The European Union’s ‘effectiveness’ in addressing Libyan issues in the eras 1985-1993 and 2011

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Abstract
This paper gives a historical institutionalist account of the European Union’s effectiveness when addressing Libyan issues in the time periods of 1985-1993 and in 2011. Effectiveness is defined through the application of a triangular model suggested by authors Charlotte Bretherton and John Vogler. Hence, the theoretical framework consists of the concepts of ”Presence”, ”Opportunity” and ”Capability”. Using sources such as the United Nations Security Council Resolutions and European Union Treaties and Regulations, I seek to explore how these three institutions have changed and evolved over time since 1985 thus investigating whether there have been changes to the effectiveness of the European Union.

Abbreviations List

**CFSP** - Common foreign and Security Policy  
**EC** - European Community  
**EEC** - European Economic Community  
**EU** - European Union  
**Pan Am** - Pan American  
**SEA** - Single European Act  
**TEU** - Treaty on European Union  
**UNSC** - United Nations Security Council  
**UNSCR** - United Nations Security Council Resolution  
**UTA** - Union des Transportes Aérienes
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Introduction

Background & Issues
In February 2011, the Libyan people made an attempt to overthrow Libyan leader Colonel Muammar Qadhafi. The overthrow attempt, as of writing day 30th of May 2011, led to a stalemate within the country separating the country in two. After the initial demonstrations to overthrow Qadhafi the Libyan leader responded with security forces and air raids in order to silence the anti-regime protestors. The European Union condemned these actions through statements just as they did with the Lockerbie, Union des Transports Aériens flight 772 and the Vienna and Rome bombings in the 1980’s. However, in 2011, was it so this time that the European Union could more effectively deal with the issues deriving from Libya or had nothing changed? This question will be investigated further in this thesis. Had the European Union with the implementation of the Lisbon Treaty become a more effective actor, or had the Union acted based upon external opportunities?

My research question for this thesis will therefore be the following;

• Has the European Union become a more effective actor when addressing Libyan issues regarding the years 1985-1993 and 2011?

The formulation of this research question brings about some questions that need to be clarified. For instance what is meant by the term ‘effective’? Effective, in this thesis, will be defined by using three different theoretical concepts which will be briefly described in this section of the paper and more elaborately in the theoretical framework section. The first concept is labeled ”Presence”. Briefly, presence stands for two interconnected variables, the first being unintended consequences of being the European Union, and the second being the normative identity of the EU (Bretherton et al, 2006, p 27). The second concept is labeled ”Opportunity” which represents the external environment in which ideas and events are the main areas/aspects of focus and the main analysis should be focused on giving events a meaning (Bertherton et al, 2006, p 24). Third but not least is the concept of ”Capability”. Capability denotes the internal sphere of the European Union and the Union’s ability to act or remain inactive thereby controlling the European Union’s ability to either capitalize on its own presence or respond to the external opportunities given to the Union (Bretherton et al, 2006, p 29). The concept of ”effectiveness” is therefore constituted by three
interrelated parts and has now been briefly defined; I intend to further elaborate on the three concepts related to effectiveness in my theoretical framework.

Another issue with the formulation of the research question is that of examining how to assess the effectiveness. I intend to assess the effectiveness through the three concepts aforementioned but in order to investigate whether there have been any changes to the effectiveness of the European Union’s way of addressing Libyan issues, I will employ a historical institutionalist mode of analysis. This means that I will compare the different institutions, in this case Presence, Opportunity, and Capability over time, and see if there have been any changes in these concepts that could have contributed to the Union becoming a more efficient actor in comparison to the starting point, in this case 1985.

The third and final issue that I wish to address is related to the documents chosen for this thesis. There are in two of the sections, references to the Paris and Helsinki Charters, however I do not go into detail with these documents because they do not provide the raison d’être of the European Union and are thus irrelevant in analyzing the European Union’s relation with the Libyan regime. Nor do these documents provide any basis for EU action since the Council usually adopts EU action through Regulations or Decisions by the Council since foreign policy issues are of exclusive competence of the member states and not any of the supranational institutions.

**Previous Research**

Previous research made in this field of study varies in content based on the time period one talks of. This is due to the fact that there has been a great deal of research on the implications regarding the situation in Libya in the period between 1985 and 1993, discussed in this paper. There are many books and papers concerning the Lockerbie act, Union des Transportes Arérienes flight 772 act, and the Rome and Vienna airport bombings and often refer to the United Nations and the United States, however, they uncommonly refer to the European Union as such. Thus, previous research on Libya and the European Union is in terms of quantity, not as rich as that of Libya and the United States and the United Nations. Concerning the second time period regarding the events that have unfolded in the past year up until the 30th May 2011, there has been very little research published, thus making this thesis one of the first pieces of research to examine Libyan and EU relations.
Method & Source Criticism

The primary method selected in this thesis is qualitative document analysis. Document analysis as a method, has two sides to it. The positive aspects of using qualitative document analysis in this thesis is that in the process”(...) the analyst picks out what is relevant for analysis and pieces it together to create tendencies, sequences, patterns and orders” (May, 2008, p 193). Hence, the benefit that derives from document analysis is that it allows the researcher to bring in his or her frame of reference into the analysis and connect it to the selected theoretical framework, and reconstruct the sources selected in for the analysis. At the same time as this might be an advantage, this can also be one of the negative aspects of document analysis. This is due to the fact that the researcher then holds an arbitrary position that can be used to bias the reconstruction of the selected documents. However, as documents and text are not in anyway neutral entities but also affected by social frames of references this can be used beneficially in the analysis by the researcher.

Considering the sources selected in this thesis, I would like to make a distinction between two themes of differentiating sources to aid my analysis of my sources. The first being ”Primary Sources”. Primary sources have the advantage of not being reconstructed, in that they provide an original viewpoint of an event. However it is up to the researcher to select, read, interpret and reconstruct these kinds of sources. Also of importance here is to acknowledge the fact that primary sources are also exposed to the researchers own bias and frames of reference that can affect the outcome of the research. Hence, the primary sources selected in this thesis, the UN Resolutions, EU Treaties, Regulations and Decisions are subject to my frames of reference and bias which of course should not be an issue since document analysis enables the analyst to pick what is of interest and piece it together, thus proving an important point that document analysis is a subjective form of research. The second distinction of sources is that of ”Secondary Sources”. Secondary sources have the ability to, often, bring a wider perspective compared to that of primary sources since secondary sources have often already been reconstructed or interpreted by a second or third party e.g. a researcher. Hence, secondary sources substantiates my analysis by bringing a wider perspective than if I were to solely use primary sources in the analysis. Thus, my secondary sources in this thesis were selected to bring a bigger picture of the events that took place in the years between 1985 and 1993. However, also to be acknowledged is that because secondary sources have already been interpreted, they have also been exposed to the interpreters bias and frames of reference. Therefore, it is important to keep in mind when interpreting and analyzing the secondary sources that they already have been interpreted and exposed to others bias.
Theoretical Framework

As presented above, effectiveness needs to be accurately defined in order for to properly address the research question. Hence, this section will be dedicated to further define and elaborate on the three concepts defining effectiveness, the authors behind these concepts, and how I have modified the original theoretical model. The theoretical framework selected and modified for this thesis was initially created by professors Charlotte Bretherton, from利物浦s John Moores University, and professor John Vogler, from Keele University. Bretherton and Vogler do also suggest the three theoretical concepts, mentioned in the introduction, as concepts for analysis. However, instead of speaking of effectiveness they speak of the European Unions actorness. This is not the only modification I have made to their theoretical framework. Instead of speaking of the inclusive and exclusive nature of EU policy priorities, I argue that it is of greater importance to analyze the normative framework of the EU since ideas and norms could guide EU behavior which is something that will be assessed at a later stage.

Moving on to my definition of the concept of ‘effectiveness’. As already mentioned, there are three concepts defining what I characterize as effectiveness. The first of these I will elaborate on is "Opportunity". Opportunity in its most basic form stands for the external environment of events and ideas that can potentially shape and frame the European Union’s actions (Bretherton et al, 2006, p 24). Hence, the external environment is important since this can, potentially, create an environment for the European Union to construct their own interpretations of these events and perhaps at a later stage capitalize off of these external events or ideas in order for the European Union to shape their own action. Concerning the assessment of opportunities, the critical part is not to assess whether there exist external opportunities but rather put an emphasis on whether the Union has based their action or inaction on these opportunities. As a result, since my method is document analysis, I will put an emphasis to see whether the documents adopted or produced by the European Union mention events that can be classified as external opportunities, and at a later stage in the process compare whether the European Union at the starting point of 1985 did capitalize on opportunities or not. Then moving on to analyze the situation in 2011 and see whether the Union, perhaps, use external opportunities as their foundation of action or if the EU is more independent from external opportunities thus changing the effectiveness of the European Union.

The second concept that is vital to the analysis of the EU’s effectiveness is "Presence". Presence denotes two interconnected entities, one being "consequences of being the EU” and the other being "the normative framework of the European Union”. The consequences of being the EU refers to the "(...) external, often unanticipated or unintended, consequences of the Union’s internal priorities and
policies” (Bretherton et al, 2006, p 27). The documents of interest here will be therefore be the Treaties since these provide the internal policy priorities of the Union and the raison d’être of the European Union and its relations with third party countries. The second sphere of presence is the identity framework of the Union. Here I divert from Bretherton and Voglers suggestion that the Unions identity should be measured through the inclusive or exclusive nature of the EU and argue that the normative identity is of greater importance since it provides further evidence of the consequences of being the European Union and at the same time still remain a concept that can be assessed through the analysis and documents and their references to the normative framework of the EU. As Ian Manners argues ”the concept of normative power is, in its ideal or purest form, ideational rather than material or physical” (Manners, 2009, Danish Institute for International Studies, p 2), thus ideas and norms are playing the central role in the assessment of the normative presence of the European Union. Hence, I am also referring to the concept of social constructivism which will be elaborated on at a later stage in this paper.

The third and final concept that needs to be explained is that of “Capability”. Capability is a concept which is related to the other two concepts mentioned above. This is since it more or less assess the two first concepts to see whether the European Union has chosen to act or to remain inactive and if the Union has capitalized on either of the previous two if choosing to act. Thus, the area of focus here is to focus on the documents adopted by the Union on matters that are related to the area of study, in this case this means documents related to EU - Libyan relations and whether these documents refer either to external opportunities or the internal presence of the European Union. Additionally, the documents are selected on the basis that they provide the foundation of EU action or inaction when it comes to addressing Libyan issues in the selected time period.

**Historical Institutionalism and Social Constructivism**

In this thesis I also employ historical institutionalism as a theory. Historical institutionalism was chosen on the premise that it focuses ”(...) on the effects of institutions over time, in particular on the ways in which a given set of institutions, once established, can influence or constrain the behavior of the actors who established them” (Pollack, 2010, p 22). Moreover, historical institutionalists also argue that ”(...) political relationships have to be viewed over time” (Bache et al, 2006, p 26) which is highly suitable for my paper since the main research question in this paper is related to an investigation over time to find out whether the European Union has become more effective compared to the starting point of 1985 in Libyan issues.
Furthermore, I also employ social constructivism in my thesis when I consider the normative identity of the European Union as a consequence of being. Social constructivism is the emphasis of "(...) ideas, norms and rules forged within a social environment (...)" (Wiener, 2006, p 43) and it also emphasizes that these norms and rules guide and constrain behavior within a social context (Wiener, 2006, p 44). This is of importance since I argue that the normative framework is more important compared to the exclusive and inclusive nature of the European Union’s identity. My argument is that as a consequence of being the EU, the Union should be able to refer to these norms and standards, thus guiding and even constraining EU behavior when addressing Libyan issues.
Analysis

1. European Opportunities 1985 - 1993

This section will discuss the opportunities that the external environment created for the European Union. Here I will cover events from the latter half of the 1980’s and early 1990’s, presenting the events that potentially shaped EU action. The section will not elaborate on the responses of the EU since this will be covered in the Capability section.

Relations in the mid 1980’s between Libya and the European Union were tense. On December 27th of 1985, two coordinated terrorist attacks were launched, the targets being the check-in desks of the Israeli airline company El Al at Rome and Vienna’s international airports (Kreutz, 2005, p 25). The aftermath of the attacks led to the death of 19 people and a total of 110 persons wounded (O’Sullivan, 2003, p 178). Later, the attacks were linked to the Abu Nidal Organization, a terrorist organization which had close ties with Libya, according to American intelligence (O’Sullivan, 2003, p 178). These attacks later led to the action of the United Nations Security Council (UNSC) as exemplified by resolution 731 of 1992 which states that "The Security Council, deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms, including those in which states are directly or indirectly involve, which endanger or take innocent lives (...) (United Nations Security Council, 1992, Resolution 731).

The association between the two parties during the late 1980’s did not ameliorate with the event that took place over Scotland in 1988. On December 21, Pan American (Pan Am) flight 103 exploded over the Scottish village of Lockerbie, killing all 259 passengers, and 11 residents on the ground (A. V. Lowe et al, 1992, p 907). The following investigation concluded that the disaster was due to a device planted on the aircraft by Libyan nationals (A. V. Lowe et al, 1992, p 907). Another event that is of importance to the opportunity analysis is the bombing of Union des Transportes Aériens (UTA) flight 772 over Niger. Less than a year after the Lockerbie disaster, UTA flight 772 was attacked and blown up over the Saharan desert in Niger, resulting in the loss of 171 lives. Yet again the following investigation suggested the Libyan nationals were involved in the attack (A. V. Lowe et al, 1992, p 907). Although Libyan nationals were suspected for being behind the terrorist acts Libya continuously refused to yield up the suspects for trial though the Untied States and Britain pushed for the extradition of the suspects (Simons, 2003, p 145), this failure to not yield up
the suspected terrorist would later lead to an opportunity for the EU to act and, as I will elaborate below, even the United Nations (UN)

These events has to be viewed and mentioned as opportunities since the aftermath of these events potentially led to the action or inaction of the EU, thus showing its effectiveness when dealing with Libya and issues relating to the two parties. However, the latter two events were recognized internationally and dealt with through the creation of three United Nations Security Council Resolutions, UNSC Resolution 731, UNSC Resolution 748, and UNSC Resolution 883. These Security Council resolutions must also be considered as opportunities since they fall under the category of events and ideas that within the European Union can frame and shape its action or inaction. The very first page of Resolution 731 states that the Security Council was "Deeply concerned over the results of investigations, which implicate officials of the Libyan Government and which are contained in Security Council documents that included the requests addressed to the Libyan authorities by France, the United Kingdom, and the United States of America in connection with the legal procedures related to the attacks carried out against Pan Am flight 103 and Union de Transport Aériens flight 772" (United Nations Security Council, 1992, Resolution 731). Furthermore, Resolution 731’s second article states that the Security Council "Strongly deplores the fact that the Libyan Government has not yet responded effectively to the above requests to cooperate fully in establishing responsibility for the terrorist acts referred to above against Pan Am flight 103 and Union de transports aériens flight 772" (United Nations Security Council, 1992, Resolution 731 Article 2) and in the fourth article the Security Council "Urges all States individually and collectively to encourage the Libyan Government to respond fully and effectively to those requests" (United Nations Security Council, 1992, Resolution 731 Article 4). A year later, Libya still had not complied with UNSC Resolution 731 UNSC. As a consequence, the UNSC set up even stricter means in an attempt for Libya to comply with the requirements. The stricter means implemented in Resolution 748 included a decision that all states should;

- Deny permission for any aircraft to take off from, land or overfly national territories if its destination is, or if the aircraft has taken off from the Libyan territories, unless they are there on a humanitarian mission
- Prohibit the supply of aircraft and the supply of aircraft components to Libya and prevent the operations of all Libyan Arab Airlines offices
- Prohibit the supply of arms, ammunition and military vehicles to Libya and prohibit technical advice on military issues
• Reduce the number of Libyan officials working on diplomatic missions and restrict or control the remaining staff’s movement within the domestic territory of the host country

(United Nations Security Council, 1993, Resolution 748 Articles 4,5,6)

Concerned with the fact that the Libyan government, after twenty months, had still failed or not fully complied with Resolutions 731 and 748, the UNSC issued a third resolution concerning the Libyan issues. Resolution 883 was meant to further harshen the sanctions on the financial assets of Libya (Simons, 2003, p 155). As Resolution 748 urged states to prohibit the trade, of certain goods, and tried to prevent Libyan Arab Airways from their operations. Resolution 883 had taken financial sanctions to a new level. Article 3 of the resolution states that "(...) all states in which there are funds or other financial resources (...) owed or controlled, directly or indirectly, by: (a) the Government or public authorities of Libya, or (b) any Libyan undertaking, shall freeze such funds and financial resources and ensure that neither they nor any other funds and financial resources are made available (...) to or for the benefit of the Government or public authorities of Libya or any Libyan undertaking (...) (United Nations Security Council, 1993, Resolution 883 Article 3). UNSC Resolution 883 sought also to strengthen the measures set out in Resolution 748 of 1992, as well as the banning of exports to Libya of certain equipment including pumps, anchor chains, pipe inspection tools etc (Simons, 2003, p 155). And yet again the UNSC Resolution urged all states to act individually or collectively to act in the matter of Libya complying with the Resolutions.

A few important findings one can make here relate to the Pan Am and UTA acts, which made the UNSC react and seek to influence others, as they urged other states individually or collectively to encourage the full cooperation of the Libyan government to the requests of the UNSC. Moreover UNSC Resolution 748 sought to further coerce its demands by urging that all states should implement the above-mentioned requirements, and Resolution 883 of 1993 sought to harshen the sanctions on Libya whilst yet again promoting to cooperation of states individually or collectively.

Why call these events opportunities then? As we have seen throughout this section, the terrorist acts, the bombings of Vienna and Rome airports, the Pan Am attack and the UTA flight 772 act provided an external environment through which the EU possibly could have chose to act or stayed inactive. Additionally, these events, especially all three of the UNSC Resolutions have to be considered major opportunities. This is since all three Resolutions encouraged and urged states to, as stated before, to individually or collectively to, at first, encourage the Libyan government to comply with the Resolution, and later to urge all states to sanction the Libyan government due to
the failure to comply to the initial Resolution 731. Furthermore, Resolution 883 sought to further pressure the Libyan government and yet again urged states to collectively or individually act, thus symbolizing the external environment from where the EU acts. However, why then call these Resolutions and events opportunities. As elaborated above and in the theoretical framework, these events and Resolutions symbolize the external environment and context from where the European Union frame and shape its actions or inaction (Bretherton et al, 2006, p 24). However did the EU act considering these opportunities or did the Union choose not to act? These questions will be covered in the following section that concerns the capabilities of the European Union from 1985 to 1993.

2. European Presence 1985-1993

2.1 Unintended Consequences of Being the EEC & EU

This section will elaborate on the state of European presence in the period between 1985 and 1993. As discussed in the theoretical framework, presence denotes two main areas of interest. These two areas of interest are interconnected and intertwine into one another (Bretherton et al, 2006, p 27). The first area to be dealt with here refers to the unintended consequences of the EU’s internal priorities and policies (Bretherton et al, 2006, p 27). When finding the priorities of the European Union there is one guiding document that is of great importance. The Treaty of Rome which is one of the founding treaties of the European Union, should give some hints to what the priorities and thus also the unintended consequences could potentially have been when analyzing the effectiveness of the European Union as a global actor. Furthermore, there are two more documents that are of necessity to include in the analysis. These documents are; the European Single Act (SEA) and entered into force in 1987, and the Maastricht Treaty which entered into force in 1993. Why these were selected will be elaborated below. This section will not draw, especially much, on the case of Libya but rather the official documents of the European Union to see whether there exists any consequences of being the European Union. The second area of interest concerns the European Union identity, thus I suggest that the social shared normative identity (Bretherton et al, 2006, p 27) of the EU is of importance when analyzing the effectiveness of the European Union’s relationship with Libya between the two time periods.

As stated above, when analyzing the unintended consequences of being the EU between the years of 1985 and 1992 there are three documents that are of central interest. The first is the Treaty
establishing the European Economic Community (EEC) which, in 1958, set up the EEC and established the institutions of the now European Union. The second document is the SEA which is of importance since it provided the first major amendment to the EEC Treaty and thus altered the potential unintended consequences of being the EEC. The third document is the Maastricht Treaty, which entered into force on November 1st 1993. My argument for analyzing the Maastricht Treaty is to see whether the European Union changed one of its institutions, the Treaties, this during a time when Libya still failed to fully comply with the provisions set out, both, in UNSC Resolution 731 and 748 of 1992, and when the third and final Resolution, 883 of 1993, was in the making. Did the Maastricht Treaty bring about any changes that potentially could have altered the presence of the Union? This is what will be explored below.

Starting the analysis with the Treaty of Rome, there is one finding that is of particular interest. When reading the preamble, the Treaty makes it clear what the intentions of the then European Economic Community are. In our case, that of interest would be the 8th paragraph of the 11th page which states that the EEC is "Intending to confirm the solidarity which binds Europe and the overseas countries and desiring to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations." (Treaty establishing The European Economic Community, 1957, p 11). This is a very relevant finding since the EEC sought to ensure the development of prosperity overseas with respect for the United Nations charter. Thus I argue that the European Economic Community also should have sought to act concerning Libya on the Resolutions provided by the United Nations Security Council. This is since the first two of the Resolutions urged all states to both encourage and meet with the provisions, collectively or individually, in the Resolutions written by the UNSC (United Nations Security Council, 1992, Resolutions 731 & 748. Thus, this could potentially have led the EEC to unintentionally, when signing the Treaty establishing the European Economic Community, to have not purposively act but been pressured to act in accordance with its own being, hence the Treaty of Rome playing an important part in the presence of the then European Economic Community.

The Treaty establishing the European Economic Community is limited when it comes to the EEC and its relations with overseas countries, article 131 through 136 under Part Four of the Treaty (Treaty establishing The European Economic Community, 1957, p 111-113) only discuss issues concerning the association with overseas countries. This leads one to draw the conclusion that since the EEC and the Treaty establishing the EEC is, as mentioned above, limited on how the EEC should act, thus the EEC should follow the agenda of the United Nations and its Charter as well as the Resolutions that originate from the United Nations. Interestingly enough is the fact that all three
UNSC Resolutions mentioned above refer to the United Nations Charter (United Nations Security Council, 1992, Resolution 731 and 748 & United Nations Security Council, 1993, Resolution 883). Thus, in the period from 1985 till 1987, when the Single European Act entered into force, the EEC should have, as a “consequence of being”, acted and exerted influence externally on the European Union. Thus, the presence of the EEC, I argue, should have generated a response of the EEC when the UNSC decided to sanction Libya with Resolutions 731 & 748 of 1992. Resolution 883 of 1993, however, requires the careful analysis of the Treaty on European Union since Resolution 883 was created just after the implementation of the Treaty, however the next section will be dedicated to the Single European Act.

The SEA brought about major amendments to the EEC Treaty. However, did it bring about changes that altered the internal priorities of the Union, and if so, could these alterations lead to new consequences of being the EEC? As with the Treaty establishing the EEC, the SEA is also limited when it come to how the Union deals with international issues. Most of the Articles concerning the foreign sphere are more or less technical in that they provide a framework for how the Union should be governing it external relations (Single European Act, 1986, Title III , 13:21 2011-04-13). However there is one important finding that is of significance since it to some extent, alters the consequence of being. The preamble to the SEA reads that the Union wishes to “(...) in order more effectively to display the principles of democracy and compliance with the law and with human rights to which they are attached, so that together they may make their own contribution to the preservation of international peace and security in accordance with the undertaking entered into by them within the framework of the United Nations Charter” (Single European Act, 1986, 13:36 2011-04-13). Instead of solely focusing on the overseas countries bonded with the European Union and the development of prosperity to these countries, the European Union enlarge its area of responsibility to the preservation of international peace and security, thus having implications on the potential consequences of being. The change in presence is due to the fact that the Union changes its internal priorities to work progressively towards international peace and security instead of working only with the development of prosperity, as stated in the ECC Treaty, with those countries tied to the ECC. However, as with the Treaty establishing the European Economic Community, the SEA is also concerned with the United Nations Charter and its framework, which again could have unintended consequences when the EU chose inaction or action in the Libyan issue. This is since, as I demonstrated above, the fact that all three UN Resolutions have their legal basis in the UN Charter. To see whether unintended presence of the Union affected the Libyan situation we have to analyze the capabilities of the EU since the capabilities demonstrates the
Unions ability to capitalize on its presence (Bretherton et al, 2006, p 29). Therefore the capability section will deal more in depth with the implications the presence of the Union potentially could have had. Analyzing the above quote from the Single European Act also provides interesting normative findings which will be dealt with in chapter 2.2.

The Maastricht Treaty, or the Treaty on European Union, did bring about changes of the internal policy and priorities of the EU. As Libya still struggled to meet demands set out in Resolutions 731 and 748, was the European Union under way of altering its presence as an global actor? There are a few relevant, and perhaps provocative, discoveries that one can make analyzing the TEU.

Starting from the beginning and the preamble to the Treaty, which provides the first intriguing finding. It reads "Resolved to implement a common foreign and security policy (...) thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and the wider world” (Treaty on European Union, 1992, 11:14 2011-04-12) This is highly interesting since the, now existing, European Union is trying to establish peace in the wider world and not solely, as discussed above, the solidarity that binds Europe together with the overseas countries which the EEC had association with. Thus, enlarging the area of responsibility”of the Union and not limiting it solely to that of the Charter of the United Nations and the overseas countries bonded to the European Union. Hence, I argue, as a consequence of being, the EU should have acted against Libya to defend the security of both its own citizens, since the attacks in Vienna, Rome, Lockerbie and UTA flight 772 killed Europeans, and due to the fact that the Libyan government still failed to fulfill the obligations the UNSC had set out for the country thus destabilizing global security since they, allegedly, provided a safe haven for terrorists. However, to demonstrate whether this is the case or not will be saved for the capability section for the same reasons stated above.

An important factor in the previous founding Treaty, establishing the EEC, was that the European Economic Community was deeply concerned with the Charter of the United Nations, this was a factor that still were important when the Treaty on European Union was signed. Under Title V Article J.1 (Provisions on a Common foreign and Security Policy) of the Treaty on European Union has as its objective ”to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter as well as the principles of the Helsinki Final act and the objectives of the Paris charter” (Treaty on European Union, 1992, Article J1 §2, 11:54 2011-04-12) thus again, compared to its predecessor, enlarging the ”area of responsibility” with the inclusion of the Helsinki Final Act and Paris charter, whilst still considering the United Nations
Charter, and as argued above the Resolutions deriving from the same organization, as an important factor when acting on the global scene. The Treaty further emphasize the role of the UN Charter, in Article J 5 §4 under the same Title, where “(...) Member states which are permanent members of the Security Council will, in the execution of their functions, ensure the defence of the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter” (Treaty on European Union, 1992, Article J5, Accessed at; 12:31 2011-04-12). This thus proves the importance of the UN Charter when the European Union engages in global issues, however, this is not the sole relevant and intriguing interpretation that can be made here. Recalling that the Treaty establishing the EEC talked solely that when the EEC engaged in global issues the UN charter were of central importance. In the Maastricht, on the other hand, there is a growing tendency towards the idea that European values and ideas are also of importance. Not to be forgotten is the fact that the Paris Charter and the Helsinki Final Act are also documents that should be considered when the Union acts as a consequence of being.

When debating whether the presence of the EU has changed in the time period dating from 1985 to 1993, there were substantial changes in the internal policy priorities related to the effectiveness of the European Union concerning the case of Libya. As elaborated above the EEC Treaty had a tendency to focus more on the UN Charter rather than on issues such as global security and the promotion of global peace, thus altering the internal priorities of the Union to some extent. This in turn should thus have led to new unintended consequences and hence the “increasing” effectiveness of the EU. Whether this is the case or not will be elaborated in the capability section since the analysis of capability includes the assessment of, as mentioned in the theoretical framework, the Union’s ability to either capitalize on presence or its ability to respond to opportunity (Bretherton et al, 2006, p 29).

2.2 The Normative Identity of the EU 1985-1993 as a Measurement of Effectiveness

In the introduction to this chapter I mentioned that there are two areas of interests when analyzing the presence and effectiveness of the EU. Identity is also important since it grasps the fundamental nature of the EU and adduce shared understandings of what the EU does and what the Union constitutes (Bretherton et al, 2006, p 27). Thus the normative framework should, if we use the framework developed by Bretherton et al., also be a factor when discussing the capabilities and assessing the effectiveness of the Union. Instead of focusing on the exclusive and inclusive nature of the European Union, as Bretherton and Volger are suggesting (Bretherton et al 2006, p 39 - 54), I
argue that it is of greater importance to analyze the norms and ideas present in the being of the Union. This is of importance since this should guide EU action as a consequence of being. Ian Manners suggests that “The EU has been, is and always will be a normative power in world politics” (Manners, 2008, Royal Institute of International Affairs Volume 84:1, p 65). What, then, defines normative power? Manners suggests that “the concept of normative power is, in its ideal or purest form, ideational rather than material or physical” (Manners, 2009, Danish Institute for International Studies, p 2). Moreover, Manners argues that the EU exerts normative influence on others, however, I argue that if these normative principles are to be legitimate and received by the "others" the European Union must itself guide its actions or inactions according to these principles. Hence the normative identity is an important part of the analysis when assessing the effectiveness of the European Union over time.

The assessment of the normative identity does not concern the states implementing these norms deriving from the Union, but rather if the European Union or the EEC had established such ideas and norms in their "non-purposive action" as a consequence of being. Thus, the founding documents or Treaties are of central importance since these are the European Union’s "raison d’être".

Analyzing the Treaty establishing the European Economic Community, there are a few interesting observations to be made, especially when relating these observations to the issues of "consequences of being the EEC” and Libya. The first observation is that the Treaty speaks of the determination of the EEC "(...) to lay the foundations of an ever closer union among the peoples of Europe” (Treaty Establishing the European Economic Community, 1957, p 11), hence the primary concern is not that of a global perspective, but rather a regional perspective. The second important observation is the last sentence of the preamble which states "Resolved by thus pooling their resources to preserve and strengthen peace and liberty, and calling upon the other peoples of Europe who share their ideal to join in their efforts” (Treaty Establishing the European Economic Community, 1957, p 11). This quote is of importance since it, normatively, reveal the idea of working towards peace and liberty and that the rest of Europe who shares these ideals should join the effort. This norm could, potentially, have had a consequence of being for the EEC when dealing with Libya in the mid 1980’s. The observations in the Treaty are highly limited for the very same reasons stated in the previous chapter. However, of interest is of course to see whether any change occurred with the SEA and/or with the Maastricht Treaty that potentially could have changed the "effectiveness” and the consequence of being the EEC. The upcoming section will elaborate on the Single European Act, to explore whether it brought about any changes in effectiveness.
The SEA is important and interesting in many ways, the most obvious normative change the Single European Act brought about was, the focus on democratic values, a focus on rule of law and human rights in order to be able to affect and contribute to the preservation of international peace and security within the framework of the UN Charter (Single European Act, 1986, p 2). Comparing the SEA to the EEC Treaty, there are quite a few relevant findings to be made. Instead of solely focusing on the norm of creating an ever closer Union among the peoples of Europe the normative issue has now become a global matter, and that the European Union should, in its association with the wider world, promote democratic values, the rule of law, and the respect for human rights. Relating this to the Libyan issues the EEC and EU dealt with between the years 1985 to 1993, these norms could potentially affect EU action or in action when dealing with Libya. However, to claim that the effectiveness of the EU increased with the implementation of the SEA would be a too provocative claim to make, since without any knowledge if the European Union capitalized on its normative presence, it would be difficult to prove.

Moving on to the third and final document of the normative analysis, the turn has now come to the Treaty on European Union. Normatively the Maastricht Treaty has very limited changes, if any, to the normative framework the Union potentially could have acted upon concerning the effectiveness of the European Union in the Libyan case. The Maastricht Treaty’s preamble states that the Union is ”confirming their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law” (Treaty on European Union, 1992, Accessed at; 12:05 2011-04-15), which on the one hand repeats the norms from the previous Treaty but could also be seen as an increased emphasis on these norms. Furthermore, the Maastricht Treaty also emphasizes the norms of promoting/working for peace and security both at the regional and global levels (Treaty on European Union, 1992, Accessed at; 12.12 2011-04-15). All of these norms mentioned could have had a consequence of being for the European Union, however, as stated above it would be a bit naïve to draw the conclusion that this is the actual case when no evidence proving or, for that matter, disproving the argumentation has been presented. This is what I am intending to do in the next section since it will cover the capabilities of the EU during the concerned years. As already argued for the capabilities are of importance since they show the ability of the EU to capitalize on its presence and/or respond to the opportunities given the Union.
3. European Capabilities 1985-1993

In this section I will cover the European Economic Community and the European Community’s internal context and its ability to choose action or inaction. As stated previously, the capability of the European Union’s ability to either respond to opportunities or to capitalize on its own presence, thus both the unintended consequence of being and the normative identity of the EU.

I intend to start the analysis with the initial response/ability of the European Community in regards to Libya. Did the EU or EEC respond to the opportunities given by the UNSC or did it capitalize of its presence? In 1992, on the basis of Article 113 of the Treaty establishing the European Economic Community, the EEC decided to impose sanctions on Libya. On April 14 of 1992 the European Council adopted Regulation (EEC) 945/92. However, did the EEC base its action on its presence or on external opportunities? The first interesting discovery is found in the very first sentence in the Regulation. "Whereas the United Nations Security Council, acting under Chapter VII of the Charter if the United Nations, has decided in its Resolution 748 (1992) March 1992, upon the measures all States have to take against Libya as from 15 April 1992 in order to obtain the compliance of that country with Resolution 731 of 21 January 1992" (Council Regulation "EEC" 945/92, April 14 1992). This quote can be interpreted in two ways when subjecting it to analytical scrutiny. Firstly, I argue, it shows a consequence of three interconnected opportunities. I am of course referring to both bombings of the passenger aircrafts, Lockerbie and UTA flight 772, and as well the creation of United Nations Security Council Resolutions 748 and Resolution 731. This is since the Council Regulation (945/92) explicitly refers to both of the UNSC Resolutions mentioned in the opportunity section, thus showing that these documents were of central importance when the European Economic Community decided to act. The second interpretation is related to the consequence of being the EEC. As stated in the present section, the Treaty establishing the European Economic Community in the preamble, stated that in its international associations, the EEC should work in accordance with the principles set out in the Charter of the United Nations (Treaty establishing the European Economic Community, 1957, p 11). Moreover, the Single European Act also states that the EEC should in its quest of working more progressively towards international peace and security also respect the provisions made by the United Nations Charter. Hence clarifying that as a consequence of being the EEC they had to act, since they made it clear to themselves that if they ought to act then provisions set out in the founding treaties and amending treaties did play a role in Council Regulation 945/92. The Regulation provides further
evidence of being a response to an opportunity in its articles. The articles reflect the decisions made by the UNSC in Resolution 748 (Council Regulation "EEC" 945/92, April 14 1992) recalling that the prevention of supplying Libya with certain goods and the prevention of aircrafts taking off or landing in Libya being the central themes of Resolution 748. Concerning norms and ideas present in the Regulation there are none. Regulation 945/92 do not itself contain any normative implications relating to the normative presence of the EEC.

A year and a half later the Single European Act and the Treaty Establishing the European Economic Community were no longer of relevant interest when analyzing the European Union’s effectiveness and capabilities. Therefore the next section will deal with the European Community (EC) and relating documents to the capabilities of the EC. The first official response of the European Community is a decision passed through the Council on 22 November of 1993. The decision is highly relevant since it states "having regard to Resolution 883(93) adopted by the Untied Nations Security Council on 11 November 1993, has decided as follows: 1. Economic relations with Libya shall be reduced in accordance with the relevant provisions of Resolution 883(93) adopted by the Security Council on November 1993 (---)” (Council Decision, November 1993). A few days later, in November of 1993, the Council passed two more Regulations concerning the situation in Libya, under Article 228a of the Treaty on European Union (Treaty on European Union, 1992, Accessed; 13:17 2011-04-18). Regulation 3274/93 sought to do exactly the same as the Security Council did, namely harshen the sanctions against Libya. Therefore it is not as a surprise that the link between the EC and the UN is, yet again, strong. For instance the Regulation states "Where as the United Nations Council, in view of the persistent non-compliance by Libya with its Resolutions 731 (1992) of the United Nations and 748 (1992) and acting under Chapter VII of the Charter of the United Nations, has decided in its Resolution 883 (1993) of 11 November 1993 to extend measures decided upon in its Resolution 748 (1992)” (Council Regulation "EC" 3274/93, 29 November 1993). These documents, the Decision and the Regulation, and the above quotations provide relevant and important implications. First and foremost, it tells us that the United Nations still plays an important role and if related to the Maastricht Treaty that the unintended consequence of being the EC did play a role since Article J.1 §2 of the Maastricht Treaty stated that the Unions foreign policy objectives should be "to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter” (Treaty on European Union, 1992, Article J1 §2 Accessed at; 14:02 2011-04-18). Second, it also tells us that the EC responded to the given opportunities at that time by referring to the Resolutions passed by the UNSC. Not to be
forgotten is that these Resolutions were in first hand a response to the attacks on Pan Am flight 103 and UTA flight 772 which also must be considered as triggering opportunities for the European Union to act upon.

Furthermore, as stated above the Council of the EC passed another regulation related to the Libyan failure to comply with the UNSC Resolutions. Resolution 3275/93 concerns the prohibiting of the satisfaction of claims with regards to contracts and transactions which were affected by UNSC Resolution 883 (Council Regulation "EC" 3275/93, 29 November 1993). Again, the capability of the European Union can be claimed to derive from two factors. First, to some extent the consequence of being the EC has definitely had its consequences since the EC should, when working with external relations, respect the provisions of the United Nations Charter. The second factor is derived from the opportunities which most certainly played a significant role in the response and action from the European Community. Hence, my argument is that the factors that shaped EEC/EC action in the Libyan case between the years from 1985 till 1993 is the external opportunities created by the Lockerbie and UTA flight 772 terrorist acts as well as the following United Nations Security Council Resolutions. The presence of the Union did also play a role in shaping its actions. This is visible since all three of the Treaties mention the fact that the EC should work with consideration to the United Nations Charter thus leading to unintended consequences of being the EC.

To conclude this chapter, I wish to stress that although there are no normative findings in the documents guiding EEC/EC action it would not be right stating that norms and ideas did not play a role at all. To some extent they might have played a role since the EEC/EC had as their objective to promote peace and security, which to some extent these Decision and Regulations passed by the EEC and EC reflect the UNSC Resolutions which to some extent were concerned with the state of global security. Thus, I argue that though not being able to fully prove that norms did have a role in shaping EEC/EC action, they still potentially could have had a background role.
4. European Opportunities 2011

In this section I will discuss the opportunities in the external environment that took place in Libya at the start of 2011. These events are of great importance since they might have granted the European Union with opportunities to act or remain inactive. Whether the remained active or not will be elaborated in the capability section since it describes the EU’s ability to respond to external opportunities.

In mid December 2010 the rise of opposition to the regime grew in Tunisia. Less than a month later revolts had spread to Algeria. On January 14 of 2011 Libyan leader Muammar Qadhafi addressed the Libyan citizens concerned about the recent fall of the Tunisian government and its potential effects in Libya. (The Guardian, January 16 2011 Accessed 12.10 19/4) A month later protests in Libya started to develop as the inhabitants of the city of Benghazi were in uproar as a consequence of the arresting of a human rights activist (Reuters, February 16 2011 Accessed 12.18 19/4). As the protests developed, Qadhafi sought to silence the protestors and to his aid he had parts of the Libyan armed forces at his disposal that started using lethal force, and air raids, to silence the protests. This was unacceptable to most of the actors on the international arena. The United Nations responded with the intervention of the Security Council and on the 26th of February the Council adopted Resolution 1970. The Libyan governments, or regimes, choice of using lethal force to silence protestors must definitely be considered opportunities. As argued in the previous opportunity section, these events and their aftermath denote the external environment in which the European Union forms its action or inaction (Bretherton et al, 2006, p 24). This does not necessarily mean that the Union acted but they still need to be considered when assessing the effectiveness of the EU as a global actor and its relations with Libya.

However, the events that took place within the geographical space of Libya are far from all opportunities faced by the European Union. Previously I mentioned that the United Nations, yet again, chose to act. As of today, 13 of May 2011, two United Nations Security Council Resolutions has been adopted concerning the Libyan situation. These Resolutions must also be taken into an account when analyzing the opportunities given to the EU for the very same reasons as stated above. This section of the chapter will deal with these two Resolutions and their possible implications on EU action or inaction.

On February 26 the UNSC adopted Resolution 1970, under Chapter VII of the UN Charter, and one of the first sentences of the Resolution reads ”expressing grave concern at the situation in the Libyan Arab Jamahiriya and condemning the violence and use of force against civilians” (United Nations Security Council, 2011, Resolution 1970, p1). The Resolution also states

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that the UNSC is deploring the situation and the constant violation of human rights, with regards to peaceful anti-regime demonstrators and also the hostility and violence against Libyan civilians deriving from the highest level of the Libyan government (United Nations Security Council, 2011, Resolution 1970, p1). The Resolution also has quite a few implications concerning external opportunities created for the European Union. Paragraph 9, for example, implies that all member states, including their nationals or vessels carrying the member state flag, should prevent the supply, sale, or transaction, directly or indirectly, of arms and related material including military know-how and mercenary forces to Libya (United Nations Security Council, 2011, Resolution 1970, §9). Moreover, another interesting finding concerning opportunity is paragraph 12 which states that if any member state should find any shipment of the items listed in paragraph 9 or 10, they shall cooperate to see it that the items are either destroyed, rendered inoperable, stored or transferred to another state than Libya for destruction (United Nations Security Council, 2011, Resolution 1970, §12). These two paragraphs certainly have consequences for the European Union, since both paragraphs urge the member states of the UN and hence also the member states of the European Union, to impose effective measures and to cooperate to prevent Libya from obtaining arms, military know-how, and mercenary forces, thus also providing a context from which the EU can chose to act or remain inactive.

Resolution paragraphs 15 and 17 are also of importance since they provide further context from which the European Union can frame and shape action or inaction. Paragraph 15 states that the UNSC “decides that all Member States shall take the necessary measures to prevent the entry into or transit through their territories of individuals listed in Annex I of this resolution or designated by the Committee established pursuant to paragraph 24 below (---) (United Nations Security Council, 2011, Resolution 1970, § 15 See also pages 8-9 for Annex I). Moreover, paragraph 17 regulates that all states should freeze the funds, financial assets and economic resources in their national territories, controlled or owned by Libyan nationals listed in Annex II including Muammar Qadhafi and his closest relatives (United Nations Security Council, 2011, Resolution 1970, §17 See also page 10 for Annex II). Recalling the definition of an opportunity, I argue that Resolution 1970 definitely must be accounted for as an opportunity to the European Union since it provides the context the European Union shapes its action or inaction.

As the situation still deteriorated in Libya after the implementation of Resolution 1970, the United Nations, under Chapter VII of the UN Charter, decided to further harshen sanctions on Libya. This time by adding two components to the sanctions a no-fly zone and the protection of civilians under Resolution 1973 of 2011. Resolution 1973 brought about more implications for,
potential, EU action or inaction. This is because it "authorizes Member States that have notified the Secretary-General, acting nationally or through regional organizations or arrangements, and acting in cooperation with the Secretary-General, to take all necessary measures, notwithstanding paragraph 9 of resolution 1970, to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya (...) while excluding a foreign occupation force on any form on any par of Libyan territory (---) (United Nations Security Council, 2011, Resolution 1973, §4). This is a highly important quote since it actually promotes states acting on their own or collectively through a regional organization, such as the European Union, to protect the civilians of Libya. I therefore argue that this paragraph could be one of the most important when it comes to opportunities for the European Union. Here, directly or indirectly, the EU is granted a chance to become involved in the external environment, however, to see whether it did get involved or not is a question for the capability section.

The Resolution created further opportunities, paragraphs 8, 17 and, 18, for the European Union to show its effectiveness as a global actor. Paragraph 8 created an opportunity due to the fact that it "authorizes Member States whom have notified the Secretary-General and the Secretary-General of the League of Arab States, acting nationally or through regional organizations or arrangements, to take all necessary measures to enforce compliance with the ban on flights imposed by paragraph 6 above (---)" (United Nations Security Council, 2011, Resolution 1973, §8). Moreover, paragraphs 17-18 is concerning the ban of flights the main features of these paragraphs are as follows:

• Denying permission to any aircraft registered, owned or operated by Libya, Libyan nationals, Libyan companies, to take off from, overfly or land in any state unless special clearance has been given

• Denying permission to any aircraft, to take off from, overfly or land in any state if it is suspected on reasonable grounds that it freight goods onboard with the intent to sell, transact or supply material prohibited materials listed in §9 of Resolution 1970 (2011)


As I have presented in this chapter, the fact that Muammar Qadhafi chose to use force and violence as a means for silencing the protestors in Libya, most certainly created opportunities for the European Union. This is because the very fact that Qadhafi chose a path of violence in an attempt to silencing the protestor must in itself be considered a triggering opportunity. This is since, at least I argue, the aftermath saw a response for the United Nations and its Security Council which
in turn led to the creation of two UNSC Resolutions. The Resolutions also provided a vaster opportunity framework from which the European Union could chose to frame its action or inaction.

5. European Presence 2011

5.1 Consequences of being and normative implications in the age of the Lisbon Treaty

My intentions for this section are to give an overview of both the unintended consequences of being the European Union in the age of the Lisbon Treaty. In this chapter I intend to also incorporate the normative framework, as argued above, from which the EU frame and shape their actions on the international scene. Of importance in this chapter is to also reflect upon, potential, changes to both the unintended consequences of being and changes to the normative framework of the EU as these are interrelated. Since my main task in the thesis is to measure the effectiveness of the European Union overtime with regard to how the EU has dealt with Libyan issues, it is important to research for changes in the Treaties since they have developed over time. The primary document to be analyzed is the Lisbon Treaty due to the fact that provides the EU with its "raison d'être" as of the implementation of the document in 2009.

When analyzing the Lisbon Treaty there are several relevant discoveries that can be made when relating these findings to the internal policy priorities, or consequences of being, of the European Union. To begin with under the "General Provisions" section of the Treaty, Article 2 and paragraph 5 have some highly interesting implications on the consequences of being the EU. The paragraph states; "In its relations with the wider world, the Union shall uphold and promote its values and interest and contribute to the protection of its citizens. It shall contribute to peace, security, (...), solidarity and mutual respect among peoples, (...), eradication of poverty and the protection of human rights, (...) as well as to the strict observance and the development of international law, including the respect for the principles of the United Nations Charter" (Lisbon Treaty, 2007, General Provisions, Article 2 §5). This Article alone has serious consequences of being the European Union. Firstly, as elaborated above, the UNSC Resolution 1970 was deeply concerned with the fact that the Libyan government constantly violated human rights. Thus, with regard to the quote above, the European Union should according to its consequence of being, or internal policy priorities act since the Union wishes to contribute to the protection of human rights. Furthermore, Regulation 1970 also states that the UNSC is deeply concerned with the fact that the Libyan government chose a violent path instead of leaving the peaceful protestors be. Again relating
this to the above quote, as a consequence of its being the European Union, potentially, should have argued if choosing to act that they wished to contribute to peace and security internationally. Another important and relevant finding is that in its relations with the wider world the European Union shall respect the principles of the United Nations Charter, which can have consequences for European action when choosing to act or not to act with regards to European capabilities.

Another interesting discovery that is of relevance is Article 10a. The article further emphasizes the role of the principles, that inspired the Union’s creation, and that these shall guide European action on the international scene (Lisbon Treaty, 2007, Chapter 1, Article 10a §1). Both Article 2 and 10a are good examples when attempting to show the interrelation between the Union’s normative framework and its consequences of being. Both of the Articles have consequences for the European Union either normatively or just as a consequence of being. Since I have yet to analyze the capabilities of the Union, it is difficult, and perhaps even wrong to say that these consequences of being or norms definitely have played a part in the Union’s relation with Libya in 2011. However, they still constitute potential frameworks to exert influence onto others, and in this case Libya. Looking deeper into the Lisbon Treaty, there are more important discoveries to be made. Under Chapter 1, Article 10a’s second paragraph states that “The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to: (---)

(b) Consolidate and support democracy, the rule of law, human rights and the principles of international law

(c) Preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders”

(Lisbon Treaty, 2007, Chapter 1, Article 10a §2, Subparagraphs B and C)

Again the link between unintended consequences of being and normative principles become clear. And the above subparagraphs most certainly could have influenced and guided the Union’s capabilities when addressing the Libyan conflict in 2011. Relating these consequences of being and norms to the Libyan conflict, there are several interesting links between these and potential EU action. Since the EU made it clear that in its international relations it shall work for cooperation in order to secure democracy and the respect for human rights, my argument is that, the Union ought to have responded to these norms and consequences of being when choosing inaction or action, especially since UNSC Resolution 1970 already saw the Libyan conflict as a violation of human rights. Furthermore, the Union was also concerned with the preservation of peace, the prevention
of conflicts and the strengthening of international security with regards to the United Nations Charter. Hence the Union could have, since I have yet to elaborate whether they did, acted based upon its consequences of being relating the fact that in the Union’s operations they do wish to promote peace, conflict prevention, and international security with regards to the United Nations Charter. These norms are far from all of the normative implications set out in the treaty, however the norms mentioned here are the ones that have the potential of guiding EU capabilities in the Libyan conflict. And as one of my top priorities in this thesis was to see whether the EU’s effectiveness has changed over time, the next section will be dedicated to analyze whether the presence of the Union became more "effective”.

6. European Capabilities 2011

In this section I shall analyze the capabilities of the EU during the recent "crisis” in Libya. Recalling that capabilities are the action or inaction with regards to the Union’s ability to either capitalize on its presence or respond to opportunity. I shall also focus on whether the capabilities can be connected to either its presence or opportunities given to the European Union to examine whether, compared to the period between 1985-1993, the Union is capitalizing more on its own presence rather than on external opportunities granted by, for instance, the United Nations. The documents of emphasis here will be Council Decisions;

• Decision 2011/137/CFSP
• Decision 2011/178/CFSP

There will also be a focus on Council Regulation;

• Regulation 204/2011

These documents were selected on the basis that they provide the foundation of the European Union’s action when managing the situation and the government in Libya. The decisions were selected since they constitute one of the three parts of the binding legal framework of the Union since decisions are binding to the institution it addresses. A small confession would also be appropriate before continuing on to the analysis. My confession is that there are two more Regulations adopted by the European Union with concern to Libya. However, after studying these Regulations there was no need to discuss them since they do not bring about any new consequences concerning the presence or the opportunities of the European Union, but rather amended Annexes of people sanctioned by the EU and United Nations (Council Regulation "EU” No 233/2011 of 23 March 2011 and Council Regulation "EU” No 288/2011 of 23 March 2011).
Decision 2011/137/CFSP provides several interesting findings when analyzing whether the Union capitalized on external opportunities or internal consequences of being. To begin with, the first interesting finding is in the preamble section of the Decision in the first paragraph that states "On 23 February 2011, the European Union expressed its grave concern regarding the situation unfolding in Libya. The EU strongly condemned the violence and use of force against civilians and deplored the repression against peaceful demonstrators" (Council Decision, 2011, 137/CFSP).

Recalling that the Lisbon Treaty stated that the EU in its relations with the wider world should promote security, mutual respect among peoples and, the protection of human rights (Lisbon Treaty, 2007, General Provisions, Article 2 §5), the above quote, I argue, proves to some degree that the European Union to a certain extent, capitalized on its own presence at least when discussing Decision 137/CFSP. Interestingly enough though, the Decision is also concerned with external opportunities. Looking further into the preamble of the document one finds that the document refers to the United Nations Security Council by stating; " On 26 February, the United Nations Security Council (...) adopted Resolution 1970 (...) which introduced restrictive measures against persons and entities involved in serious human rights abuses against persons in Libya, (---) (Council Decision, 2011, 137/CFSP), thus showing that the European Union saw an opportunity to act themselves on the basis that the United Nations Security Council gave them the opportunity to do so. However, not to be forgotten is the fact that in the Lisbon Treaty it is stated that the European Union in its external relations with the wider world, shall respect the principles of the United Nations Charter. And since the Resolutions have their basis in the Charter the Union ought to respect these too, thus at the same time as being an opportunity, the latter of the three above quotes, it certainly qualifies as a consequence of being as well. Moreover the Decision has several more references to the UNSC Resolution 1970. For instance Article 5, concerning the prevention of entry and transit through member states, of Decision 137/CFSP refers to Resolution 1970’s annex one which lists several persons to which Article 5 applies (Council Decision, 2011, 137/CFSP, Article 5). Hence the Union was, perhaps not incapable, but unable without the external opportunity created by Resolution 1970 and the UNSC to act and prohibit the individuals in Annex I without the external opportunity. Again in Article 6, of the Council Decision, Resolution 1970 is used as a reference when applying the ‘financial asset freeze sanction’ against individuals listed in Annex II and III (Resolution 1970). Of importance is also Article 9 of the Council Decision, the first paragraph states "Where the Security Council or the Committee lists a person or entity, the Council shall include such person or entity in Annexes I or III” (Council Decision, 2011, 137/CFSP, Article 9 §1). This Article and paragraph inhibits an important implication that I argue is seen throughout
the Council Decision. That is the response of the Union is primarily to external opportunities, rather than to the Union’s own consequences of being or to the normative framework. However not to be forgotten is that in Decision 137/CFSP is, to some extent, the normative framework present in the form of the condemnation of the use of force on the Libyan civilian population and peaceful protestors which I argue is linked to the EU’s norms promoting human rights, security and mutual respect among peoples. Furthermore, as a consequence of being, the EU claimed that it also shall observe and develop international law, with the respect for the UN Charter, which I argue this Council Decision most certainly reflects. Last but not least, it also important to mention that the document is also a response, directly or indirectly, to the opportunity created by Qadhafi and his approach to governance.

The second document in the analysis of European capabilities during the 2011 crisis in Libya is Council Decision 2011/178/CFSP. This Decision is a response to the adoption of a new UNSC Resolution (1973), which becomes clear when reading the preamble of the Council’s Decision. The new decision have some interesting amendments to the, now out-dated, Council Decision 137/CFSP. The first discovery of interest is again related to the normative framework of the European Union. However, this time the normative presence in the document has been reduced considerably. The only, although vague, normative reference in the document is in the added Article 3a and its first paragraph. It states; ”Member States shall take the necessary measures to prevent flight by aircraft under their jurisdiction in the airspace of Libya, in view of the need to help protect civilians” (Council Decision, 2011, 178/CFSP, Article 1 Section 1, Subparagraph 1). Recalling that Article 2 paragraph 5 of the Lisbon Treaty states that the Union should in its relations with the wider world promote security and protection of human rights, something the Qadhafi regime neglected when using air raids to the anti-regime demonstrators. Hence by adding the new Article 3a, and making it clear that the Article was adopted with the protection of civilians in mind this to some extent is concerned with the normative ideas present in the Unions normative framework as established in the Treaty of Lisbon. Although there is a trace of the Union’s normative framework in the document, the recurring theme is that the Decision reflects and responds to the United Nations Resolution 1973 of 2011. As with the previous Decision, 2011/137/CFSP, both Article 1 subparagraphs 4 and 5 reflects that the Union is responding to the external opportunity created by both of the UNSC Resolutions, 1970 and 1973. This is since Article 1, Section 4, and subparagraph A states that; ”Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of: (a) persons listed in Annex I to UNSCR 1970 (2011), and additional persons designated by the Security Council or by the Committee in accordance with paragraph 22
of UNSCR 1970 (2011) and paragraph 23 of UNSCR 1973 (2011), as listed in Annex I to this Decision" (Council Decision, 2011, 178/CFSP, Article 1, Section 4, Subparagraphs 1 and A). Thus, the Union is taking action based on the Security Council and the Committee’s list of persons to prevent moving freely within the territories of the Union. Subparagraph 5 of Article 1 also state that persons listed in Annex II and III of Resolutions 1970 and 1973 including additional persons listed by the Security Council and Committee, should have their funds, financial assets and economic resources frozen (Council Decision, 2011, 173/CFSP, Article 1 Subparagraph 5 and A). These two paragraphs most definitely reflect the main theme covered by both of the Council Decisions and as already mentioned the main theme is that the Union does not base its action on its own presence but rather as a response to external opportunities.

The recurring dominance of responses to external opportunities, especially the opportunities created by both UNSC Resolutions, is not only reflected in the decisions of the Council of the EU but also in the Regulations. Adopted on the second of March 2011 Council Regulation 204/2011 is a good example of this recurring theme. To begin with the preamble to the document reads; “In accordance with UN Security Resolution 1970 (2011) of 26 February 2011, Decision 2011/137/CFSP provides for an arms embargo, a ban on internal repression equipment, as well as restrictions on the admission and the freezing of funds and economic resources of certain persons and entities involved in serious human rights abuses against persons in Libya (---) (Council Regulation ”EU” No 204/2011 of 2 March 2011). However, an important aspect that needs attention in the above quote is the fact that the Resolution and the Regulation is concerned those persons involved in human rights abuses, thus the normative framework and the consequences of being the Union is reflected in the text, however, not to the same extent as the United Nations Resolutions. Another interesting section in the preamble is the following; ”This Regulation also fully respect the obligations of Member States under the Charter of the United Nations and the legally-binding nature of United Nations Security Council Resolutions” (Council Regulation ”EU” No 204/2011 of 2 March 2011). The above quote is the consequence of two issues. First, it is a consequence of being, since if one recalls that the Treaty on Lisbon stated that the EU in its relations with the wider world should respect the Charter of the United Nations. And second, it shows that the member states of the Union should submit to the Resolutions adopted by the United Nations. Thus, I argue, that EU action is to a great extent based on United Nations Resolutions, however this do not hinder the Union to act alone if the UN chose to remain inactive. The dominance of responses to the UNSC Resolutions becomes even more evident in the document when the Union is defining the persons to whom the sanctions are targeted. Article 6 of the Council’s Regulation 204/2011 states
that "Annex II shall include the natural or legal persons, entities and bodies designated by the United Nations Security Council or by the Sanctions Committee in accordance with paragraph 22 of UNSCR 1970 (2011)" (Council Regulation "EU" No 204/2011 of 2 March 2011). Moreover, Article 16 and related subparagraphs to the Article provides further evidence that the European Union is capitalizing on external opportunities. Paragraph 1 to Article 16 reads, "Where the Security Council or the Sanctions Committee lists a natural or legal person, entity or body, the Council shall include such natural or legal person, entity or body in Annex II" (Council Regulation "EU" No 204/2011, Article 16 §1). Paragraph 5 in the same Article also states that "Where the United Nations decides to delist a natural or legal person, entity or body, or to amend the identifying data of a listed natural or legal person, entity or body, the Council shall amend Annex II accordingly" (Council Regulation "EU" 204/2011, Article 16 §5). However, not to be hidden is that in the same Article (16) it also becomes evident that the Union/Council can decide to sanction a body, person or entity, however, if the Council wish to do so, the Council should add this person to a separate Annex (Council Regulation "EU" 204/2011, Article 16 §2). Hence the Union has to some extent room for maneuver, however, the United Nations still play an important source for action since they can add or remove persons initially not on the list if the UN find it necessary or unnecessary to sanction these entities.

7. Conclusion

In this section I shall evaluate whether the European Union has or has not become a more efficient actor when addressing Libyan issues, where efficiency stands for Opportunities, Presence and Capabilities. I will begin my conclusion with a small summary of the three chapters concerning Libya and the EU from 1985 till 1993. Second, a summary of the chapters concerning European Union and Libyan relations in 2011 will be provided. Third and lastly, a comparison of the two timeframes will be presented in order to assess whether the European Union has become a more efficient actor.

7.1 Summary 1985-1993

The period between 1985-1993, reflected the European Community as a non-efficient actor. This is due to the fact that the European Community did not manage to base action on its own legal framework. Instead, the recurring theme during this time period was that the EC, reflecting its consequences of being to little extent, chose to base its own action on United Nations Resolutions. Recalling that Regulation 945/92 of the Community referred to the United Nations as a means for
European action it consequently also referred to the external opportunities concerning the four acts of terrorism, namely the Vienna and Rome bombings, the Lockerbie bombing and the Union des Transportes Aérienes flight 772 bombing. The consequences of being the European Economic Community and European Community were, as stated above, reflected to little extent, however it definitely had consequences for the European Community as a global actor. Recalling that both the Treaty establishing the European Economic Community and the Single European Act stated that the Community should work towards peace and security with respect for the United Nations Charter this most certainly had consequences for the EEC when addressing the issues with Libya. However, as I argued during the analysis, the normative and consequential factors did not matter as much as the United Nations Security Council’s Resolutions 731 and 748 of 1992 did, since the European Community referred to these Resolutions in their documents.

With the implementation of the Maastricht Treaty, changed little to the efficiency of the European Union when dealing with Libya. An example of this is when one reads Council Regulation 3274 of 1992 which also refers to the United Nations Security Council’s Resolution 883 and hence an external opportunity. Moreover Council Regulation 3275 is based on the same premise that due to the creation of UNSC Resolution 883, the Union should further harshen the sanctions on Libya. It would be naïve to say that this was the only factor that actually played a role in shaping EU efficiency, the Unions presence did also play a role, however, how small it was is difficult to assess. To put things in perspective, not a single time did any of the above mentioned documents of the EU refer to world peace nor security for that matter, or other norms, but rather they referred to the United Nations Resolutions instead, and thus I conclude that the external opportunities in the period between 1985 and 1993 were those of greatest importance to the European Union’s efficiency.

7.2 Summary 2011

The recurring theme of the entire thesis is the dominance of external opportunities given to the European Union. When summarizing the efficiency of the European Union during the 2011 crisis this become evident. For instance the Council’s Decision (137/CFSP) to get involved in the Libyan conflict yielded plenty of evidence suggesting that the European Union solely based its actions on the United Nation’s Resolutions. In the Council’s Decision it explicitly read that the document was a response to the UNSC Resolution 1970 and when looking deeper into the document this was further confirmed by the statement that if the UN found any other entity, person, etc, also to be
sanctioned the European Union should also add the person or entity in question to their list without any objection or vote on the Union's behalf, thus basing their actions solely on the external opportunity given by the UN to the European Union. However, in the Decision there are also some indirect references to the normative framework, established in the Lisbon Treaty. In the preamble to the document it states: “On 23 February 2011, the European Union expressed its grave concern regarding the situation unfolding in Libya. The EU strongly condemned the violence and use of force against civilians and deplored the repression against peaceful demonstrators” (Council Decision, 2011, 137/CFSP). Hence, the document is indirectly referring to the norms present in the Lisbon Treaty, which stated that the European Union should in its relations with the wider world promote human rights and security, something Qadhafi did not respect when trying to silence anti-regime demonstrators. But it is important to stress that the link to the norms is vague and not even close as the link between EU action and external opportunities.

Moreover, Council Decision 178/CFSP is also a response to a UNSC Resolution. This time it is Resolution 1973 which is in focus. A very interesting finding here is that the European Union suddenly decides to remove any normative statements in the document. Instead the focus lies with the external opportunities again. Just as with the previous Council Decision this document provides evidence that the EU is basing their action on the United Nations Resolution 1973. The evidence provided is again related to the Annexes to the actual Decision. For example, the Decision states that "Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of: (a) persons listed in Annex I to UNSCR 1970 (2011), and additional persons designated by the Security Council or by the Committee in accordance with paragraph 22 of UNSCR 1970 (2011) and paragraph 23 of UNSCR 1973 (2011), as listed in Annex I to this Decision” (Council Decision, 2011, 178/CFSP, Article 1, Section 4, Subparagraphs 1 and A). Hence, the decision and the adding of persons to be sanctioned is to a large extent controlled by the United Nations and its Committee, thus proving that the dominating theme is that the Union is responding to external opportunities. Regulation 204/2011 further demonstrates the dominating role played by external opportunities when assessing the effectiveness of the European Union. As remarked upon in the previous chapter the Regulation refers several times to the United Nations Resolution (1970) and it also reflects the influence of external entities, in this case in the form of the UN and its Committee, since if these decides that an entity or person ought to be sanctioned, they should also be added to the European Union’s Annex of sanctioned entities and persons since this is explicitly stated in the text of the Regulation.
7.3 Concluding comparison

To answer my research question regarding whether the European Union has become a more effective as a global actor, I argue that it has generally not become more effective. This is due to the fact that during the period from 1985-1993, the recurring theme was that the European Union based its actions on external opportunities, especially those relating to the Lockerbie, the UTA incidents and the adoption of UNSC Resolutions. However, what really seems to have mattered in the EU line of action is the fact that the United Nations Security Council chose to act since all documents from the period and even the presence of the Union reflects the respect for the Charter of the United Nations, and hence also the Resolutions adopted by the Security Council. In 2011 the case was not entirely different, although there were traces of the European Union’s presence, hence the EU to some extent followed their line of consequence of being and normative framework, the recurring theme was that the external opportunities played the most important role with some regards to the Union’s presence. Relating this back to the background chapter of this thesis where I wrote that the assessment of EU effectiveness will be in line with the historical institutionalist account, comparing institutions over time to see change in these institutions, hence my argument is that very little has changed in the capabilities of the European Union since the recurring theme is that the capabilities more or less all the time refer to the United Nations and capitalize on external opportunities. As I also elaborated on, very little of the European Union’s presence is not noticeable in the capabilities, which also suggest that the European Union is to some extent dependent, at least when analyzing EU - Libyan relations, on external opportunities given to the European Union. Thus, to answer my research question stated at the beginning of this paper, my answer would be the following; that very little has changed to the European Union’s effectiveness regarding the time period of focus in this study. Moreover, the effects of the EU institutions over time has to some extent changed, however the main themes of these have remained fairly static since the Union, more or less from the EEC Treaty, has had a link to the United Nations and its Charter, and that the Union mostly has capitalized off of external opportunities at least when discussing Libya. However it is important to stress that there were some changes to the present structure of the Union but these changes did not play a major role in the shaping of EU action with regards to Libya.
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Annex - Timeline of Events

Events 1985-1993

Dec 1985 - The Bombings of Vienna and Rome Airports
Dec 1988 - Lockerbie Bombing
Apr 1992 - EC Adopts Regulation 945
Nov 1993 - UNSC Adopts Resolution 883
Nov 1993 - EU Adopts Regulation 3274

Sep 1989 - UTA 772 Bombing
Mar 1992 - UNSC Adopts Resolution 748
Jan 1993 - Maastricht Treaty Enters into Force
Nov 1993 - Council Decision 614 CFSP
Nov 1993 - EU Adopts Regulation 3275

Jan 1992 - UNSC Adopts Resolution 731
Mar 1992 - UNSC Adopts Resolution 748

Apr 1992 - EC Adopts Regulation 945

Events 2011

Jan 2011 - Muammar Qadhafi Adresses the Libyan People Concerning the Riots in Tunisia
Feb 2011 - Muammar Qadhafi Responds to protests by using leathal force
Feb 2011 - Council Decision 137 CFSP
Mar 2011 - EU Adopts Regulation 204

Feb 2011 - Protests in Libya Begin
Feb 2011 - UNSC Adopts Resolution 1970
Mar 2011 - Council Decision 178 CFSP

Mar 2011 - UNSC Adopts Resolution 1973

Jan 2011
May 2011