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**THE EUROPEAN UNION AND BRAZIL IN THE QUEST FOR
THE GLOBAL DIFFUSION OF HUMAN RIGHTS:
PROSPECTS FOR A STRATEGIC PARTNERSHIP**

Carolina Pavese
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ABSTRACT

The European Union's identity as an international actor has been strongly associated with the promotion of human rights at the global level. On this basis, the EU has played an active role in the strengthening of international human rights regimes. Similarly, the advocacy of universal human rights is also a principle and an objective of the Brazilian foreign policy. The role which Brazil plays in international regimes increases its global relevance as an emerging power. Based on their shared interest in promoting effective multilateralism, the EU and Brazil concluded a Strategic Partnership in 2007. Not surprisingly, the promotion of human rights at the global level features as one of the objectives of this alliance. To this end, the partners agreed to further coordinate their position and reinforce cooperation at the multilateral level, including at the UN Human Rights Council. But have the EU and Brazil succeeded in their joint promotion of human rights in the international arena? The paper discusses this question in four stages. First, it analyses the EU's conception of strategic partnerships as one of the instruments to facilitate the promotion of 'effective multilateralism', and the partnership with Brazil in particular. In a second stage, we explore the argument that an important precondition for the success of the partnership is the compatibility of human rights approaches. The present paper thus compares the approaches of the EU and Brazil regarding this issue area. The third part analyses the actual EU-Brazil engagement regarding human rights. First, it looks at how the context of their Strategic Partnership has developed as a platform to facilitate coordination regarding a multilateral human rights agenda. Confronting human rights discourse in practice, the paper then assesses EU-Brazil engagement at the Human Rights Council. The paper concludes that a strategic human rights partnership between the EU and Brazil has not (yet) emerged. While such partnership holds important potential, significant mutual accommodation to the divergent interests of both partners is needed in order for this cooperation to materialise in practice.

KEYWORDS

Brazil; European Union; human rights; strategic partnership; United Nations Human Rights Council

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1. INTRODUCTION

The emergence of a multipolar world order and the appearance of new global threats have challenged the position of the European Union ('EU' or 'Union') on the international scene. In response to the changing global context, the 2003 European Security Strategy launched the fostering of effective multilateralism through strategic partnerships as the approach to enable multilateral solutions to global challenges and to secure an influential role for the Union on the international stage. Similarly, the new international political context provided Brazil an opportunity to assert its role as an emerging power and project its image as an actor highly committed to multilateralism. On the basis of this convergence of interests, the EU and Brazil concluded a Strategic Partnership ('Partnership') in 2007, aimed at strengthening bilateral relations at all levels.

The promotion of multilateralism across different areas features as one of the main objectives of the Partnership. But perhaps its most innovative feature is the approach to foster cooperation in multilateral arenas, including for the protection and promotion of human rights. Integrating different levels of cooperation, the EU and Brazil decided to set the bilateral level as a platform to promote dialogue, accommodate divergences and eventually forge a common position over issues negotiated in the context of international institutions. How successful has this strategy and Partnership been?

The present paper analyses the Partnership with regard to a specific issue area that is of particular relevance for both actors: the global promotion of human rights. It conducts its scrutiny in four stages. First, the paper discusses the EU's conception of strategic partnerships as one of the instruments to facilitate the promotion of 'effective multilateralism', and the Partnership with Brazil in particular. Second, the paper develops the argument that an important precondition for the success of the Partnership is the compatibility of both partners' human rights approaches. We analyse and cross the approaches of the EU and Brazil regarding this issue area. Third, we analyse EU-Brazil actual engagement regarding human rights. In doing so, we first look at how the context of the Partnership has served as a platform to facilitate coordination regarding multilateral human rights issues. Secondly, confronting human rights discourse in practice, we then assess EU-Brazil engagement at the United Nations (UN) Human Rights Council. Analysing twenty regular sessions of the HRC, we look for indicators of cooperation between the two partners, by assessing (i) the number of joint proposals, (ii) the convergence of voting positions, and (iii) jointly promoted side events.¹ Covering 133 resolutions adopted at the Council, our approach provides a wider picture of EU-Brazil engagement at the HRC over time and across different issues, allowing identification of the overall pattern of EU-Brazil cooperation at the HRC from 2006-2013.² The conclusion crosses the outcome of the

¹ This paper draws from the analytical model and analysis of C.B. Pavese, *Level-linkage in European Union - Brazil relations: an analysis of cooperation on climate change, trade and human rights*, PhD Thesis, London School of Economics, UK, 2014, pp. 211-262 [further: Pavese (2014)]. Yet, the database was updated to include resolutions of 2013.

² A case-by-case explanation of the positions adopted in each of the 133 resolutions covered is beyond the scope of the paper. Such a more 'qualitative' analysis would focus on a smaller sample of cases as it would require the in-

analysis regarding cooperation at the bilateral level and at the multilateral level, answering the question whether or not the EU and Brazil can be labelled strategic partners in the human rights regime.

2. STRATEGIC PARTNERSHIPS FOR MULTILATERALISM AS AN EU STRATEGY

2.1 THE EUROPEAN SECURITY STRATEGY: THE EU'S APPROACH TO INTERNATIONAL AFFAIRS REVISITED

As mandated in Article 21 of the Treaty on European Union (TEU), the EU seeks partnerships with third countries and organisations around the world, promoting 'multilateral solutions to common problems, in particular in the framework of the United Nations'.³ While 'effective multilateralism' has been a long-standing aim for EU foreign policy, it was made explicit for the first time in the 2003 European Security Strategy (ESS).⁴ The ESS introduced the approach to foster strategic partnerships with a select group of countries in order to increase the potential of finding multilateral solutions to global challenges.

Adopted by the European Council on 12 December 2003, the ESS could be interpreted as a response to the challenges that became apparent by the Iraq war. The decision of the United States and its allies to pursue an Iraq invasion bypassing disagreements in the UN Security Council defied the power of international institutions. As a result, multilateralism, the model that underpins European integration, underwent a crisis. Moreover, the fact that EU Member States could not reach a consensus position regarding the conflict exposed the weakness of the EU as an international security actor. The international political conjuncture of the early 2000s raised questions about the current set-up of the international legal order but also about the capacity of the EU to act as a cohesive international actor.

Addressing these challenges, the ESS adopted three major strategic objectives to guide the EU's international action, namely: (i) addressing global challenges and key threats; (ii) building security in the European neighbourhood; (iii) pursuing an international order based on effective multilateralism. In order to achieve the third goal, the Union aims at (a) promoting the rule of law, (b) strengthening the role of international institutions, with greater emphasis on the UN, and (c) contributing to global governance.⁵ Nevertheless, the ESS neither provides an elaborate definition of the notion 'effective multilateralism' nor does it explain if, and how, the EU's conception differs from other approaches toward multilateralism.⁶

The EU assumes that the promotion of 'effective multilateralism' does not only entail a unilateral commitment to it, but requires, as well, persuading other international actors to share its quest of reinforcing multilateralism. In that sense, the pursuit of strategic partnerships appears more as a means to the promotion of the aforementioned major EU goals than as an end in itself. In fact, the ESS explicitly mentions the 'need to pursue our [the EU's] objectives both through

depth study of a variety of highly fluctuating variables such as the constellation of the Council as well as relevant changing political dynamics in the wider multilateral system.

³ Treaty on European Union, Article 21(1), second paragraph. For the latest consolidated version of the EU Treaties, see [2012] O.J. C 326/1.

⁴ European Council, 'A Secure Europe in a Better World, European Security Strategy', Brussels, 12 December 2003.

⁵ *Ibid.*, pp. 6-10.

⁶ For a more thorough analysis, see J. Wouters, S. de Jong and P. De Man, 'The EU's Commitment to Effective Multilateralism in the Field of Security: Theory and Practice', *Yearbook of European Law*, 2010, 164-189.

multilateral cooperation in international organisations and through partnerships with key actors'.⁷ Calling the relationship with the US 'irreplaceable', the ESS concludes by declaring that 'we should develop strategic partnerships, with Japan, China, Canada and India as well as with all those who share our goals and values, and are prepared to act in their support'.⁸

Interestingly, as in the case of effective multilateralism, the ESS does not conceptualise strategic partnerships nor does it specify how they would differ from the EU's 'standard' relationships with third countries. Moreover, as a document that outlines broad strategies, the process and the instruments that would eventually concretise these partnerships are not elaborated in the ESS. Strategic partnerships have been left to be defined in practice.

Since the ESS, the EU has employed significant political capital in strengthening its relationship with those it considers as 'key global actors'. The list of strategic partners includes international organisations (The UN, NATO) and regional groups (Africa and the African Union, the Mediterranean and the Middle East, Latin America and the Caribbean). In addition, ten individual countries have been granted this special status: Brazil, Canada, China, India, Japan, South Korea, Mexico, Russia, South Africa, and the US.⁹

As the profile of the countries that form the club of EU strategic partners varies greatly, so does the content of these partnerships. Despite the fact that they all fit within the EU's goal of forging alliances to address global issues, the emphasis on cooperation at the multilateral level is applied to different degrees across the respective partners. Interestingly, from the documents setting strategic partnerships with other emerging powers, the Partnership with Brazil stands out for its emphasis on cooperation at the multilateral level.¹⁰ Thus, Brazil is an interesting case to analyse the success of the EU's strategic partnerships for the promotion of 'effective multilateralism'.

2.2 FORGING A STRATEGIC PARTNERSHIP WITH BRAZIL

The EU and Brazil have a long history of formal relations, as diplomatic ties between the two actors were first established back in 1960. Yet, for nearly three decades, the agenda for bilateral cooperation focussed essentially on trade and investment issues. Shifting the approach dramatically, in the early 1990s, the scope of the relationship was enhanced both in terms of the degree of cooperation and the agenda. At the bilateral level, the EU and Brazil signed the 1992 Framework Cooperation Agreement, formalising cooperation in several new areas. At the regional level, in addition to EU-Latin America relations, the engagement with Brazil flourished in another arena: EU-MERCOSUR relations. The EU's interest in developing strong links with

⁷ European Council, 'A Secure Europe in a Better World, European Security Strategy', p.13.

⁸ *Ibid.*

⁹ The heterogeneity of this extensive list suggests that different criterion apply to the selection of the EU's strategic partners. 'Common values', 'common interests', 'capacity to influence global affairs' and a 'mutually beneficial relationship' have all been used as arguments to explain the choice for a particular partner. C.C. Cirliq, *EU Strategic Partnerships with Third Countries*, Briefing for the European Parliament, 26 September 2012. If the selection criteria are not very clear, the procedure leading to a strategic partnership seems to be more homogeneous, at least in the case of the countries considered as 'emerging powers'. The process begins with the European Commission drafting a first proposal of partnership, later discussed by the European Parliament and ultimately adopted by the Council. The formalisation of an EU strategic partnership requires the signatures of the third party and the EU, often celebrated at the occasion of a high level summit: *Ibid.*

¹⁰ Council of the European Union, 'Mexico-European Union Strategic Partnership. Joint Executive Plan', Comillas, 16 May 2010; Council of the European Union, 'The South Africa-European Union Strategic Partnership. Joint Action Plan', Brussels, 15 May 2007; Council of the European Union, 'The India-EU Strategic Partnership. Joint Action Plan', Brussels, 7 September 2005.

this emerging regional organisation and the pivotal role played by Brazil in the latter, placed the focus of EU-Brazil bilateral relations on this new regional organisation – that is to say, for a decade.¹¹

Although the path of EU-Brazil cooperation continued on a progressive trend, the new millennium engendered another revision of the relationship between the two actors. The stagnation of EU-MERCOSUR relations and the rise of Brazil as an emerging power, combined with the EU's quest for 'strategic partnerships', led both actors to reconsider the approach towards their bilateral relations. The interest in strengthening bilateral ties was reciprocal. But more than fostering bilateral cooperation, in the 2000s EU-Brazil relations entered a new phase as 'effective multilateralism' became one of the central elements of their relationship.

Whereas Brazil's foreign policy has for a long time been oriented towards the promotion of a multilateral order, changes in the domestic and international political context triggered a new approach towards this goal. With the beginning of President Lula's government (2003-2010), Brazil embraced what can be called 'reciprocal multilateralism', defined by two main characteristics: (i) the existence of rules to ensure a fair and equal engagement of all the parties; and (ii) the contribution of all international actors in the agreement of these rules.¹² In addition, Brazil also perceived the new context as an opportunity to enhance its importance as an international actor, strengthening bilateral relations with old and new partners.

In this sense, the EU's concept of strategic partnerships with an emphasis on multilateralism was very much in line with Brazilian foreign policy. As a result, the Partnership was officially launched in 2007. The overall objective of this rather ambitious and broad Partnership is to enhance cooperation at different levels and across several areas. The two Joint Action Plans (2008 and 2011) and the joint declarations of the seven High Level Summits held between 2007-2014 provide details on the agenda and on measures for its implementation.¹³

In addition, the Partnership enhanced the profile of cooperation at the multilateral level in the framework of EU-Brazil relations. 'Peace and comprehensive security through an effective multilateral system' and 'sustainable development' are the first two main objectives of the Partnership, which unfold through cooperation over multilateral issues like climate change, international security, human rights, trade and finance. Yet, perhaps the most innovative element of the Partnership is the strategy of combining different levels of cooperation. Collaboration regarding the promotion of 'effective multilateralism' is to be pursued not only in the context of multilateral institutions and fora, but starts at the bilateral level. The rationale behind this strategy is the use of the bilateral level as a platform to facilitate discussions, accommodate divergences and eventually forge common positions regarding issues on the agenda of multilateral negotiations.

¹¹ Pavese (2014) pp. 68-69.

¹² A.L. Cervo, 'Brazil's Rise on the International Scene: Brazil and the World', *Revista Brasileira de Política Internacional*, 53 (special edition), 2003, pp. 7-32.

¹³ Council of The European Union, 'EU-Brazil Summit. Joint Statement', Lisbon, 4 July 2007; Council of the European Union, 'Brazil-European Union Strategic Partnership. Joint Action Plan', 2nd Brazil-European Union Summit, Rio de Janeiro, 22 December 2008; Council of the European Union, 'Third European Union-Brazil Summit. Joint Statement', Stockholm, 6 October 2009; Council of the European Union, '4th EU-Brazil Summit. Joint Statement', Brasília, 14 July 2010; Council of the European Union, '5th EU-Brazil Summit', Brussels, 4 October 2011; Council of the European Union, '6th EU-Brazil Summit', Brasília, 24 January 2013; Council of the European Union, '7th EU-Brazil Summit', Brussels, 24 February 2014.

However, concurring on the importance of multilateralism as a principle to organise international relations does not necessarily imply a common understanding of how this multilateral order should be organised and how it should operate. The question of the compatibility of approaches becomes more complex when taking into account that different regimes are structured around rules and principles mostly specific to each issue area. In this sense, there might be variations in the success of the Partnership to promote 'effective multilateralism', depending on the regime.

Analysing EU-Brazil cooperation for the promotion of human rights at the global level, we submit that a shared approach towards the human rights regime is a first pre-condition for a partnership between the two actors to materialise at the multilateral level. The next section first explores the individual perspectives and interests of the EU and Brazil in the diffusion of human rights, and subsequently crosses their approaches.

3. THE EU'S AND BRAZIL'S QUEST FOR THE PROMOTION OF HUMAN RIGHTS AT THE GLOBAL LEVEL: CROSSING APPROACHES

3.1 EU FOREIGN POLICY AND HUMAN RIGHTS

Much like the UN and its 1948 Universal Declaration of Human Rights (UDHR), the European integration process of the last seven decades must be seen against the backdrop of the Second World War. Unsurprisingly, it was on the European continent that the first regional mechanism was established to enforce 'certain of the rights stated in the Universal Declaration'.¹⁴ The 1950 European Convention on Human Rights contains a broad range of civil and political rights, and established a system of inter-state and individual complaints which became a model for later treaties in other regions and in the United Nations.¹⁵

In the 1950s, the European Communities (later the European Union) were only in their infancy, focusing on (initially sector-based and, since the Rome Treaty, overall) economic integration in the first place. However, when the EEC Member States started to develop a European foreign policy in the 1970s, the Heads of State and Government announced that respect for human rights – along with representative democracy and the rule of law – is a fundamental element of the European identity.¹⁶ The end of the Cold War further accelerated the process of European political integration. In 1992, with the Maastricht Treaty on European Union, formal treaty recognition was given to human rights as part of EU law.¹⁷ Today, this is *inter alia* enshrined in Articles 2 and 6 TEU, whereas Articles 3(5) and 21(1) TEU have set in stone the pivotal place of human rights in the EU's external action.

As reflected in these two latter Treaty provisions, the EU sees itself as a normative actor in global governance which prioritises the promotion of human rights, democracy and rule of law.¹⁸ The Union insists on the universality of human rights¹⁹ and rejects claims that the promotion of

¹⁴ Preamble to the Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4 June 1950.

¹⁵ M. Nowak, 'The Development of Human Rights in Europe', in W. Benedek, F. Benoît-Rohmer, W. Karl and M. Nowak (eds.), *European Yearbook on Human Rights*, 2010, p. 35.

¹⁶ Declaration on European Identity, *EC. Bull. No. 12*, 1973 at para 1.2.

¹⁷ Treaty on European Union, *O.J. C 191*, 29 July 1992, art. F (2).

¹⁸ See also I. Manners, 'The normative ethics of the European Union', *International Affairs*, Vol. 84, No. 1, 2008, pp. 45-60.

¹⁹ See for example Human Rights and Democracy at The Heart Of EU External Action – Towards a More Effective Approach', Brussels, 12 December 2011, COM(2011) 886 final, at p. 6.

human rights constitutes unwarranted interference in the domestic affairs of other states.²⁰ In line with its undertaking to 'promote multilateral solutions to common problems, in particular in the framework of the United Nations' (*supra*), the EU is committed to a strong multilateral human rights system which can monitor impartially the implementation of human rights norms and can call states to account. Accordingly, the Union has always been strongly supportive of the UN human rights regime, the Office of the High Commissioner for Human Rights (OHCHR), and the role of independent experts in this regime, including special procedure mandate holders.²¹

The EU invests much in advancing its human rights agenda at multilateral human rights fora, but it has been struggling to find majority support for its initiatives on the international level. The Union has been blamed for a lack of receptivity and cooperation on priority issues appertaining to countries in the South, such as the promotion and protection of economic, social, and cultural rights.²² Rather than being perceived as a reliable partner and human rights frontrunner by third countries, the EU has been criticised for being selective in its approach towards human rights and for not being open to self-criticism.²³

Since the entry into force of the Lisbon Treaty on 1 December 2009, the EU has started to reshape its external human rights action, aiming to integrate human rights as a 'silver thread' throughout its policies.²⁴ As human rights touch upon different competences of the EU as well as of its 28 Member States, fostering a common EU voice on human rights has proved to be a complex and time-consuming undertaking, often entailing slow and reactive EU action on the international scene.²⁵ Since the Lisbon Treaty, a variety of novelties were introduced to foster more EU external coherence, including the creation of the office of the High Representative of the Union for Foreign Affairs and Security Policy, the establishment of the European External Action Service (EEAS), and the transformation of the former Commission Delegations around the world into full-fledged Union Delegations that represent the EU in third countries and at international organisations.

In June 2012, the EU Council adopted the 'EU Strategic Framework and Action Plan on Human Rights and Democracy' (Action Plan), representing the first comprehensive framework to conduct the EU's external policies in accordance with its human rights goals.²⁶ The revised policy recognises that in a multipolar world order, the Union needs to increasingly invest in outreach with countries from across the globe, including the South. Accordingly, the EU formulates its 'wish to strengthen the dialogues with third countries by listening to partners on

²⁰ K. Smith, *European Union Foreign Policy in a Changing World*, London, 2008 (2d ed.), p. 111.

²¹ The special procedures are independent human rights experts with a UN mandate to report and advise on human rights from a thematic or country-specific perspective.

²² See for example: Th. Rathgeber, 'Much Talk but Little Vitality: The European Union in the Human Rights Council in 2010' in W. Benedek, F. Benoît-Rohmer, W. Karl and M. Nowak (eds.), *European Yearbook on Human Rights*, European Academic Press, 2010, p. 209.

²³ Issues often referred to have been: the EU's migration policy or the issue of secret detentions. See, for example: European Council on Foreign Relations (ECFR), 'A Global Force for Human Rights? An Audit of European Power at the UN', 2008, p. 42.

²⁴ Joint Communication to the European Parliament and the Council, 'Human Rights and Democracy at the Heart of EU External Action –Towards a More Effective Approach', COM(2011) 886 final, 12 December 2011.

²⁵ See for example: J. Wouters and K. Meuwissen, 'The European Union at the UN Human Rights Council: Multilateral Human Rights Protection Coming of Age?', *Journal européen de droits de l'homme/European Journal for Human Rights Law*, 2014(2) 135-172 at pp. 144-146 [further: Wouters and Meuwissen (2014)].

²⁶ The principles and ambitions put forward in the Strategic Framework are concretely translated into an Action Plan with 36 actions, with the responsibilities spelled out for EU institutions and Member States respectively.

respective priorities and initiatives',²⁷ and indicates the aim to profile itself as a more responsive partner towards third countries in the multilateral arena. While traditionally the Union tends to prioritise civil and political rights, the Action Plan designates the UN Human Rights Council as the EU's focal spot to shape the agenda on economic, social, and cultural rights.²⁸ In addition, the EU purports to better link up its bilateral and multilateral human rights outreach: UN standards and output (such as Universal Periodic Review (UPR)²⁹ recommendations) will be systematically used as a basis for the Union's bilateral human rights dialogues. *Vice versa*, the EU consults with third countries during bilateral dialogues on possible human rights cooperation at the multilateral level.³⁰

3.2 BRAZILIAN FOREIGN POLICY AND HUMAN RIGHTS

As a founding member of the UN, Brazil has engaged with UN bodies with human rights competences from an early stage, including participation in the drafting of the UDHR. Yet, this long history of direct engagement with the promotion of human rights does not imply indiscriminate support to the UN's large agenda in this area. Brazil's approach to international human rights regimes derives from its interpretation of the compatibility of various principles, especially non-intervention, which has varied over time and according to the issue at stake. In addition, Brazilian external policy on human rights has been shaped not only by the orientation of its foreign policy and the country's aspirations as a global actor but also by the development of domestic policies in this realm.

During the period of the military dictatorship (1964-1985), Brazil had a relatively narrow foreign policy agenda, primarily focused on the so-called three 'Ds', namely, disarmament, development and decolonisation.³¹ The engagement with the international human rights regime at that stage could be interpreted as more of a strategy to address international criticism to its domestic violations of human rights, rather than the promotion of these rights at a global level. The re-democratisation process of the late 1980s brought a dramatic shift in Brazil's approach to human rights. Domestically, the 1988 Constitution restored several political and civil rights that had been withdrawn during the military ruling. Brazilian foreign policy then reflected these changes, embracing a broader human rights agenda at the multilateral level. As a result, Brazil signed the UN Convention against Torture and the International Covenants on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ICESCR), in 1985.³² Brazil also enhanced the centrality of human rights in its foreign policy. The primacy of human rights became a long-term commitment grounded on a robust legal basis as it was incorporated as one of the ten guiding principles that set the basis for the development of Brazil's international relations, as mandated by Article 4 of the 1988 Constitution.³³

²⁷ See the EU Priorities at the United Nations (2012-2015), Brussels, 23 May 2012, para. 28.

²⁸ EU Action Plan, action 9 (a); Wouters and Meuwissen (2014) pp. 163-164.

²⁹ The UPR is a periodic review process of the human rights records of all UN Member States in the context of the UN Human Rights Council, established by UN GA resolution 30/251 of 15 March 2006.

³⁰ See further J. Wouters and K. Meuwissen (2014) pp. 157-158, 165-166.

³¹ A.L.Cervo, 'Eixos conceituais da política exterior do Brasil', *Revista Brasileira de Política Internacional*, 41, 1998, p.67.

³² Brazil signed the three treaties on 23 September 1985. It ratified the UN Convention against Torture on 28 September 1989 and acceded to the ICCPR and the ICESCR on 24 January 1992.

³³ O.H.D. Garcia Cortes, *A Política Externa do Governo Sarney: o início da reformulação de diretrizes para a inserção internacional do Brasil sob o signo da democracia*, Fundação Alexandre de Gusmão, Brasília, 2010, pp.237-244.

Yet, as stipulated in its Constitution, the observance of these rights had to be in harmony with the respect of other core foreign policy principles, such as 'non-interference', 'peaceful conflict solutions', 'self-determination of peoples', and 'national independence'. Thus, in addition to an agenda that focuses on development and civil and political rights built over the decades of its engagement with the human rights regime, another core characteristic of Brazil's approach to human rights is the strong advocacy of the understanding that the sovereignty of states must be respected and - to a certain extent - prioritised. Incorporating this approach into its political discourse, since the 2000s the Brazilian government has often referred to a 'positive agenda', described as a position of 'non-interference' aligned with the principle of 'non-intervention'. In practice, this 'positive agenda' could be interpreted as a 'non-confrontational' approach to the international human rights regime.³⁴

To a large extent, these preferences in terms of agenda and approaches are in line with Brazil's aspiration to play a greater role in international affairs, projecting its image as an interlocutor of the developing world. The promotion of a multilateral agenda strong on non-controversial, transversal issues and the adoption of a 'non-confrontational approach' facilitate forming alliances and gathering the support of a wide range of actors, strengthening Brazil's role as a leader in the multilateral arena. It is thus, within this balance of promoting multilateralism and human rights and the avoidance of taking a controversial stance on certain issues, that Brazil's approach to the human rights regime should be understood.

3.3 CROSSING APPROACHES: POTENTIAL AND LIMITATIONS FOR AN EU-BRAZIL PARTNERSHIP TO PROMOTE HUMAN RIGHTS AT THE MULTILATERAL LEVEL

Of the ten EU strategic partners, and particularly the BRICS, Brazil is one of the closest to the Union.³⁵ As indicated above, Brazil and the EU broadly share the same overarching values, including adherence to democracy, the rule of law and human rights, as well as a principled support for multilateralism. As will be highlighted in the next section, Brazil's understanding of democracy and human rights is very similar to that of the EU, and both counterparts have a broad human rights agenda that reflect many issue areas of common interest. For Brazil, Europe is the main reference for a global model based on integration, rule of law, social welfare and soft power.³⁶ Brazil and the EU have a common interest to project themselves on the international scene as actors committed to and engaged with the promotion and protection of human rights, and accordingly have translated their will to cooperate in this area in the Partnership.

While these similarities indicate a clear potential for EU-Brazil cooperation on human rights, some divergences are apparent as well. The EU promotes a more legalistic approach to human rights, supporting the conception of human rights as enforceable rights of an individual against a state. The Union's vigorous support for an independent monitoring of situations in countries through special procedure mandate holders can be understood in this perspective, as well as the EU's support for multilateral intervention in countries where serious human rights violations

³⁴ C. Amorim, 'O Brasil e os direitos humanos: em busca de uma agenda positiva', *Política Externa*, 18 (2), 2009, pp.67-74.

³⁵ S. Keukeleire et al., 'The Foreign Policy Towards BRICS and Other Emerging Powers: Objectives and Strategies', Ad Hoc Study for the European Parliament, Directorate-General for External Policies of the Union, EXPO/B/AFET/FWC/2009-01/LOT2/09, October 2011.

³⁶ S. Gratius, 'Brazil and the European Union: Between Balancing and Bandwagoning', ESPO Working Paper 2, July 2012, p. 8.

take place. Brazil, on the other hand, takes a more 'collaborative' stance; it highlights the importance of respect for state sovereignty and prefers voluntary commitments of states rather than the use of measures that allow multilateral intervention in states. While both the EU and Brazil underline the universality of human rights, their human rights policies also reflect different priorities. Appertaining to the group of Southern states, Brazil prioritises social and economic rights, especially the right to development, whereas the Union tends to focus on the safeguarding and promotion of civil and political rights.

4. THE EU AND BRAZIL AS STRATEGIC PARTNERS ON HUMAN RIGHTS

4.1 THE BILATERAL LEVEL AS A PLATFORM FOR A PARTNERSHIP ON THE GLOBAL DIFFUSION OF HUMAN RIGHTS

Already the declaration of the first EU-Brazil Summit emphasises that the respect for human rights and the rule of law are shared values that set the foundation for their Partnership.³⁷ In fact, ever since, the commitment of both partners to the promotion of human rights at all levels has been highlighted consistently in the declarations of all seven High Level Summits and in their two Joint Action Plans.

Notably, 'the promotion of human rights and democracy, and upholding international justice' are identified as the first component of the first section of the two Joint Action Plans, entitled 'promoting peace and comprehensive security through an effective multilateralism'.³⁸ This reveals the centrality of multilateralism in the Partnership and also the interest of the parties in cooperating in the international human rights regime. The EU and Brazil have perceived the bilateral level of their engagement as a platform to facilitate a process of cooperation that would eventually materialise in the context of the multilateral arena.

The documents adopted in the context of the seven High Level Summits held from 2007 to 2014 allow us to understand how this strategy has been incorporated into the Partnership. Beyond repeatedly emphasising the commitment of the parties to support UN institutions that address human rights, the EU and Brazil adopted an agenda of issues for cooperation and delineating mechanisms that facilitate coordination on these matters at both the bilateral and the multilateral level.

Partially reflecting the comprehensive approaches of the EU and Brazil towards human rights, but also suggesting the perception of a high degree of compatibility between them, an extensive list of issues is included in the agenda for cooperation on human rights. The most updated version of this list appears in the Joint Declaration of the 7th EU-Brazil Summit (2014) and includes civil and political rights, freedom of expression, non-discrimination and freedom of religion or belief, combating racism and xenophobia, rights of women and children, gender equality, rights of indigenous peoples, the Lesbian Gay Bisexual Transgender and Intersex (LGBTI) community, human rights defenders, access to food and education, and combating torture.³⁹

³⁷ Council of the European Union, 'EU-Brazil Summit Joint Statement', Lisbon, 4 July 2007.

³⁸ Council of the European Union, 'Brazil-European Union Strategic Partnership, Joint Action Plan', 2nd Brazil-European Union Summit, Rio de Janeiro, 22 December 2008; Council of the European Union, '5th EU-Brazil Summit', Brussels, 4 October 2011.

³⁹ Council of the European Union, '7th EU-Brazil Summit', Brussels, 24 February 2014.

The mechanisms adopted to strengthen coordination and dialogue regarding these issues, eventually leading to further cooperation at the multilateral level, do not apply specifically for each individual topic. Instead, throughout the first seven years of the Partnership, the two partners have agreed on a broad and diverse range of instruments with a transversal scope. The degree of commitment entailed by these mechanisms varies. They can be broadly classified into four categories.

The first category consists of general statements that reiterate the individual commitment of the parties to the promotion of human rights, without reference to their Partnership. An example is the reference to a 'general commitment to promote human rights and democracy and upholding international justice', as it appears in the first Joint Action Plan⁴⁰.

The second category comprises a series of declarations that suggest new areas for cooperation, without creating a commitment in that respect. The declaration of the 5th EU-Brazil summit, for instance, states that the partners have identified 'specific issues and themes of common interest which *could generate* joint initiatives and strengthened cooperation'⁴¹.

The third category of mechanisms adopted to strengthen EU-Brazil engagement on human rights at the multilateral level makes a clear distinction between consultation and cooperation. This approach has been widely used across the various documents of the Partnership. For example, in the first Joint Action Plan the partners agree:

To hold *regular consultations* in Brussels and Brasilia as well as in the context of the High Level Political Dialogue specially to: (1) assess the main challenges concerning the respect for human rights, democratic principles and the rule of law, (2) advance human rights and democracy policy priorities and (3) *identify and whenever possible coordinate policy positions* on relevant issues in international fora.⁴²

Similarly, during the 5th Summit the EU and Brazil discussed 'how to intensify existing *consultations and coordination* within the Human Rights Council (HRC), in the Third Committee of the United Nations General Assembly, and in other UN fora'.⁴³

The last category makes direct reference to cooperation at the multilateral level. In this respect, the EU and Brazil have agreed to '*cooperate* in the prevention and suppression of acts of terrorism, in accordance with international human rights'⁴⁴, '*streamline cooperation* in Geneva and New York' and '*strengthen cooperation* on issues of mutual concern'.⁴⁵

These four categories suggest that the EU and Brazil have been careful in committing to cooperation at the multilateral level. Moreover, the fact that none of these agreements are followed by details on their implementation indicates a limitation in the strategy of using the bilateral level as an actual platform to strengthen EU-Brazil cooperation in the multilateral arena.

⁴⁰ Council of the European Union, 'Brazil-European Union Strategic Partnership. Joint Action Plan', 2nd Brazil-European Union Summit, Rio De Janeiro, 22 December 2008.

⁴¹ Council of the European Union, '5th EU-Brazil Summit', Brussels, 4 October 2011 (italics added).

⁴² Council of the European Union, 'Brazil-European Union Strategic Partnership. Joint Action Plan', 2nd Brazil-European Union Summit, Rio De Janeiro, 22 December 2008 (italics added).

⁴³ Council of the European Union, '5th EU-Brazil Summit', Brussels, 4 October 2011 (italics added).

⁴⁴ Council of the European Union, 'Brazil-European Union Strategic Partnership. Joint Action Plan', 2nd Brazil-European Union Summit, Rio De Janeiro, 22 December 2008 (italics added).

⁴⁵ Council of the European Union, '7th EU-Brazil Summit', Brussels, 24 February 2014 (italics added).

Nevertheless, the joint promotion of human rights at the global level has been continuously present in the development of the Partnership, which strongly indicates that the EU and Brazil see potential gains in reinforcing their bilateral ties in the human rights regime. Finally, if these mechanisms do not promote the agreement of a common position to be taken at international institutions, they certainly increase dialogue. Exchanging views at the bilateral level would at least contribute to reducing disagreements in multilateral negotiations. In this sense, the concept of a strategic partnership that integrates the bilateral and multilateral level of EU-Brazil engagement holds the potential to facilitate the goal of an alliance for the promotion of 'effective multilateralism', including the issue area of human rights. Yet, to assess the success of this strategy, it is fundamental to analyse the development of EU-Brazil engagement in the multilateral arena since the establishment of the Partnership in 2007. In this light, the next subsection of this paper scrutinises the performance of the EU and Brazil at the Human Rights Council, looking for indicators that suggest the materialisation of a partnership at that level.

4.2 EU-BRAZIL MULTILATERAL COOPERATION ON HUMAN RIGHTS IN PRACTICE: THE UN HUMAN RIGHTS COUNCIL

4.2.1 *The UN Human Rights Council and Regional Group Politics*

Created in 2006, the UN Human Rights Council (HRC or Council) is modelled on its predecessor, the UN Commission for Human Rights. As a subsidiary body of the UN General Assembly (UNGA), the Council is responsible for promoting 'universal respect for the protection of all human rights and fundamental freedoms for all', in addition to addressing 'situations of violations of human rights'.⁴⁶ Activities of the Council develop on a regular basis at the UN Headquarters in Geneva. Members gather at least three times a year in the context of regular sessions, each lasting at least ten days. Special sessions are convened upon request by HRC members, when approved by two-thirds of the Council.

Unlike the UNGA, membership to the UNHRC is limited to 47 elected UN Member States. HRC members are elected by the General Assembly for a three-year mandate, with the possibility of one consecutive re-election. The selection of members follows the principle of equitable geographical distribution, organised into five groups: (i) African States (13 members); (ii) Asian States (13); Eastern European States (6); Latin American and Caribbean States (GRULAC) (8); Western European States & Others (WEOG) (7).⁴⁷

From this organisational structure, it derives that the EU and Brazil are inevitably in distinct geographical groups and do not compete on the HRC election process. Moreover, the EU and Brazil participate at the Council with a different status. As a nation state, Brazil enjoys the right to fully-fledged membership of the HRC. Elected by the General Assembly as one of the representatives of GRULAC, Brazil was in the first composition of the HRC, in 2006, and was re-elected in 2008 and 2012. The EU's status, on the other hand, is limited to being an observer to the Council, where only EU Member States can be elected as full members. As an observer, the EU can engage in negotiations, co-sponsor and initiate resolutions and make statements in the Council. The right to vote, however, is restricted to countries that are members. EU Member States are spread over three different regional groups in the HRC: the majority of them (16) are part of the WEOG, 11 Member States are in the Eastern European Group, and one (Cyprus) belongs to the Asian Group. Accordingly, the EU Delegation and EU

⁴⁶ A/RES/60/251 of 15 March 2006.

⁴⁷ *Ibid.*, para. 7.

Member States organise daily coordination meetings during HRC sessions in order to foster common EU standpoints at the Council.⁴⁸

In view of the minority position of EU Member States in the Council,⁴⁹ the Union needs support from countries appertaining to other regions for its initiatives to be successful. However, just like its predecessor, the HRC is a politicised body where North-South group dynamics often prevent resolutions from being adopted.⁵⁰ While most resolutions in the Council are accepted by consensus, North-South dynamics become clear when votes are cast on contentious topics such as the instalment of independent country mandates, or sensitive thematic resolutions such as LGBTI or freedom of religion. From this perspective, the shared interest and cooperation between the EU and Brazil regarding the promotion of a strong UN human rights regime becomes especially significant. Within the context of the Partnership, the EU and Brazil have explicitly mentioned their commitment to increasing consultation and, eventually, coordination at the HRC. Notably, the list of common EU-Brazil human rights priorities includes a variety of issues that are sensitive in the HRC context, such as freedom of religion, human rights defenders or LGBTI (*supra*, 4.1). EU-Brazil cooperation at the HRC thus carries the potential to bridge the North-South divide and to enable constructive decisions being taken in this UN body. In order to assess to what extent the EU and Brazil have actually fostered cooperation in the HRC, the next subsection scrutinises the EU-Brazil engagement at the Council over time.

4.2.2 *The EU and Brazil at the HRC: Strategic Partners?*

In order to appraise EU-Brazil cooperation at the Council, we consider three different factors. Given that resolutions provide the core basis for the activities of the HRC, the ultimate evidence of strengthened EU- Brazil cooperation would be the joint proposal of resolutions. Another indicator of enhanced coordination would be the increased convergence of both partners' voting positions regarding resolutions subjected to vote. Finally, the informal meetings (or side events) at the HRC are important stages for the informal promotion of an agenda for cooperation. The organisation of joint events would indicate cooperation between the EU and Brazil, at least regarding the issues addressed by these events.⁵¹

In order to quantitatively analyse these three variables (joint proposals, voting pattern, and joint events) we scrutinised the agenda of the HRC regular sessions, paying special attention to the resolutions adopted by vote. In total, we covered 20 sessions, from 2006 to 2011 and in 2013; in this period Brazil and some EU Member States were members of the Council.

Over the 20 regular sessions analysed, 133 resolutions were adopted by vote. Although the EU (always operating through at least one of its Member States) and Brazil were responsible for tabling a few of these resolutions, in none of these cases the two actors submitted a proposal together. Also in terms of convergence of voting positions, there is little evidence of coordination between the EU and Brazil. From the 133 resolutions, their votes diverged in 86 cases, adopting the same voting position only 39 times. There were also eight occasions in which EU Member States could not coordinate their votes.

The scrutiny of the topic of these resolutions allows identifying a certain pattern of compatibility, or conversely, divergence, in the positions adopted by the two actors, but only in the cases of

⁴⁸ For a further analysis, see Wouters and Meuwissen (2014) pp. 144-146.

⁴⁹ Note that the EU on its own can never constitute the majority of the members of the HRC.

⁵⁰ For a further analysis, see Wouters and Meuwissen (2014).

⁵¹ Adopted from Pavese (2014).

issues recurring on the agenda of the regular sessions. Whereas the EU and Brazil adopted the same position on the three different occasions when a resolution on ‘the right to development’ was voted, their voting always diverged on ‘the right of people to peace’. Interestingly, even on issues that have been incorporated in the agenda of cooperation adopted in the context of the Partnership, the EU and Brazil could not agree at the multilateral level. This is, for example, the case for racism and xenophobia, an issue that appeared in nine HRC resolutions voted from 2006 to 2011 and in which the two actors never adopted the same position.⁵² The list of areas of disagreement includes also institutional affairs. Even in this case, there was no convergence of approaches between the EU and Brazil on any of the three occasions when the composition of the OHCHR was negotiated. This is not so surprising, as members of the HRC tend to disagree on the extent to which states should have a say regarding the functioning and financing of the OHCHR.⁵³

The position taken by the two actors on country specific issues varied case-by-case and so did their convergence of approaches. Whereas EU Member States managed reaching cohesion regarding the majority of resolutions that touched upon Israel and Palestine, the compatibility of an EU common position with Brazil’s voting position depended on the occasion, even within the same year. To illustrate this finding: in 2006 three resolutions relating to Israel and Palestine were voted in the regular sessions of the Council, namely on (a) Israeli settlements in the OPT; (b) human rights in the occupied Syrian Golan; and (c) the human rights situation in the OPT. Whereas Brazil voted in favour of the three resolutions, the EU (through its Member States) adopted a different position to each case, voting in favour of the first resolution, abstaining in the second and voting against the third one.⁵⁴

If at the formal level the EU and Brazil have displayed little coordination or even compatibility of positions at the regular sessions, the same poor record of cooperation was identified at the informal level of the HRC activities. During the twenty regular sessions when EU Member States and Brazil were members of the Council, the EU and Brazil promoted only one single event together. On 26 February 2013, at the margins of the 22nd HRC regular session, Brazil and the EU (together with Canada, Egypt, Qatar, Romania, the United Kingdom and United States) organised a high-level informal debate on ‘the power of empowered women’. In addition, the EU and Brazil promoted an informal meeting on women human rights defenders during the 20th HRC regular session on 19 June 2012, when Brazil was not a member to the Council. Slightly more side events were organised between the EU and GRULAC, pointing to an indirect EU-Brazil collaboration. From 2006 to 2011 and in 2013, the two groups jointly organised seven side events. Three of these focused on the rights of the child, one addressed missing persons, and three meetings were private events of EU-GRULAC consultations.

⁵² Pavese (2014) pp.229-241.

⁵³ Note that the position of states regarding this issue reflects a regional division between states from the North and the South. It can be noted that ‘the North’ (including the EU) vigorously supports the independence of OHCHR, while initiatives from the South (especially Cuba) have emerged to enhance state control over OHCHR. See for example: International Service for Human Rights, ‘High Commissioner attacked by States in carrying out her mandate’, 10 March 2013.

⁵⁴ Pavese (2014) p.229.

The table below summarises these key findings:

Table 1. **EU-Brazil Cooperation in the HRC (2006-2011, 2013)**

Number of resolutions voted (regular sessions)	133
Joint EU-Brazil proposals	0
Convergence of voting positions	39
Side events jointly promoted	2*

* One in 2012.

The absence of joint resolutions proposed and the poor voting cohesion record reveals no cooperation to actively promote an agenda together. Moreover, the high record of diverging voting positions, in stark contrast with cases of convergence, shows that the two actors have different understandings on how to position themselves at the HRC. This finding can be considered as an indicator of differences in terms of approaches towards multilateral cooperation. As previously argued in this paper, part of the divergence lies in the understanding of how to pursue multilateral cooperation, rather than in differences of opinion regarding the general substantive agenda. This partially explains why the EU and Brazil have failed to adopt similar positions regarding issues that they previously identified as matters of common interest. Another reason for the lack of cooperation may have to do with the polarisation of HRC discussions on the basis of a North-South divide. Voting patterns can be associated with the interest of the parties supporting resolutions proposed by certain groups of countries; the lack of EU-Brazil joint proposals indicates the difficulty in bridging this divide.

Overall, the results of the analysis of the 133 resolutions voted, show poor engagement between the EU and Brazil at the HRC. Despite efforts at the bilateral level to strengthen coordination regarding multilateral human rights issues, the two actors have failed to promote a strategic partnership at the multilateral level, at least in the case of the HRC.

5. CONCLUSION

This paper argued that an important precondition for an effective partnership between the EU and Brazil is a shared understanding and approach towards the goals commonly promoted. Addressing this issue, this paper analysed the individual policies of the Union and Brazil with regard to the diffusion of human rights, and subsequently assessed to what extent the individual policies of both partners indicated compatibilities or limitations to foster a 'strategic human rights partnership'. While the analysis of this issue showed clear potential for an EU-Brazil partnership on human rights, some divergences were apparent as well, both with regard to substantive human rights priorities and regarding the most appropriate multilateral tools to promote and protect human rights. Yet, there are also significant issues of common interest, which can set a common agenda for potential EU-Brazil cooperation on human rights at the multilateral level.

Paying considerable attention to this issue, the EU-Brazil High Level Summits as well as the Joint Action Plans all highlight the common commitment of the two partners to the promotion of human rights, and the important role of the UN in this respect. The EU-Brazil Joint Declarations refer to an extensive list of issues for cooperation on human rights, be it non-discrimination, freedom of religion or belief, LGBTI rights, the protection of human rights defenders and many more. However, it can be noted that bilateral 'commitments to cooperate' vary to a large extent, ranging from a general common statement to more specific commitments suggesting to strengthen mutual cooperation at the multilateral level. This finding suggests that the EU and

Brazil remain very careful in committing to actual cooperation at the multilateral level. In addition, the fact that none of the agreements is followed by details on their implementation indicates a limitation in the strategy of using the bilateral level as an actual platform to strengthen EU-Brazil cooperation in the multilateral arena.

Finally, in order to concretely assess the materialisation of an EU-Brazil partnership regarding human rights at the multilateral level, this paper scrutinised the performance of the EU and Brazil at the Human Rights Council. Three different factors were considered covering twenty sessions of the Council when EU Member States and Brazil were members of the Council (2006 to 2011 and 2013): the joint proposal of resolutions; the convergence of voting positions regarding resolutions subjected to vote; and informal meetings organised at the HRC. Admittedly, this quantitative approach has some important limitations. However, the results obtained with regard to the three factors addressed indicate that there is no EU-Brazil strategic cooperation on human rights visible, at least not in the context of the Council: no EU-Brazil joint resolutions were proposed, there is a high record of divergent voting positions, and only two side events were jointly organised since 2006.

This poor outcome can be considered as an indicator of the divergent understandings of both actors regarding the promotion and protection of human rights, as well as their diverging approaches to multilateralism. While the EU's and Brazil's global views are very similar, their interests and strategies strongly diverge. As an emerging global power with impressive economic growth, Brazil forms part of the 'alienated emerging powers' unhappy with its place in the UN.⁵⁵ Brazil seeks to gain influence and improve its position in the international system. For the EU, on the contrary, the support for the multilateral system constitutes a safeguard to maintain the existing system and its position therein. Compared to the Union, Brazil's multilateralism is more functional and less normative, more pragmatic and in solidarity with the South's interests.⁵⁶ Accordingly, Brazil tends to take a collaborative approach in UN fora, and does not typically support multilateral interventions in countries. Brazil favours the protection of the sovereignty of nations, and pushes for the protection of social and economic rights. The EU, at its turn, prioritises a strong multilateral human rights system that can call states to account, and emphasises the protection of civil and political rights. Arguably, the implementation of the 2012 EU Strategic Framework and Action Plan on Human Rights and Democracy could bring the EU's agenda and approach closer to potential partners from the South like Brazil.

In addition, the findings of this paper also indicate the relevance of the forum in which cooperation is to take place, as specific dynamics play an important role in shaping the degree of cooperation, depending on the particular forum. In the context of the HRC, for example, regional group politics have an important impact on decision-making, implying another hurdle for cooperation between two partners that appertain to different regions like the EU and Brazil. As seen, also on issues that have been incorporated in the EU-Brazil cooperation agenda adopted in the context of the Strategic Partnership (such as racism and xenophobia), the EU and Brazil consistently held divergent positions in the context of the Council.

In a multipolar world order, the EU's need to create cross-regional coalitions on the international level is increasing. At the same time, however, the EU is not a 'natural partner' for Brazil. While

⁵⁵ R. Gowan and F. Brantner, 'A Global Force for Human Rights? An Audit of European Power at the UN', European Council on Foreign Relations, 2008, p. 3 and p.15.

⁵⁶ In this regard, Gratius contains that: Brazil seeks a 'multilateral multipolarity' and the EU a 'multipolar multilateralism'. See: S. Gratius, 'Can EU Strategic Partnerships deepen multilateralism?', Fride working paper No. 109, September 2011, p. 14.

an EU-Brazil partnership on human rights holds important potential, it seems that significant mutual accommodation to divergent interests of both partners is needed in order for this cooperation to materialise in practice.



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