

EU Coordination in the ILO: Cohesive Voices or Cohesive Deeds?

Dr Robert Kissack
Department of International Relations
London School of Economics, UK
r.e.kissack@lse.ac.uk

Work in Progress, Not for Citation

CONNEX Final Conference
Mannheim, 6-8 March 2008
Workshop 4: Sat 0930-1230:
Understanding the diversity of EU-IO multi-level interactions

Abstract

The EU member states have issued common statements in the International Labour Organization since 1973. This paper focuses on the technical aspects of the ILO's work, namely the drafting of labour standards. It tests the hypothesis that EU member states demonstrate declaratory cohesion (issuing common statements) for the same instruments as they demonstrate voting cohesion. According to the existing literature, we expect 'cohesive words and cohesive deeds' to be complementary characteristics of EU actorness. Using empirical data from 107 record votes and their accompanying drafting committee minutes, no statistically significant association is shown. The paper locates this seemingly strange finding in the context of the ILO decision-making process, in which a strong EU voice during the lengthy negotiations is more important than cohesive voting during the formality of the record vote. The paper concludes by arguing that this example powerfully illustrates the shortcomings of assuming the attributes of EU actorness are independent of the international organisation in which it is operating.

Keywords:

European Union (EU); International Organization (IO); International Labour Organization (ILO); United Nations (UN); EU foreign policy

As the title of this paper suggests, the object of investigation is the ability of the European Union (EU) member states to perform two functions: speaking with one voice through common statements and acting in unison through their voting decisions. The study focuses on one of the Specialized Agencies of the United Nations system, the International Labour Organization (ILO), and looks exclusively at the behaviour of EU member states in the process of drafting and adopting international labour standards. Within the spectrum of roles performed by the ILO, standard-setting forms sits alongside standard monitoring and the provision of technical assistance to help implement labour standards as the most important functions of the organisation. In other work I have looked more broadly at the role of the EU in the promotion of standards, so this paper is strictly limited to an appraisal of the technical dimension.

The alternatives offered in the title – cohesive voices or cohesive deeds – are awkward ones, due to the way the EU member states and the European Union operate in the ILO. Through the Treaty of the European Community (TEC) the 27 EU member states have agreed to legislate certain areas of social policy collectively at the Community level, as they have done in other areas including trade, agriculture and the environment. In policy areas where the responsibility to legislate has been pooled at the Community level, the EC uses its international legal personality to represent the interests of the member states, such as in the World Trade Organisation (WTO) and the Food and Agriculture Organisation (FAO). In both examples the European Community became a member of each organisation so as to perform its role more effectively, supplementing rather than substituting the membership of the EU member states. Depending on the issue under discussion, either the Commission speaks on behalf of the European Community (and thus EU member states), or the EU member states speak themselves, albeit often collectively through common statements. In the ILO the question of representation is the same, insofar as the technical remit of the ILO stretches across areas of EC competency, as well as the national competency of the member states. However, the EC is not a member of the ILO and cannot act as it does in other international organisations, resulting in the representation of EU member states oftentimes ending up in a legal limbo. The EU member states are not legally entitled to legislate individually in a particular policy area, but equally the EC is not capable of representing them either. The fact that EU member states have pooled their sovereignty in an organisation that cannot act in the ILO is a peculiar

situation and has been explored by international law scholars (Cavicchioli, 2002). This paper is interested in the coping mechanisms developed by the EU member states for dealing with this unique situation.

The remainder of the paper is divided into five sections, beginning with an elaboration upon the voices/deeds problem as well as situating this niche issue among the broader literature on EU-UN relations and EU foreign policy in general. The second section is a theoretical framing of the question: does the development of cohesive EU interventions (words) lead to cohesive voting by EU member states? The third section introduces the empirical data on EU member state common statements and voting records in the ILO between 1973 and 2007. The fourth section provides a commentary on the observed findings, which are that (a) an increase in common statements (voice) over time has not led to an increase in voting cohesion, and (b) the two variables are not statistically significantly related, implying that cohesive voices and cohesive deeds are separate and distinct strategies that EU member states pursue concomitantly. The final section concludes with lessons for the wider study of EU-UN relations.

I. Cohesive Voices, Cohesive Deeds and EU Foreign Policy

The two scenarios under consideration of (a) EU member states speaking with one voice and (b) EU member states acting in unison, are consequences of the legal position they find themselves in. The 27 remain at all times full members of the ILO and are the only significant actors capable of representing the EU during the drafting and adoption of ILO standards at the annual International Labour Conference (ILC).¹ Furthermore, the European Court of Justice Opinion (2/91) reiterated that only EU member states can ratify ILO conventions, although any changes to EC law necessary to make it compliant with ILO standards would have to be agreed by the Council (ECJ, 1993). Given this situation, the EU member states can choose to speak as one through the issuing of common statements, but they retain 27 separate votes during

¹ A number of authors point to cooperation between the European Community and the ILO as a result of the most recent letters of exchange (May 2001), noting how the European Commission has been a full participant on the ILO's Working Group on the Social Dimension of Globalisation (WGSDG), as well as exchanging technical expertise (Johnson, 2005; Delarue, 2006)

record voting and cannot attribute their vote 'to the EU'.² In the day-to-day business at the ILO many regional groups frequently issue common statements, and the EU member states do so either collectively (as the EU) or in the guise of the Industrialised Market Economy Countries (IMEC).³ The EU member states have been speaking as members of the EEC/EU since 1973 (and as IMEC since 1964), thus suggesting the line of inquiry pursued in this paper, namely whether the process of agreeing common interventions is in any way correlated to homogeneous voting patterns.⁴ For readers unfamiliar with research on EU-UN relations, the study of cohesive voting patterns (the casting of identical votes by all EU member states) is the commonly used method in the literature to measure changing behaviour by EU member states (Foot, 1979, Luif, 2003, Lindemann, 1982, Verlin, 2004, Johansson-Nogues, 2004, Hurwitz, 1975).

The point of departure for this paper is, therefore, one widely used elsewhere in the literature on EU-UN relations. A focus on cohesive voting allows us to measure the extent to which the EU is a unitary actor and make an assessment of its actor capabilities, and in particular its ability to behave in a 'state-like' manner. As Philip Gordon has commented, the US is a superpower because of its capacity to use military, economic and diplomatic power effectively (Gordon, 1997). Although the EU is not expected to compete with the US on military terms, its economic and diplomatic capabilities are entirely consistent with civilian power and structural power models (Duchêne, 1972, Smith, 2005, Keukeleire, 2003, Rosecrance, 1998). For this reason investigating the degree of cohesion between EU member states, its increase (or decrease) over time and the policy areas of disagreement between member states that scupper cohesion are an important research area. The focus on speaking with one voice is also important because it gauges the level of agreement between the EU member states in areas of foreign policy. A failure to speak is equally significant insofar as it shows the limitations of foreign policy cooperation, while the substance

² All governments cast one vote during a record vote called during a drafting committee and two votes in the plenary of the ILC.

³ EU 27 plus Australia, Canada, Japan, New Zealand, Norway, Switzerland and USA.

⁴ The official minutes of ILO committee meetings began by accrediting interventions to 'the government members of [list all EU member states by name] as the member states of the European Community / European Union'. In 2007 there was a switch to the label 'the European Union group' and missing out the country names. While this is clearly quite likely to be a practical decision to save time (and paper), it nonetheless points toward a movement away from the EU member states wanting to persistently reiterate their primacy over the EU.

of common statements betrays which national interests are being promoted (such as through the Europeanization thesis) or which member states are dragging their heels (lowest common denominator agreements). Comparing statements over time allows the researcher to chart convergence (or divergence) between opinions, as understood through the socialisation process between diplomats and officials. In summary, the focus on interventions in the name of the EU on the one hand, and archival research on the voting records of member states on the other hand, are both widely used in the literature.

What is the relationship between speaking with one voice – referred to here as ‘declaratory cohesion’ – and voting cohesively? Is there an independent-dependent variable type relationship between them as rational choice theories might predict, or do the two occur together due to exogenous factors, for example due to the socialisation of EU diplomats and officials? We can frame the research question in terms of rational-choice explanation by identifying the independent variable between (1) the act making cohesive interventions in a committee meeting to draft an instrument, and (2) the act of voting cohesively in the subsequent record vote to adopt the instrument. Does the act of coordinating common interventions in the name of the EU make cohesive voting for the adoption of an instrument more likely? Or does the *a priori* decision by EU member state governments that they will vote for the adoption of the instrument provide a set of common interests from which common interventions can be drafted?⁵ For the purposes of this paper it is assumed that there is a hierarchical relationship between the two, with EU common statements being the independent variable that makes cohesive voting between the EU member states (the dependent variable) more likely thereafter. The reasons for this are (a) that finite resources means that EU coordination is prioritised in areas where shared interests exist and EU preparing interventions are the first step towards realising them, (b) EU member states are unwilling to vote against the adoption of an instrument they have played an active role in shaping; (c) the strength of the EU as a negotiator makes it

⁵ The assumption that a government can decide *a priori* that it will vote to adopt an instrument is highly likely, given that over 96% of the votes cast in this sample were for the adoption of the instrument in question; votes against and abstentions occur so seldom that they are what need to be explained

highly likely the final instrument fits their interests.⁶ These assumptions are open to revision in the light of the findings presented below.

The second line of inquiry follows sociological based theories that consider the role of individuals in the decision-making process, and the role of cognition. Rather than focus on the role of interests and the assumption that they are determined nationally and in isolation from the negotiation process, cognitivism as defined by Hasenclever et al allows for the role of ideas and identity to shape behaviour through placing it in the broader context of social meaning (Hasenclever et al., 1997). As representatives from the governments of the EU member states participate in coordination meetings to prepare EU interventions, they become more aware of shared identities and ideas about the purpose of the EU, the aims and objectives of the instrument and the need for common action. In this scenario the overall outcome is not considerably different from the interests-based explanation insofar as the more frequently EU diplomats meet prior to voting, the higher the likelihood they will vote cohesively. Here the difference is that the process of coordination facilitates the outcome, rather than coordination being a product of common interests. Two further points should be briefly mentioned. According to this approach, the substance of the coordination is not as important as the process of meeting, and a small number of interventions that took very long to agree could bring about the same socialisation effect between government representatives. The number of outputs (statements) need not be significant in influencing the cohesive voting. Alternatively, an ‘anti-socialisation’ could take place, whereby the process serves to concretise identity differences and drive divisions through the EU group.⁷

How does this relate to EU foreign policy? The policy issue-area of labour standards is firmly rooted in the Community pillar and an area of low political

⁶ It is noted that condition (a) resembles the reversed causal explanation of an *a priori* decision to ratify, condition (b) is true of any state. With regard to condition (c), elsewhere I have shown that the higher the number of EU interventions in the drafting of an instrument, *the less likely it is to be ratified by any ILO member*. (Kissack 2008).

⁷ An obvious example is possible UK hostility to perceived European social goals, where the rhetoric of the UK position is oppositional to a stereotypical European one. More widespread is the division between EU members of the ILO Governing Body (GB) and non-members. The three-year rotation onto the GB (France, Germany, Italy and UK all have permanent seats) means a higher level of coordination among IMEC states, which can become more deeply trusted than EU coordination. Interviews with Danish, British and Dutch officials substantiate these points.

salience to many, if not all states. However, the attempt to coordinate cohesive action by the 27 member states in a UN body puts it firmly in the foreign policy camp as well. The end to which this collective voice is used also matters, for example as a means towards trade protectionism and the securing of European jobs. Alternatively, Ian Manners has pursued the notion of the EU as a normative power and pointed to the legal standards it has sort to make normal practice in the world through widespread acceptance, which include ILO standards (Manners, 2002, Manners, 2006a, Manners, 2006b). While the content of ILO standards might not be foreign policy writ large, the ideas that they stand for, such as the rule of international law and a respect for human rights, and the mechanisms through which the EU member states attempt to organise themselves are important to issues to consider for EU foreign policy. As detailed above, the outputs from coordination (both declaratory and voting) can be used to assess the development of the EU as an actor and the degree to which the EU member states want to retain their own freedom to act in the foreign policy domain.

A final word needs to be included about 'coordination', as it is used in the title. Coordination is defined as the meeting of diplomats and officials from the EU member states and / or staff from the European Commission and the Council Secretariat with the purpose of discussing affairs in the ILO (in this case). Duly acknowledging Putnam's two-level game model, we should bear in mind that coordination takes place between individuals on behalf of their governments and that the rank and experience of the individuals in coordination meetings, their physical location (Brussels or Geneva) and the frequency with which the issue is discussed as possible additional variables influencing the outputs of coordination.

A central tenet of the paper is the assumption that no common statements can be issued in the name of the EU member states (usually by the Council Presidency or occasionally by the European Commission or another member state) without the explicit agreement of the member states, meaning that every intervention in the name of the EU in the ILO is the product of coordination. Building a strong argument about the purposeful actions of member states to coordinate their common action is difficult given the limited availability of documentation. This assumption makes possible a methodology that gets around this problem, by searching for evidence of common

statements in the records of proceedings by the ILO. The presence or absence of declaratory cohesion, coupled to the presence or absence of voting cohesion, results in four possible outcomes.

Figure 1: The association of declaratory and voting cohesion and possible outcomes:

	Declaratory cohesion (Coordination takes place)	No declaratory cohesion (Coordination unknown)
Voting Cohesion	Hypothesis (1) - voting cohesion and declaratory cohesion found together.	Voting cohesion: (1) the result of coordination without declaratory outputs; (2) unplanned coincidence
No Voting Cohesion	Alternative hypothesis: EU MS do not speak and vote in a unitary fashion: reasons to be determined.	(1) Possible inverse of hypothesis (1) or (2) coordination failing to lead to any substantive outputs

This leads to a potential anomaly in the methodology, which cannot be overcome within the confines of this paper. Since evidence of EU interventions is a proxy for evidence of coordination, it is assumed that cohesive voting is influenced by the coordination process that produces common statements (north-west quadrant). This is what much of the literature predicts, and in this paper is being questioned. The alternative scenario considered is that EU member states actively avoid speaking *and* voting cohesively (south-west quadrant). So far, so good; however the right-hand side of the table (the north-east and south-east quadrants) are not so easy to analyse because of the use of declaratory cohesion as only a proxy for coordination. The south-east quadrant appears to substantiate the widely expected result informed by the literature in the negation, namely no evidence of EU common statements correlates to no voting cohesion. Meanwhile, the north-east quadrant logically corresponds to the alternative scenario, yet with both there is inconclusive evidence because coordination can still take place without either (a) output statements being generated or (b) output statements being accurately recorded. The consequences of this will be returned to later.

II. Theoretical Framing

In this second section I am going to be briefly consider neo-functionalism, liberal intergovernmentalism and a broad institutional approach in order to generate three competing lines of inquiry into what the relationship between speaking as one and voting in unison could be. The types of questions we are interested in finding answers for are whether the two are causally related; whether there is a hierarchical relationship between them; and how could we explain divergence between them if we find that to be the case?

A core tenet of neo-functionalism is the concept of spillover that draws new policy areas under the control of EU institutions that were previously the member states' exclusive domain. The gradual shifting of responsibility is a result of unforeseen consequences in the integration process, and serves as the motor behind the motif of an 'ever closer union'. Most frequently illustrated by the need for a common external tariff as a result of the creation of the common market, in the context of the ILO the gradual communisation of social and employment law (especially in occupational health and safety and working conditions) led to pressure to represent the European Community. As early as 1978 the European Parliament made the claim that EC membership of the ILO in the place of the member states was inevitable given the rate of progress of Community law (EP, 1979). At the time, EC-ILO relations were seen as being on an equivalent level to those with the GATT, but 30 years on the reality is very different. The primary reason for the failure of EU-ILO relations to develop as neo-functionalism predicted is the tripartite structure of the ILO stipulating that only nation states can be members of the organisation because national representation is a composite of government, workers' and employers' representatives. The brakes holding back EU membership are three-fold; without a parallel movement towards pan-European workers' and employers' organisations there can be no truly 'European' representation. National tripartite members strongly protest to protect the existing arrangement by refusing to build comparable EU-level associations and by campaigning inside the ILO to defend tripartism from interference from Brussels. Finally, workers' and employers' have lobbied hard to prevent the ILO constitution being amended to allow regional organisations membership.

Despite these external limits on spillover taking its foreseen course, the ECJ Opinion 2/91 marked the high-water mark in this debate after which an internal limit on spillover was decided by the institutions. The 1990 ILO Convention concerning safety in the use of chemicals at work (C170) was judged to contain elements relating to exclusive EC competency, shared EC and member state competency, as well as parts relating to exclusive member state competency. During the drafting process there was a considerable amount of input from the Commission, including eleven interventions by Commission officials on behalf of the EU member states.⁸ After the instrument was adopted the Commission presented to the Council a proposal to ratify the convention collectively after changing EC law as necessary. A number of member states challenged the competency of the Commission to do this and took the case to the ECJ. The Court upheld the member states' position that only they were competent to ratify ILO conventions, but highlighted the difficulty described above in the gap between pooled sovereignty in the hands of the Council of Ministers (thus preventing national governments from acting alone) on the one hand, and the lack of effective EC representation in the ILO on the other hand. Their sovereign capacity to act was in limbo, beyond the state but outside of the ILO.

The emphasis in neo-functionalism on a process of incremental integration and the development of EU capacities points towards a hierarchical relationship between common statements and cohesive voting with the former leading on to the latter. This would be part of the larger process of consolidating national positions in preparation for Community membership. The causal relationship would be based on the realisation of European interests, (and the theory also predicts that national elites from workers' and employers' groups should also move allegiances across but this did not happen) and realising them in coordination would be reason for voting accordingly. Finally, in terms of divergence, a failure to act cohesively might indicate either an unwillingness by a particular states to integrate, but would be attributed to a failure by national elites to recognise their long-term interests lay in shifting orientation toward the supranational level.

⁸ Since 1985 the European Commission spoke at ILO drafting committees on behalf of the EU member states in a number of occupational health and safety (OSH) instruments were drafted, coinciding with the completion of the Single European Act (SEA) that extended the scope of EC law and rolled out more widely qualified majority voting (QMV) in areas of social and employment policy.

Moving on to liberal intergovernmental (LI) theory, it should first be noted that it was not intended by Andrew Moravcsik to be applied to CFSP areas of policy, although Wagner has set out a model for using it (Wagner, 2003). Although this paper has been situated inside the literature focusing on EU foreign policy, this should not greatly concern us when applying LI to this case, for a number of reasons. We can draw on Moravcsik's argument that EU integration is focused on highly technical issues that the great majority of European citizens are happy to see regulated supranationally (Moravcsik, 2002). Education, health, pensions and taxation in the domestic sphere, and foreign policy and military action in the international sphere remain either lightly touched by the EU in the case of the former, or else intergovernmental and outside the effective purview of ECJ, EP and Commission in the latter. Cooperation in the ILO between the EU member states is governed by the same concerns as it is at the European level, namely the recognition of long-term gains from cooperation and the desire to see effective institutions capable of overseeing the agreements between states. Less clear, however, is the aspect of LI concerning the need for consent between France, Germany and the UK in order to agree a settlement. Is it the case that all interventions require the agreement of the 'Big 3' to be accepted? The answer from the archives is that it is not because a considerable amount has been achieved despite the fact the UK is often reluctant participant in the ILO (see Appendix 1). However, it should also be noted that the UK, France and Germany have all at times voted against the adoption of instruments or abstained from voting, demonstrating their privileged position of having interests that extend beyond the EU.

It is interesting to 're-read' the ECJ Opinion 2/91 again from the perspective of LI. The European Commission was not alone in that a decision should be made to ratify the convention collectively, and were actively supported by written observations by the government of Greece. Against the Commission position were the France, Germany, the UK, Belgium, Denmark, Ireland, the Netherlands and Spain. All bar the UK argued that the convention was an issue of joint competence, with the UK taking a solitary position that the minimal nature of the laws written under TEC Art. 118 did not pave the way for any external competence. The opinion of the Court decided that there was shared competency in relation to the instrument, and that cooperation between the EC and the member states was needed, but did not pass

responsibility to represent the EC solely back to the member states as ILO members, nor grant the Commission the larger role that it wanted. What this re-reading tells is that while the interests of the 'Big 3' (as well as the majority of member states) were at odds with the supranational European Commission, they remained inside the institutional framework of the EU and attempted to assert their position through legal council, and accepted the Court decision thereafter. Not only does LI differ here from the predictions of intergovernmentalism that stresses the contingency of cooperation and continual threat of defection, but it also emphasises LI's assumption that the member states choose to accept supranationalism as a long-term calculation of national interest that rewards them overall.

As for the three questions, LI is strongly premised on rational choice and the identification of interests. Hence it is highly likely that if EU member states can agree on common statements (based on common interests) they are likely to vote cohesively, either in favour of the instrument when it furthers their interests or against it if it does not. Neither causality nor hierarchy are clearly definable, since both are the produce of national interests determined *a priori*, however strategies for maximising gains that are discussed in coordination would be independent variables that increased the likelihood of voting when successfully implemented. Finally, on the question of cohesive voices and deeds separately, the answer suggested by LI is that national interests cannot always be reconciled and EU member states act alone when necessary.

The third theoretical approach we will briefly consider is sociological institutionalism, covering a number of different authors, principally Simon Nuttall, Michael E. Smith, Ben Tonra and Tanja Borzel. Although they have differing methodologies, I wish to sketch out a picture of how to consider declaratory- and voting cohesion outside of the framework of a rational-choice method. A process of adaptation occurs, either through sociological channels whereby the interaction between individuals over time becomes a formative component in determining their worldview and hence ideas of national interest, or the institutional channels where practices become embedded in social networks over time and shape the identity and ideas of the participants in a given direction. Nuttall and Tonra are exponents of the sociological dimension, while Smith and Borzel instead focus on the development of

institutions over time and the impact they have on shaping patterns of individual (and state) behaviour.

Nuttall and Tonra focus on the coordination process between the representatives of the EU member states and how exposure to the process over time alters the perceptions of its member. Nuttall's inside knowledge of the early working of EPC spoke of the unwillingness of member states' diplomats to be seen as holding back the collective action of the whole, describes how national positions were altered in order to facilitate a median viewpoint acceptable to all (Nuttall, 1992). In contrast to the assumption that intergovernmental meetings inevitably leads to lowest common denominator outcomes, 'median lines' were the policy outputs. Philippe de Schoutheete agrees saying that 'the embarrassment of being singled out' was too great for states to derail decisions (de Schoutheete, 1987). The significance of these two views is that decision-making in the foreign policy area is not characterised as the lowest common denominator predicted by intergovernmental theory. In a similar vein, Tonra chooses to place emphasis on the socialisation of foreign policy diplomats and staff, who over time develop a coordination reflex through which national interests become partially determined by expectations of what EU common interests might be (Tonra, 2001).

Michael E. Smith has also done substantial work on the institutionalisation of EPC and CFSP, which he refers to as the 'institutional logic of cooperation'. His empirical research led him to identify three logics of institutionalisation: functional, appropriateness and socialisation (Smith, 2004). In contrast to the authors cited above, he found the first two proved to be the most useful for explaining the behaviour of EPC/CFSP participants who

organised their cooperation on the basis of two fundamental principles, one functional (do not attempt to codify working procedures until they have proved their necessity) and one normative (always respect the EC's own legal culture). ... These processes also led to the gradual internalisation (or 'Europeanization) of EPC/CFSP procedures and policies in EU Member States. (Smith, 2004: 242)

The 'Europeanization' referred to is 'a transformation in the way in which national foreign policies are constructed, in the ways in which professional roles are defined and pursued and in the consequent internalisation of norms and expectations arising from a complex system of collective European policy-making' (Tonra, 2000). Borzel has written extensively on Europeanization, noting the difference between up-loading and down-loading policies from the national to European level (Boerzel, 1999, Boerzel and Risse, 2003). In relation to ILO coordination, the ability of a member state to upload a position to the EU level, along with the willingness of other states to later download the policy, affects the level of voting cohesion and number of common statements produced.

Methodologies focusing on social processes between actors do not readily lend themselves to giving causal explanations, given the fact they are premised on human interaction and the enormous number of intervening variables under potential consideration. Nevertheless, the processes that make agreement on common statements likely also lend themselves to cohesive voting, originating from the same process of reflexive assessment of national and European identities. With regard to the possibility of either declaratory or voting cohesion occurring separately, a focus on the sociological dimension leans in the direction of the common voice being of greater importance for promoting a European identity internationally. The institutional dimension points to differing degrees of formality for common action, with common statements being formally arranged and institutionalised in their preparation, while voting cohesion is more informal for one of two reasons. Firstly, voting cohesion could be informally arranged in the sense of being less developed and newer, or 'pre-formal'. The second reason is that voting cohesion has remained informal due to pressure from member states to keep it that way and allow them flexibility of action, or 'non-formal'.

III. Voting cohesion and declaratory cohesion in the ILO 1973-2007

Now that we have set out a number of competing scenarios to explain the possible relationship between EU member states making common interventions and voting cohesively, it is time to turn to the data. The hypothesis tested here is that cohesive voting is more likely to occur after declaratory cohesion. This substantiates the broader argument that both are facets of unitary actorness, and developing them is a step toward the EU becoming a more capable actor in the UN system. The data set has been gathered by looking at the provisional records of all International Labour Conferences since 1973, the year in which the first common statement was issued on behalf of the ‘governments of the Member States of the EEC’ (ILO, 1973). Between 1973 and 2007 107 instruments (Conventions, Recommendations or Protocols) have been adopted onto the ILO statute, and each has been drafted by a series of committees over one or two years.⁹ Appendix 1 contains a summary of the data gathered. During the drafting of 77 of those 107 instruments the EU spoke collectively, albeit to greatly varying degrees. In 74 of the 107 record votes to adopt those instruments, the EU member states voted cohesively. However, to what extent did the two occur simultaneously? Looking at Table 1 the overall rate of voting cohesion by the EU member states over the course of the survey was 69.1%, with 25.2% of the votes being non cohesive due to an abstention by one or more member, and 5.6% of votes being non-cohesive because of one or more EU member state voted against the adoption of the instrument. This aggregated figure is broadly in line with other research on the UN, especially in the General Assembly.

Table 1 here

Table 2 shows the same 107 record votes divided according to whether there were any common statements issued during the drafting of the instrument, and then according to voting outcome. As set out above, ‘declaratory cohesion’ (common words) is

⁹ Most conventions are accompanied by a recommendation, although occasionally a convention or recommendation is produced alone. A convention is an international treaty committing the ratifying state to uphold its principles in domestic law, and the ILO scrutinises domestic law to ensure compliance, as well as having channels of protest through which violations can be exposed. Recommendations are non-binding documents that are drafted to serve as a template for domestic law to be compliant with the convention.

assumed to be the independent variable, while voting cohesion is assumed to be the dependent variable.

Table 2 here

Using the chi square test for significance assuming that declaratory cohesion is the explanatory variable yields a chi square value of 1.673 at two degrees of freedom, and a corresponding p-value of 0.4332. To attribute statistical significance to the association between the two variables a p-value of 0.05 or less would be expected with a corresponding chi-square value of 5.991 (2 d.f.). The primary finding is that the hypothesis, that there should be a statistically significant association between the EU member states speaking together and voting together, is not proven. A look at Appendix 1 shows that the majority of times voting cohesion was broken by only one or two member states (usually the UK) and the number of EU interventions made varies greatly, suggesting that taking into account the behaviour of the UK and using more nuance in interpreting the level of declaratory cohesion could prove insightful. While it is not yet time to reject the idea that cohesive words and cohesive deeds are complementary attributes of EU actorness, we need to entertain the thought that they may not be so straightforwardly related.

IV. Separating cohesive words from deeds: separate strategies of action?

This final section will be structured around two questions. The first is whether we should accept these findings that there is no statistically significant association between cohesive words and deeds, or should scepticism towards statistical methodology push us towards looking for a different story? Could refinements be made to the analysis to make its reading of the picture more precise, and is the problem that the wrong variables have been used? The second guiding question is if this absence of association is accepted, how can we explain this, given that the weight of existing literature points in the opposite direction?

Let us begin by weighing up the evidence for discrediting the findings. The strongest critique that can be made against them is the choice of variables, both of which bludgeon a wide spectrum of positions into binary alternatives. Declaratory cohesion as a variable amalgamates cases where one or two interventions were made in the name of the EU with cases when 80 were made. Furthermore, when scaling the number of interventions to take into account the length of the meeting, we see an even wider range, from 0.001 to 0.198 (a two-hundred-times increase).¹⁰ Surely some form of graduation across this range would be insightful, with cases of cohesive voting more likely to occur after higher levels of EU participation? This is no doubt true, but in defence of the method used the number of interventions made is not an accurate proxy measure for the amount of coordination taking place before a meeting. Failure to agree on points of common interest might yield little in the way of outputs but nevertheless be the product of a considerable amount of time. Furthermore, the method used only counted interventions when the EU or EEC was explicitly mentioned in the recorded minutes, while on many occasions the member states were

¹⁰ This method is based on counting the number of interventions made in the name of the EU by either the member state holding the Presidency of the Council or (much less frequently) a staff member from the Commission. Five types of intervention are possible: (i) give an opinion in an opening discussion, (ii) propose an amendment, (iii) propose a sub-amendment to an existing amendment, (iv) speak for or against an amendment, (v) vote whether to accept or reject an amendment. No distinction is made between the types of intervention on the grounds that all five represent the necessary attributes of an effective actor capable of promoting its interests in the ILO. In order to scale the number of interventions to the length of the meeting, the number of interventions is divided by the length of the meeting, measured in paragraphs. A paragraph approximates to one substantive point of the discussion, and is a summary of the debate rather than a transcription of what was said. The figure arrived at is presented as a decimal relating to the intensity of EU involvement in the drafting process. For example, a total of 30 interventions made during a drafting process minuted in 300 paragraphs would be recorded as 0.100.

listed by name but were not counted because the EU was not named. Another consideration is that EU common statements are sometimes incorporated into the statements of IMEC, and again coordination did not yield outputs in the name of the EU exclusively. Without doubt these figures *under-represent* the number of common interventions made, but designing a methodology erring on the side of caution was decided to be the most prudent approach. On reflection I think this strengthens the case for the binary approach, since it focuses attention on whether prior coordination took place or not, emphasising the impact made by having it (or not) on voting cohesion.

The second concern with the statistics is the small number of votes cast against adoption of an instrument or as abstentions (3.9% - 51 out of 1301 votes in the whole survey), which resulted in only 69.1% of votes being cohesive. A very small number of individual votes caused a disproportionately large amount of disruption. Very often these votes were cast singularly (i.e. only one member state), and very often by the UK. Would it make sense to disaggregate the UK from the data and assess that picture? While it would certainly improve the neatness of the data, it would be an inaccurate portrayal of the real-life dynamics of the EU. It is more important to understand why the UK so frequently signed up to common statements and then did not support the instrument when it was time to adopt it. The decision of the UK, or of any state, to abstain or vote against the adoption of an instrument rarely has any chance of actually harming the passage of the instrument through the ILO (with the exception of the Fishing Sector Convention of 2005). Given the very low likelihood of such a vote effecting the outcome, such votes can be cast as protest votes to all free-riding states (or workers' or employers' representatives) to vent their dissatisfaction with the instrument or the ILO itself, secure in the knowledge they would not individually disrupt the ILO and be blamed for destroying a consensus-based instrument.

Two pieces of evidence substantiate this claim. Firstly, the majority of UK abstentions and votes against were cast during the early 1990s, when the UK government was constantly being reprimanded by the ILO for breaking ILO conventions on freedom of association. In 1995 the Minister for Employment (Michael Portillo) threatened to withdraw from the ILO if the UK government was

singled out for its poor record on compliance in the conference report.¹¹ One of these instruments, the 1996 Seafarers' Hours at work convention (C180), was rejected at the time by the UK government but subsequently ratified 2001.¹² Secondly, only one convention in the entire survey has failed to be adopted, and that was by one vote, in 2005.¹³ The convention was renegotiated in 2007 and adopted with 94.8% of the vote, either illustrative of how quickly opinions were changed or else a realisation by delegates that they could not risk a 'free' protest vote. In summary, I argue that the data is not a problem; rather, the problem is explaining the picture drawn by the data, namely the fact that common voice (declaratory cohesion) and common deeds (voting cohesion) do not reliably occur together.

In order to make some sense of the outcomes found, let us recap the potential explanations given by the three theoretical approaches considered, as well as revisiting the initial assumptions made above. In brief, they were (a) EU has finite resources and prioritises coordination in areas of common interests, (b) EU member states will be unwilling to vote against instruments they have had an active role in shaping and (c) the strength of the EU negotiations means their preferences are likely to be present in the final version of the instrument. Given that 96.1% of all votes cast by EU member states in the survey (1250/1301 votes) were for the adoption of an instrument, the great majority of the time these assumptions appear to be valid. In terms of the theories, neofunctionalism explained an absence of declaratory and voting cohesion by national elites failing to shift allegiance and interests to the European level, while LI noted the persistence of national interests. Yet neither can differentiate between accepting common statements but not following through with unitary voting, which points us in the direction of sociological rather than rational-choice informed theory. Do the EU put more emphasis on speaking with one voice because they can do so in the name of the EU, while simultaneously giving less

¹¹ The Committee on the Application of Standards (CAS) assesses the performance of all ILO members' compliance with ILO standards. The persistent breaches of C98 and C87 were going to be recorded in a 'special paragraph', reserved usually for gross violators of human rights..

¹² The UK was the only IMEC government to vote against the instrument, in an overall result of 209 for, 1 against and 13 abstentions. Both the UK workers' and employers' representatives voted for the adoption of the instrument too, strongly demonstrating that it was not in conflict with UK national interests, nor against broad developed world interests.

¹³ The vote failed because it did not reach quorum due to the high number of abstentions (288 for, 9 against and 139 abstentions). Somewhat ironically, had only one more of the abstentions been cast as a vote against quorum would have been reached and convention adopted.

concern to voting cohesion, which does not explicitly bear the EU identity?

Implausible as this sounds, it is worth remembering that the ILO tries as often as possible to draft by consensus, shifting significance onto declaratory cohesion and a strong voice to win the argument, after which winning the vote is a more straightforward affair. As shown in Appendix 1, voting is a stale and stunted affair and only one vote out of 107 ended in a victory for opponents, and then by one vote.

V. Conclusion

By way of a conclusion I present the following argument. For the EU member states, declaratory cohesion is more important than voting cohesion for the following reasons. Firstly, the visibility of the EU is greater during the drafting process when it is able to use its weight to shape the direction of the instrument. In this way, the assumptions proved accurate. Furthermore, since common statements require the assent of all member states, any member not willing to agree has in effect a veto over the others. In part due to the socialisation process described by Nuttall and Tonra, (also in my work on political coordination in the ILO), and in part as a result of the enlarged EU forcing a realisation that a change in behaviour is needed,¹⁴ common statements are backed by all member states. Thus the median position exists in order to give the EU a voice and a presence in meetings. However, the flip-side of this is that during the voting procedure afterwards, EU member states have a greater room to manoeuvre, including the possibility to break cohesive voting. This can be either a protest against the instrument itself, based on ideological lines. Alternatively, as was the case with the UK during the 1990s, their protest votes coincided with persistent scrutiny of UK employment law (and have subsequently ratified one of the conventions they voted against – C180). The ability of states to act as free-riders is dependent upon the assumption that all instruments will be adopted, and that national protest votes will satisfy domestic pressures while leaving both the ILO and the EU untroubled. In the opinion of a former Vice-President of the ILO Governing Body, failure to adopt instruments in the ILO always reflects worst on the member states, rather than the workers, employers or the ILO itself. One final substantiation of this is the fact that ratification rates show that many states happily adopt instruments onto the ILO statute without any intention of ratifying them afterwards. In short, the voting process is highly symbolic and less significant than the drafting process itself.

EU declaratory cohesion in the drafting process has grown considerably over time, as illustrated in Appendix 1. Declaratory cohesion and voting cohesion are both attributes of EU actorness, but they should not be seen as progressively linked to the development of the EU as an actor or necessarily contradictory. EU member states

¹⁴ For example work on the changing norms of behaviour in Council meetings, were it is no longer *de rigour* for every member state to speak on all issues.

want a strong EU to influence the direction of the ILO and use declaratory cohesion to do so, along the lines of the economies of scale argument of Roy Ginsberg. By contrast, they also want to conduct their own national policies toward the ILO and require political space in which to do that. After all, they remain ILO members, they ratify conventions, they are brought before the ILO to explain breaches, and must satisfy national constituencies. The lesson from the case study to the wider field is that we should not use universal benchmarks of EU actorness uncritically in differing international organisations. The dynamics of EU legal representation and of the unique character of the organisation will undoubtedly influence the way EU behaviour has evolved. In the case of the ILO, cohesive words are bought at the cost of in-cohesive deeds. Far from being a shortcoming, they appear to allow the EU a new form of flexibility between the representation of the EU on the one hand and of the member states on the other.

Table 1: Overall voting cohesion: EU Member states in the adoption of ILO technical instruments: 1973-2007

EU member states Vote cohesively	One or more Member state abstains	One or more Member state votes against	Total
74 (69.1%)	27 (25.2%)	6 (5.6%)	107 (100%)

Table 2: Voting cohesion and declaratory cohesion: EU Member State in the adoption of ILO technical instruments: 1973-2007

	All EU Member States vote cohesively	1 or more EU Member State abstains	1 or more EU Member State votes against	Total:
EU Member States issue common statements	55 (71.4%)	19 (24.7%)	3 (3.9%)	77 (100%)
EU Member States do not issue common statements	19 (63.3%)	8 (26.7%)	3 (10.0%)	30 (100%)
All record votes:	74 (69.1%)	27 (25.2%)	6 (5.6%)	107 (100%)

Appendix 1: ILO Conventions 1973-2007: EU coordination intensity, EU member state voting records and overall ILO voting

Year	Convention/ Recommendation	Coordination Intensity	No. Presidency/ EC Interventions	EU states abstaining	EU states voting against	Overall % votes for adoption
1973	C138	0.025	2/0	UK	-	93.2
	R146	0.025	2/0	-	-	96.2
1974	C139	0.008	1/0	-	-	100.0
	R147	0.008	1/0	-	-	100.0
1974	C140	-	-	-	-	78.5
	R148	-	-	-	-	91.7
1975	C141	-	-	-	-	97.3
	R149	-	-	-	-	98.9
1975	C142	-	-	-	-	98.9
	R150	-	-	-	-	99.4
1975	C143	0.019	3/0	D,F,G,NL,UK	-	76.6
	R151	0.019	3/0	D,G,NL,UK	-	82.3
1976	C144	-	-	-	-	81.3
	R152	-	-	-	-	98.1
1976	R153	0.015	1/0	-	-	99.1
1976	C145	0.024	2/0	-	-	93.4
	R154	0.024	2/0	-	-	95.0
1976	C146	0.053	7/0	-	-	81.0
1976	C147	0.072	10/0	-	-	67.5
	R155	0.072	10/0	-	-	93.4
1977	C148	0.038	5/0	-	-	98.5
	R156	0.038	5/0	-	-	99.3
1977	C149	-	-	NL, UK	-	83.8
	R157	-	-	-	-	91.0
1978	C150	-	-	-	-	100.0
	R158	-	-	-	-	100.0
1978	C151	-	-	-	-	86.0
	R159	-	-	-	-	91.4
1979	C152	-	-	-	-	99.2
	R160	-	-	-	-	99.0
1979	C153	0.081	52/0	-	-	73.0
	R161	0.081	52/0	-	-	77.3
	R162	0.129	51/0	-	-	99.5
1981	C154	-	-	UK	-	75.5
	R163	-	-	-	-	98.3
1981	C155	0.186	27/0	-	-	97.8
	R164	0.186	27/0	-	-	98.8
1981	C156	0.010	8/0	-	-	77.9
	R165	0.010	8/0	-	-	81.6
1981	C157	-	-	-	-	93.9
1982	C158	0.007	3/0	-	-	85.0
	R166	0.007	3/0	-	-	99.3
1983	R167	-	-	-	-	98.1
1983	C159	0.013	4/0	-	-	81.7
	R168	0.013	4/0	-	-	99.3
1984	R169	0.069	25/0	UK	-	91.4
1985	C160	0.101	14/0	-	-	98.4
	R170	0.101	14/0	-	-	99.3
1985	C161	0.197	52/1	-	-	96.8
	R172	0.197	52/1	-	-	99.3

1986	C162	0.097	44/3	-	-	99.8
	R172	0.097	44/3	-	-	98.8
1986	C163	-	-	UK	-	98.6
	R173	-	-	-	-	98.1
1987	C164	0.149	18/0	-	-	100.0
1987	C165	0.041	3/0	FR	-	96.6
1987	C166	0.034	4/0	-	-	98.6
	R174	0.034	4/0	-	-	98.1
1988	C167	0.198	90/3	-	-	99.8
	R175	0.198	90/3	-	-	100.0
1988	C168	0.152	57/0	-	-	93.4
	R176	0.152	57/0	-	-	95.7
1989	C169	-	-	FR	-	86.8
1990	C170	0.173	78/11	-	-	99.7
	R177	0.173	78/11	-	-	100.0
1990	C171	0.096	44/0	UK	-	89.9
	R178	0.096	44/0	UK	-	89.7
	PROTOCOL	-	-	PORT	-	90.5
1991	C172	0.178	68/0	NL, UK	-	69.9
	R179	0.178	68/0	PORT, UK	-	70.1
1992	C173	0.072	52/0	-	-	74.6
	R180	0.072	52/0	-	-	72.4
1993	C174	0.142	35/2	-	-	92.7
	R181	0.142	35/2	-	-	93.9
1994	C175	0.038	28/0	FR, PORT	UK	66.3
	R182	0.038	28/0	PORT, UK	-	73.3
1995	C176	0.132	52/0	-	-	89.8
	R183	0.132	52/0	-	-	92.2
1995	PROTOCOL	0.011	5/0	FR, PORT	-	82.7
1996	C177	0.001	1/0	-	GER, UK	89.5
	R184	0.001	1/0	-	UK	92.4
1996	C178	-	-	FR, UK	-	94.9
	R185	-	-	FR, UK	-	95.9
1996	C179	-	-	-	UK	90.0
	R186	-	-	-	UK	93.5
1996	C180	-	-	UK	-	93.4
	R187	-	-	-	UK	87.9
1997	C181	0.064	35/0	LUX	-	90.8
	R188	0.064	35/0	LUX	-	79.7
1998	R189	0.051	22/0	-	-	99.0
1999	C182	0.005	4/0	-	-	100.0
	R190	0.005	4/0	-	-	100.0
2000	C183	0.008	8/0	UK	-	68.8
	R191	0.008	8/0	UK	-	71.8
2001	C184	0.169	141/0	-	-	90.3
	R192	0.169	141/0	-	-	92.7
2002	R193	0.002	1/0	-	-	99.3
	R194	0.075	47/0	-	-	99.3
2003	C185	0.003	1/1	-	-	95.1
2004	R195	0.001	2/0	-	-	76.0
2006	C186 (MLC)	0.013	16/0	-	-	98.7
	R196	0.013	16/0	-	-	98.7
	C187	0.120	45/0	NL	-	98.5
	R197	0.120	45/0	NL	-	98.1
	R198	0.069	40/0	CZ, POL, UK	-	71.2

2007	C188	0.034	14/0	-	-	94.8
	R199	0.034	14/0	-	-	95.9

References

- BOERZEL, T. A. (1999) Towards Convergence in Europe: Institutional Adaptation to Europeanization in Germany and Spain. *Journal of Common Market Studies*, 37, 573-596.
- BOERZEL, T. A. & RISSE, T. (2003) Conceptualising the domestic impact on Europe. IN FEATHERSTONE, K. (Ed.) *The Politics of Europeanization*. Oxford, Oxford University Press.
- CAVICCHIOLI, L. (2002) The relations between the European Community and the International Labour Organization. IN CANNIZZARO, E. (Ed.) *The European Union as an Actor in International Relations*. Netherlands, Kluwer Law International.
- DE SCHOUTHEETE, P. (1987) Political Cooperation and national foreign policy. *European Affairs*, 4, 62-67.
- DELARUE, R. (2006) ILO-EU Cooperation on Employment and Social Affairs. IN WOUTERS, J., HOFFMEISTER, F. & RUYS, T. (Eds.) *The United Nations and the European Union. An Ever Closer Partnership*. T.M.C. Asser Press.
- DUCHÊNE, F. (1972) Europe's Role in World Peace. IN MAYNE, R. (Ed.) *Europe Tomorrow: Sixteen Europeans Look Ahead*. London, Fontana.
- ECJ (1993) Opinion 2/91: Convention N° 170 of the International Labour Organization concerning safety in the use of chemicals at work. *OJ C109*. Brussels, European Court of Justice.
- EP (1979) The Nyborg Report drawn up on behalf of the Committee on Development and Cooperation. *III/79*. Brussels, European Parliament.
- FOOT, R. (1979) The European Community's voting behaviour at the United Nations General Assembly. *Journal of Common Market Studies*, 17, 350-360.
- GORDON, P. H. (1997) Europe's Uncommon Foreign Policy. *International Security*, 22, 74-100.
- HASENCLEVER, A., MAYER, P. & RITTBERGER, V. (1997) *Theories of International Regimes*, Cambridge, Cambridge University Press.
- HURWITZ, L. (1975) The EEC in the United Nations: The voting behaviour of eight countries, 1948-1973. *Journal of Common Market Studies*, 13, 224-243.
- ILO (1973) Minimum Age for Admission to Employment. *ILC 58 Provisional Record* 24. Geneva, International Labour Organisation.

- JOHANSSON-NOGUES, E. (2004) The Fifteen and the Accession States in the UN General Assembly: What Future for European Foreign Policy in the Coming Together of the 'Old' and 'New' Europe? *European Foreign Affairs Review*, 9, 67-92.
- JOHNSON, A. (2005) *European welfare states and supranational governance of social policy* Basingstoke, Palgrave Macmillan.
- KEUKELEIRE, S. (2003) The European Union as a Diplomatic Actor: Internal, Traditional and Structural Diplomacy. *Diplomacy and Statecraft*, 14.
- KISSACK, R. (2008) Writing a new normative standard? EU member states and the drafting and ratification of ILO labour standards. IN ORBIE, J. & TORRELL, L. (Eds.) *The European Union's Role in the World and the Social Dimension of Globalisation*. Routledge.
- LINDEMANN, B. (1982) European Political Cooperation at the UN: a challenge for the Nine. IN ALLEN, D., RUMMEL, R. & WESSELS, W. (Eds.) *European Political Cooperation: Toward a foreign policy of Western Europe*. London, Butterworth Scientific.
- LUIF, P. (2003) EU Cohesion in the UN General Assembly. Paris, Institute for Security Studies.
- MANNERS, I. (2002) Normative Power Europe: A Contradiction in Terms? *Journal of Common Market Studies*, 40, 235-258.
- MANNERS, I. (2006a) The constitute nature of values, images and principles in the European Union. IN LUCARELLI, S. & MANNERS, I. (Eds.) *Values and Principles in European Union Foreign*. London, Routledge.
- MANNERS, I. (2006b) The European Union as a Normative Power: A Response to Thomas Diez. *Millennium: Journal of International Studies*, 35, 167-180.
- MORAVCSIK, A. (2002) Reassessing legitimacy in the European Union. *Journal of common market studies*, Vol.40, 603-624.
- NUTTALL, S. (1992) *European political co-operation*, Oxford, Clarendon Press.
- ROSECRANCE, R. N. (1998) The European Union : a new type of international actor. IN ZIELONKA, J. (Ed.) *Paradoxes of European foreign policy*. Florence, European University Institute.
- SMITH, K. E. (2005) Still 'civilian power EU?' *European Foreign Policy Unit Working Paper, London School of Economics*, 2005.

- SMITH, M. E. (2004) *Europe's Foreign and security policy The Institutionalisation of cooperation*, Cambridge University Press.
- TONRA, B. (2000) Denmark and Ireland. IN MANNERS, I. & WHITMAN, R. (Eds.) *The foreign policies of European Union member states*. Manchester ; New York, Manchester University Press.
- TONRA, B. (2001) *The Europeanisation of national foreign policy : Dutch, Danish and Irish foreign policy in the European Union*, Aldershot, Ashgate.
- VERLIN, K. L. (2004) Assessing the EU as an Actor in the UN: Authority, Cohesion, Recognition and Autonomy. *CFSP FORUM*, 2, 4-9.
- WAGNER, W. (2003) Why the EU's common foreign and security policy will remain intergovernmental: a rationalist institutional choice analysis of European crisis management policy. *Journal of European Public Policy*, 10, 576-595.