidency, which cannot speak on behalf of the Union (see above), should not speak for ‘the Union and its Member States’ either.⁴⁶

However, the Member States do not always follow this rule in practice.⁴⁷ An early study on post-Lisbon EU statements at the UNGA, in particular, highlights the continuing importance of the rotating Council presidency at the UNGA: the EU delegation and the Council Presidency work in cooperation, either because the delegation cannot fulfil all the required representation functions or because the Member States ‘may be keeping the EU Delegation on a tighter rein’.⁴⁸ Other authors have noted that, in the period 2009–2014, ‘the interventions made by the rotating presidency diminished gradually while the interventions made by the EU Delegation constantly increased’.⁴⁹ I expect the latter trend to have continued after 2014.

Hypothesis 3: The EEAS progressively replaced the Council Presidency as the representative of ‘the Union’ and ‘The Union and the Member States’ at the UNGA. This hypothesis is tested in section 5.

3 EEAS’ IMPACT ON EU MEMBER STATES’ VOTING IN THE UN GENERAL ASSEMBLY

According to *hypothesis 1*, since the creation of the EEAS in 2011, EU Member States tend to vote in an increasingly similar manner at the UNGA. To test this hypothesis, the analysis focused on voting patterns at the UN General Assembly. As the Union cannot vote at the UNGA, I analysed the votes of the Member States, including Croatia (since 2013) and the UK (which remained an EU Member until January 2020).

The analysis takes into account UNGA Plenary ‘recorded votes’ in eleven sessions, from the sixty-fourth (September 2009 – September 2010) to the seventy-fourth (September 2019 – September 2020). The time framework includes two sessions (sixty-fourth and sixty-fifth) that took place, entirely or partially, before the EEAS was established; they are used as a reference to assess the EEAS’ impact. The data were retrieved from the website of the UN Digital Library on 1 September 2020⁵⁰; some data relating to the seventy-fourth session might be missing, as they might not have been uploaded to the UN Digital Library yet. For ease of

⁴⁵ European Commission Secretariat-General and Legal Service, *Vademecum on the External Action of the European Union*, SEC(2011)881, at 27 (2011).

⁴⁶ See to that effect, Statement by the Commission to be entered into the minutes of the Council session endorsing the General Arrangements, Council doc. 15855/11; see further Paasivirta & Ramopoulos, *supra* n. 25, at 67.

⁴⁷ For instance, the Council routinely enables its Presidency to sign international agreements on the EU’s behalf, see e.g. *Council Decision 2019/1915 on the Signing of EU-Belarus Visa Facilitation Agreement*, Art. 3.

⁴⁸ Laatikainen, *supra* n. 34, at 205.

⁴⁹ Galariotis & Gianniou, *supra* n. 19, at 66; see also Blavoukos et al., *supra* n. 38.

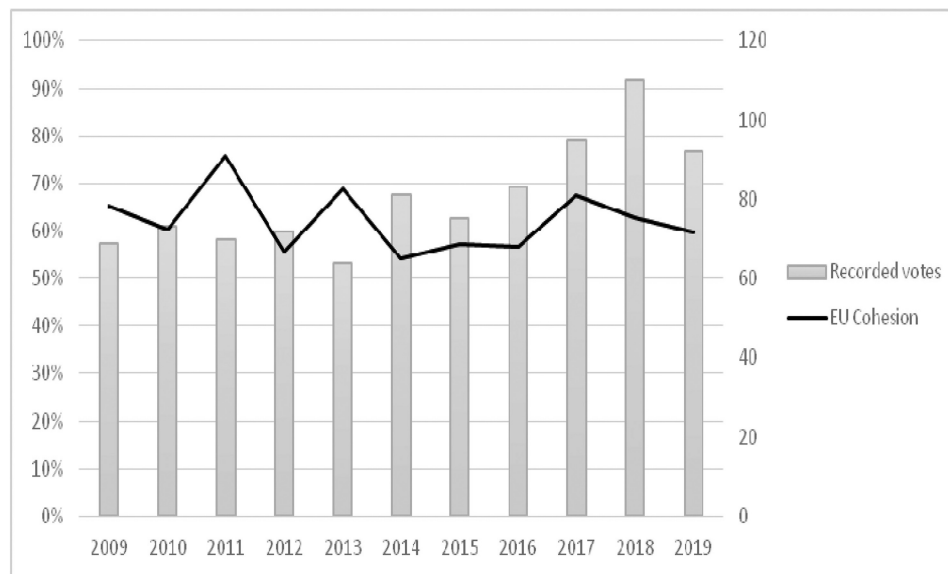
⁵⁰ <https://digitallibrary.un.org>.

exposition, sessions are henceforth referred to by their starting year; e.g. the seventy-fourth session is referred to as the ‘2019’ session.

The data under analysis refer to voting in the UNGA Plenary concerning entire resolutions, to the exclusion of rejected resolutions and parts of resolutions. Earlier studies suggest that including votes on rejected resolutions and parts of resolutions entails only slight differences in terms of voting cohesion.⁵¹ The analysis excludes resolutions adopted by consensus since they ‘artificially increase the value of coherence without adding substance to the analysis’.⁵² The number of recorded votes tends to grow over the observed period, from sixty-nine (2009) to ninety-two (2019).

At the UNGA, States may vote ‘yes’ (Y) or ‘no’ (N), or ‘abstain’ (A), or may not participate in the voting. It is assumed that, if all EU Member States express the same vote (Y, N, or A), there is ‘EU cohesion’. If at least one Member State expresses a different vote or is absent, there is a ‘defection’ and, therefore, a ‘split vote’. The evolution of the percentage of EU cohesive votes in relation to the total votes at the UNGA Plenary is presented in figure 1, together with the number of recorded votes.

Figure 1 EU Cohesion at the UNGA Plenary (2009–2019)



Source: author’s elaboration of data from, <https://digitallibrary.un.org>

⁵¹ P. Luif, *On the Road to Brussels: The Political Dimension of Austria’s, Finland’s and Sweden’s Accession to the European Union* 277–278 (Braumüller 1995); Rasch, *supra* n. 26, at 213.

⁵² Rasch, *supra* n. 26, at 211.

The data suggest that *hypothesis 1* is not confirmed. The EU cohesion was relatively high even before the creation of the EEAS. For instance, EU Member States voted identically on forty-five of the sixty-nine resolutions voted at the UNGA in 2009 (65%). These results are in line with, or lower than, pre-2009 voting patterns analysed by other authors.⁵³ After the creation of the EEAS, the EU cohesion varies over the years, but there is no marked evolution signalling greater cohesion among Member States' votes.

It is worth noting that similar results would be reached by calculating the EU 'cohesion' at the UNGA plenary in different manners. If one took into account *all* the resolutions adopted at the UNGA, i.e. including those adopted by consensus among all UNGA members, the results would not change considerably: there would not be any clear trend in the period 2009–2019.⁵⁴ Similar conclusions would be reached by excluding abstentions or absentees from the vote count. If one did not count abstentions or absences of EU Member States as 'defections' the overall results would remain comparable to those represented in fig. 1.⁵⁵ Finally, one might calculate the EU's cohesion at UNGA by excluding the UK from the list of EU Member States since 2016 but this would have limited consequences. In 2019, the UK broke the EU's cohesion in a relatively high number of cases (6,5% of votes) but in 2016–2018 this occurred in a few cases (1–2%). These data are in line with pre-2016 voting at UNGA when the UK already displayed high levels of vote defection.⁵⁶ In other words, Brexit does not seem to have affected EU voting coherence at the UNGA (at least, until 2019).

The apparent absence of impact of the EEAS on the voting pattern of EU Member States in the period under observation might be explained by the limitations of its coordinating mandate and the specificities of the UN General Assembly as a multilateral forum. UNGA draft resolutions often concern issues that are presented and debated each year at the UNGA, generating similar split votes among the Member States.⁵⁷ For instance, in 2018 there were forty-one split votes among the EU Member States. Among these, at least sixteen concerned resolutions that had already been presented between 2009 and 2012 and that, at the time, had generated an EU split vote since they addressed divisive issues, such as

⁵³ See in particular, Luif, *supra* n. 30, at 28; Jin & Hosli, *supra* n. 28; Rasch, *supra* n. 26.

⁵⁴ The EU cohesion rate would vary: e.g. 93% (2009), 94% (2013), 91% (2017) and 88% (2019).

⁵⁵ If one did not take abstentions into account cohesion would oscillate, without any clear pattern, between 84% (2018) and 92% (2017); if absentees were excluded cohesion would range from 61% (2016) to 79 % (2011).

⁵⁶ N. Burmester & M. Jankowski, *One Voice or Different Choice? Vote Defection of European Union Member States in the United Nations General Assembly*, 20 *Brit. J. Pol. & Int'l. Rel.* 652 (2018); Galariotis & Gianniou, *supra* n. 19, at 69.

⁵⁷ See further, to that effect, Galariotis & Gianniou, *supra* n. 19, at 69–71.

nuclear weapons and colonialism.⁵⁸ While the EEAS might stimulate the convergence of views of the Member States, deep and well-established disagreements among the Member States can hardly be solved by a coordinator, no matter how independent from the Member States.⁵⁹

One might expect a greater impact of the EEAS in respect of draft resolutions that are not debated every year, as national positions about such ‘new’ resolutions are not anchored in established national practices.⁶⁰ Yet, EU Member States are sometimes divided about such ‘new’ resolutions too. Several divisions about ‘new’ resolutions, in fact, seem inevitable because they concern highly politicized issues in some EU Member States.⁶¹ For instance, seven draft resolutions that generated split votes in 2018 concerned topics close to sensitive national policies, such as nuclear weapons,⁶² the UK’s administration of the Chagos Archipelago or the Global Compact on Migration (*bête noire* of certain xenophobic EU governments).⁶³

The analysis suggests that the specificities of UNGA resolutions make it extremely difficult for a coordinator to have a visible impact on the formulation of common positions. Therefore, it is unlikely that the EEAS’ impact on voting cohesion at the UNGA might increase substantially over the next ten years. By contrast, the EEAS’s influence is already evident concerning the *representation* of the Union position, as shown in sections 4 and 5.

4 EU STATEMENTS AT THE UN GENERAL ASSEMBLY: DELEGATION VS OTHER EU BODIES ...

As noted in section 2, the EEAS is expected to increase the unity of EU representation in multilateral fora because EU delegations (which are part of the EEAS) speak on behalf of the Union in respect of all its policies (Article 221 TFEU). The delegations may therefore be the only ‘voice’ of the Union, to the exclusion of (1) other Union bodies (an issue discussed in this section) and (2) the Council Presidency (discussed in the next section).

According to *Hypothesis 2*, the EEAS (including EU delegations) is the EU body that speaks most frequently on behalf of the Union at the UN General Assembly.⁶⁴ I tested this hypothesis by identifying the names of the individuals who spoke on

⁵⁸ UNGA Resolutions A/RES/73/298, A/RES/73/241, A/RES/73/166, A/RES/73/70, A/RES/73/42, A/RES/73/57, A/RES/73/60, A/RES/73/50, A/RES/73/41, A/RES/73/38, A/RES/73/104, A/RES/73/122, A/RES/73/123, A/RES/73/103, A/RES/73/23, and A/RES/73/18.

⁵⁹ See also to that effect, Panke, *supra* n. 29, at 36–38.

⁶⁰ Galariotis & Gianniou, *supra* n. 19.

⁶¹ See to that effect, Panke, *supra* n. 29, at 33 and 37.

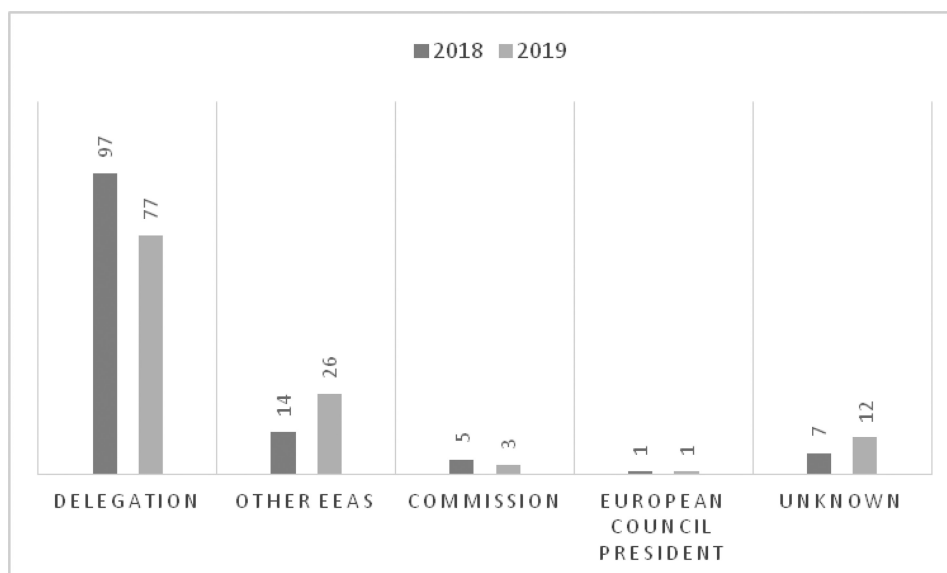
⁶² UNGA Resolutions A/RES/73/48, A/RES/73/47, A/RES/73/71, A/RES/73/64, A/RES/73/62, A/RES/73/40, and A/RES/73/28.

⁶³ UNGA Resolutions A/RES/73/295 and A/RES/73/195.

⁶⁴ See further *supra*, s. 2.

behalf of EU bodies at the UNGA. Through an assessment of EU and UN websites and publications,⁶⁵ I determined whether EU speakers were affiliated to (1) the EU delegation to the UN (hereafter, ‘the delegation’), (2) other EEAS offices, (3) the European Commission, or (4) other Union institutions, offices, and bodies. Given the elevated mobility of EU staff and the consequent difficulty in identifying their affiliation after several years, the research was limited to the statements made during the last two available sessions (2018–2019). The sample includes statements made at the Plenary and the six Committees of the UNGA, because the comments made in the Committees differ, in content, authors and number, from those made in the Plenary. The data were retrieved on 1 September 2020.⁶⁶

Figure 2 EU Statements at UNGA in 2018 and 2019 Sessions



Source: author's elaboration of data from *un.org* and *europa.eu*

⁶⁵ The investigation relied on sources available online, including the Official Directory of the EU, (<https://op.europa.eu/en/web/who-is-who>) and the ‘Blue Book’ of the UN (UN Protocol and Liaison Service, Permanent Missions to the United Nations, N° 308 Rev.2, Aug. 2019).

⁶⁶ The EU Delegation to the United Nations also publishes EU statements at the UN, but the two databases differ: the UN Digital Library includes a higher number of statements but excludes statements in working groups and at informal events. The delegation website includes them but lacks many of the official statements of the Union at the UNGA (see e.g. the statement cited in UN doc. A/72/PV.65).

The data confirm *hypothesis 2*. As shown in figure 2, the EU delegation intervened in seventy-seven cases in the 2018 session and ninety-seven instances in the 2019 session (i.e. 72% of the 243 EU statements regarding the two sessions under observation). Delegations' statements deal mostly with the CFSP, as many UNGA draft resolutions often concern 'high politics' issues, such as international security or the recognition of third States, which fall within the scope of the CFSP (where the EU is represented by the High Representative and the EEAS). Nonetheless, several delegations' statements cover also non-CFSP issues, such as biological diversity or criminal justice.⁶⁷ This is not surprising, as EU delegations include staff with different backgrounds and institutional affiliations. It is possible, for instance, that a Commission official serving in the EU delegation delivers EU statements on non-CFSP topics. This does not question the unity of EU representation since EU staff in delegations serve under the authority of an EEAS agent (the head of delegation).⁶⁸

Although the EU delegation makes most EU statements at the UN General Assembly, non-delegation staff also contributes to the EU representation. The participation of non-delegation staff at the UNGA, at any rate, seems motivated, not by conflicts of competence, but by practical considerations related to the expertise and responsibilities of specific speakers. Most non-delegation agents that intervened at the UNGA are EEAS staff from Headquarters or the Geneva delegation (forty statements over two sessions, i.e. 16% of EU statements), who spoke on CFSP-related topics for which they were responsible (e.g. space security).⁶⁹ Similarly, the rare interventions of non-delegation Commission staff (eight statements in total) concern technical non-CFSP aspects, e.g. points of law in the sixth committee (legal issues). It is possible that Commission staff might make statements more frequently in multilateral fora where non-CFSP issues are prevalent. This should not be read as a challenge for the EU's unity of representation, at any rate, but as a simple consequence of the different specialization of EU staff and bodies.

These findings suggest that the delegation is the EU body that speaks most often on the Union's behalf in multilateral fora.⁷⁰ As the delegation's representative role under Article 221 TFEU seems unchallenged by other Union bodies, one might expect EU delegations to act as the main Union representatives in multilateral fora in the future, too.

⁶⁷ See e.g. EU statements in UN doc. A/C.2/74/SR.26 and A/C.3/74/SR.5.

⁶⁸ See above, s. 2.

⁶⁹ See EU statement in UN doc. A/C.4/74/SR.15.

⁷⁰ At least, in those fora where the Union can speak and has a delegation.

5 ... AND DELEGATION VS COUNCIL PRESIDENCY

Once established that the delegation is the main EU representative among Union bodies, it remains to see whether its representative role, granted by Article 221 TFEU, is challenged by the Member States. The State exercising the Council Presidency, in particular, is likely to question EU delegations' role since the Presidency used to represent the Union at the UNGA before Resolution 65/276 and the Lisbon Reform. According to *hypothesis 3*, the EEAS (including EU delegations) replaced the Council Presidency as the representative of 'the Union' or 'the Union and the Member States' at the UNGA.⁷¹

To verify *hypothesis 3*, I collected the statements made in the UNGA Plenary and committees over 11 sessions (2009–2019) by: (1) EU Member States on behalf of the Union or 'the Union and the Member States'. These statements are typically delivered by the Council Presidency and are indicated as 'PRES' in table 1 below. (2) Union representatives, i.e. by the Union *qua* observer at the UNGA. The institutional affiliation of the person delivering the statement on behalf of the EU is not specified in the UN documents. For the reasons discussed in section 4, it may be expected that the EU delegation delivers most statements (EU statements are, therefore, referred to as 'DEL' in table 1).⁷²

Hypothesis 3 is largely confirmed by the data collected. Before the Lisbon Treaty, the Council Presidency made more than 100 statements per year at the UNGA Plenary and Committees. After the entry into force of the Lisbon Treaty (2009), the number of statements of the Council Presidency decreased, while EU representatives (in most cases, the delegation) rapidly acquired a leading role, as required by Article 221 TFEU. In 2012, after Resolution 65/276 enabled the EU to speak among major groups, EU representatives (generally, the delegation) made already 80% of EU statements, and did so almost every year thereafter, as shown in figure 3. The leading role of the EU delegation, coupled with the relatively constant frequency of EU statements over the years, suggests that the Member States are not keeping the EU Delegation on a tighter rein, compared to the Presidency pre-Lisbon.⁷³

⁷¹ See *supra*, s. 2.

⁷² Statements by the Commission delegation before 2011 are also included under 'DEL' in the table.

⁷³ Compare Laatikainen, *supra* n. 34, at 205.

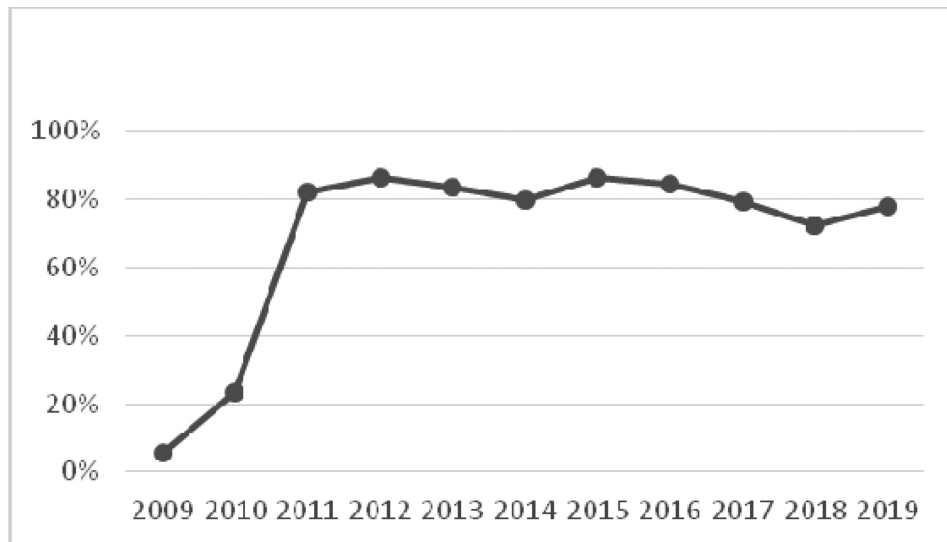
Table 1 Statements on Behalf of the EU (and Its Member States) at the UNGA

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Total											
PRES	133	109	18	19	24	34	21	22	31	48	34
DEL	8	33	82	120	120	132	131	117	117	124	119
Plenary											
PRES	27	27	5	3	7	8	8	7	9	18	10
DEL	1	11	28	29	33	33	31	22	27	29	19
1st Comm.											
PRES	7	7	0	1	0	1	0	0	1	3	3
DEL	0	0	0	6	7	8	9	6	11	9	13
2nd Comm.											
PRES	20	17	2	2	2	3	1	1	5	9	6
DEL	1	0	8	17	12	13	13	6	3	3	10
3rd Comm.											
PRES	40	26	9	10	13	17	10	10	12	15	12
DEL	4	20	21	26	27	33	37	32	32	38	47
4th Comm.											
PRES	8	8	0	1	0	1	1	2	3	2	1

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
DEL	0	0	7	8	8	8	9	7	8	7	8
5th Comm.											
PRES	28	19	2	2	2	4	1	2	1	1	1
DEL	0	1	13	24	25	26	22	32	25	25	12
6th Comm.											
PRES	3	5	0	0	0	0	0	0	0	0	1
DEL	2	1	5	10	8	11	10	12	11	13	10

Source: author's elaboration of data from, <https://digitallibrary.un.org>

Figure 3 Number of EU Representatives' Statements as a Percentage of All Statements made on the EU's Behalf at the UNGA



Source: author's elaboration of data from, <https://digitallibrary.un.org>

Nonetheless, the delegation works in cooperation with the Council Presidency, which regularly makes about 20% of EU statements. The frequency of Council Presidency statement varies in the different articulations of the UN General Assembly, perhaps because of political reasons. In the fifth Committee (Administrative and Budgetary issues) and sixth Committee (legal), the Council Presidency seldom intervenes. Possibly, it has little interest in challenging the delegation's representative role in these bodies, which deal with rather technical matters.

In the Plenary, the first Committee (Disarmament and International Security), Second Committee (Economic and Financial issues), and the fourth Committee (Special Political and Decolonization), the number of Council Presidency statements decreased sharply in 2011 but seems to have slightly increased again in recent years. The dynamic seems reversed for the third Committee (Social, Humanitarian & Cultural Issues), where the delegation went off to a relatively slow start but appears to be gaining ground, from 70% of EU statements in 2012 to 80% in 2019. The Council Presidency and the delegation might have negotiated, over the years, a pragmatic division of labour that reflects their respective priorities. The Presidency might have a particular interest in the Plenary, because of its high visibility, and in the first, second, and fourth Committees, which deal with highly polarizing issues (e.g. nuclear weapons or the occupation of

Palestine). Conversely, the delegation might have greater interest for the third Committee, which deals, *inter alia*, with human rights – an issue central to the discourse, if not the practice, of EU foreign policy.⁷⁴

However, the persisting role of the Presidency as an EU representative at the UNGA might be explained, more than by political reasons, by legal considerations.⁷⁵ According to UNGA rules, the Union cannot sponsor resolutions and cannot perform any vote explanation.⁷⁶ These rights are reserved to States. In fact, all the statements of the Council Presidency in the UNGA Plenary in 2017–2019 – a period of increase of Presidency statements – are either vote explanations or declarations accompanying draft resolutions.⁷⁷ To bypass UNGA rules (and the Council Presidency), the EU delegation has occasionally delivered generic ‘statements’ (which do not expressly explain a vote) *after* vote explanations in the UNGA⁷⁸ but this is a relatively rare occurrence.⁷⁹

The frequent use of vote explanations by the Council Presidency, instead of statements of the EU delegations, might perhaps be motivated by the Council Presidency’s intention to maintain its visibility at the UNGA, to the detriment of the EU delegation and the unity of EU representation. I But the Presidency’s delivery of vote explanations might also be part of a strategy agreed with the delegation. By delivering statements as typical vote explanations (by the Presidency), instead of generic statements (by the delegation), EU representatives might have sought to increase the visibility of the Union position.

It can be argued, therefore, that the EU delegation has generally replaced the Council Presidency as the EU representative at the UN General Assembly in a vast majority of cases, as required by Article 221 TFEU. The residual role of the Presidency is linked to limitations imposed by UNGA rules and does not seem capable of questioning the unity of representation of the Union. Since no Council Presidency challenged the delegation’s role as Union representative at UNGA between 2012 and 2019, one may expect the delegation to ensure unity in the EU’s representation at UNGA over the next ten years.

⁷⁴ On the EU’s priorities at UNGA, *see also* Galariotis & Gianniou, *supra* n. 19, at 72–73.

⁷⁵ There might be also practical reasons: The Council Presidency and the delegation apply burden-sharing to be present and influence as many debates as possible, Paasivirta & Ramopoulos, *supra* n. 25, at 66.

⁷⁶ UNGA Resolution 65/276, annex, para. 3; UNGA Rules of Procedure, Rules 88 and 128.

⁷⁷ *See e.g.* the statement by the Council Presidency in UN doc. A/74/PV.52. On the EU’s sponsorship of draft resolutions, *see* Galariotis & Gianniou, *supra* n. 19, at 71–74.

⁷⁸ *See e.g.* the statement by the EU observer in UN doc. A/65/PV.100 and A/74/PV.14. The practice seems generally accepted, *see* R. Sabel, *Statements by Delegations*, in *Rules of Procedure at the UN and at Inter-Governmental Conferences* (R. Sabel ed., Cambridge 2017). On past controversies related to the EU’s vote explanation, *see* J. Wouters et al., *Improving the EU’s Status in the United Nations and the UN System: An Objective Without a Strategy?* 45, 53–54 (Christine Kaddous ed., Hart 2015).

⁷⁹ *See* Laatikainen, *supra* n. 34, at 205.

6 CONCLUSION

This article sought to verify whether the EEAS enhanced the coherence of the EU's external action in multilateral fora over the last ten years, by focusing on the UN General Assembly. The legal design of the EEAS suggests that it can integrate with other bodies and thus coordinate EU institutions' and Member States' actions, despite their institutional and procedural differences. To assess the practical impact of the EEAS' coordination, the analysis verified three hypotheses: (1) The EEAS has increased cohesion in Member States' voting at the UN General Assembly; (2) The EEAS is the only EU body speaking at the UNGA; (3) The EEAS has replaced the Council Presidency as the EU representative at the UN.

On the one hand, the data did not corroborate *hypothesis 1*: there seems to be no evidence of the EEAS' impact of EU Member States' cohesion at the UNGA. This shows a limit not only of the EEAS as such but of the coordinating function of public authorities more in general. In organizations where decision-making powers are entrusted to different bodies, coordinators are often expected to steer policy-making informally.⁸⁰ While such coordination is sometimes effective, it is likely to fail in situations where political stakes are high and decision-makers' priorities divergent – as in the case of voting at the UNGA. Given the limitedness of its mandate, it is unlikely that the EEAS might substantially affect the coordination of EU voting at the UNGA over the next ten years. Further research may nonetheless clarify the EEAS' impact concerning less divisive expressions of will at the UNGA⁸¹ or in less politicized multilateral fora.

On the other hand, the data largely confirmed *hypothesis 2* and *hypothesis 3*, dealing with the EU's external representation. As required by EU Treaties (Article 221 TFEU), EU delegations regularly speak at the UNGA on behalf of the Union. Such compliance with EU primary law appears remarkable: EU institutions and Member States often implement EU external relations law with a degree of flexibility, particularly when representation arrangements are concerned.⁸² EU institutions' and Member States' acceptance of EU delegations as the prime Union representatives at the UNGA might be an acknowledgement of the EEAS' value as the sole 'voice' of the Union in multilateral fora. Despite the persisting divisions in EU foreign policy, the EEAS is likely to ensure an effective Union representation in multilateral fora for the years to come.

⁸⁰ See *supra*, s. 2.

⁸¹ For example the consistency of Member States' oral statements, see Blavoukos et al., *supra* n. 7.

⁸² See *supra*, s. 2.

