



# UNIVERSITY OF TWENTE.

**Faculty of Behavioural, Management and  
Social Sciences**

## **The EU as a global security actor in the 21<sup>st</sup> Century**

**Dealing with security challenges in a multilateral  
framework**

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*'In times like these, we need each other. We need all nations to come together, united. We need the United Nations. Because only together we draw the way forward, and make sure that tomorrow will be better than today.'*<sup>1</sup>

*New York, Federica Mogherini*

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<sup>1</sup> F. Mogherini, 'Speech by High Representative Federica Mogherini at the UN Security Council on the European Union – United Nations cooperation', *European Union External Action* (06 June 2016), available at <[http://eeas.europa.eu/statements-eeas/2016/160606\\_02\\_en.htm](http://eeas.europa.eu/statements-eeas/2016/160606_02_en.htm)>.

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## Abstract

The bachelor thesis aims at answering the following research question: *To what extent has the European Union successfully reified the concept of effective multilateralism to contribute to solve the threat of terrorism?*

In order to answer this question, three sub questions have been specified which systematically expose the European Union's legal and physical ability to deal with terrorism as a key security challenge of the twenty-first century. For that purpose, I use a qualitative approach which inductively intends to dismantle the concept of effective multilateralism in order to see whether the EU performs well in another multilateral framework namely, that of the United Nations. Furthermore, I aim to outline three alternative modes of engagement to assess possibilities for the EU to enhance its efficiency in countering terrorism.

Data collection will mainly be based on the analysis of relevant policy documents (particularly EU strategies), regulations and decisions published by the European Union and its partners as well as critical reviews by distinct scholars. Additionally, the treaties of the EU and the UN Charter help to assess the legal and institutional framework authorising EU action to take place.

# CHAPTER 1

## 1. Introduction

This thesis deals with the question to what extent the European Union is competent and able to contribute to the elimination of terrorism as a contemporary global security threat and particularly, it assesses whether the EU's strategy of effective multilateralism has been successfully realised. The focus of this thesis thus is on the EU's past and actual achievements in international security politics and the EU's ambitions to be a global security actor dealing with key security issues of the twenty-first century by focusing on terrorism. Indeed, recent developments such as the Syrian crisis, the huge migratory flow and, the emergence of the Islamic State and its worldwide terrorist practices, have revitalised questions concerning the EU's global security impact and whether it is capable to deal with such profound challenges.

This paper contributes to an existing amount of research conducted in this field but should provide for new practical implications instead of merely making theoretical inferences.

### *1.1. Background of the Problem*

As the European Union is in itself an international organisation with supranational as well as intergovernmental features, it is necessary to take into account its international environment and the multilateral framework it is acting in.

The EU operates inside an extensive and complex legal scheme with clearly defined competences. So, it is fundamental to have a look at the competences the Member States conferred to the EU which enable the EU to make contributions to, i.e., UN actions. Certainly, security has always been a sensitive topic to Member States which were against previous attempts to set up a European Defence Community in 1950. However, due to the change in the nature of classical threats to nation states, there is a renewed interest in collective security and states may be more willing to give up some of their sovereignty to EU institutions in order to increase their capacity to act. Hence, some claim that the EU's supranational institutions should have autonomous power in

taking decisions in order to enhance its efficiency, others defend the EU's intergovernmental character where national governments still have a dominant role in decision making processes. So, it is necessary to make sure that EU actions are in accordance with the *principle of conferral* which regulates that EU legislation can only take place where powers are conferred to the EU by the Treaties.

The UN is outlined as a key partner for the Union concerning the maintenance of security and as it is stated in the European Security Strategy (ESS) of 2003, both have to work closely and take a common approach.

By now, the EU has laid out several strategic objectives in its ESS but those are rather theoretical and vague. Nonetheless, I argue that they are still relevant for today even though it is necessary to adapt them to today's setting. Specifically, cooperation relies on the concept of effective multilateralism which in turn needs to be exposed. The notion has appeared in diverse documents and papers but there has only been little insight how this concept is put into practice. Therefore, I am going to define what it actually signifies and apply it to the security area of terrorism.

It follows that much attention was already paid to the theoretical conditions under which the EU can and should take actions but still, I need to study in depth whether those implications are effective in practice and if the EU really succeeds in performing a global security actor role in this specific field.

## *1.2. Social and scientific relevance*

Especially due to the de-territorialisation of security issues, and the impact that globalisation has on the transnational spread of security threats, the EU needs to take an active position to encounter this development. Terrorism is indeed no new phenomenon but globalisation has triggered new features such as the increased connection of terrorist networks via social media platforms which calls for new solutions.

There is an increasing amount of news in the media reporting about terrorist attacks in Europe and its neighbourhood which are predominantly carried out by the Islamic State. Especially after the devastating happenings in Paris in November last year and the recent news about the attacks in Brussels, EU leaders are currently on stand-by

and trying to find a common approach in the prevention and containment of this threat. Especially with regard to such intangible challenges, it is necessary to strengthen the EU-UN partnership as also UN Secretary-General Ban Ki-moon has expressed, the ‘challenges we face are too complex for any organization or nation to address alone’<sup>2</sup>. In my opinion, there is little insight in what is really happening behind the closed doors of negotiations and there is an on-going concern and a lot of curiosity in society to uncover the measures.

Indeed, there is a great amount of literature on possible ways to fight terrorism and what kind of measures policymakers aim to implement but there is nevertheless a significant gap on EU counterterrorism literature related to their effectiveness.

Currently, the EU has developed a new Global Strategy for European Foreign and Security Policy which is expected to be presented in June 2016;<sup>3</sup> in this regard we will have to see whether the weaknesses of the old strategy as well as the on-going criticism of the ineffectiveness and inadequacy of the European Union to execute its global security role can be mitigated. Due to the current developments, it is important to closely watch the ongoing processes and stay informed about news related to the new strategy.

The topic is highly up to date, but still not extensively dealt with therefore triggering new research in order to bring forward sustainable solutions in an ever changing international environment.

## 2. Research Question

In order to address the issues mentioned above and to look at the degree to which the EU can meet global security challenges by relying upon the concept of effective multilateralism, the research question of my paper can be formulated as follows: *‘To what extent has the European Union successfully reified the concept of effective multilateralism to contribute to solve the threat of terrorism?’*

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<sup>2</sup> Secretary General, ‘Affirming “Deep” Partnership with European Union, Secretary-General Calls for Strengthened Cooperation on Conflict Prevention, Other Matters’ (United Nations, 9 March 2015), SG/SM/16580-SC/11814.

<sup>3</sup> F. Mogherini, ‘A Global Strategy for the Global Strategy on Foreign and Security Policy for the European Union’, EEAS, available at <<https://europa.eu/globalstrategy/en/>>.

In order to fully answer the main question and identify the complex framework under which the EU operates, three sub questions are formulated.

First, it is necessary to identify the key security threats and hence the first sub question is: ‘*What are the new global security challenges for the 21st century and particularly, what is the nature of terrorism?*’ Here, I will have a look at the way globalisation has affected the security environment in order to understand the new intangible features of the terrorist threat and moreover, to demonstrate why an effective multilateralism is indispensable.

Further, the second sub question ‘*How does the EU approach the concept of effective multilateralism with the United Nations at its core?*’ dismantles the concept of effective multilateralism and looks at the way the EU aims to realise this objective set out in its ESS. Hereby, it is necessary to define the United Nations as a key strategic partner and outline what both have achieved so far in the domain of terrorism.

In the end, by means of the third sub question ‘*How can the EU’s efficiency in counterterrorism be enhanced?*’ I want to propose new ways how to enhance the EU’s efficiency notably by referring to alternative modes of engagement with other actors.

These questions comprise different types of research patterns specifically empirical, explanatory, hermeneutic, exploring and logical which have been summarised by van Hoecke.<sup>4</sup>

Empirically, the aim is to identify valid laws and to recognise ‘the best legal means for reaching a certain goal’<sup>5</sup> to determine which is the best solution to deal with the threat of terrorism. Furthermore, the questions aim at explaining the law in order to see which norms are applicable and to ensure that there are no conflicting norms and if so, which norm overrides the other. Particularly when examining UN resolutions and existent EU law, one has to consider the principle *lex superior derogat legi inferiori*. In relation to that, the hermeneutic character of the question implies that it is not just sufficient to explain the law but also to interpret it and by means of argumentation decide whether the EU is competent to take action. As the purpose is also to draw conclusions relating to the effectiveness of EU actions in this specific

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<sup>4</sup> M. van Hoecke, *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* (Oxford, Hart Publishing 2011).

<sup>5</sup> M. van Hoecke, *supra* note 4, preface.



policy domain, I intend to explore new and ‘possibly fruitful paths’<sup>6</sup> to make the EU more efficient. Finally, the logical element indicates at the necessity to structure the underlying concepts, norms and principles in order to ensure a coherent analysis.

In addition to that, according to van Hoecke’s classification, the research question can further be classified as an evaluative one. It is not just directed to explain the EU’s role in the terrorism policy field but it also aims at testing to what extent the rules are applied in practice and if they are in accordance with relevant norms. The latter aspect is especially important in this context as it is fundamental to see whether those norms are in harmony with other – higher - norms of different international and national legal systems.

### 3. Theory and Concepts

As I aim to answer a legal research question, most information is retrieved from legal documents which will be analysed critically. In this section, I will give an overview of relevant documents, norms and principles as well as concepts and theories which are guiding my analysis.

At first, I rely on the EU’s past Security Strategy of 2003 called ‘A secure Europe in a better world’<sup>7</sup> and recent documents relating to the new Global Security Strategy. The former strategy has outlined five key threats to security namely terrorism, the proliferation of weapons of mass destruction, regional conflicts, state failure and organised crime, whereas the latter strategy points at further developed challenges. Those form the basis for the clarification of the first sub question. Accordingly, terrorism will be conceptualised further.

As I introduce the attribute *global* to typify the challenge, it is necessary to conceptualise this term. Therefore I reflect upon a theoretical paper by Ulrich Beck ‘The Terrorist Threat: World Risk Society Revisited’<sup>8</sup> in which he describes three different axes of conflicts namely ecological conflicts, global financial crises and

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<sup>6</sup> M. van Hoecke, *supra* note 4, preface.

<sup>7</sup> J. Solana, ‘A secure Europe in a better world: European security strategy’, The Council of the European Union, 12 December 2003, available at <<https://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>>.

<sup>8</sup> U. Beck, ‘The Terrorist Threat: World Risk Society Revisited’, 19 *SAGE Journals* 2002, 39-55.

transnational terror networks whereas my focus will be on the latter. Moreover, I study theoretical ideas of Gabriel Weimann who considers the online presence of terrorist groups as a form of ‘electronic jihad’<sup>9</sup> to spread their ideology worldwide.

Additionally, in order to say what is *new* about this threat and how it distinguishes itself from the existent threats in the twentieth century and before, I use the theory of world risk society by Ulrich Beck.<sup>10</sup> He defines three features of global risks which are de-localisation, incalculableness and non-compensability. These features specify that the new kind of risks are omnipresent and not limited to one specific space and that their consequences are immense and that one needs to take actions according to the principle of precaution through prevention.

I decided to solely focus on the prevention of terrorism in order to make my analysis more precise.

In view of this, it is necessary to not rely solely on EU assessments but to find other independent and more objective sources to be able to critically evaluate the EU strategies and to minimise a bias due to subjective assessments by EU organs. Therefore I selected various reports of independent researchers which have been published in think tanks like for instance the Centre for European Policy Studies (CEPS), the Istituto Affari Internazionali (IAI) and the Institute for Security Studies (ISS). I am not going to refer to all studies in the course of this theory section because otherwise the literature review would be too extensive.

To address the second sub question, the concept of effective multilateralism needs to be analysed. This notion was adopted as a core principle in the ESS of 2003.

I am going to have a look at the degree to which the European Union has outlined and operationalised this concept as well as if it has succeeded in coming up with the fore set goals. Though, since the EU remained fairly vague in its formulation, its precise meaning will be derived from theoretical frameworks and practical implications. Hereby, I will take apart the two elements, multilateralism and effective, to get a better understanding of the concept. Due to the fact that the idea of effectiveness largely depends on a subjective perception as one can assess it on the basis of various

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<sup>9</sup> G. Weimann, ‘New Terrorism and New Media’, 2 *Commons Lab of the Woodrow Wilson International Center for Scholars* (2014), available at <[https://www.wilsoncenter.org/sites/default/files/new\\_terrorism\\_v3\\_1.pdf](https://www.wilsoncenter.org/sites/default/files/new_terrorism_v3_1.pdf)>.

<sup>10</sup> U. Beck, ‘Living in the World Risk Society’, 35 *Economy and Society* 2006, 329-345.

elements, I decided to present three distinct interpretations. The first relates effectiveness to the success of specific EU actions and its coherence, the second defines it by the strength of multilateral frameworks and the third links it to the EU's strategic actorness. My focus is on the third interpretation as I think that analysing the EU's ability to shape and influence the international security environment specifically in the domain of terrorism will show best why it needs the mutual collaboration with the United Nations to take effective countermeasures. For that purpose, I decided to rely on the theory by Cornelia Beyer in 'The European Union as a Security Policy Actor'.<sup>11</sup> She develops a model which explains how actorness can be assessed by two elements. On the one hand, *structure* is composed of coherence, one voice and addressability and on the other hand *effect* consists of the existence of common strategies, the capacity to act internally and externally as well as intended effects. Accordingly, I will apply certain (external) elements from her theory to the field of terrorism in order to assess if the EU accomplishes its actorness in this domain and is thus qualified to solve global security challenges.

Moreover, I chiefly rest upon previous work by Jan Wouters, Sijbren de Jong and Philip De Man who analysed the theoretical and practical element behind the EU's commitment to effective multilateralism.<sup>12</sup>

I will evaluate how the European Union approaches this strategy and look at the way it arranges its cooperation with key international organisations and actors taking effective multilateralism as their leitmotif. Since the United Nations is mentioned as a key actor in this mutual cooperation, I am going to highlight the influence of the EU-UN partnership in the domain of terrorism and how both institutions can take supplementary actions. In this regard, it is essential to pay attention to diverse provisions in the Treaty of the European Union and the Treaty on the Functioning of the European Union as well as the United Nations Charter.

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<sup>11</sup> C. Beyer, 'The European Union as a Security Policy Actor: The Case of Counterterrorism', 13 *European Foreign Affairs Review* 2008, 293-315.

<sup>12</sup> J. Wouters et al., 'The EU's commitment to effective multilateralism in the field of security: theory and practice', *Leuven Centre for Global Governance Studies Working Papers* (March 2010), available at <[https://ghum.kuleuven.be/ggs/publications/working\\_papers/new\\_series/wp41-50/wp45.pdf](https://ghum.kuleuven.be/ggs/publications/working_papers/new_series/wp41-50/wp45.pdf)>.

The United Nations whose central aim is to maintain international peace and security has recognised the EU as one of its ‘strongest and most reliable’<sup>13</sup> partners and views a high potential for EU operations to extend existing UN missions.

The UN has already brought forward numerous resolutions in the area of terrorism onto which one can build (inter alia Resolutions 1373, 2170, 2178, 2253).<sup>14</sup>

Respectively, the question is whether the EU can operate effectively within another multilateral framework (for instance by looking at its participation in the UN General Assembly established by A/RES/65/276) and whether it is actively doing so. In view of this, it is important to acknowledge the principle of *lex superior derogat legi inferiori* which implies that the superior international norm overrides the inferior EU norm.

Moreover, I will rely on the book ‘The European Union and International Organizations’<sup>15</sup> which includes several sections of interest for my study. For instance, it describes the way the EU engages with and within some important international organisations and then also pays attention to the extent the EU supports effective multilateralism. Additionally, the third chapter ‘Complex Engagement: the EU and the UN system’<sup>16</sup> by Franziska Brantner and Richard Gowan particularly deals with the EU's commitment to the UN.

The third sub question then seeks to determine the EU's effectiveness in fighting terrorism and how it can be improved by looking at alternative modes of engagement. Hereby, I am going to distinguish between unilateralism, bilateralism and regionalism and their effect on and compatibility with the EU's practice of effective multilateralism. Accordingly, the analysis will be guided by three assumptions which will be examined on the basis of practical examples.

The first assumption is: *Unilateralism is undermining the EU's international capacity to act effectively*. Therefore, I imagine to what extent a unilateral approach by Great

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<sup>13</sup> Secretary General, *supra* note 2

<sup>14</sup> These Resolutions are available, as well as all the other Resolutions of the *United Nations*, on <<http://www.un.org/en/sc/documents/resolutions/>>.

<sup>15</sup> K. Jørgensen (ed.), *The European Union and International Organizations* (Abingdon: Routledge/Garnet series 2009).

<sup>16</sup> K. Jørgensen, *supra* note 14, 37-60.

Britain due to the positive outcome of the Brexit referendum will hinder the success of international actions in the fight against terrorism.

By means of the second assumption *Bilateralism is not meant to substitute the multilateral approach but to reinforce it*, I assess whether the EU's increased commitment to engage with strategic partners may replace its current preferred mode. Notably with regard to the new Global Security Strategy, the importance of the EU to work with partners in order to maintain a secure world is highlighted.

Thus, in order to see how bilateral partnerships may positively or negatively influence the EU's ability to cope with the terrorist threat, I use one representative example of Asian countries, namely India. In my view, there is a growing need to consider India as an emerging global power which can make a huge contribution to the tackling of worldwide challenges. I will read official legal documents concerning their partnership as well as rely upon a think tank paper which deals with the EU's partnerships for effective multilateralism. Chapters 6 and 7 are particularly about the EU's relations with India.<sup>17</sup>

The third assumption is: *Regionalism is fully compatible with multilateralism*. Here, I evaluate how the EU can improve cooperation with regional organisations by focusing on the Association of Southeast Asian Nations (ASEAN) since both aim to further expand their natural relationship by transforming it into a strategic partnership.

Indeed, I purposively decided to focus on the Asian continent and how the EU can improve cooperation with India and the ASEAN since stability in this region might have a positive impact on the prevention and further expansion of global terrorism.

After the analysis, we will then see if any other lateralism might better fit the needs of the twenty-first century and the ever changing international environment and whether the EU should to some extent distance itself from its preferred mode of engagement.

As indicated above, the ESS was set up in 2003, thus it is important to follow the on-going process of the establishment of the new Global Security Strategy. Therefore, I will constantly check for updates on the official website of the strategy. Strikingly, in any official statement by Mogherini on the draft, almost no connotation has been made to effective multilateralism but instead on alternative forms of lateralisms.

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<sup>17</sup> G. Grevi and A. de Vasconcelos (eds.), 'Partnerships for effective multilateralism: EU relations with Brazil, China, India and Russia', 109 *European Union Institute for Security Studies (EUISS) Chaillot Paper* (May 2008), 87-113, available at <[http://www.iss.europa.eu/uploads/media/cp109\\_01.pdf](http://www.iss.europa.eu/uploads/media/cp109_01.pdf)>.

## 4. Methodology

This bachelor thesis is oriented at conducting a qualitative research study. Therefore, I am going to rely on an analytical approach where I take the previously described information on the EU's security role and the concept of effective multilateralism as a starting point in order to examine the extent to which the EU meets its own and external expectations. By the way of the inductive technique, I follow the purpose of my research design which is to answer the main research question as well as the three sub questions by means of critically assessing the data I collected and in a later stage, apply them to my case of terrorism. Thus, I start with the collection of data related to my questions and then continue in analysing and interpreting it in order to draw my conclusions in the end. Still, as this topic is highly up-to-date and the new official Global Security Strategy has not been officially presented yet, I may not be able to reach a definite conclusion on these issues but rather propose ideas how to enhance the EU's role as a global security actor and identify further opportunities for closer cooperation with partners. A comparative analysis of different modes of engagement as I aim to do in my third sub question will be useful in this respect.

For the purpose of my research, it is far better to make use of inductive reasoning and start with a concept instead of testing a hypothesis through deductive techniques which use scientific methods such as statistical inference in order to reach conclusions.

On the basis of my case, my analysis aims to shed a light on the EU's security role in a specific context, namely in the domain of the prevention of terrorism. I decided to focus on this threat to European security as it is today's dominant and visible problem. Therefore, I can narrow down the broad field of security into one relevant and researchable example in order to see whether the phenomenon of the EU's emerging role as a global security actor is actually existent in the real world. Still, I do not want to generalise my findings to the whole field of security politics (which is rather an attribute of quantitative research) but instead, offer an in-depth analysis of my case. Hence, conclusions cannot be drawn whether the EU accomplishes the same effect in the domains of the proliferation of WMD, regional conflicts, state failure and organised crime.

As my research aims at answering a legal research question, data is mainly collected on the basis of existing legislation. Further, due to the contemporary nature of the threat of terrorism, there are policy documents which give account to appraisals of decision makers and experts relating to this topic. Here, in order to guarantee objective and impartial conclusion, it is important to rely on distinct sources as most documents are rather subjectively written from the European perspective.

So, I collect data from primary sources of law which are original EU provisions derived from the Treaty of the European Union and the Treaty on the Functioning of the European Union as well as regulations and norms laid out in the UN Charter. The search for secondary sources will be grounded on law review articles, legal encyclopaedias and restatements in order to define and explain certain principles and concepts.

Additionally, as indicated in the theory section, some information is also retrieved from non-legal sources in order to apply for instance the theory of Ulrich Beck and Cornelia Beyer. Furthermore, I take into account distinct reviews of other researchers who examine and discuss different elements of EU actions as I have to make sure that in spite of the huge impact of EU sources my analysis will not be too subjective.

Hereby, I make use of diverse think tanks which play an essential role in the political life on all levels of interaction. Those institutions ‘provide public policy research, analysis and advice, are non-profit, and operate independently from governments and political parties’<sup>18</sup>. Therefore, they are helpful in order to identify and evaluate current political issues and to get specific and constructive insights into concerns of interest.

Furthermore, as I operate under distinct legal frameworks namely the one of EU law and the one of international law, it is important to comply with certain principles which have been discussed above.

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<sup>18</sup> J. McGann, ‘Think Tanks and Policy Advice in the US’, Foreign Policy Research Institute (August 2005), at 3, available at <[http://www.kas.de/wf/doc/kas\\_7042-1522-1-30.pdf?050810140439](http://www.kas.de/wf/doc/kas_7042-1522-1-30.pdf?050810140439)>.

## CHAPTER 2

### 5. The global security challenges for the 21st Century

This chapter is devoted to the first sub question identified in Chapter 1. It provides an overview of the main security challenges in the twenty-first century and specifically, points to the nature of terrorism and explains what is global and new about it. This results in a conclusion which points to the fact that an effective multilateralism is indispensable in order to counter such a challenge.

The ESS of 2003 has identified five key threats to international security, specifically terrorism, the proliferation of weapons of mass destruction, regional conflicts, state failure and organised crime.<sup>19</sup> However, since the security environment is constantly evolving alongside the globalisation process, new external threats are continuously emerging posing a strategic threat to the European Union. Indeed, those threats are very complex and multifaceted; therefore a new approach is necessary.

In the new Global Strategy, Mogherini proposes a comprehensive approach to those challenges and therefore establishes five priorities which will guide EU's foreign policy for the next five or ten years. In contrast to the previous strategy, she does not focus on particular threats and does not specifically list the threats. Nonetheless, one can infer some of the challenges throughout the document. *Inter alia*, she refers to the defeat of Da'esh and interlinked terrorist activities, to put an end to the crises in Syria, Libya, Somalia, etc., and further to stabilise those countries and manage the resultant migratory flows of refugees, to stop climate change, and engage in cyber security.<sup>20</sup>

One can define those threats as multi-faceted which are 'clearly interlinked and cross border'<sup>21</sup>, therefore requiring a coordinated, multilateral response by means of close international cooperation. Further, as my analysis below will show there are clear

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<sup>19</sup> J. Solana, *supra* note 7

<sup>20</sup> F. Mogherini, *supra* note 3

<sup>21</sup> General Secretariat of the Council, 'Main aspects and basic choices of the CFSP - Draft Annual report from the High Representative of the European Union for Foreign Affairs and Security Policy to the European Parliament', *Council of the European Union* (Brussels, 20 July 2015).



indicators in order to typify them as global, new and distinct from the traditional threats to security.

Even though my unit of analysis will exclusively be terrorism, it is necessary to acknowledge that one cannot regard the threats as being independent from each other because, in most cases, they are related. For instance, state failure and the fact that this circumstance possibly results in poverty and mistrust inside society can sew tensions among people who might then consider joining terrorist groups. Likewise, some people here are likely to assume that those fleeing from the wars in the Middle East and trying to seek refuge in European countries are potential terrorists, therefore intensifying the current migration crisis. Moreover, there is the increasing risk of terrorists making use of nuclear, chemical or biological weapons in order to inflict greater damage. Therefore, policies concerning the non-proliferation of weapons of mass destruction should be coordinated with counterterrorism measures. Certainly, there is the necessity to establish a comprehensive approach with a wide scope of actions.

At the moment, terrorism may be the most visible and menacing threat as the recent attacks in Brussels have stressed once more. Indeed, it is not a twenty-first century phenomenon and its root causes are complex and lay deeply intertwined within the history of fragile states. Today's eminent challenge is the radicalisation of people inside society, a problem I will further deal with in the course of my analysis. Reasons may be the lack of economic and social opportunities, the discrimination of minorities or marginalisation of those people and many more. Particularly, globalisation and the inherent process of modernisation might have a huge impact on the estrangement of young people.

### *5.1. What is global about it?*

In order to understand how globalisation has affected the security environment, it is helpful to get an understanding of the circumstances which led to the rise of terrorism to one of the major security threats of the twenty-first century.

Whereas the first half of the twentieth century was marked by extreme violence through the two world wars in Europe, the second half was ‘a period of peace and stability unprecedented in European history’<sup>22</sup>. Still, one cannot assume that there is no war in Europe and its neighbourhood in the post-Cold War era; instead one can see that the nature of conflicts has changed. As the ESS of 2003 sums up the development since 1990: ‘almost 4 million people have died in wars, 90% of them civilians[...] [and] [o]ver 18 million people worldwide have left their homes as a result of conflict’<sup>23</sup>.

Therefore, I want to clarify what aspects of the post-cold war environment are favourable in allowing the rise of new kinds of global threats such as terrorism.

The Cold War period ended in 1991 when the Soviet Union was dissolved. However already in 1989, with the fall of the Berlin Wall, one could predict a capitalist and liberal development and spread all over the world. This can be marked the time of birth of globalisation. There was an expansion of flow in trade and investment, with technology as the engine of globalisation. Due to the opening of borders and thus the interconnection of the infrastructure in fields like transport and information, also ‘internal and external aspects of security’<sup>24</sup> become linked. One can detect a globalised shift in security governance which is characterised by increased dependence upon each other. Likewise, as a consequence of these susceptible developments, a nation’s territory becomes more vulnerable to extraneous influences as many groups, particularly non-state groups get to play a part in international affairs.<sup>25</sup> Further, not only threats inside Europe pose a risk to its security but also distant threats may be of concern. In relation to the terrorist threat, terrorist networks are operating worldwide and sometimes linkages are not instantly visible. In contrast to the Cold War era, the threats of the globalised world are not simply military and cannot be encountered by military devices. As the Report on the Implementation of the European Security Strategy has outlined, threats have become more complex and

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<sup>22</sup> J. Solana, *supra* note 7, at 1.

<sup>23</sup> J. Solana, *supra* note 7, at 2.

<sup>24</sup> J. Solana, *supra* note 7, at 2.

<sup>25</sup> J. Solana, *supra* note 7, at 2.

interconnected due to the globalisation process.<sup>26</sup> This global connectivity calls for heightened international cooperation and the exchange of relevant information as well as expertise and knowledge is indispensable. My second sub question will further deal with this issue.

In these globalised conditions, even though terrorism is not a new phenomenon, terrorist movements have a fertile ground to spread their message. Terrorist organisations such as Al-Qaeda and Da'esh seek 'to undermine the openness and tolerance of our societies'<sup>27</sup> because this process of modernisation and individualisation away from traditional social and cultural patterns leads to an alienation of young people who aim to live in foreign, preferably Western societies. Nevertheless, in order to counteract this global development, terrorist movements make use of those means brought forward by globalisation. They are indeed well-resourced and increasingly connected by electronic networks. In contrast to the past, terrorist groups are no longer solely dependent upon traditional and conventional methods in order to carry out their actions but they are able to use the so-called *new media* in order to connect to followers worldwide which enables for new forms of 'online warfare, intelligence gathering, and training for cyber warriors'<sup>28</sup>. Gabriel Weimann identifies this new trend as a kind of "electronic jihad"<sup>29</sup> where terrorists engage with each other through social media platforms such as Facebook, YouTube or Twitter to spread their ideological propaganda worldwide. Further, there is an increase in websites which show tutorials on how to build weapons and related information on, e.g., weapon use and tactical shooting. In this context, it will be important for the European Union to find ways to control the data which is distributed via those platforms. Often, the users have advanced methods to hide in the new media by anonymising their browsing and using faked personal data. Thus, the transnational spread of information and the opportunity for potential extremists to communicate all over the world pose an immense difficulty for agencies to detect them. For instance the recent attacks have shown how easily the terrorists could connect from Syria to

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<sup>26</sup> J. Solana, 'Report on the Implementation of the European Security Strategy - Providing Security in a Changing World', *The Council of the European Union*, 11 December 2008, available at <[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressdata/EN/reports/104630.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/EN/reports/104630.pdf)>.

<sup>27</sup> J. Solana, *supra* note 7, at 3.

<sup>28</sup> G. Weimann, *supra* note 9, at 14.

<sup>29</sup> G. Weimann, *supra* note 9, at 3.

Germany, France and Belgium and were able to act in the underground and plan their attacks in a hidden manner and across borders. This requires national agencies and experts to work together in order to develop techniques to keep in check the online activities of extremists and prevent individuals to be (self-)radicalized and probably recruited and trained to carry out certain tasks in a later stage. Therefore, the EU must support global arrangements in order to prevent the phenomenon of foreign fighters coming back to Europe for any terrorist mission.

In his theoretical paper ‘The Terrorist Threat: World Risk Society Revisited’<sup>30</sup>, Ulrich Beck describes three different axes of conflicts: ecological conflicts, global financial crises and transnational terror networks.

According to him, we are living in a world risk society which is characterised by the circumstance that the fast process of modernisation imposes risks on society which are unpredictable and uncontrollable. This unpredictability was also highlighted by Mogherini as stated in the new strategy: ‘We must also be imaginative. The nature of threats changes by the day. We call it the “predictable unpredictability” of our future’<sup>31</sup>.

Whereas ecological conflicts and global financial crises produce effects in an unintentional way in line with the principle of accident, terrorist networks are ‘intentionally bad’<sup>32</sup> in the sense that their actions take place in accordance to the principle of intention. As a consequence, there is an active mistrust among society changing the perception of fellow citizens or foreigners. Especially in Europe, one can detect a shift in societies as support is growing for right extremist parties and many Europeans are critical towards the huge migrant flows into their countries being afraid of presumed terrorists entering their territory. According to Beck, this is a critical development as ‘the dissolution of trust multiplies risks, the terrorist threat triggers a self-multiplication of risks by the de-bounding of risk perceptions and fantasies’<sup>33</sup>.

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<sup>30</sup> U. Beck, *supra* note 8.

<sup>31</sup> F. Mogherini, ‘Speech by HR/VP Mogherini at the EUISS Annual Conference, Towards an EU Global Strategy – The Final Stage’, *EUISS Annual Conference* (Paris, 22 April 2016).

<sup>32</sup> U. Beck, *supra* note 8.

<sup>33</sup> U. Beck, *supra* note 8.

## 5.2. *What is new about it?*

Up to here, it is still unsettled what exactly is *new* about those threats and how they distinguish themselves from the threats existent in the twentieth century and before. For that reason, in order to clarify why terrorism can be termed a new global security threat, I connect the domain of terrorism to the theory of world risk society by Ulrich Beck by which he defines three features of global risks which are de-localisation, incalculableness and non-compensability.<sup>34</sup>

As outlined above, globalisation is indeed one of the driven forces of the insecurities we are faced with in the twenty-first century. Contemporary, new threats such as terrorism arise ‘from what we do not know and cannot calculate’<sup>35</sup> in contrast to the former kind of threats which was calculable and controllable. They are global in nature, tearing down national borders. With regard to the domain of terrorism, one can clearly apply Beck’s theory of world risk society and the three features.

The first one, *De-localisation*, specifies that the effects including its economic, political and societal consequences are no longer limited to ‘one geographical location or space, [that] they are in principle omnipresent’<sup>36</sup>. This de-bounding of risks takes place along three dimensions. Spatially, terrorism is not just happening inside a fixed territory of a nation state but it is spreading across Europe and the globe; therefore affecting everyone. Further, the temporal dimension defines that it has a ‘long latency period’<sup>37</sup>, indicating at the difficulty to assess the terrorist effect over time. The phenomenon of terrorism might endure for a long time inside and alongside Europe as studies of its historical development show; instead of decreasing, it rather follows a worldwide upward trend.<sup>38</sup> The third dimension relates to its social effects. The complex and dynamic nature of terrorism results in an overall inability to properly and reliably define its causes and consequences. Terrorist attacks like in Paris and Brussels are examples of those ‘combined effects of the actions of many

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<sup>34</sup> U. Beck, *supra* note 10.

<sup>35</sup> U. Beck, *supra* note 10, at 330.

<sup>36</sup> U. Beck, *supra* note 10, at 333.

<sup>37</sup> U. Beck, *supra* note 10, at 334.

<sup>38</sup> For detailed information on the historic development of terrorist attacks worldwide, see <<https://www.start.umd.edu/gtd/search/BrowseBy.aspx?category=date>>.

individuals'<sup>39</sup> which make it difficult to define who is responsible behind the complex terror network and who are the persons pulling the strings behind the operations.

Further, the second feature of his theory, *Incalculableness*, simply states that the consequences of a terrorist attack are not calculable. As Beck refers to the Socrates' dilemma, *we do not know what it is we don't know* and on the basis of this not knowing, the responsible people in the European institutions have to take decisions. According to Beck, with regard to the threat of terrorism, the European society is exposed to an incapability of acting. Still, in my view, the European Union has already made progress to make the risk of a new terrorist attack more controllable by setting out concrete measures. Specific measures and their status quo can be read up on in the report on the state of play of implementation by the Counter-Terrorism Coordinator to the Council.<sup>40</sup> For sure, it is not possible to accurately define when there is going to be the next terrorist attack but there are methods to at least be in an alert position in order to prevent such an accident.

This directly leads us to the third feature, namely *Non-compensability*, which puts an end to the ability of the first modernity to compensate for the consequences and the possibility to make risks more controllable. In order to take upon the above-mentioned example, the scenario of terrorists possessing weapons of mass destruction would imply that 'it is too late'<sup>41</sup>, it would not be possible to make this reversible. Therefore, in order to adapt to this new security vision, it is no longer possible to believe in a logic of compensation but instead, Europe needs to follow the principle of precaution through prevention. At present, the EU has set a focus on preventing the risk of a terrorist attack and it tries to establish a safer environment in times of this omnipresent crisis. Together with the United Nations, the EU 'works to promote a culture of prevention [...] in order to improve its capacity to respond to emerging crises and potential threats [...], paying close attention to risk factors and the deep-lying causes of conflicts'.<sup>42</sup>

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<sup>39</sup> U. Beck, *supra* note 8.

<sup>40</sup> For the latest version of 4 March 2016, see <<http://data.consilium.europa.eu/doc/document/ST-6785-2016-INIT/en/pdf>>.

<sup>41</sup> U. Beck, *supra* note 10, at 334.

<sup>42</sup> The Council, 'EU Priorities for the 70th UN General Assembly', *European Union Delegation to the United Nations*, available at <<http://eu-un.europa.eu/eu-priorities-for-the-70th-un-general-assembly-2/>>.

It has indeed established methods of risk calculation which are ‘based on experience and rationality’<sup>43</sup>; hereby it strongly relies upon the multilateral framework which ensures that national governments and agencies take a common approach brought forward by the EU and the UN. Additionally, Mogherini underlines in her address that this principle should underline future European actions: ‘we must also prevent the next crisis. We must address problems before they boil up and get out of control’<sup>44</sup>.

As Beck outlines, those new risks express a ‘new form of global interdependence, which cannot be adequately addressed by way of national politics or by the available forms of international co-operation’<sup>45</sup>. Instead of terming this approach multilateralism like the EU has done it in its ESS, he refers to it by ‘enforced cosmopolitanism’<sup>46</sup>, connecting actors across borders that experience a need of cooperation in order to address the new kind of risks. This new logic that no nation is able to deal with these problems on its own is also advocated by the EU and UN as they embody the dependence on alliances.

Moreover, Beck criticises key institutions such as the state as well as the international system with its experts and scientists which are responsible for calculating and controlling those uncertainties. According to him, they are not efficient and ‘are no longer seen only as instruments of risk management, but also as a source of risk’<sup>47</sup>. Due to their failure to effectively deal with the threats, there is a new wave of individualisation. Still, this perception of the inability to find solutions is in its core a subjective assessment, especially advocated by those who are sceptical towards the globalisation process and deny the new interrelated, global structures. Beck adapts the old wording of Huntington who spoke of a clash of civilisation, and instead declares that the society can be portrayed as a ‘clash of risk religion’<sup>48</sup>, of risk cultures. With regard to my unit of analysis, Beck therefore would argue that terrorism is the result of a clash of different cultures, in this case between the Islamic and the Western culture or more generally any culture which does not share their radical religious belief. In my view, it would be too simplified to argue that terrorist organisations are merely motivated by cultural reasons. There is a wide variety of reasons and to refer

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<sup>43</sup> U. Beck, *supra* note 10, at 335.

<sup>44</sup> F. Mogherini, *supra* note 31, at 9.

<sup>45</sup> U. Beck, *supra* note 10, at 336.

<sup>46</sup> U. Beck, *supra* note 10, at 338.

<sup>47</sup> U. Beck, *supra* note 10, at 336.

<sup>48</sup> U. Beck, *supra* note 10, at 337.

to all of them would extend the scope of my analysis. Nonetheless, one of the prevalent reasons the EU should deal with is the radicalisation of Islamic groups arising out of social circumstances. The globalisation process as outlined before plays a significant role here since the rapid and complex changes in society often intensify feelings of disorientation or not belonging especially when being part of a minority in Europe. In that context, Islamist preachers can convey a sense of community and even a mission to those people. The example of new media has shown the variety of propaganda and the spread of contents which are accessible to them. Therefore, in the long-run, there should be effective mechanisms in order to counter those processes and inform the society properly. Roland Robertson mentions the term ‘glocalization’<sup>49</sup> which broadly speaking implies to find a local approach for the large-scale phenomena of globalisation. Thus, future research should focus on how the EU can improve cooperation mechanisms with local communities in order to tackle terrorism and specifically the radicalisation of (young) people in society which becomes increasingly global due to the globalisation process.

In this section, we have seen the features of new kinds of global threats in the twenty-first century and how terrorism fits into this vision. As outlined, the new global threats are dynamic and as the ESS has put it, they are ‘more diverse, less visible and less predictable’<sup>50</sup>. Due to the de-territorialisation, and the complex and unpredictable magnitude of those challenges, no country is able to tackle those problems on its own. This poses a range of difficulties requiring new methods which can govern their intangible character. Therefore, it is increasingly important for the EU to engage with other partners as everything is interrelated and connected; terrorism is not just happening within the EU but also behind its borders. Therefore, I argue that the new global nature of terrorism requires a global approach to it; in my view, a multilateral approach is indispensable.

Indeed, globalisation has created ‘new incentives for states to cooperate and has generated renewed interest in multilateralism’.<sup>51</sup> However, such opportunities also

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<sup>49</sup> R. Robertson, ‘Glocalization: Time-space and homogeneity-heterogeneity’, in Featherstone, Mike, S. Lash and R. Robertson (eds.), *Global Modernities* (London: Sage Publications 1995), 25-44.

<sup>50</sup> J. Solana, *supra* note 7, at 3.

<sup>51</sup> C. Bouchard et al. (eds.), *Multilateralism in the 21st Century: Europe's Quest for Effectiveness* (London: Routledge 2013).



bring about risks, 'as terrorists and other types of criminals seek to abuse those freedoms in the pursuit of destructive and malicious ends'.<sup>52</sup>

In the following sections, I will examine whether the EU can effectively deal with them and if it can apply its actual vision of effective multilateralism to terrorism.

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<sup>52</sup> Presidency, 'Draft Internal Security Strategy for the European Union: "Towards a European Security Model"', *The Council of the European Union*, 23 February 2010, available at <<http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%205842%202010%20REV%202>>.

## CHAPTER 3

### 6. The EU's commitment to effective multilateralism

This chapter is dedicated to answer the second sub question '*How does the EU approach the concept of effective multilateralism with the United Nations at its core?*' and particularly deals with the concept of effective multilateralism.

We will see to what extent the European Union has outlined and operationalised this concept as well as if it has succeeded in coming up with the fore set goals almost 13 years after its implementation. In particular, I will evaluate how the European Union promotes the strengthening of this effective multilateral system by actively participating in and funding other multilateral organisations. Here I will have a look at how the EU arranges its cooperation with the United Nations taking effective multilateralism as their leitmotif, and highlight the influence of the EU-UN partnership in the domain of terrorism to describe how both institutions take actions in this field.

The notion was adopted as a core principle in the ESS arguing that in 'a world of global threats, global markets and global media, our security and prosperity increasingly depend on an effective multilateral system'<sup>53</sup>. This system only works through strong multilateral institutions which share an accepted set of norms and principles and can take joint actions to encounter today's challenges. Nonetheless, there is a clear distinction between multilateralism and multilateral institutions which I am going to illustrate in the course of this section.

The European Union and the United Nations are key partners in maintaining international peace and security. At the 70<sup>th</sup> UN General Assembly which has set the EU priorities at the United Nations for the period between September 2015 and September 2016, the EU emphasised that the UN 'is more relevant and more needed

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<sup>53</sup> J. Solana, *supra* note 7, at 9.

than ever’<sup>54</sup> and that a ‘strong and effective United Nations at the heart of the multilateral system’<sup>55</sup> is key to address challenges such as terrorism.

### 6.1. *The notion of effective multilateralism*

First of all, the term *effective multilateralism* needs to be conceptualised. Its particular meaning has been subject of various scholarly discussions since the EU remained fairly vague in its formulation. In the ESS, it simply specified that an International Order Based on Effective Multilateralism is one of the three strategic objectives, next to addressing the threats and building security in our neighbourhood.<sup>56</sup>

However, commitment to multilateralism is not new to the EU as ‘it has been a cardinal principle of EU external relations ever since the Union’s inception’<sup>57</sup>. Formally, this commitment has been embedded in Article 21(1) TEU, the second paragraph stating that

[t]he Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. *It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.*<sup>58</sup>

And further, Article 21(2) stresses, that

[t]he Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to: [...] h) *promote an international system based on stronger multilateral cooperation and good global governance.*<sup>59</sup>

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<sup>54</sup> The Council, *supra* note 42.

<sup>55</sup> The Council, *supra* note 42.

<sup>56</sup> J. Solana, *supra* note 7.

<sup>57</sup> J. Wouters et al., *supra* note 12, at 4.

<sup>58</sup> [Emphasis added]

<sup>59</sup> [Emphasis added]

These provisions certainly suppose that the EU ‘must pursue its action through a multilateral approach based on the rule of law’<sup>60</sup>. Though there is no specific provision which precisely outlines effective multilateralism as a strategic objective, its precise meaning needs to be derived from theoretical frameworks and practical implications.

In 2003, the Commission delivered a communication to the Council and the European Parliament justifying the choice of multilateralism for the Union’s external relations. It specifies that the concept ‘means taking global rules seriously [...]; it means helping other countries to implement and abide by these rules; it means engaging actively in multilateral forums, and promoting a forward-looking agenda that is not limited to a narrow defence of national interests’<sup>61</sup>. Further, it makes reference to the United Nations and argues that multilateral cooperation with the United Nations is indispensable for the continuous improvement of global governance.<sup>62</sup>

Whereas multilateralism refers to ‘a general system of rules and institutions that is accepted by a wider number of states’<sup>63</sup> where ‘international issues are preferably not dealt with case by case between individual states’<sup>64</sup>, there is no common definition of the attribute *effective* which has been added by the EU in its ESS.

The concept of multilateralism was already promoted in the immediate post-Cold War era as it was believed that ‘multilateral norms and institutions [...] [could play] a significant role in stabilising the international consequences of the geopolitical turmoil of 1989’<sup>65</sup>. In this context, in 1990, Keohane delivers one of the first academic definitions of multilateralism. He defines multilateralism in nominal terms, as it

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<sup>60</sup> B. Van Vooren and R. Wessel, *EU External Relations Law: Text, Cases and Materials* (Cambridge: Cambridge University Press 2014), at 12.

<sup>61</sup> European Commission, ‘*The European Union and the United Nations: The choice of multilateralism*’, Commission of the European Communities (Brussels, 10 September 2003).

<sup>62</sup> European Commission, *supra* note 61, at 3.

<sup>63</sup> L. Van Schaik and B. Ter Haar, ‘Why the EU is not promoting effective multilateralism: On a fundamental flaw in the European Security Strategy’, 21 *Clingendael Institute* (June 2013), at 1, available at <<http://www.clingendael.nl/sites/default/files/Why%20the%20EU%20is%20not%20promoting%20effective%20multilateralism.pdf>>.

<sup>64</sup> L. Van Schaik and B. Ter Haar, *supra* note 63, at 1.

<sup>65</sup> J. Wouters et al., *supra* note 12, at 5.

relates to ‘the practice of coordinating national policies in groups of three or more States’<sup>66</sup>.

Still, this definition lacks to properly represent the nature of the relations. Accordingly, one must take into account that it ‘not merely implies coordinating national policies [...] it also presupposes the existence of certain principles for ordering the relations’<sup>67</sup>. This is indeed an important aspect, since the EU attaches great importance to the fact that certain values are respected and that its relationship with partners is coordinated in line with a set of common rules or principles. For instance, the EU shares the purpose with the United Nations to uphold international peace and security (Article 3(5) TEU; Article 1 UN Charter). Article 3(5) TEU further indicates that the EU is dedicated to respect the principles of the UN Charter in its duty to observe and develop international law. Hereby, common core values such as the respect for international law, the protection of human rights, the promotion of democracy as well as the support for international cooperation are stressed. So, in order to carry out effective actions and successfully realise its commitment to multilateralism, the EU needs to coordinate its relation with partners and hereby establish precise and coherent principles to which both attach a significant value and accordingly must adhere. This is especially beneficial when all parties have common interests and the same understanding of certain objectives and the means to achieve them.

One needs to draw a clear distinction between multilateralism and multilateral institutions as such even though both are often mentioned in the same breath. Whereas the former concept of multilateralism refers to the ‘less formal, less codified habits, practices, ideas and norms of international society’<sup>68</sup>, the latter merely relates to the institution's organisational system and structure which has the United Nations at its centre. I would argue that even though the EU is committed to promote the former one, it puts a strong emphasis on the latter element as it continuously advocates the importance of strong multilateral institutions and the concomitant reform of the United Nations. In the ESS, it states that its long term objective can be defined as ‘[t]he development of a stronger international society, well functioning international

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<sup>66</sup> J. Wouters et al., *supra* note 12, at 5.

<sup>67</sup> J. Wouters et al., *supra* note 12, at 6.

<sup>68</sup> J. Wouters et al., *supra* note 12, at 6.

institutions and a rule-based international order’<sup>69</sup>. Therefore the EU’s effective multilateralism may be a means to an end but not the end in itself. The end can said to be stronger multilateral institutions with which the Union can cooperate on important international issues.

In a next step, the notion of effectiveness in relation to the EU’s effective multilateralism must be examined. This is fairly difficult as there are multiple interpretations on how to define effectiveness, depending on the own perception as well as the issue at stake. Consequently, I will briefly present three distinct approaches to assess effectiveness in the following paragraph. However, I will only focus on the third one which relates effectiveness to a player’s actorness as this approach allows me to demonstrate why the EU needs the collaboration with the UN to be effective. Still, I argue that the other two approaches which link effectiveness on the one hand to consistency and coherence and on the other hand to the strength of the EU system are equally important but examining them in detail would exceed the scope of my analysis.

### *Effectiveness in terms of consistency and coherence*

According to van Schaik and ter Haar effectiveness is measured by the EU’s success in reaching its objectives,<sup>70</sup> and Wouters et al. add that eventually the ‘achieved result meets certain (predetermined) qualifications to indicate that the desired goal was attained’<sup>71</sup>. But what exactly are those qualifications? With regard to the European Union, it implies that it achieves its policy goals by a certain coherence which can be assessed via two elements.

On the one hand, this presupposes that there are no contradictions in the EU’s external activity in its counterterrorism policies as well as in relation to distinct multilateral frameworks such as the one of the UN. This is referred to as consistency. Legally, Article 13 TEU defines that

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<sup>69</sup> J. Solana, *supra* note 7, at 9.

<sup>70</sup> L. Van Schaik and B. Ter Haar, *supra* note 63.

<sup>71</sup> J. Wouters et al., *supra* note 12, at 7.

‘[t]he Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, *and ensure the consistency, effectiveness and continuity of its policies and actions.*’<sup>72</sup>

And more specifically, in its external relations and in line with the second subparagraph of Article 21(3) TEU, the EU is obliged to

‘ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect’.

On the other hand, coherence should be characterised by positive synergies in the fields of activity.<sup>73</sup> With regard to the field of terrorism, effectiveness depends on the coherence of the EU’s internal and external policies.

Since counterterrorism is not a defined policy field but a ‘cross-sectoral’<sup>74</sup> policy field encompassing various policy areas, different competences overlap which might challenge the coherent formulation of policies.

Whereas most effective instruments for the EU to generate policies would be strongest via supranationalism, the EU has only limited competences for fighting terrorism at the supranational level since it is a national competence and the EU can merely support and complement national efforts.

However, many facets of the EU’s ability to deal with terrorism have been established via the formulation of the Union’s CFSP and CSDP as well as the creation of an Area of Freedom, Security and Justice (AFSJ). In my view both policy areas are equally important with the CFSP relating to the external dimension of the EU’s counterterrorism policies and the AFSJ mainly concerning the internal dimension thereby endeavouring the maintenance of security within the EU borders. This is of

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<sup>72</sup> [Emphasis added]

<sup>73</sup> J. Wouters et al., *supra* note 12, at 8.

<sup>74</sup> C. Hillion, ‘Fighting terrorism through the EU Common Foreign and Security Policy’, in I. Govaere and S. Poli (eds.), *EU Management of Global Emergencies: Legal Framework for Combating Threats and Crises* (Leiden: Brill/Nijhoff 2014).

special importance since globalisation has a huge impact on the merging of internal and external aspects of security as I dealt with in my first sub question. Certainly, terrorism has progressively become a threat to the EU's internal security which can be assessed via the increased number of terrorist attacks inside the European territory as well as the aforementioned threat of foreign fighters.

On the one hand, the Lisbon Treaty conferred additional competences to the EU to combat terrorism within the context of its CFSP and CSDP. Specifically, Article 43 TEU lists tasks which 'may contribute to the fight against terrorism', therefore enabling the EU to use the CSDP civilian and military assets stated in Article 42(1) TEU for a CFSP purpose. Nonetheless, neither the CFSP nor the CSDP were specifically created for combating terrorism. In this regard, B. Oliveira Martins and L. Ferreira-Pereira have conducted an analysis to assess whether those CSDP missions are an effective tool and have found out that they are actually inadequate and that the missions' mandates generally lack any counter-terrorism objective.<sup>75</sup>

On the other hand, in accordance with Article 3(2) TEU, the EU established an Area of Freedom, Security and Justice for its citizens. With regard to terrorism, it is mainly about police and judicial cooperation in order to 'ensure a high level of security through measures to prevent and combat crime' as Article 67 TFEU outlines. In particular, Article 83 TFEU lists terrorism as such an area of crime providing the EU with specific possibilities to take actions since the EU has an express competence in criminal matters. I will elaborate more on certain instruments in the paragraph on the EU's strategic actorness but up to this point, it suffices to say that the EU has established various instruments which need to be coordinated coherently. We have seen that there is no exclusive legal basis for combating terrorism but that there are several instruments of external action which can be taken into account. This, *inter alia*, implies different EU competences and procedures in the field of counterterrorism which might infringe the coherence and thus the effectiveness of its policies.

Thus, this overlapping calls for increased coordination between the different possibilities for the EU to combat terrorism. Accordingly, those responsible for setting out the EU's objectives in counterterrorism need to work closely together and support each other. Hereby, they need to respect important structural principles such as the

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<sup>75</sup> B. Oliveira Martins and L. C. Ferreira-Pereira, 'Stepping inside? CSDP missions and EU counter-terrorism', 21 *European Security* 2012, 537-556.



*principle of conferral* and *lex superior derogat legi inferiori* acknowledging that combating terrorism falls under national competence and that any action must further be in line with the UN Charter.

Additionally, there is an EU Counterterrorism Coordinator who constantly checks on the EU's work in counterterrorism. He coordinates the work of the various bodies of the Union, and also closely monitors the implementation of the counterterrorism strategy. He further guarantees that every action by the EU is in accordance with UN action in this field and does not impede it.<sup>76</sup>

In this regard, one is reminded of the Kadi case which highlights the complex relationship between the EU and the UN Security Council (UNSC) since there is an established discussion on how integrated their relationship should be.

I am referring to the Kadi case as it underpins the tension between international law (especially UNSC Resolutions) and EU law, here the EU's fundamental rights protection. Particularly, it refers to the notion of supremacy between both which is, *inter alia*, manifested in Article 103 of the UN Charter which regulates that in case of conflict, the obligations under the UN Charter shall prevail. It can be argued that the UN Charter does adopt a formal supremacy and thus, a UNSC Resolution enjoys primacy over EU law imposing binding obligations and mandatory measures upon the Member States. Indeed, due to the global nature of terrorism, it is implicit that states and actors do abide by laws and regulations at an international level. Hence, it is essential that the EU unreservedly implements international decisions like in this case related to the listing of individuals in the context of international anti-terrorism policies. At the moment, this act of listing is of renewed interest since Resolution 2253 adopted in 2015 expanded the scope of individual targeted sanctions to include the Islamic State in Iraq and Levant (ISIL/ Da'esh) which currently poses the biggest threat to Europe.<sup>77</sup>

Certainly, it can be concluded that in order to guarantee the smooth functioning of international counterterrorism measures, the EU must unreservedly implement international decisions and for that purpose, the European Union Court of Justice must make an effort to ensure that the EU adheres to them. To maintain the effective

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<sup>76</sup> These tasks are available, as well as all the other tasks of the *EU Counterterrorism Coordinator*, on <<http://www.consilium.europa.eu/en/policies/fight-against-terrorism/counter-terrorism-coordinator/>>.

<sup>77</sup> This information is available, as well as other related sanctions list material of the *United Nations*, on <[https://www.un.org/sc/suborg/en/sanctions/1267/aq\\_sanctions\\_list](https://www.un.org/sc/suborg/en/sanctions/1267/aq_sanctions_list)>

multilateral order as the EU promotes it, the Kadi case underpins the importance of the necessary compliance with and subsequent transposition of international norms.<sup>78</sup> Nevertheless, the Union must thereby preserve accountability to its Member States with regard to the rights and principles of the EU, i.e., by allowing for a review for compliance.

### *The strength of the EU system*

Another approach would be to relate effectiveness to the strength of multilateral frameworks. Accordingly, effective multilateralism presupposes ‘strong, negotiated, and enforceable multilateral regimes’<sup>79</sup> by means of the availability of instruments to implement its strategic objectives, the backing of actors to this regime and finally, the ability to produce legally binding results. In case of nonconformity, the regime should have certain enforcement instruments available.

The EU certainly has a wide range of legal instruments to carry out its external policies. Whereas Article 288 TFEU lists the instruments available to the Union such as regulations, directives, decisions, recommendations and opinions, the CFSP offers a much more specific range of instruments. Article 25 TEU therefore determines the means by which the EU shall conduct its CFSP. These include general guidelines, decisions and the strengthening of systematic cooperation between Member States. Moreover, notably as a reaction to a terrorist attack or any other event shaping the world, the High Representative or sometimes also the respective Presidency issues declarations which can be seen as an informal instrument. For instance, following the terrorist attacks in Madrid in 2004, the European Council adopted a declaration on combating terrorism and after the attacks in Brussels in March, the Union and India launched a joint declaration on the fight against terrorism.

Concerning the support of actors to the regime, one can refer to the Member States’ loyalty obligation in Article 24(3) TEU stating that they ‘shall support the Union’s external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity and shall comply with the Union’s action in this area’. As I will explain in

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<sup>78</sup> B. Van Vooren and R. Wessel, *supra* note 60, at 209.

<sup>79</sup> J. Wouters et al., *supra* note 12, at 8.

the next chapter, there can, nevertheless, be voices which prefer a unilateral solution independent from the EU's actions.

The third factor might deserve more attention but I can only shed some light on it. Actually, the EU's competence in producing legally binding effects is rather limited in the field of counterterrorism due to its role to simply support Member States' actions. Indeed, its strategies, regulations, directives and decisions form part of the so-called hard law and are therefore legally binding; however, the EU also concludes a wide range of recommendations, conclusions or declarations in this area which are in fact not legally binding. Therefore, its ability to react to cases of nonconformity depends on the legal instrument used and the issue at stake since the European Court of Justice does not have jurisdiction in matters related to the CFSP; confer Article 24(1) TEU.

Still, the EU alone cannot sustain in a multilateral framework. Hence, future research should focus on the strength of other relevant multilateral regimes and specifically the one of the United Nations to assess whether it fulfils the aforementioned requirements. Indeed, there is an on-going discussion whether the UN must be reformed as it is not strong and reliable enough because it, *inter alia*, does not accurately depict today's power structures.

### *The EU's strategic actorness*

Furthermore, one can define effectiveness in relation to the EU's strategic actorness which specifies whether it is able to shape and influence the international security environment.<sup>80</sup>

For that purpose, I use the theory by Cornelia Beyer who defines actorness by the participation in global governance and by the external recognition in international law hereby relating to the Union's legal personality. In order to assess it, she develops a model which evaluates actorness by *structure* being composed of coherence, one voice and addressability and by *effect* consisting of the existence of common strategies, the capacity to act internally and externally as well as intended effects.<sup>81</sup> On the behalf of my research, I am more interested in the external dimension of the EU's actorness though I believe that both, internal and external dimensions, are

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<sup>80</sup> J. Wouters et al., *supra* note 12, at 9.

<sup>81</sup> C. Beyer, *supra* note 11.

correlated since weak internal capacities might certainly have a spill-over effect on the external ability to perform its role as a global security actor. For instance, if the EU fails to convey a common position and speak with one voice at the UN General Assembly, this might hinder its successful external representation and positive decision-making outcomes at the multilateral level. For that reason, it would be fundamental if they vote in a common aspiration since the EU-27 (taken into account the positive outcome of the Brexit referendum) represent around 14% of the total number of members in the General Assembly.<sup>82</sup> Article 34(1) TEU articulates the aim that Member States should uphold the EU's position in international organisations.

In my analysis, I will first connect the elements of the capacity to act internally and externally with the actual external effects. Those elements may also have an impact on the EU's participation in global governance particularly regarding its presence inside the United Nations. Further, I reflect upon the EU's external recognition in international law.

As already mentioned above, internal and external capacities are closely related and need to coexist in order to allow for a smooth functioning of EU's external actions.

Internally, especially with regard to security issues and the fact that the fight against terrorism is a national competence, Member States may fear to lose competences. In fact, the previous section has shown that the EU's counterterrorism efforts suggest cross-sectoral activities and therefore a mix of competences. Beyer also already pointed at the difficulty that counterterrorism is not a defined policy field and therefore encompasses various accountabilities and responsibilities which the EU tries to coordinate.<sup>83</sup> For instance, its strong commitment to the Member States may hinder the EU to follow its own path since cooperation predominantly relies on an intergovernmental basis happening in the former second and third pillar.

However, it has launched European encompassing security agencies such as Europol and Eurojust in its Area of Freedom, Security and Justice which are coordinating and analysing cross-border investigations and sharing those information among the Member States. To its assistance, Europol has set up a European Counter Terrorism

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<sup>82</sup> At the moment, there are 193 member states, each of them being a member of the United Nations General Assembly, available at <<http://www.un.org/en/member-states/>>.

<sup>83</sup> C. Beyer, *supra* note 11, at 305.

Centre in January 2016 which should work as a central information hub by facilitating information sharing and coordination between the Member States.<sup>84</sup>

Moreover, the EU has installed the Schengen Information System (SIS) II as well as a centralised EU database on suspicious persons and the Prüm Decision which is meant to share data on the DNA, fingerprint and vehicle registration between police forces of the Member States.<sup>85</sup> Therefore, one can see that even though it is such a sensitive policy area, Member States have been increasingly willing to strengthen the EU's internal capacities by agreeing upon important instalments of instruments on a supranational level. Certainly, intelligence sharing within the EU has made a significant step forward. Recently, the European Parliament approved a new regulation which gave more power to Europol to improve the provision of relevant information by the Member States to the agency. However, the effectiveness of those instruments requires the continuous commitment of all Member States.

Furthermore and particularly important for countering the online radicalisation which I have explained in my first sub question, Europol is expected to boost its 'internet referral unit'<sup>86</sup> so that terrorist propaganda can be removed efficiently in social networks such as Facebook.

But nevertheless, there are limitations, since factors like coherence as outlined above and the backing of the Member States of the EU play a significant role. Indeed, one can increasingly notice a rise of nationalist political orientation in society with proponents arguing that globalisation and the European integration pose a threat to national autonomy. Moreover, the scope of EU actions may exceed the resources of certain Member States and it is not clear whether financial means by the Member States will increase in the future. German Federal Interior Minister Thomas de Maizière expressed that most states simply do not have the resources to implement the

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<sup>84</sup> This information is available, as well as related content on the Europol's Counter Terrorism Centre, on <<https://www.europol.europa.eu/content/ectc>>.

<sup>85</sup> Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The European Agenda on Security', *European Commission* (Strasbourg, 28 April 2015).

<sup>86</sup> M. De La Baume, 'Parliament approves new Europol powers to fight terrorism: Pan-European agency will beef up EU efforts, but still has no investigative authority', *Politico*, 11 May 2016, available at <<http://www.politico.eu/article/european-parliament-approves-new-europol-powers-intelligence-share-fight-terrorism/>>.

EU's ideas as '[d]ue to the growth and often fragmented IT architecture, it is currently not possible to systematically bring together the available evidence'<sup>87</sup>.

For that reason, it is necessary to look at the external dimension of EU-UN cooperation in counterterrorism as both can share their capabilities and skills to compensate for the EU's internal weaknesses.

Therefore, externally, international cooperation with the United Nations has been strengthened over the years. Both have made progress towards outlining common plans of action in the fight against terrorism and the EU profoundly supports UN activities. Still, the EU's role is to a great extent limited to promote the key role of the UN in the multilateral system to fight terrorism and to engage in political dialogue with UN bodies. Hereby it strongly supports the implementation of the measures set out in the UN Global Counterterrorism Strategy which was adopted in 2006 and highlights the importance of the regular review processes and assessment reports so that the UN can respond 'timely and adequately'<sup>88</sup> to the constantly changing nature of terrorism. In this regard, the EU also actively supports third countries to implement the UN Strategy.

In bi-annual political dialogues on counterterrorism, the EU strengthens cooperation with the UN including all relevant agencies which are concerned with the fight against terrorism. They work towards better achievements in addressing the root causes of terrorism, i.e., by capacity building initiatives to address foreign terrorist fighters and the roots of violent extremism.

Further, the President of the UN Security Council adopted a statement in 2014 reiterating that close cooperation between the EU and the UN is significantly contributing to the collective security and hence, annual meetings on cooperation between both, with the EU being represented by the EU High Representative, shall become a regular feature.<sup>89</sup> Indeed, Mogherini frequently visited the United Nations in order to meet with the Security Council in 2015.

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<sup>87</sup> P. Falk, 'Underequipped and overwhelmed, Germany "as vulnerable as Brussels"', *CBS News*, 7 April 2016, available at <<http://www.cbsnews.com/news/germany-isis-threat-police-nuclear-material-fears-migrants-refugee-europe/>>.

<sup>88</sup> The Council, *supra* note 42.

<sup>89</sup> F. Mogherini, 'Speech by High Representative/Vice-President Federica Mogherini at the UN Security Council: Cooperation between the UN and regional and sub-regional organisations', *UN Security Council* (09 March 2015).

At the beginning of this year, UN Secretary General Ban Ki-moon presented a ‘Plan of Action to Prevent Violent Extremism’<sup>90</sup> which aims at a comprehensive approach to address not only the prevention of conflicts but also the radicalisation of people and their motivation to join terrorist groups. Certainly, this became one of the major concerns as I have also pointed to in my second chapter on the influence of the new media. In June, when there will be the 10th Counterterrorism Strategy review, this idea will be further considered by the General Assembly. The idea is indeed in line with the EU’s ambitions to not only deal with the threat of terrorism but instead actively engage in its prevention which is also one of the pillars of its own Counterterrorism Strategy. There is certainly a shared interest and the European Union has already reiterated its support to this plan but still checks for its coherence and coordination which, *inter alia*, includes the funding aspect. The latter element is notably one of the strongest contributions the EU can make to UN actions since the Union and its Member States serve as the largest financial contributor to the UN system.<sup>91</sup>

Further, both actively engage in countering terrorist financing. Hereby, the EU endorses particularly the UNSC Resolution 2253 adopted in December 2015 which outlines further efforts to stop the funding and provision of economic resources to Da’esh. For that purpose, the EU together with Europol ‘should further enhance their engagement with the private sector to effectively combat terrorist financing at the operational level’<sup>92</sup>. An EU Action Plan issued in February contains 20 measures to be taken in this regard. The Council later welcomed this plan and particularly ‘the accelerated and effective implementation of United Nations’ freezing measures’<sup>93</sup>.

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<sup>90</sup> B. Ki-moon, ‘Plan of Action to Prevent Violent Extremism: Report of the Secretary-General’, *UN General Assembly* (24 December 2015).

<sup>91</sup> UNRIC, ‘How the European Union and the United Nations cooperate’, *United Nations Regional Information Centre for Western Europe*, available at <[https://www.unric.org/html/english/pdf/Leporello\\_EU-VN\\_e.pdf](https://www.unric.org/html/english/pdf/Leporello_EU-VN_e.pdf)>.

<sup>92</sup> EU Counter-Terrorism Coordinator, ‘State of play on implementation of the statement of the Members of the European Council of 12 February 2015, the JHA Council Conclusions of 20 November 2015, and the Conclusions of the European Council of 18 December 2015’, *Council of the European Union* (4 March 2016).

<sup>93</sup> The Council, ‘Council conclusions on the fight against the financing of terrorism’, *Council of the European Union* (12 February 2016).

Actually, the EU Member States are ‘front runners’<sup>94</sup> in the ratification and implementation of UN conventions, protocols and UNSC Resolutions which aim at combating terrorism.

Another aspect of Beyer’s theory concerns the EU’s participation in global governance which largely depends on its position in the UN bodies and the way the Member States as autonomous members of the UN convey a common EU position on security issues.

Considering the participation in the General Assembly, one needs to distinguish between two forms; on the one hand it can be a full member and on the other hand it can have the status of an observer. Whereas the full member can fully engage in sessions being granted an exclusive voting right thereby actively contributing to the outcome, the observer is merely limited to take part in the sessions and workings of the General Assembly. Whereas the EU’s 27 Member States are by themselves full members of the United Nations and all of its bodies, the EU as an actor on its own merely has the status of a permanent observer in the General Assembly as well as its committees according to Resolution 3208 (XXIX).<sup>95</sup> Resolution 65/276 adopted in May 2011 has upgraded its conditions (though it did not alter the observer status) so that EU representatives are now, *inter alia*, allowed to speak in the General Assembly and to present common positions and proposals. Nonetheless, that excludes the Security Council and other bodies it has not been admitted to as well as any relevant decision-making processes.<sup>96</sup>

With regard to the EU’s external recognition in international law, one must acknowledge its legal personality. With the introduction of the Lisbon Treaty, Article 47 TEU clarifies that it ‘shall have legal personality’. This is a necessary precondition for the EU to take legal actions and accordingly, engage on the international scene. This in turn presupposes that it has an obligation under international law which guides its capacities to exercise internationally.

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<sup>94</sup> UNRIC, *supra* note 86.

<sup>95</sup> Secretary, ‘List of non-Member States, entities and organizations having received a standing invitation to participate as observers in the sessions and the work of the General Assembly’, *UN General Assembly* (6 January 2016).

<sup>96</sup> K. Jørgensen, *supra* note 15, 37-60.



Nonetheless, as outlined in the previous paragraph, the EU may lack this legal personality inside the framework of the UN since its status is limited to an observational one. Together, the EU and the UN have made significant contributions to shape political outcomes but still, the EU cannot commit any legal actions and participate in the decision-making procedures to generate new laws.<sup>97</sup>

The theoretical inferences I made from Beyer's theory suggest that the EU's capabilities of being influential on its own are rather weak and instead, it is dependent upon the multilateral collaboration with other powers such as the UN in order to take effective actions. For that purpose, I have outlined how the EU's engagement inside the UN framework looks like and how both cooperate in the domain of terrorism. As Beyer has already concluded in her discourse in 2008, the EU can be termed a collective actor in the field of counterterrorism and I believe that this is still true to the present day.<sup>98</sup> The EU predominantly continues to support the key role of the UN in the multilateral framework in combating and particularly preventing terrorism by ensuring that UNSC resolutions are accurately implemented.

To conclude, one can argue that the adherence to effective multilateralism with the United Nations is a substantial element in the EU's external actions. Whereas it remains the preferred mode of engagement, the EU might still choose for another approach when the multilateral approach does not turn out to be effective.<sup>99</sup> Those modes – unilateralism, bilateralism and regionalism – will be outlined in the next chapter.

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<sup>97</sup> K. Jørgensen, *supra* note 15, 37-60.

<sup>98</sup> C. Beyer, *supra* note 11, at 315.

<sup>99</sup> L. Van Schaik and B. Ter Haar, *supra* note 63, at 1.

## CHAPTER 4

### 7. Three alternative modes of engagement

By means of the third sub question ‘*How can the EU’s efficiency in counterterrorism be enhanced?*’ I analyse whether effective multilateralism is an adequate approach for the EU to fight terrorism or if any other form of lateralism might better lead to effective outcomes. Hereby, I distinguish between unilateralism, bilateralism and regionalism. I assume that a unilateral approach by certain Member States would compete with the international community’s multilateral approach. Though, bilateralism and regionalism are intended to function in a complementing and reinforcing way to multilateralism. Hence, the EU aims to work through multilateralism, regionalism as well as bilateralism simultaneously. The question is whether they are compatible with each other or if such a multifaceted approach might hinder the EU’s effective external actorness.

In its strategy of 2003, the EU did not only advance its commitment to multilateralism and regionalism (which can be described as a ‘thick form of multilateralism’<sup>100</sup>), but it also pursued to ‘build partnerships with third countries’ as promoted in Articles 21 and 22 TEU, with so called strategic partners, suggesting to further engage in bilateral relations. In this regard, it referred to the United States, Russia, China, India, Brazil and South Africa.<sup>101</sup> Russia, China and India are of special importance as the international system experiences a redistribution of powers and a geopolitical shift from the West to the East. There, various new global actors are emerging without which one cannot solve contemporary global problems.<sup>102</sup> Therefore, one needs an approach of ‘effective multilateralism that rests on an inclusive dialogue between a

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<sup>100</sup> T. Renard, ‘Partnerships for effective multilateralism? Assessing the compatibility between EU bilateralism, (inter-)regionalism and multilateralism’, *Cambridge Review of International Affairs* (10 July 2015), available at <[http://www.academia.edu/21559182/Partnerships\\_for\\_effective\\_multilateralism\\_Assessing\\_the\\_compatibility\\_between\\_EU\\_bilateralism\\_inter-\\_regionalism\\_and\\_multilateralism](http://www.academia.edu/21559182/Partnerships_for_effective_multilateralism_Assessing_the_compatibility_between_EU_bilateralism_inter-_regionalism_and_multilateralism)>.

<sup>101</sup> J. Solana, *supra* note 7, at 13f.

<sup>102</sup> M. Ortega et al., “‘Effective Multilateralism’: Europe, Regional Security and a Revitalised UN”, in E. Barth Eide (ed.), *Global Europe* (London: The Foreign Policy Centre 2004), at iv.

plurality of actors'<sup>103</sup>. As we have seen in the previous chapter, the United Nations can serve as such a forum and a multipolar system which aggregates the interests of a multitude of actors in order to develop a consensus. However, the question arises whether the UN is suited to perform its new role or if it must be reformed since it continuously gives priority to the former great powers which are Great Britain, France, Russia and the United States thereof ignoring the emergence of, i.e., India and South Africa as new powers.

The effectiveness of the EU can only be guaranteed when it is able and willing to adapt to the changing conditions of the international environment. Not only are the threats constantly evolving but also the nature of the actors, thereby enabling new engagement possibilities. Whereas in the past the world was predominantly shaped by the actions of nation states, one can now envisage a diffusion of powers. International affairs are mainly shaped by a wide range of actors ranging from newly developing states, to other international organisations, to nongovernmental organisations, but also transnational networks such as terror networks posing an immense threat to European and global security.

For that reason, my analysis will be guided by three assumptions. First, unilateralism is undermining the EU's international capacity to act effectively. Second, bilateralism is not meant to substitute the multilateral approach but to reinforce it and third, regionalism is fully compatible with multilateralism.

### 7.1. *Unilateralism*

Unilateralism is the practice of conducting one's foreign affairs independently from the international community, without cooperation and only minimal consultation and discussion with others. In the end, unilateral actors take actions alone on the behalf of their self-interests. The most common case in this regard is the United States whose foreign policy contains some unilateral elements. In Europe, we do not have an opposite pole to the US; thus I have to imagine a scenario in which either the EU or

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<sup>103</sup> S. T. Devare et al., 'Report on the India-EU Forum: Effective multilateralism', *European Union Institute for Security Studies* (8-9 October 2009), at 2, available at <[http://www.iss.europa.eu/uploads/media/India-EU\\_Forum\\_Report.pdf](http://www.iss.europa.eu/uploads/media/India-EU_Forum_Report.pdf)>.

certain Member States decide to conduct its external actions unilaterally to see what consequences this might have.

In the sense that the EU is an organisation composed of 27 Member States and is obliged to act on the behalf of them in international matters according to the principle of conferral, it would be paradox and even illegitimate for the EU to isolate itself from other actors in the international scene and neglect their interests. Moreover, the EU's internal capacities are so weak that it could not defend itself without the help of, e.g., the United Nations. Besides, I would not approve such an approach as I have outlined in the chapters before. Today's threats are so complex and cross-border that no state or entity could tackle them on their own. The Union in particular cannot solve terrorism inside the European Union as its root causes and dimensions are far-reaching and have spill-over effects upon others. Therefore, political dialogue with concerned countries is indispensable.

For that reason, it is also not favourable if a nation would prefer to deal with such a problem on its own by taking a nationalist approach because in my view, no country is capable of protecting its own citizens without the help of others. Therefore, current discussions and uncertainties in Great Britain after citizens have voted in a referendum on the 23th of June to leave the European Union appear in a time when cohesion and solidarity are essential. The British director of Europol, Rob Wainwright, recently said that 'if the UK is no longer a member of the EU [...] it would make it harder for Britain to fight terrorism and crime'<sup>104</sup>, and also Prime Minister David Cameron argued that even though there are many problems inside the Union, one should not give up on it. Great Britain cannot deal with this massive security instability in view of the current terrorist threat and Russia's aggression against Ukraine on its own.<sup>105</sup>

Still, Great Britain is a special case since it is on the one hand no Schengen member and thus can have complete control over its own borders but on the other hand it is partner of the SIS so that information on suspects and potential criminals is shared among police forces across Europe. The same accounts for Europol of which Britain

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<sup>104</sup> M. Rifkind, 'In the battle against crime and terrorism, we are far safer within the EU', *The Guardian*, 23 March 2016, available at <<http://www.theguardian.com/commentisfree/2016/mar/23/eu-referendum-crime-terrorism-security>>.

<sup>105</sup> M. Wilkinson, 'David Cameron warns Isil will be "happy" with Brexit as Boris Johnson says PM's deal is "biggest stitch up since the Bayeux Tapestry"', *The Telegraph*, 18 May 2016, available at <<http://www.telegraph.co.uk/news/2016/05/17/eu-referendum-boris-johnson-loch-ness-monster-brexit/>>.

is a full member by now. A unilateral approach does not entail those benefits anymore; as Wainwright argues leaving the EU therefore handicaps their own security services. Indeed, the British may have had their own reasons for leaving the European Union particularly by arguing that the EU impinges on the British sovereignty,<sup>106</sup> but from a security point of view, it was definitely not advisable to do so. Moreover, we need to closely watch the subsequent developments in Great Britain since they possibly have a spill-over effect on other Member States which plan to follow Great Britain's example. However, there is no empirical evidence that this is likely to happen in the foreseeable future.

To conclude, in times of globalisation and the cross-border nature of threats like terrorism, unilateral initiatives would just hinder the success of international action since no country is able to understand and solve the problems on its own. Unilateral measures would therefore prove to be 'insufficient given the scope of the challenges at hand'<sup>107</sup>. Further, individual actions by states all taking different approaches could be fairly counterproductive and could make things worse by increasing mistrust and hostility among one another and therefore destabilising the whole international community. Therefore, my first assumption can be confirmed.

Contrariwise, one needs an effective multilateral system which can work out solutions based on consensus in an efficient and quick way since endless times of negotiation and discussion would also hinder the realisation of objectives.

## 7.2. *Bilateralism*

Bilateralism has been the dominant practice in international relations and usually sets the bar. Yet, bilateral relations nowadays no longer refer only to nation states but also to an asymmetry in the nature of actors, i.e., when we speak of interactions between the EU and any other state or entity it is likely to be defined by this feature due to the EU's kind *sui generis*.

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<sup>106</sup> One can argue that the history of Great Britain plays a significant role in that discourse since it went from *the* largest empire in the world to just *a* power which is under the strong impact of the European Union.

<sup>107</sup> Jacques Delors et al., 'EU security: a matter of political urgency', *Notre Europe Jacques Delors Institute* (1 March 2016), at 1, available at <<http://www.delorsinstitut.de/2015/wp-content/uploads/2016/03/EUSecurity-TaskForce-JDI-Mar161.pdf>>.

In its ESS, the EU has realised the importance of strategic partnerships but has remained silent on the extent to which it should work with its partners. The new security strategy reinforces the precondition that only through working with partners one can achieve a secure world.

In some instances, bilateralism may be advantageous due to the fact that fewer actors are involved. For example, the EU's cooperation with the United Nations is dependent upon the involvement of many nation states whose interests must all be taken into account and then be formed into a consensus. This can result in ineffective outcomes as it is very time-consuming and therefore hinders the fast process to find immediate solutions to current problems. Hence, strategic partnerships can be a more flexible means which can adapt more easily to the changing conditions of the international environment.

My analysis will focus on the important partnership with India because of its rapid development and the significant influence it has in the international arena, particularly by its contribution in the Group of Twenty. Besides India's major economic impact, it has indeed the potential to alter the existing international order and provide more stability in an enlarged European Union. Especially after the EU's expansion to the East, it has come closer to the Asian continent and thus cooperation may have a positive effect on the securitisation of the Eurasian continent and in particular, it could lead to some risk elimination concerning terrorism. In fact, due to its geographical location, India has security interests in Afghanistan and Pakistan which are also affected by terrorist attacks, thus '[t]his intersects significantly with Europe's own security interests'.<sup>108</sup> Further, India could serve as an anchor in this area in order to guarantee more stability especially with regard to radicalisation in Pakistan and the recruitment of foreign fighters as well as the crises in the proximate states which have an impact on both, the EU and India.

Relations between India and the European Union have grown stronger since 1963 when India was one of the first nations that entered into diplomatic relations with the then EEC. The Cooperation Agreement in 1994 and the subsequent communication from the Commission called 'Towards a New Asia Strategy' advanced their relations

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<sup>108</sup> G. Mohan and J. Sandhu, 'Can EU-India summit revive flagging partnership?', *EU Observer* (Berlin, 29 March 2016), available at <<https://euobserver.com/opinion/132810>>.

by broadening political dialogue and establishing annual EU-India Summits as well as regular meetings on ministerial and expert level. This, *inter alia*, includes a bilateral Security Dialogue with regular consultations on global security issues such as terrorism.<sup>109</sup>

In 2004, both signed their strategic partnership agreement therefore opening the door for further deepened engagement in key areas.<sup>110</sup> This was further endorsed in the EU-India Joint Action Plan (JAP) in 2005. Indeed, the European Union has a ‘strong interest in engaging India as a viable global partner to cope with security challenges and shape a more just global order’<sup>111</sup>. This could already be manifested in the ESS in which the EU named India alongside five other strategic partners, therefore underlying their important role in global politics and clearly demonstrating that India is acknowledged as a global partner.

Traditionally, their bilateral relations have been ‘dominated by economic and trade issues’<sup>112</sup>, but the Joint Summit Statement of the 30th March 2016 shows that both aim to expand and strengthen cooperation in political areas such as ‘building global peace, security and prosperity, [...] and tackling global challenges such as terrorism’<sup>113</sup>. Those five-year objectives are also endorsed in their EU-India Agenda for Action-2020 building upon the JAPs of 2005 and 2008.

Concerning the recent terrorist attacks, both stated that they ‘will remain united and firm in the fight against hatred, violent extremism and terrorism’<sup>114</sup> by enhancing cooperation in security matters. The Union and India have adopted a Joint Declaration on International Terrorism in 2010 in which both outlined important fields such as political dialogue, the cooperation of police and law enforcement, and transport, aviation and border security.<sup>115</sup>

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<sup>109</sup> G. Grevi and A. de Vasconcelos, *supra* note 17, 87-113.

<sup>110</sup> The Council, ‘Fifth India-EU Summit: Joint Press Statement’, *Council of the European Union* (The Hague, 8 November 2004), available at <[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/er/82635.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/er/82635.pdf)>.

<sup>111</sup> G. Grevi and A. de Vasconcelos, *supra* note 17, at 103.

<sup>112</sup> G. Grevi and A. de Vasconcelos, *supra* note 17, at 88.

<sup>113</sup> European Commission, ‘EU-India Summit: A new momentum for the EU-India Strategic Partnership’, *European Commission Press Release Database* (Brussels, 30 March 2016).

<sup>114</sup> European Commission, *supra* note 108.

<sup>115</sup> European Council, ‘EU-India Joint Declaration on International Terrorism’, *Council of the European Union* (Brussels, 10 December 2010), available at <[https://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/118405.pdf](https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/118405.pdf)>.

In fact, they decided to broaden their capacities by going beyond the focus on economic relations and intensifying collaboration ‘to counter violent extremism and radicalisation, the flow of Foreign Terrorist Fighters, sources of terrorist financing and arms supply’<sup>116</sup>. Hereby, both aim to assist each other financially and combine their justice and police forces in order to exchange relevant strategic information more efficiently and prevent terrorist activities. In this context, both are interested in exploring possibilities to share information between EUROPOL and Indian agencies. Nonetheless, cooperation in counterterrorism must become more systematic and strategic as it is still in early development.

Thus, these various agreements and multifaceted actions imply that the EU-India partnership is certainly embedded in a dense institutional framework.<sup>117</sup> Although economic issues still depict the core of their strategic partnership, they have already made huge effort to widen the scope of the areas of cooperation to, *inter alia*, counterterrorism. I think that in future, EU-India partnership will increase further in this respect. Their meeting at the end of March took place after a four year pause, hence this underlines that both actors have interests in revitalising their partnership and do attach a common significance to the common fight against global challenges. Nonetheless, even though both have laid out several objectives in their bilateral relation, they still ‘prefer multilateral institutions to unilateral actions in order to cope with global challenges’<sup>118</sup> due to the huge impact terrorism has on the overall globe requiring additional dense networks of cooperation. However, it is not quite clear what kind of instruments the EU and India have at their disposal and whether they can successfully implement the objectives laid out in the documents. Therefore, concrete arrangements in the fight against terrorism are still lacking.

Their Joint Declaration includes a chapter on efforts to foster international cooperation in the multilateral system incorporating the framework of the United Nations.<sup>119</sup> One can therefore conclude that those strategic partnerships as promoted by the European Union are meant to stimulate the EU’s objective of effective multilateralism.

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<sup>116</sup> European Commission, *supra* note 108.

<sup>117</sup> Delegation of the European Union, ‘India & the EU: Political & Economic Relations’, *EEAS*, available at <[http://eeas.europa.eu/delegations/india/eu\\_india/political\\_relations/index\\_en.htm](http://eeas.europa.eu/delegations/india/eu_india/political_relations/index_en.htm)>.

<sup>118</sup> G. Grevi and A. de Vasconcelos, *supra* note 17, at 103.

<sup>119</sup> European Council, *supra* note 110.



To finish this section on bilateralism, I refer to my second assumption that bilateralism is meant to strengthen the EU's multilateral order in security politics. I argue that bilateralism would only prove to be effective alongside a multilateral and regional approach since bilateralism alone is not comprehensive enough in order to deal with such a global threat like terrorism. It can rather be regarded as a means to an end but not as an end in itself.<sup>120</sup>

Further, one should think of further bilateral partnerships with Eastern partners since the enlargement to the East brought about various changes in the international system. Hereby, the EU can benefit from the knowledge and expertise as well as material capabilities (i.e. capacities and means to achieve the objectives) of its partners.

### 7.3. Regionalism

Regionalism is a particular form of multilateralism and therefore it is said to go hand in hand with the EU's practice of effective multilateralism.

Due to the global spread of regionalism and thus the integration and interconnection of regions worldwide, new opportunities known as inter-regionalisms have arisen. These region-to-region contacts are now a steady feature of the European Union's external action and one can frequently find connotations in its policies. Regional integration is thus understood as 'a means of fostering regional stability, building prosperity, and addressing global challenges'<sup>121</sup>. This is particularly of interest since regional ties with the European Union could prevent regional conflicts from emerging and deal with them in a direct and efficient way, thereby encouraging regional stability.

The Global Strategy recognises the need to 'strengthen regional orders'<sup>122</sup> since cooperation with other actors such as the United States or in multilateral forums such as the NATO or the United Nations can only flourish when the EU strengthens its relations with, *inter alia*, the African Union (AU), the Arab League, the Association

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<sup>120</sup> G. Grevi and A. de Vasconcelos, *supra* note 17, at 8.

<sup>121</sup> European Union External Action, 'Association of South East Asian Nations (ASEAN)', *EEAS*, available at <[http://eeas.europa.eu/asean/index\\_en.htm](http://eeas.europa.eu/asean/index_en.htm)>.

<sup>122</sup> F. Mogherini, *supra* note 31, at 9.

of Southeast Asian Nations (ASEAN) and the OSCE. This shows that the EU aims to engage with partners all over the world, encompassing the African, the Latin American (even though CELAC is quite irrelevant for my analysis) and Asian continent. Especially due to the EU's geographical position in the centre of Europe and its regional borders in the south to Africa and in the east to Asia, a comprehensive approach is needed in order to tackle cross-border threats like terrorism and to find joint responses to it. Any impact on a neighbouring region is likely to have an impact on Europe as well as they are 'facing similar threats and are both affected by the fallout from regional wars and instability'<sup>123</sup>.

The ASEAN certainly has a long-lasting interest in the fight against terrorism; in 1999, it already adopted an ASEAN Action Plan to Combat Transnational Crime and after 9/11, there was even a stronger incentive to fight terrorism through 'cooperation at the multilateral, regional and bilateral levels'<sup>124</sup>. As a reaction to those terror attacks, the ASEAN adopted a 'Declaration on Joint Action to Counter Terrorism', thereby respecting international law such as the UN Charter and specific Resolutions.<sup>125</sup>

In 2010 for instance, the European Union together with the ASEAN launched a Joint Declaration on International Terrorism in which both reiterated their commitment to contribute to solve the threat of terrorism by combining their efforts; this aim was again stated in their joint declaration on 30th March 2016.<sup>126</sup> Thus considering the Olympic Games in Tokyo in 2020, the EU together with the ASEAN should take precautionary steps in the entire Asian region.

Consequently, on its 20th anniversary of ministerial meetings last year, the EU and the ASEAN brought forward the intention to go beyond their natural partnership and transform it into a strategic partnership to deepen their relations: 'As strong proponents of rules-based and effective multilateralism, the EU and ASEAN have a

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<sup>123</sup> F. Mogherini, 'Opening Remarks by the EU HR/VP Federica Mogherini at the Meeting with the ASEAN Committee of Permanent Representatives', *EEAS Statement* (09 April 2016), available at <[http://eeas.europa.eu/statements-eeas/2016/160411\\_01\\_en.htm](http://eeas.europa.eu/statements-eeas/2016/160411_01_en.htm)>.

<sup>124</sup> S. Pushpanathan, 'ASEAN Efforts to Combat Terrorism', *ASEAN* (20 August 2003), available at <[http://asean.org/?static\\_post=asean-efforts-to-combat-terrorism-by-spushpanathan](http://asean.org/?static_post=asean-efforts-to-combat-terrorism-by-spushpanathan)>.

<sup>125</sup> ASEAN, 'ASEAN Declaration on Joint Action to Counter Terrorism', *ASEAN* (5 November 2001).

<sup>126</sup> European Commission, *supra* note 108.

vested interest in expanding their cooperation on these regional issues of global significance'<sup>127</sup>.

Therefore, strengthening regional organisations to combat terrorism through mobilising capacities such as expertise and resources should be a priority for the EU.<sup>128</sup> Indeed sharing, i.e., information on border control can be helpful in the detection of terrorist movements as well as the illegal trafficking of weapons, ammunition and explosives. There has been evidence of young people traveling from Indonesia or Malaysia to bases of the Islamic State in Syria and Iraq; thus there is an increased concern about those foreign fighters returning home or moving westwards. So, cooperation could be beneficial in reinforcing the principle of precaution through prevention. Individually, it is not possible for one country like India or a regional community like the ASEAN to counter terrorism as most of the measures are insufficient. In this respect, the EU must think globally and engage in regional as well as sub regional relations, as combating terrorism in only one region might help terrorism flourish in another. The focus here should be on the prevention of the radicalisation of people. For that purpose, the EU might think of ways to foster 'initiatives at the local community level and rely on civil society organisations (CSOs) for their implementation'<sup>129</sup>. This would be in line with Robertson's idea of forms of glocalization.

The EU aims to support existing regional organisations in order to guarantee a mutual effort; but it is however important to understand that there are differences in the regional approaches and that the aim is not to impose an European way of thinking upon other organisations but to respect the historical, geographical and political

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<sup>127</sup> European Commission, 'Joint Communication to the European Parliament and the Council. The EU and ASEAN: a partnership with a strategic purpose', *European Commission* (Brussels, 18 May 2015), available at <<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=JOIN:2015:22:FIN&from=EN>>.

<sup>128</sup> General Assembly, 'UN Global Counter-Terrorism Strategy', *United Nations* (2006), available at <<https://www.un.org/counterterrorism/ctitf/en/un-global-counter-terrorism-strategy>>.

<sup>129</sup> Balazs Ujvari (ed.), 'The EU Global Strategy: going beyond effective multilateralism?', *European Policy Centre* (June 2016), at 36, available at <[http://cris.unu.edu/sites/cris.unu.edu/files/the\\_eu\\_global\\_strategy-going\\_beyond\\_effective\\_multilateralism%20~%20June%202016.pdf](http://cris.unu.edu/sites/cris.unu.edu/files/the_eu_global_strategy-going_beyond_effective_multilateralism%20~%20June%202016.pdf)>.

differences and instead focus on similarities. Hence, regional cooperation is interpreted as ‘a motor of security, stability, prosperity’<sup>130</sup>.

To conclude and to approve my third assumption, this form of interaction is said to be fully compatible with multilateralism. However, there is a development which is challenging the traditional structures of regional cooperation. This is manifested by the multipolarity of actors in the international arena but also due to the fact that the EU is likely to increasingly engage in bilateral partnerships.

This chapter has shown how different modes of engagement can lead to (in)effective outcomes of EU external actions. Apparently, the EU has broadened its bilateral strategic partnerships with key actors. In this respect, the EU has concluded a growing number of agreements and joint declarations aimed at the eradication of global threats such as terrorism. Further, the EU actively engages in dialogues with its partners like security dialogues as in the case of India. One could argue to an extent that the EU puts more emphasis on strategic partnerships than other modes but still, I would not speak of a shift towards bilateralism in the EU’s external actions. Alternatively, the EU is now in a mode of rebalancing multilateralism and bilateralism. This implies that the EU’s preferred mode is still effective multilateralism but in case of ineffectiveness and also depending on the issue, the EU probably turns to bilateralism for practical and pragmatic reasons.<sup>131</sup> In fact, one can better achieve specific objectives when focusing on a few range of actors.

Still, it is not meant to replace the multilateral approach but rather to complement it. The review of the ESS in 2008 introduced the term partnerships for effective multilateralism to describe the objective to strengthen bilateral relations in pursuit of effective multilateralism. For example, the EU and India have adopted various counterterrorism policies but they are still fully dedicated to the UN framework and work towards the implementation of UNSC resolutions. Still, building stronger ties with the Asian region could lead to more stability in this sector and thus prevent emerging terrorism as well as hinder its further expansion and possible spill-over effects.

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<sup>130</sup> F. Mogherini, ‘Opening Statement by the EU HR/VP Federica Mogherini at the Meeting with the ASEAN CPRs (09/04/2016)’, *Mission of the European Union to ASEAN* (9 April 2016), available at <[http://eeas.europa.eu/delegations/asean/press\\_corner/all\\_news/news/2016/20160409\\_01\\_en.htm](http://eeas.europa.eu/delegations/asean/press_corner/all_news/news/2016/20160409_01_en.htm)>.

<sup>131</sup> T. Renard, *supra* note 95, at 13.

For future research, I would recommend to actually test the impact of certain modes of engagement on effective multilateralism in order to establish the positive or negative impact they have on multilateralism. For that purpose, one would have to think of possible indicators to measure it.

In June 2015, Mogherini drafted the idea of preparing an EU Global Strategy since a strategic reassessment of the global circumstances has become increasingly necessary. She also underlined the EU's priority to engage with partners:

‘The European Union has all the means to be an influential global player in future – if it acts together. In a world of incalculable risk and opportunity, crafting effective responses will hinge on the Union's ability to adjust, react and innovate in partnership with others. We need a common, comprehensive and consistent EU global strategy.’<sup>132</sup>

On account of that, Mogherini stated in her speech at the EUISS Annual Conference that ‘[i]n the long run, a network of bilateral, trilateral, sub-regional and regional organisations can be the best base for a more cooperative global order’<sup>133</sup>.

Even though it is not explicitly mentioned in her draft, Mogherini stated in a speech to the UN Security Council on the 6<sup>th</sup> of June 2016 that multilateralism is still at the core of its external action and that it ‘will be one of the core principles and priorities in our new Global Strategy for foreign and security policy’<sup>134</sup>. But instead of simply theorising the EU's commitment to effective multilateralism, Mogherini presses for ways to turn this into a daily practice.

Further, she condemned unilateralism as an approach since it simply does not pay off in times of the various challenges the world faces. As she strikingly puts it, ‘this is no time for lonely warriors. [...] The hardest the task, the stronger our cooperation must be’<sup>135</sup>.

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<sup>132</sup> F. Mogherini, ‘Global Strategy to steer EU external action in an increasingly connected, contested and complex world’, *European Union External Action* (30 June 2016), available at <[http://www.eeas.europa.eu/top\\_stories/2015/150627\\_eu\\_global\\_strategy\\_en.htm](http://www.eeas.europa.eu/top_stories/2015/150627_eu_global_strategy_en.htm)>.

<sup>133</sup> F. Mogherini, *supra* note 31, at 9.

<sup>134</sup> F. Mogherini, ‘Speech by High Representative Federica Mogherini at the UN Security Council on the European Union – United Nations cooperation’, *European Union External Action* (6 June 2016), available at <[http://eeas.europa.eu/statements-eeas/2016/160606\\_02\\_en.htm](http://eeas.europa.eu/statements-eeas/2016/160606_02_en.htm)>.

<sup>135</sup> F. Mogherini, *supra* note 128.

## CHAPTER 5

### **8. Conclusion: Has the EU successfully reified the concept of effective multilateralism?**

In order to answer my main research question to what extent the EU has successfully reified the concept of effective multilateralism to contribute to solve the threat of terrorism, I have first laid out the complex features of terrorism and explained why such a new, global threat makes a multilateral approach indispensable. After that, I offered three different angles on how to assess the EU's commitment to effective multilateralism and discovered that the EU is a collective actor in the policy field of counterterrorism which strongly relies upon the UN multilateral framework. With regard to alternative modes of engagement, I outlined possible ways of acting in a unilateral, a bilateral and a regional way and defined possible constraints in relation to the EU's commitment to multilateralism as well as circumstances in which it is reinforced and supplemented.

We must now reflect upon the outcomes of my study and say how future successful action in the domain of terrorism by the EU may look like.

We have learned that no country is immune to the universal threat of terrorism. This again highlights that no country or region is able to tackle it on its own and tackling terrorism is only possible through the combining and developing of common tools. Only by tackling the new, global challenges in a common aspiration, one can achieve positive results since the capacities and capabilities clearly exceed sole forms of unilateral, bilateral and regional arrangements.

The EU's purpose of collective action shall be to build an international order based upon effective multilateralism as outlined in its ESS because otherwise, it is not able to shape any global concerns with such a plurality of actors. Indeed, given the diversity of challenges and the diversity of actors particularly the emergence of the new rising powers, the EU's global influence is essentially determined by its actions and partnerships with those countries. For that reason, I argue that the EU needs to show a stronger commitment towards bilateral and regional partnerships and take a proactive role. There are indeed good starting points as the analyses of India and the

ASEAN have shown but at the moment, they still lack actual results. Therefore, in order to make those partnerships work and be more effective, the partners must be regarded as equals. In this respect, the EU should not concentrate on accommodating the differences of its partners (for instance by taking the leading role and setting the tone) but instead focus on the political dialogue with them to find potentials in those differences. In my view, the EU as a global security actor can only exist alongside other powers and therefore must derive benefit from the multipolarity of today's world to establish an effective multilateralism based upon differences.

Indeed, the EU alone cannot guarantee an effective multilateral system but it needs additional strong international organisations such as the United Nations and other regional organisations and partners in order to effectively confront global challenges. Only if these institutions are capable to fit into the flexibility of our steadily evolving environment, one can deal with global issues like terrorism. In this regard, the EU must take an active role in promoting the reform of existing institutions such as the UN so that it fulfils the demands of the twenty-first century and can function as an appropriate forum to bring together the diversity of actors. So, as also outlined in the fourth chapter, only '[i]f the international system can be transformed to encompass new powers, new rights and new organisations, it will survive into the twenty-first century'<sup>136</sup>.

Certainly, the ESS was an important initial step in shaping the EU's external security actions but it lacked the concrete priorities and measures which really propel it forward. This includes primarily clear and apparent formulations of what is actually meant by effective multilateralism. However, in order to convince other global players of the concept they have to get a common understanding of it as most actors might have different ideas of this concept. Especially with regard to the element of effectiveness, the EU remained vague what would happen if this multilateralism turns out to be ineffective. Would the EU then likely switch to other forms of engagement? Would it find ways to make the multilateral system more effective (and how?) or abandon it?

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<sup>136</sup> M. Ortega et al., *supra* note 97, at vi.

The EU has had its difficulties to put effective multilateralism into practice. As the section on effective multilateralism has shown, the notion of effectiveness, i.e., implies to lead to certain results. In 2003, the EU has laid out several strategic objectives especially with regard to terrorism. Thus, almost 13 years after its implementation, the EU should possess some success evaluated by a decrease of the terrorist threat and an increase in security. But recent developments seem to prove the opposite and Europe has increasingly become the target of terrorist attacks, leaving EU citizens in fear and uncertainty. It is difficult to say that the concept of effective multilateralism has failed, but as my analysis has shown there are various implications.

*First*, related to the nature of the EU, it definitely lacks the necessary competences from its Member States to take effective action in the field of counterterrorism.

The EU does not have the necessary means and coercive policy instruments (as we have seen in the analysis section on its ability to produce legally binding effects) which are required to encounter the challenge. Since Member States are still reserved in granting the EU further competences in this policy area, I do not think that the Union is likely to gain further capacities, particularly military, in this field to significantly shape international counterterrorism actions. With the entry into force of the Lisbon Treaty, the EU gained additional competences in the context of the CFSP by using, i.e., CSDP means but previous analyses have shown that those are seemingly limited. And with regard to the police and judicial cooperation within the AFSJ, the EU has certainly arranged a framework for cooperation with mechanisms such as Europol but in the end, it depends on the Member States if they transpose them correctly and employ them systematically. I would recommend that future studies particularly focus on the effectiveness of specific EU instruments to analyse what has been achieved and what should be improved.

Thus, the principle of conferral strictly regulates that the EU ‘unlike most nation states, when considering a response to an international situation, [...] must always give precedence to considerations of competence over considerations of effectiveness in international action’<sup>137</sup>.

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<sup>137</sup> G. De Baere, ‘The framework of EU external competences for developing the external dimensions of EU Asylum and Migration Policy’, *Leuven Centre for Global Governance Studies* (May 2010), at 6.



Those internal weaknesses are likely to have implications on the EU's external capabilities to shape any action in the international arena which directly leads us to a second shortcoming.

*Second*, the EU has problems in realising its vision of effective multilateralism in the forum of the United Nations as it still lacks the relevant powers to actively engage and participate in UN organs.

Actually the EU and the UN have worked even closer in the fight against terrorism as various policy documents have stressed and both have reiterated the importance of their cooperation. Certainly, their relationship is crucial for the stability in the world, simply stated, 'the EU needs the UN and the UN needs the EU. For the EU, the UN is both the main partner and the main arena for fostering better global governance'<sup>138</sup>.

However, even though the EU has been granted an upgraded status in the UN General Assembly giving it full rights to participate, it still lacks the right to vote. Nonetheless, this positive decisions made by the Member States granting the EU a more important role and capacities to speak, make proposals, etc., can be interpreted as a 'breakthrough for effective external action in the multilateral context'<sup>139</sup> of the UN and may be a pathway for future developments.

*Third*, and related to the second aspect, the EU must strongly support necessary reform processes in the UN as well as strengthen other international and regional organisations in order to make them more effective. Certainly one of the EU's core aims in the ESS of 2003 was to have strong multilateral institutions with which it can engage in the global scene. The third chapter has alluded to the connection between multilateralism and multilateral institutions; thus to have an effective multilateral system, it needs strong multilateral institutions.

Therefore, besides the EU's focus on implementing UN action and other international agreements, it should further support the UN in its necessary reforms as well as reinforce other regional organisations and partners and maintain close ties with them. Indeed, through the revitalisation of relations with, i.e., India and the ASEAN, the EU

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available at <[https://ghum.kuleuven.be/ggs/publications/working\\_papers/new\\_series/wp41-50/wp50.pdf](https://ghum.kuleuven.be/ggs/publications/working_papers/new_series/wp41-50/wp50.pdf)>.

<sup>138</sup> M. Ortega et al., *supra* note 97, at 3.

<sup>139</sup> B. Saenen, 'External action in the UN system', *EU Observer* (1 June 2011), available at <<https://euobserver.com/opinion/32435>>.

can improve its multilateral actions. This is of special importance with regard to the radicalisation of people and the threat of foreign terrorist fighters. Those potential terrorists originate from countries all over the world and therefore the EU and regional partners need to deal with this widespread concern by developing a comprehensive approach which can be expanded to cover all affected regions.

Right now, the EU should focus on the improvement of the existing institutions and particularly push forward reforms of the UN with regard to the proper representation of the new powers in the UN Security Council.

*Fourth*, in order to achieve an effective multilateralism the EU needs to be more flexible.

Even though effective multilateralism still remains the preferred option for the EU, it has realised that this cannot remain the sole mode due to the fact that the international environment is steadily evolving. Especially the geopolitical shift outlined in Chapter 4 opens up various new possibilities to engage with new powers.

Thus, the EU has to recognise other partners since the EU heavily relies upon the assistance of other actors. Otherwise it is only partially able to engage in the global war against terror.

Currently, the EU conducts its foreign policy through a multidimensional approach comprising effective multilateralism, regionalism and bilateralism. Here, different modes of interaction overlap, which usually takes place simultaneously depending upon the issue and which lateralism or combination of lateralisms will bring about the most effective outcome. The fourth chapter has outlined that they are indeed compatible with each other and, in most cases, bilateralism supplements and aids the EU's pursuit for effective multilateralism. Nonetheless, the question arises whether the EU's effectiveness in its external actions may be affected by the presence of other global powers. The EU may be undermined or strengthened by their impact. Future research should concentrate on the extent to which the different modes of engagement actually have an impact on effective multilateralism. A weakness of this study is that I simply developed assumptions based on my subjective evaluation in order to guide my analysis; but a next step would be to formulate coherent hypotheses and test them accordingly.

To conclude, there are several necessary steps to be taken by the EU in order to effectively deal with the threat of terrorism in a multilateral framework.

First of all, the EU needs to take steps in line with the principle of precaution through prevention as I have specified in the second chapter. Only if the EU develops tools to be proactive instead of reactive, it is feasible to deal with such a complex threat like terrorism. In this regard, the EU should concentrate on combining collective capabilities with other multilateral institutions such as the UN and its regional partners since joint action is indispensable. Hereby, a focus should be on the improved cooperation in and coordination of international information-sharing on terrorist related matters. For that purpose, the EU should integrate information from its own Member States as well as from its bilateral partners and regional organisations. By drawing attention to the collective interest to fight terrorism, every actor in the international scene is likely to share resources. In particular, with regard to the terrorists' increased use of the new media, it is necessary to establish initiatives to counter the radicalisation of young people and to prevent further terrorist activities.

For that purpose, I would recommend a universal effective multilateral order which is acknowledged by every international player and in which every actor realises its own responsibility in the global scene particularly with regard to the newly emerging global powers. This would be a necessary step in order to guarantee security in all the areas which could be concerned.

In April 2016, Mogherini gave an address on the EU Global Strategy on Foreign and Security Policy in which she emphasised the need of a common strategy as '[n]o country alone can carry the weight of the world on its shoulders'<sup>140</sup>. Especially in this time of uncertainty, and due to the interconnected and complex nature of today's challenges, it is necessary to guide the Union's action in line with strong principles which are 'engagement, responsibility and partnership'<sup>141</sup>. It was a necessary step for the EU to realise that the world as well as the European Union itself has changed profoundly after 2003 and that a rethinking of the European Security Strategy of 2003 has become crucial. Nonetheless, as I have outlined in the second chapter, the effects

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<sup>140</sup> F. Mogherini, 'Mogherini sets out core aims of EU Global Strategy', *European Union External Action* (22 April 2016), available at <[http://eeas.europa.eu/top\\_stories/2016/220416\\_eu-global-strategy-conference\\_en.htm](http://eeas.europa.eu/top_stories/2016/220416_eu-global-strategy-conference_en.htm)>.

<sup>141</sup> F. Mogherini, *supra* note 134.

of globalisation are unpredictable and not calculable; this definitely makes it difficult to prospect future analysis.

I am very curious about the third principle of the new strategy which is about partnerships since I believe that the EU's future actions will predominantly be guided through bilateral partnerships. Still, we will have to wait for the official presentation of the strategy to see how the EU aims to realise this objective and whether this Global Strategy can lead to the required changes in the EU's external policies. In my view, national governments as well as opposing forces will keep an eye on this new vision promoted by the European Union. I am curious to see whether the EU has taken into account the lessons learnt from the shortcomings of the past security strategy and thus its lack of success. The EU had a vision of an effective multilateral order but however, it was only poorly understood by others. The EU is in a position to revitalise the trust and credibility in the multilateral system because without the backing of actors (as I have shortly dealt with in my second sub question), it is not able to create effective outcomes and accordingly, responses to the current terrorist threat.

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