

## **EPC WORKING PAPER No.28**

### **The EU Foreign Service: how to build a more effective common policy**

Graham Avery  
Jolyon Howorth  
David Rijks  
Simon Duke  
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**November 2007**

EU INTEGRATION & CITIZENSHIP  
EUROPE IN THE WORLD



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and not necessarily those of the EPC.

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## Foreword

by *Graham Avery and Antonio Missiroli*

Opinion polls consistently show high levels of public support for the European Union to play a strong role on the international stage and speak with one voice wherever possible by developing a common foreign policy.

Indeed, the proposal to establish a “European External Action Service” (EEAS) to support the future “Union Minister for Foreign Affairs”, combining the roles and functions of the current High Representative for Common Foreign and Security Policy and the Commissioner for External Relations, was one of the least contentious aspects of the Constitutional Treaty.

This section of the Treaty was not a source of controversy in the French and Dutch referendum campaigns of 2005, and was not expected to cause any real difficulties in the negotiations on a replacement for the Constitution which began in January 2007. Nor was it considered in need of revision. On the contrary, it had been widely praised by the main actors and analysts.

The UK government’s decision to reopen this issue in the run-up to the June 2007 Summit which agreed a detailed mandate for the Intergovernmental Conference (IGC) – and in the subsequent negotiations under the Portuguese Presidency – therefore came as a surprise to many. But the British requests for ‘clarifications’ of the precise arrangements notwithstanding, the notion of having an EU foreign policy ‘chief’ backed by his or her own ‘foreign service’ continued to attract universal support.

In the context of the new Treaty, the European Policy Centre felt it would be useful to reflect further on this reform of EU ‘foreign policy’ and considered in detail how the changes enshrined in the Treaty might best be implemented in practice – not least because the Treaty is vague on the precise arrangements for doing this.

This Working Paper, published under the auspices of the EPC’s programmes on ‘EU Integration and Citizenship’ and ‘Europe in the World’, follows on from an Issue Paper on this topic, entitled *Towards an EU Foreign Service*, published in April 2005, shortly before the referenda that stopped the Constitutional Treaty in its tracks. There was clearly a need to resume

that reflection in light of the new situation, and to extend it to a number of experts and officials involved in the process in various capacities.

To this end, a 'project group' was convened in May 2007 and met three times before the summer break, first to exchange views on and analyse the relevant issues, and then to reassess the state of play in the light of the agreement at the European Council of 22-23 June on the new Reform Treaty.

The mandate for the ensuing IGC included next to no change to the foreign policy provisions of the Constitutional Treaty – apart from a change in the title of 'Foreign Minister' (renamed 'High Representative for Foreign Affairs and Security Policy') and a reaffirmation of the distinctive nature of the Union's Common Foreign and Security Policy.

As a consequence, despite some remaining uncertainty over the final outcome of the IGC, the group decided to finalise a publication with its main findings and proposals in time for the start of the debate on the implementation of the new provisions. It felt there was an urgent need to do this since the creation of the EEAS will need to be discussed and negotiated in more detail soon after the signature of the new Treaty, and well before its eventual ratification, if it is to be established as soon as the Treaty comes into force (assuming a successful ratification process).

This Working Paper includes the main papers presented by the group during its meetings and further refined in light of those discussions. They tackle the key issues related to the establishment of this new service – which should preferably be called a European Foreign Service – and include analyses, ideas and recommendations.

Some dwell on the main trends among the Member States and their possible implications for the establishment of the EEAS, others on the way common institutions have adapted (or have to adapt) to this new context. All tend to highlight, at least implicitly, the difference between the way the EEAS will function at Brussels 'Headquarters' and on the ground in third countries – and all frame the EEAS issue within the broader discussion on European foreign policy.

The Annexes – put together initially by EPC Programme Assistant Sofie Thorin and then finalised by her successors Marius Osswald, who also coordinated the group's work, and Jérôme Bacquias – include all the relevant articles from



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the new Reform Treaty as well as the Progress Report delivered jointly by the High Representative and the Commission President to the European Council in May 2005, before the referenda that put an end to that phase of the debate.

It is our hope that this Working Paper will contribute to fostering the next phase of the debate on this issue and guiding the subsequent decisions in the right direction.

**Graham Avery is a Senior Adviser to the European Policy Centre and Chair of the European Policy Centre's Balkan Europe Forum, and a former European Commission official.**

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## Introduction: A tale of two pillars – and an arch

By Antonio Missiroli

It is frequently argued that Europe's common foreign policy has long suffered (and still suffers) from an intrinsic 'dualism' between its Community and intergovernmental dimensions, later turned by the Maastricht Treaty into formal 'pillars'. Indeed, this has been the case since the European Union first began to have an external presence and act on the international stage.

It is also true, however, that for a long time these two dimensions have developed separately along parallel lines, with almost no overlap or dualism. Moreover, they have long coexisted – more or less happily – with the individual foreign policies of the Member States, including their engagement in other international organisations like the United Nations or NATO.

In other words, the issue of the 'dualism' is quite a recent one, since a number of specific foreign *policies* were previously carried out in separate 'boxes', politically as well as bureaucratically.

The combined effect of progress in European integration (with growing demands on the Union to act more effectively and decisively on the international stage) and the onset of globalisation (which has made it increasingly difficult to keep all those boxes separate) has contributed to turning an apparently technical issue – the expected creation of a single common European 'foreign service' – into a political one.

In fact, it has come to epitomise the complexity of the challenges and the opportunities the EU faces today. Focusing on the foreign service is therefore an interesting way of homing in on the substance of the policy (or policies) involved, while also taking an original angle in the ongoing European debate on institutional architecture.

### Where from? The European Commission

The gradual expansion of the European Commission's external representation stemmed, of course, from the need to be present on the ground in all those countries and regions where the Community ran development aid programmes, often in connection with privileged trade agreements.

This explains why it was in the then DG VIII (today's Directorate-General for Development) that the network of Delegations began taking root and shape, in the wake of the EU's 1973 enlargement to the UK and the signature of the 1975 Lomé Convention. At that point, however, most of the Delegations' personnel had a primarily technical profile (engineers, agronomists, administrators), putting an almost exclusive emphasis on project management.<sup>1</sup>

However, during the era of Commissioner Claude Cheysson (1973-81) the European Community also extended its representation to places such as New Delhi, Bangkok, Caracas and Tokyo, and opened its first 'diplomatic' offices in multilateral organisations – in Paris (OECD), Geneva (GATT), and New York (UN), where it took up 'observer' status.<sup>2</sup>

In the 1980s, in part because of the EU's Iberian enlargement and in part because of the parallel development of European Political Cooperation (EPC), the Delegations' network began evolving into a structure with more emphasis on trade and political affairs. By the end of the decade, it encompassed some 90 offices on six continents with an increasingly professionalised staff.

The signing of the Maastricht Treaty prompted a further reorganisation, which was also intended to 'match' the parallel development of Council structures in the domain of the newly established Common Foreign and Security Policy (CFSP).

With the creation of DG IA (for external political affairs) under the authority of a dedicated Commissioner (Hans van den Broek) – as distinct from DG I proper (for external economic affairs) – and with the ensuing creation of a Unified External Service (1994), the scope of the Delegations' tasks broadened significantly.

This had clear repercussions for the composition of their staff, which necessarily became much more diverse. The simultaneous upgrading of the Heads of Delegations to ambassadorial status – through accreditation by Heads of State rather than Foreign Ministers – strengthened this trend, while also highlighting for the first time the potential 'dualism' with the Council structures in Brussels and the Member States' embassies in third countries.<sup>3</sup>

Tensions and problems also came from inside the Commission's Berlaymont headquarters, namely from recurrent turf battles between Commissioners as well as a general staffing freeze that hampered the development of the new structures.

As a result, the Santer Commission (1995-99) reunited political and economic affairs, and established four separate DGs with mainly geographical responsibilities: Central Europe/Russia/CIS (under Commissioner Hans van den Broek), industrialised world (Leon Brittan), Latin America/Mediterranean/Middle East/developing Asia (Manuel Marin) and ACP countries/Lomé (Joao de Deus Pinheiro).

An internal College committee chaired by Jacques Santer himself was tasked with coordinating external policies. However, there were still many grey areas in the new set-up, with overlapping zones of competence (for example, in trade) and, more generally, unnecessary fragmentation: Commissioner Emma Bonino was in charge of, among other things, humanitarian affairs.

On the one hand, the Commission appeared more focused on preserving or enhancing its role in the fledgling CFSP than on its more traditional domain of project management. On the other hand, the same Commission seemed hesitant or reluctant to use its hard-won shared right of initiative in CFSP – to which it was “fully associated” – for fear of antagonising the Member States.

With the Prodi Commission (1999-2004) came another internal reorganisation, resulting in the creation of DG RELEX (External Relations) proper with a new Director-General, and the appointment of Chris Patten as a *‘primus inter pares’* among the Commissioners in charge of external relations: Poul Nielson for development aid, Günther Verheugen for enlargement, and Pascal Lamy for trade.

Moreover, when the Amsterdam Treaty entered into force and the new European Security and Defence Policy (ESDP) was launched, a separate Directorate for CFSP was also set up within DG RELEX and arranged in four functional units, with a view to ‘matching’, once again, the emerging ESDP structures in the Council.

This new set-up worked reasonably well, despite the reluctance of individual Commissioners to be ‘coordinated’ by a fellow College member. Chris Patten’s approach and attitude also helped smooth relations with the new player on the other side of Rue de la Loi, the High Representative for CFSP and Secretary-General of the Council Javier Solana.

The interaction between the two men and the *modus vivendi* established between their staffs prevented the potential ‘dualism’ from negatively

affecting the overall conduct of the Union's 'foreign policy' at a difficult time. It even prompted many analysts to advocate the appointment of a sort of "Pattana" – as it was half-jokingly labelled – for the Union. This, in turn, fed more or less directly into the discussions on institutional reform in the Convention on the Future of Europe (2002-03).<sup>4</sup>

That eventually led to the proposal – later incorporated in the EU Constitutional Treaty – to appoint a "Union Minister for Foreign Affairs" combining the 'hats' of both Solana and Patten. He or she would be in the Commission as one of its Vice-Presidents (which Patten was not); would chair a newly established Foreign Affairs Council;<sup>5</sup> and would be supported by a "European External Action Service" (EEAS). In fact, far from 'merging' the two roles and functions, the new figure was and is, basically, a *personal* union. The intrinsic dualism of EU's foreign policy, in other words, was not suppressed – it was only contained and 'concentrated' into one individual, so to speak, with the possible addition of the EEAS.

The outcome of the subsequent IGC, with the official signing of the Constitutional Treaty in Rome on 29 October 2004, had a direct impact on the make-up of the Barroso Commission (2004-09). The existing DGs were retained, but the President took back the role of chairing the group of Commissioners dealing with external policies: Olli Rehn (enlargement), Peter Mandelson (trade), Louis Michel (development aid), and Benita Ferrero-Waldner (external relations and the recently established European Neighbourhood Policy).

This partial reorganisation was based on the assumption that the Constitutional Treaty would enter into force, as planned, on 1 November 2006. No formal decision was taken at that time, but it was envisioned that the new "Union Minister for Foreign Affairs" would take over the RELEX services proper, while Benita Ferrero-Waldner would remain Commissioner for the ENP (and possibly sit on the new Foreign Affairs Council on behalf of the Commission).<sup>6</sup>

The crisis triggered by the French *non* and the Dutch *nee* to the Constitutional Treaty in spring 2005 put all this on hold for a while. To some extent, this came as a relief to the Commission, which had been caught somewhat by surprise in 2003-04 and had since acted (or rather reacted) quite defensively on a number of relevant issues, even after the *de facto* 'hibernation' of the Constitutional Treaty in June 2005.

This said, the Commission can currently rely on more than 120 delegations covering over 150 countries and international organisations. In terms of ‘diplomatic’ representation outside the Union’s territory, its network (compared to that of the Member States) ranks seventh if consulates are included and fourth if not, with more than 7,000 staff involved in external relations out of a total of roughly 25,000 in the entire Commission.<sup>6</sup>

More generally, its officials find themselves in an ambivalent situation. On the one hand, they mostly lack the specific know-how and expertise of modern diplomacy and international crisis management, as their culture is still predominantly one of project management and trade.

As a result, the Delegations’ ability to provide good reporting on political and security matters to their Brussels ‘headquarters’ remains limited, uneven and patchy. On the other hand, not only do they already have competences (both legal and professional) that cover a much wider spectrum of policies with external implications than CFSP proper, but recent developments have broadened them: suffice it to think of justice and home affairs, environment, or energy.

Here clearly lie, at the same time, a challenge and an opportunity – and not only for the Commission.

## **Where from? The Council**

What is normally referred to as the ‘Council’ in the specific context of EU foreign policy-making is in fact, more often than not, the Council General Secretariat (CGS), based in the Justus Lipsius building since 1995.

Mentioned for the first time in the Maastricht Treaty, it actually existed long before that, by virtue of the Council’s own rules of procedure. In particular, a dedicated EPC Secretariat had been established in 1987, after the entry into force of the Single European Act, which institutionalised European Political Cooperation (EPC).

In 1994, a new Directorate-General for External Relations was set up under Brian Crowe. One of his deputies (Pierre Champenois) led the new CFSP unit, while another was in charge of external economic relations. With the onset of ESDP, finally, this was transformed into an expanded DG E devoted to ‘External and Politico-Military Affairs’ under Robert Cooper.

CFSP/ESDP-related structures, in other words, originated mostly from the progressive institutionalisation of foreign policy bodies and procedures that has been occurring since the 1990s. Before and alongside them, however, a number of more informal fora, functions, preparatory bodies and groups have taken shape over the years: the regular meetings of the Political Committee (PoCo) in the framework of the EPC/CFSP, prepared by European 'correspondents' based in national foreign ministries (and the Commission); or the various Council Working Groups/Parties and Task Forces convened periodically in Brussels, mostly prepared by the RELEX/CFSP Counsellors in the Permanent Representations and the Commission.<sup>7</sup>

Taken together, these bodies complemented the work of the Council Secretariat and provided a permanent channel of consultation and decision-shaping with national foreign ministries. Some (mostly of a technical nature) were – and still are – chaired directly by the CGS; others (the majority) by the rotating Presidency.

They were all part of the CFSP *acquis* that the applicant countries had to incorporate before joining the EU. As such, they induced a certain degree of horizontal and vertical 'Europeanisation' in the bureaucratic machinery (and culture) of national diplomacies.<sup>8</sup> They also further reinforced the creeping 'Brusselisation' of European foreign policy that had begun in the late 1980s.<sup>9</sup>

The size and scope of CGS structures were given a significant boost in 1999/2001, first of all, with the appointment of the High Representative for CFSP and Secretary-General of the Council (HR/SG) Javier Solana and the creation of his dedicated Policy Unit (formally the Policy Planning and Early Warning Unit), as foreseen by the Amsterdam Treaty.

This was followed by the establishment, from 2001, of the new ESDP bodies foreseen by the Nice Treaty, such as the Political and Security Committee (PSC), *de facto* replacing the PoCo but permanently based in Brussels, and composed of ambassador-level diplomats from the Member States (and the Commission) to deal with international crisis management; and also those, like most of the military bodies and new Council agencies, that came into existence through the transfer of most functions of the Western European Union (WEU) to the EU.<sup>10</sup>

With the partial exception of the PSC, virtually all these new ESDP-related structures – including the Committee on Civilian Aspects of Crisis

Management, the SITCEN and, later on, the European Defence Agency (EDA) – were set up through simple Council decisions or Joint Actions.

Last but not least, Council ‘Special Representatives’ – roving ambassadors to regions of particular relevance for the Union’s CFSP (as already foreseen by the Maastricht Treaty) – were used ever more frequently after the ESDP was launched, as they offered a pragmatic and relatively ‘light’ solution to the shortage of specialised and senior diplomats at the direct service of the EU. Interestingly, they are nominated by the Council, temporarily hired by the Commission as Special Advisers (at Director-General level), and often supported by seconded officials from their countries of origin.<sup>11</sup>

More generally, the practice of resorting to diplomats from the capitals has given the Council Secretariat another way to bolster its analytical and operational capabilities. This has happened in the Policy Unit (which was designed explicitly to this effect, with an implicit system of national quotas) and in DG E (where more stringent selection procedures have been put in place). Further secondments, especially from some capitals, also enable the CGS to rely on additional staff without having to pay for them. Even in these cases, however, certain professional standards have to be met.

The reasons why some national ministries were – and still are – more prone than others to dispatch their own diplomats to EU bodies (and sometimes even cover their salaries) tend to vary. They range from keeping some ‘control’ over what the Union does, exercising influence and having ‘feelers’ in the appropriate places; to offering opportunities for professional growth to promising officials who can then return and thrive; or, conversely (but fortunately less and less often), sending off spent forces and getting rid of difficult people.

Existing staff rules and career patterns in national foreign services also play a role, especially in countries where a stint in the EU institutions may facilitate upward mobility. In this area, however, there has been very little ‘Europeanisation’.

Last but not least, a ministry must also be able to afford to second people on its own budget. This risks discriminating among the Member States, and it may be no accident that it tends to be the biggest countries (France, Germany, UK) and the Nordic Member States which have the highest number of seconded employees. Still, no major cases of conflicting loyalties have emerged so far, either in the Council or in the Commission

itself – where similar arrangements are also in place, although on a much smaller scale.

Even after the latest EU enlargements, however, the size of the CFSP/ESDP-relevant personnel in the Council General Secretariat remains well below that in DG RELEX proper, let alone in the Commission Delegations. It is quite difficult to quantify them precisely, not least because of the high turnover in certain positions and the hybrid character of some arrangements, but it is in the order of 500 Brussels-based individuals, including those in the politico-military structures. Few of them have assignments lasting longer than five years, after which they are expected to return to their ministries.<sup>12</sup>

To these must be added the personnel – both military and civilian – working on the ground in ESDP operations, who are mostly seconded from the capitals or contracted locally for short periods of time, and whose numbers vary enormously every year.

Overall, however, there has been a remarkable growth in the foreign policy-related bodies and structures in the Council Secretariat over the past decade, and this growth has not been simply institutional and quantitative: it has also translated into a shift away from a purely ‘intergovernmental’ *modus operandi*.

The High Representative, the Policy Unit and DG E have become a CFSP/ESDP player in their own right. At times, they have shaped something very close to the common European interest, even when this did not fully reflect the individual interests of all the Member States, and have often gone well beyond the lowest common denominator approach which previously haunted and hampered the development of the EPC and CFSP.

Instead, they have helped build a distinctive *acquis* – doctrinal (starting with the 2003 European Security Strategy); diplomatic (in Ukraine, Montenegro, Iran); and operational (the various ESDP missions) – in international crisis management from which it will be difficult to backtrack.

This may help explain why, when the Constitutional Treaty was signed, the reaction in the Justus Lipsius building (as distinct from the Berlaymont and Charlemagne, home of the Commission services) was one of satisfaction and hope. Mr Solana’s alleged personal reservations about the ‘double-hatting’ formula were well known: in his view, it would make it impossible for the

'Minister' to travel extensively and carry out on-site and personal diplomacy as Mr Solana himself had done so successfully. But this did not prevent him from being nominated to become the first such 'Minister' on 1 November 2006, thus crowning his tenure as the first High Representative for CFSP and "European foreign policy chief" – as the international press generally referred to him.<sup>13</sup>

Such expectations – equally evident on both sides of Rue de la Loi – affected the climate and the way in which Commission and Council (including the COREPER's Antici Group), following the instructions enshrined in a Declaration attached to the Constitutional Treaty, conducted the talks that led to the May 2005 Progress Report on establishing the EEAS.

The Constitutional Treaty, in fact, said very little about its precise set-up and relations with the existing structures and bodies in the CGS and DG RELEX, let alone the Commission Delegations. It simply stated that it would include three components ("relevant" Council, Commission and Member States officials) and would "assist" the Minister.

In these circumstances, exacerbated by the mounting uncertainty over the outcome of the referenda in France and the Netherlands, the Progress Report could only identify a few agreed principles. These started with the *sui generis* (unique) nature of the new service and covered some general points of convergence, but left many crucial questions – such as the scope and size of the EEAS – unanswered (see Annex 2).

The two 'No' votes to the Constitutional Treaty and the ensuing "pause for reflection" have therefore had a significant impact: they have not brought European foreign policy to a grinding halt, but they have contributed to souring the atmosphere in Brussels and, above all, to highlighting the drawbacks of the persisting 'dualism'.

Furthermore, there has been little or no reflection on this issue – with the limited exception of the Commission's June 2006 Communication on 'Europe in the World'<sup>14</sup> – since then. This is partly because of the prolonged uncertainty over the fate of the Constitutional Treaty and its provisions, and partly because all the main players (including the Member States) were reluctant to engage in an extremely sensitive debate without a compelling legal obligation to do so.

In the meantime, working relations between the two sides of Rue de la Loi remain difficult to define: some regional and also functional desks

cooperate well and complement one another, while others indulge in that mix of cooperation and competition which Americans euphemistically call “inter-agency” debate, but which is also often so typical of EU policy-making, even inside single institutions. On top of that, two quite separate systems of reporting from, and communicating with, the outside world remain in place.

### **Where next? The Union**

As already mentioned in the Foreword, the new Reform Treaty retains virtually all the CFSP/ESDP-relevant provisions of the Constitutional Treaty, with only two minor changes: the “Union Minister for Foreign Affairs” is renamed “High Representative of the Union for Foreign Affairs and Security Policy”; and two new Declarations attached to the treaty underline, *inter alia*, that “the CFSP is subject to specific procedures and rules”.

In particular, these maintain that, even with the new set-up (including the EEAS), provisions “do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy nor of their national representation in third countries and international organisations”; neither do they “prejudice the specific character of the security and defence policy of the Member States”.

The change in the title is purely cosmetic or, more precisely, symbolic, in that it aims to dispel the fears that the term “Minister” triggers. The second change is even less significant, in legal terms, as it states the obvious and reiterates existing norms.

Nevertheless, taken together, the two changes in the text seem to herald a slight change in the *context*. Inserted mainly at the request of the UK, keen on defending its ‘red lines’ in the treaty negotiations, they may in fact contribute to containing the possible spill-over effects of ‘double-hatting’ the new High Representative and maintaining the traditional separation between the old EU ‘pillars’. It remains to be seen how all this may impinge on the EEAS.

Before considering this, however, it may be worthwhile to examine the new institutional ‘environment’ in which the High Representative and Vice-President of the Commission (the acronym HR/VP seems both more appropriate and definitely more workable than HRUFASP) will operate.

The end of the rotating Presidency in external relations and the double 'hat' could solve most of the current system's fragmentation and 'dualism' problems: there will no longer be two or even three distinct EU representatives at international meetings, from the Middle East 'Quartet' (thus often turned into a 'Sextet') to other diplomatic occasions.

Yet this may not be the end of the story. Both the Constitutional and the Reform Treaty introduce another new institutional figure, namely the President of the European Council, who will take over some of the responsibilities – and arguably staff – of the Council Secretariat, and ensure some form of external coordination and representation in relation to EU summits (including the possibility of convening extraordinary ones in the event of a crisis). As a result, the HR/VP will have to liaise constantly and closely with the holder of this post on all matters linked to the preparation of European Council decisions and events. At best, this will entail some degree of duplication between their respective staff.

Moreover, it seems unlikely that the Commission President will refrain entirely from intervening in foreign relations. The Commission is involved in so many policy areas which have an external dimension that it will be difficult to draw a line and keep its President out of this game, especially whenever issues related to enlargement, trade, justice and home affairs, and even internal market or monetary matters are involved.

Finally, with the demise of the rotating Presidency in external relations, the Head of State and Government and Foreign Minister of the country holding the Council Presidency – who have generally been in charge of all EU affairs during their stint in the chair until now – may well be tempted to (re)gain some ground in this field, at least in terms of visibility, as their role will be greatly diminished.

This may well vary from country to country and from leader to leader: but it seems unlikely that they will leave the international stage altogether. After all, the rotating Presidency is likely to remain in place for both the General Affairs Council (which also deals with enlargement issues) and the COREPER, unquestionably a major player in foreign policy matters.

As a result, along with the two 'hats', the HR/VP may also have to carry a raincoat and umbrella. It will be very crowded indeed at the top of the EU, and the old formal *troika* of Presidency countries may well be succeeded by a new informal one (the European Council President, the HR/VP and the

Commission President), while the new *trio* of successive Council Presidencies will linger on the sidelines.<sup>15</sup>

At the end of the day, the precise division of labour and even the chemistry within this sort of new EU *troika* will also depend on the profiles and personalities of the incumbents. Mr Solana has already shown that the way in which an official interprets what is very much a blank sheet and defines this role matters more than his or her actual competences and even the treaty language.

The modalities for appointing the three top EU officials will also matter, especially if it comes down to a 'package deal' to be struck, say, in the summer of 2009, in the wake of the European Parliamentary elections, or possibly earlier. While the Reform Treaty is expected to enter into force on 1 January 2009 (and *ad hoc* arrangements have been agreed for the possible appointment of a temporary HR/VP), in fact, the choice of the new EU top team could end up being made in one comprehensive bundle.

If so, the need for some political balance and trade-offs between a) party 'families', b) big and small countries, and c) North and South, as well as East and West, could produce unpredictable results. The hope is that policy competence does not lose out to political expediency. There will, at any rate, inevitably be a trial period for all, in which adjustments and arrangements will have to be made.

The HR/VP will also have to juggle the two 'hats' – or even three, if one considers the implications of chairing the Foreign Affairs Council – to a greater extent than previously assumed. The new Declarations mentioned above insist on the separation between the CFSP/ESDP pillar proper and the Community one. This will make it more difficult – politically rather than legally – to 'mingle' the two in order to achieve a more coherent and effective EU external policy.

This is a pity, because the experience of the past few years in places such as Afghanistan and Iraq has shown that international crisis management requires a varied and complex set of instruments and a high degree of synergy and coordination, rather than separate boxes, approaches and staffs. Also, insofar as they have not competed with each other, the two 'pillars' of European foreign policy have proved quite complementary: what they still lack is a political synthesis and a joined-up framework.

In order to manage such a near-impossible brief better, the HR/VP may have to have a single *cabinet* – to ensure coherence<sup>16</sup> – and also to appoint deputies. But how many and what roles would they play?

One could, for instance, cover ESDP – now renamed Common Security and Defence Policy (CSDP) – and crisis management proper (whose specifically military component will remain more ‘compartmentalised’ than any other aspect of CFSP), and could also chair the PSC.<sup>17</sup> This risks separating the specifically CFSP (diplomatic) dimension from the ESDP (operational) one, but a deputy specifically for CFSP could also assist the HR/VP when he or she wears the third hat, chairing the Foreign Affairs Council and liaising with the European Council Presidency.

Other deputies could deal with those other policies – such as the ENP and, possibly, also development aid – that lie in the grey area across and in between pillars, with mixed and overlapping competences and where some ‘contamination’ may be not only inevitable but also necessary. Yet this will depend primarily on the way in which the next Commission (2009-14) shares out portfolios and responsibilities.

Last but not least, it remains to be seen where exactly to place the coordination of the fight against terrorism, which cuts across competences and pillars; and, now, also “the protection of [EU] citizens” abroad, which has been inserted into the list of the objectives of the Union’s common external action in the Reform Treaty, at the request of France.

### **Building an arch – the EEAS**

How will all this impact on the possible make-up of the EEAS? In this case, the wording in the Treaty has not changed: the three components – “officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States” – remain the same, as does their task (to “assist” the HR/VP in fulfilling his/her mandate).

For the future European ‘foreign policy chief’, the EEAS is arguably expected to become both a walking stick and a satellite navigator: it will be to the HR/VP what the Policy Unit has been to the HR/SG. Yet its precise composition, size and internal set-up are not spelt out in the Treaty, and even the May 2005 joint Progress Report says very little in this respect: it is

reasonably clear what the EEAS will probably *not* be about, but quite unclear what it could or should be about.

Paradoxically, one unintended consequence of the UK demands in the treaty negotiations may be that the EEAS, in the end, clings much more onto the Commission's side than initially imagined. If part of the Council Secretariat moves to the new Presidency of the European Council, and if another part (the politico-military structures) remains neatly separated from the rest of the external action machinery (regardless of where exactly it is placed), it seems obvious that the bulk of the EEAS would come from (and/or rely upon) DG RELEX and, more indirectly, other Commission services relevant to the Union's external action. If so, the 'Vice-Presidential' hat will gain in importance and influence, especially if staff in the Berlaymont and Charlemagne seize the opportunity and play to their strengths.

In order to do so, however, the Commission should first get its own act together. On the one hand, it should identify the 'core' policy areas it is ready to integrate with the EEAS – starting, of course, with those in DG RELEX. But DG Development and AIDCO (the dedicated office that manages the EU external aid programmes) should also be put in some way under the authority of the HR/VP and thereby in some connection with the EEAS, especially if the EU wants to increase the overall effectiveness and coherence of its policy towards Africa.

On the other hand, the Commission must establish, if not a rigidly, hierarchical internal 'chain of command', at least an identifiable line of accountability – for example, on budgetary and administrative matters – that gives the VP a tangible coordinating and supervisory role inside the College.

To achieve that, it would suffice to reform some internal rules so that, for instance, certain decisions by individual Commissioners could only be taken "in agreement with the Vice-President". However, as Chris Patten's experience showed, this is easier said than done, although certainly not impossible. By doing so, the HR/VP would turn the Commission's RELEX service into the functional 'hub' for all those common policies that have external ramifications.

If it also came to 'coordinate' relevant aspects of trade, enlargement and other common policies outside the sphere of the HR/VP, the Commission President could well be called upon to ensure the necessary coherence and *arbitrage*.

And what of the institutional base for the EEAS? If a Brussels property developer were confronted with the current state of affairs in European foreign policy (a tale, if not of two cities, then of two radically different buildings with different tenants, specifications and appliances, flanked by 27 assorted apartment blocks), he or she would probably suggest that rather than trying to make them all compatible with one another, it would be better to build a brand new settlement - a condominium, probably, and a small one to start with, but based on a modular, LEGO-like scheme that would allow it to expand and be extended as required.

The EEAS could well be such a new building: it would not empty any of the older ones, which would remain in place and continue to operate. But it would begin hosting a few selected tenants from all of them, with temporary tenures and contracts, to test the facilities and appliances first.

The EEAS, in other words, could become a sort of functional *interface* between all the main European foreign policy actors. Like the European Defence Agency (EDA), it would not have any tenured staff of its own – at least at the beginning – but if proven effective, it could easily evolve into a more stable structure: this initial arch between the two pillars could thus turn into a proper vault. Unlike the EDA, which essentially only hosts officials from national defence ministries, however, it would bring together officials from all three components and train them to be more ‘interoperable’.

In this vein, the first building blocks of the EEAS could include all the main *geographical* desks of both the Commission and the Council. This is an area where there has been a lot of duplication over the past few years, and where some streamlining and coordination is both in order and necessary. Following the ‘interface’ model, this should also include liaising with the European Council Presidency and assisting the relevant officials in preparing the General Affairs Council to ensure the necessary coherence.

And what status would the ‘tenants’ of the EEAS have? The most intractable issues tend to be those relating to personnel, although they do not normally grab the headlines. Considering the transitional nature of the arrangements that will govern the EEAS at the outset, however, a possible solution that would preserve its *sui generis* nature without opening the Pandora’s box of inventing a new status for its staff could be based on secondments only: from the Commission, the Council General Secretariat, and the Member States.

As a result, EU *fonctionnaires* would preserve their status, career path and salaries, and would simply be 'located' with the EEAS for a number of years. Officials from the Member States could either be 'lent' as temporary agents or taken in as seconded national experts, through a form of *de facto* co-financing that would significantly alleviate the initial costs of setting up the service without having a significant impact on the 'EU loyalty' of the officials concerned. The length of the secondment should be the same for all, whichever 'component' they come from and, presumably, some system of national quotas would be tacitly used but matched with a homogenous process for selecting candidates based on their professionalism.

This said, it is rather premature to mention a possible (or ideal) size for the EEAS. Exactly how many 'Indians' may end up serving under the new 'chief' will depend in part on the sharing criteria to be agreed upon, considering also the existing imbalance both between CGS and DG RELEX and among the Member States, and in part on the funding. Both logic and experience suggest an initial small 'pioneer group', to be gradually and progressively expanded over time.

Finally, the specific 'material' used to construct the new EEAS building could be that of an EU agency: neither a Commission nor a Council one like the EDA, but rather a new, hybrid agency, *sui generis*. It could be established through a simple Council decision (not a Joint Action, which is a quintessential CFSP instrument) and have an administrative budget funded primarily by the EU budget, thus also involving the European Parliament – at least until 2013, when the current Financial Perspectives expire.

The rent, basic furniture and running costs, in other words, would be initially covered with a limited 'mortgage' on the old buildings. By 2013, however, the whole set-up may have to be reviewed again: not only will a new EU budget have to be adopted, but the one-third reduction in the size of the Commission foreseen by the new Treaty for 2014 will also have an impact on the HR/VP's position. This means that the EEAS agency would constitute only a first step towards the establishment of a European "foreign service" worthy of the name.

All this would apply to the Brussels headquarters of the EEAS. But what about its ramifications in third countries?

Under the terms of the Reform Treaty, the Union will acquire a full legal personality. This is likely to have a significant impact on the role of the Delegations, although probably only over time.

In fact, they cannot be considered mere instruments of foreign policy proper, as they already deal with trade, development and other issues. In the same way their Heads cannot be seen – at least for the time being – simply as instruments of DG RELEX. Once again, the Reform Treaty (like the Constitutional Treaty before it) states that they will be placed under the authority of the HR/VP, but does not explicitly mention them in connection with the EEAS.

As a consequence, a degree of ‘double-hatting’ may well have to be introduced here as well, although how it is articulated and implemented may vary, depending on the relative importance of economic or political affairs in the third country in question. In some cases, for instance, there could be good reasons for continuing along more traditional lines (predominance of the old Community ‘pillar’ and project management, in some ACP countries, for instance), while in others the Head of Delegation could have a much stronger politico-diplomatic profile and background (for example, in most Asian countries).

While there is no need for one single, rigid ‘template’, some *pilot* formats could be put in place and tested – and the unified regional desks in the Brussels headquarters will have to be well connected with the local missions, and *vice versa*. Good communication lines will have to be established with all the relevant Commission DGs too, as well as with the European Council President’s services.

It will also be interesting to see whether the future Union Delegations are given responsibility for consular representation, building on both Article 20 of the current Treaty<sup>18</sup> and the new commitment to “protect” EU citizens abroad. Some proposals along these lines were put forward in May 2006 in a report to the Council and Commission by former European Commissioner Michel Barnier, prompted by the Asian *tsunami* of December 2005, in the context of the possible creation of a European civil protection force.

While little consideration was given to these ideas, as they raised sensitive issues nobody wanted to address at that time, the creation of at least a few experimental “European Consulates” would certainly raise the debate on the EEAS to a completely different level.<sup>19</sup>

Last but not least, the provisions of the Reform Treaty may also have ‘cascading’ effects on other aspects of the Union’s external machinery.

Just to name one: who will chair the coordinating meetings of EU Member States' ambassadors in third countries or international organisations? Currently, such tasks fall to the rotating Presidency, with additional arrangements for capitals and regions in which the country chairing the EU is not represented (at present, there are only three 'third' countries in the world where all 27 Member States have an embassy or consulate: the United States, Russia and China).

Under the new system enshrined in the Reform Treaty, could this job fall to the local Head of the EU Delegation? After all, he or she would be accountable to the HR/VP, who in turn will chair the Foreign Affairs Council. This is unlikely to happen, however, in such places as Washington, Moscow or New York (at the United Nations), and it is still unclear whether the new Declarations requested by the UK will affect all these aspects of the new set-up.

### **Joined-up thinking**

In conclusion, there is now both great potential for a joined-up common European foreign policy and a stronger demand for it, inside and outside the Union. The Reform Treaty provides a good legal basis for achieving this and for giving the Union the 'politics of scale' that would permit it to play an adequate international role.<sup>20</sup>

The EEAS is an important element of this new architecture, and the way in which it will be put in place matters a great deal. An early and constructive debate on this issue may help to prevent turf battles and cumbersome disputes on status from absorbing the minds of Brussels-based officials over the next two years – minds that, instead, should remain concentrated on delivering an ever more incisive and coherent foreign policy for the Union.

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### **Endnotes**

1. For most of the information in this section see cf. David Spence's chapters 14 and 15 in D. Spence, G. Edwards (eds.) (2006) *The European Commission*, London: John Harper. Interestingly, the first-ever representation in a third country was the information office opened in Washington by the European Coal and Steel Community in 1954 – and its first head was an American citizen, formerly a Marshall Plan official.
2. Later on, EC representation offices would be opened in Rome (FAO) and Vienna (OSCE).
3. In 2001 an internal Commission Report clarified that Heads of EC Delegations had to be seen as representatives of the Commission as a whole, not of the specific interests of individual DGs.
4. For a first formulation from outside the institutions see G. Andreani, C. Bertram, C. Grant, (2001) *Europe's Military Revolution*, London: CER. The idea was embraced and developed by a Convention Working Group.
5. Until 2002, the Foreign Ministers had only convened formally as the General Affairs Council, the most 'senior'

- of all Council formations. Since then, in response to criticism that top diplomats tend to concentrate on the increasing number of foreign policy issues on the agenda to the detriment of their overarching Council coordinating role, they have convened as the General Affairs and External Relations Council, normally spread over two days. The Constitutional Treaty (and now the Reform Treaty) separated the new Foreign Affairs Council from the old General Affairs Council, responsible for ‘consistency’ as well as the preparation of and follow up to European Council sessions – but without specifying which ministers should take part in each configuration.
6. See also B. Hocking, D. Spence (2005) *Foreign Ministries in the European Union: Integrating Diplomats*, Basingstoke: Palgrave Macmillan; especially the Annex.
  7. For an overview see F. Hayes-Renshaw, Helen Wallace, (2006) *The Council of Ministers*, Basingstoke: Palgrave Macmillan, especially pp. 68 ff.
  8. ‘Europeanisation’ is a very broad concept, used differently by different authors: it generally alludes to the adaptation of national structures and procedures to the demands of EU policy-making. For an overview see R. Wong, ‘The Europeanisation of Foreign Policy’, in C. Hill, M. Smith (eds.) (2005) *International Relations and the European Union*, Oxford: Oxford University Press; pp.134-153.
  9. ‘Brusselisation’ is another loose concept that combines political geography (NATO, too, is based in Brussels) and institutional vagueness – but it definitely excludes the possibility of a ‘*communautarisation*’ of CFSP. See D. Allen, ‘The European Rescue of National Foreign Policy?’, in C. Hill (ed.) (1996), *The Actors in Europe’s Foreign Policy*, London-New York: Routledge; pp.188-304.
  10. See J. Howorth (2007) *Security and Defence Policy in the European Union*, Basingstoke: Palgrave Macmillan; especially pp.61 ff.
  11. By contrast, ‘Personal Representatives’ are Council officials who are assigned a specific task – normally of a functional nature – by the HR/SG himself.
  12. Total staff number in the Council Secretariat – including all its DGs (currently eight, plus the legal service) – amounts to approximately 3,000.
  13. According to such a scenario, in November 2006, Solana’s deputy as Secretary-General of the Council – the former French Permanent Representative Pierre de Boissieu – would then have succeeded him as Secretary General, thus separating the two functions once again and restoring the bureaucratic tradition established by Niels Erbsoll (1980-94) and Jürgen Trumpf (1994-99).
  14. The Communication, however, essentially referred to possible improvements within the *existing* framework: ‘Europe in the World – Some Practical Proposals for Greater Coherence, Effectiveness and Visibility’, Communication of the Commission to the European Council, 8 June 2006.
  15. The *troika* system for external representation adopted with the Maastricht Treaty included the preceding, the incumbent and the successor Member State in the Presidency. With the Amsterdam Treaty, it came to include the incumbent (and possibly the successor, although this hardly happened in practice), the HR/SG, and the RELEX Commissioner. The *trio*, instead, is only at Council level: three countries coordinate their agendas and may also share out tasks among themselves over a period of 18 months.
  16. For an analysis of this concept, see S. Nuttall, Coherence and Consistency, in C. Hill and M. Smith (eds.) (2005) *The International Relations of the European Union*, Oxford: Oxford University Press; quot. in 8, pp. 91-112.
  17. This ESDP ‘deputy’ could be appointed by the Council or elected by (and from within) the PSC itself, possibly following the precedent of the EU Military Committee in 2001, also in terms of procedure (secret ballot) and mandate. It is worth considering some ‘standardisation’ of the terms of top officials across the EU institutions: presently, for instance, the HR/SG and the Commission president are appointed for five years, the president of the European Council for two and a half, and the chairman of the Military Committee for three.
  18. The article states that “every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that state”.
  19. The *Barnier Report* (‘For a European Civil Protection Force: Europe Aid’, 9 May 2006) mentioned four possible regions to start with: the Balkans, the Caribbean, West Africa, and the Indian Ocean.
  20. Interestingly, such a notion – that communicates quite well an intuitive vision of Europe’s acting together, and renders equally well the French idea of Europe as *multiplicateur de puissance* – dates back to the pre-Maastricht era. It was coined (with specific reference to the EPC *acquis*) by a US scholar: see R. Ginsberg (1989) *Foreign Policy Actions of the European Community: The Politics of Scale*, Boulder: Lynne Rienner.

## The institutional logic behind the EEAS

By Jolyon Howorth and Anne-Marie Le Gloannec

### The dynamics of institutionalisation

Alongside the *national* bodies that shape foreign and security policy, there are currently no fewer than 22 *European* bodies which have an input into Common Foreign and Security Policy/European Security and Defence Policy decision-shaping and making – and that does not include the European Commission's overseas delegations.

Rationalisation of the system seems desirable, if not inevitable. For a long time, institutions were the most plausible answer to the pressing need to devise a Common Foreign and Security Policy (CFSP) and new mechanisms to address common foreign policy questions.

As such, in the 1990s the CFSP was primarily an exercise in institutional engineering, while the fledgling defence dimension was mainly an institutional skeleton without much flesh and blood.

There are many merits to this approach of creating institutions before taking action. Institutions create their own needs. Besides the obvious fact that they provide tools for developing policies and implementing them, their creation also raises expectations which in turn generate new obligations.

There is, of course, a risk in this approach that the EU may be required to act before it is ready to do so and such expectations may therefore be left unfulfilled for a while. But on the positive side, it produces and sustains a socialisation process among participants – the 'Europeanisation' of policy processes and outlooks required when decisions are to be taken collectively. This is one of the most important products, or by-products, of the EU foreign and security policy decision-making process.

Last but not least, with their legitimacy at stake, these new institutions require genuine efficiency in output. They are under scrutiny and need to deliver. The key question is to what extent they fulfill the overall objective set or, to put it more explicitly, to what extent the logic of these new institutions facilitates – or complicates – the process of devising a European foreign and security policy.

## Institution-building and 'Brusselisation': the historical record

At each juncture in the development of a European foreign, security and defence policy, a similar, and powerful, *institutional* logic – involving some form or another of 'Brusselisation' – has prevailed. Policy coordination among and between national capitals eventually proves inadequate, and leads inexorably to the creation of a Brussels-based institution.

After several decades of operating in *ad hoc* intergovernmental 'travelling circus' mode, the European Political Cooperation (EPC) eventually decided, during the discussions on the 1986 Single European Act which created the Internal Market, that the absence of a central coordination mechanism (in Brussels) was a serious obstacle to efforts to speak to the rest of the world with one voice where possible – even if those discussions were still primarily about markets. It was this, at least in part, which led to the establishment of the Council Secretariat.

The CFSP, at one level a Franco-German trade-off between money and politics, was – more importantly – a quasi-inevitable consequence of the end of the Cold War. Given a uni-polar world and a chaotic 'near abroad', EU foreign policy, now understood as going far beyond trade talks, demanded ever greater coordination.

The intergovernmental structures and procedures devised to respond to this need, and enshrined in the 1992 Maastricht Treaty, were probably the best that could be achieved at the time, given the constraints facing some of the major players, but they were clearly going to prove inadequate. One of the few innovations in the 1997 Amsterdam Treaty (designed to tackle the 'Maastricht left-overs') was the creation of the post of High Representative for CFSP, whose underlying dynamic was two-fold: external representation and Brussels-based coordination.

However, the 'security' component of CFSP was left high and dry at Maastricht, except for a tentative and convoluted formulation whereby it "shall include all questions relating to the security of the Union, including the eventual framing of a common defence policy [...] which might in time lead to a common defence".

The reference in the Maastricht Treaty to the Western European Union (WEU) coincided with its formal transfer to Brussels to enable it to carry out

its few serious duties – liaising between France and NATO, and between the UK and the EU – more effectively. Before long, this was followed by the European Security and Defence Identity (ESDI), invented as a way of capitalising on this Brussels-based coordination not only between NATO and the EU but also between national capitals and Brussels.

But the expectations placed on the WEU, which found itself the corner stone of the entire ESDI story (especially after the June 1996 Berlin Ministerial Meeting), proved too great for the institution itself. It was clear to those involved that foreign and security policy coordination required strong Brussels-based inputs. What only became clear with hindsight was that the WEU was part of the problem, not part of the solution.

The creation of the ESDP became inescapable because the ESDI did not work. What was needed was much stronger institutional capacity in Brussels for political decision-shaping, and some autonomous military capacity. The EU itself had to become the key player. Hence the Anglo-French Saint-Malo Declaration, which rapidly gave rise to more Brusselisation: the Political and Security Committee (PSC) replaced the peripatetic Political Committee, and the Military Committee and the Military Staff became functionally indispensable.

The logic of the European Security and Defence College predates the end of the Cold War. The first WEU session of the Institut des Hautes Etudes de Défense Nationale (IHEDN) met in Paris in October 1988 and (indirectly) gave rise to the EU Institute for Security Studies – to date the only CFSP institution to escape the logic of Brusselisation. Although that initial IHEDN project faded, it was resurrected in a new (security) form by the Conférence Européenne des Académies Militaires (CEAM), which first met at St Cyr in 2002 and then at the Belgian Military Academy in 2003.

If troops from all the EU Member States are to operate together, what could be more logical than that they should get to know each other? Although certain Member States balk at the notion of a permanent college, it has an inherent logic. ‘Rolling’ road shows may have their attractions, but sooner or later they are likely to prove too exhausting, too complicated and too costly.

### **The institutional logic**

The same institutional logic was at work in all of these developments: ‘events’ – predominantly *external* ones – required *internal* policy coordination;

new institutions had to be created to meet the pressing demands of the outside world, but they had to be created centrally (in Brussels) to respond more effectively to external pressures.

However, institutional engineering has a number of serious pitfalls: one of the most obvious is precisely that of institutional proliferation. It seemed as if each new problem, each new question, each push forward or each setback required its own, specific solution.

Very few institutions were *replaced* by new ones; very few were actually discarded. The replacement of the Political Committee by the PSC was an exception and was certainly not characteristic of the whole process. In fact, the Political Committee was not an institution but a network and its members have not disappeared.

Another major problem has been the question of coordination and cooperation between two institutions working on similar problems at a fairly similar level, such as the Committee of Permanent Representations (COREPER) and the PSC: more often than not competition has crept in.

The lessons of this history need to be learned and applied in relation to the European External Action Service.

### **The political logic**

There is also another – countervailing – logic at play: political logic. No sooner had the Member States decided to establish a new Brussels-based institution – the Council Secretariat, the High Representative for CFSP, and others – than they found themselves wrestling with the implications of their own creativity.

A debate ensued on the level of seniority of these new bodies. For the ‘usual suspects’, the main imperative was for national capitals to maintain tight control. This was evident in the discussions on appointing the High Representative for CFSP (a job which, for this reason among others, remained unfilled for more than two years).

It was evident again in the debate over the level of seniority of ambassadors to the PSC. And it was evident yet again in the negotiations on the Civil-Military Planning Cell – first in relation to its very existence, and then over its size and

remit. The same tensions arose over the European Defence Agency's terms of reference (and budget), and in 2007, over the title and remit of the proposed EU Minister for Foreign Affairs, forcing a change in the name.

The logic of Brusselisation is compelling, but it creates countervailing nervousness in national capitals and causes a certain amount of duplication. This derives from governments' (entirely legitimate) determination to remain in control of foreign and security policy.

Duplication did not ensue from the addition of new 'pillars' to the Union structure. On the contrary, governments sought at first to keep the Commission at arm's length and to prevent it from interfering in European Political Cooperation. Yet with the consolidation of the second pillar (Common Foreign and Security Policy) and the need to work with the first (Community policies), duplication became unavoidable.

This certainly reflects two different logics – the inter-governmental logic (as exemplified in the CFSP) and the Community approach – although, as is well-known, the distinction between the two is far from clear-cut and they, in fact, intertwine. It is not a question of inter-governmental *versus* supranational, but of the most practical way to make them work in harmony.

The Member States have inched their way nervously but irreversibly down this same path for the past quarter of a century, and there is little reason to assume that they will change course. This may be an uncomfortable reality for some of them, but it is inevitable.

Besides this dichotomy between the intergovernmental and Community approaches, another dualism exists: a political logic *versus* a more technical approach. Governments are not just obstacles in the way of an allegedly logical communitarisation of foreign and security policy. They are also political bodies, the only democratically elected political actors in the whole EU policy process.

To date, common sense (assisted by clever political footwork in key areas) has always prevailed – as has the same institutional logic which has driven the whole process. Thus, Member States not only eventually accepted the creation of the post of High Representative for CFSP (and, particularly, the choice of post-holder), but also recognised that coherence demanded ever greater inter-pillar synergy. It was this which led European Heads of State

and Government to agree (in 2004) to the creation of a (cross-pillar) Union Minister for Foreign Affairs (although they immediately reassured themselves by appointing a familiar figure to the position even before it existed).

Similarly, we have witnessed the acceptance by all Member States of growing Commission inputs to the work of the PSC. Some governments occasionally give the impression that they regard the PSC as an instrument entirely at their command. The fact is – and they all recognise this – that the PSC has already established itself as irreplaceable. ESDP missions (with the stakes in Kosovo and Afghanistan being ratcheted up ever higher) could not take place without the Brussels-based institutions.

### **The dynamics behind the EEAS**

The dynamics behind the EEAS follow the same institutional logic. Obviously, the creation of the equivalent of a Foreign Minister appears to call for such a foreign service, emulating those of states. In other words, it seems necessary for the EU to have a specific service which could strengthen and emphasise its capacity as a foreign policy agent.

Exchanges of diplomats and other officials have taken place for almost 20 years. Virtual communities linked by e-mail, telephone and air-miles have progressively narrowed the knowledge and understanding gap between 27 sets of ministries. Every Member State welcomes this.

The EEAS will strengthen the EU's capacity to act as a foreign policy agent if the service provides the Union with capacities it has not had to date. So what 'added-value' can it bring?

It is doubtful that it will provide more information than is currently available to the entire EU system. It is also doubtful that it will prove strongly proactive in terms of foreign policy initiatives. In particular, what will the relationship be between national delegations and EEAS, or between the EEAS and EU Special Representatives? Will it be able to coordinate work on the ground (for instance, development aid in third countries)? Will it be powerful and resilient enough to foster coherence inside the overall foreign policy system, or will it be looked upon as a competitor?

Aside from informing foreign policy-making and action, the EEAS will almost certainly perform a very important function that other similar EU institutions



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have nurtured – that of creating an EU mould, of fostering a European spirit, of devising European ways of thinking, habits, codes and procedures – which might eventually contribute to harmonising the foreign policy process.

It is also likely to reinforce the EU's presence and visibility in third countries. This presence has certainly already been strengthened by the European Commission Delegations and EU Special Representatives, as well as by the Union's practical actions on the ground. Yet this presence has not been matched by visibility: despite the EU initiatives in the Middle East and other areas, it is less visible than other foreign policy agents. The EEAS should add value here, although it obviously cannot solve this problem on its own.

The external world – in the shape of diplomatic opportunities and security challenges – demands European personnel who work together, who think and act alike and who are effective. This is no slur on the Member States or their own contributions; it is simply the recognition of a growing reality.

If Europeans – as individual Member States or collectively - wish to achieve significant results in the foreign and security field, these are most often best achieved by working together.

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## European diplomatic representation in third countries: trends and options

*By David Rijks and Richard Whitman*

Member States' embassies in third countries currently perform a dual role: they serve both to represent the 'sending' state and to help protect its interests abroad.

'Resident' diplomatic missions, headed by a diplomat with the rank of ambassador, are the traditional channel for conducting relations between states and remain one of the main characteristics of the diplomatic system. Over the past few decades, however, the embassies of the EU's Member States have gradually also come to assume an EU function, mainly in representing the Union's rotating Presidency in third countries.

By creating a dedicated diplomatic capacity to support the conduct of the EU's external relations, the envisaged European External Action Service (EEAS) potentially challenges the current separation or distinction of European and national foreign policy priorities and interests.

Most experts agree that the EU needs this capacity and that a more coherent representation of the Union abroad is necessary. There is, however, far less agreement on how to divide competences between the EEAS and national diplomatic services, and thus on the scope and remit of the new service.

This reflects a relative neglect of the fundamental question of how the EU's interests and foreign policy priorities relate to Member States' ongoing, distinctly national, interests. Giving the EU a legal personality in the new Reform Treaty will be a first but crucial step in working out the future division of labour between the different actors in third countries.

To this end, this paper aims to make a few suggestions drawn from the practice of national diplomatic representations and from previous experience with enhanced diplomatic cooperation in third countries.

These suggestions are based on two assumptions. First, that the success of the EEAS will largely depend on whether or not it can make an effective

contribution to EU foreign policy, while also providing added benefits for EU Member States and avoiding competition with their own diplomatic services. Second, that states want to maintain or open their own diplomatic representations in third countries where they perceive some sort of national interest. This can take various forms, of which the resident embassy is the most effective.

Trends in national representation are the starting point for our analysis, as these provide insight into where Member States generally perceive their interests to be strong enough to open or maintain a resident embassy.

## **Developments in Member States' diplomatic representation**

### **Patterns of national representation**

This section surveys the general key trends in patterns of representation of the then 25 EU Member States from 2000 to 2006 at three-year intervals.

Table 1 below compares the trends in the ten Member States who joined the Union in 2004 and the 'old' EU-15 as *groups*. A standardised coefficient is used as a control for the different sizes of the two groups and the variation in the number of receiving states per geographic region.<sup>1</sup>

The data decisively points to an increase in the absolute number of embassies of both the EU-10 and the EU-15 around the world. The relative patterns are rather similar, but in absolute terms the new Member States as a group are catching up with the older ones in almost every region. Despite this general increase, however, important geographical differences remain between regions in the rate of expansion. The table below also shows major differences in Member States' diplomatic presence in different (sub) regions.

In contrast to the widely-held assumption that financial pressures on foreign ministries would spark a decrease in the number of embassies abroad, there is a clear upward trend. More specifically, and interestingly, there has been stagnation among the EU-15 and an increase among the Visegrad countries, especially Poland – and this despite (or possibly because of?) their accession to the EU.

**Table 1: Comparison of representation coefficients between EU-10 and EU-15 in third states for 2000-2006.**

	2000		2003		2006	
	EU-10	EU-15	EU-10	EU-15	EU-10	EU-25
<b>AFRICA</b>	<i>9.73</i>	<i>38.44</i>	<i>10.42</i>	<i>38.28</i>	<i>11.44</i>	<i>38.32</i>
Eastern Africa	6.47	36.09	5.88	36.47	4.71	39.22
Middle Africa	3.33	28.14	3.33	28.14	4.44	29.63
Northern Africa	25.71	61.90	28.57	62.86	34.29	61.90
Southern Africa	10.00	37.33	10.00	36.00	10.00	33.33
Western Africa	3.13	28.75	4.36	27.92	3.75	27.50
<b>AMERICAS</b>	<i>26.64</i>	<i>54.41</i>	<i>29.21</i>	<i>53.66</i>	<i>31.60</i>	<i>54.06</i>
Caribbean	0.77	18.46	3.08	17.44	3.08	18.46
Central America	7.50	44.17	8.75	43.33	10.00	45.00
South America	18.30	58.33	20.00	57.22	18.33	56.11
Northern America	80.00	96.67	85.00	96.67	95.00	96.67
<b>ASIA</b>	<i>17.39</i>	<i>43.82</i>	<i>19.21</i>	<i>45.79</i>	<i>26.57</i>	<i>49.30</i>
Central Asia	8.00	20.00	10.00	25.33	20.00	26.67
Eastern Asia	30.00	52.22	35.00	53.33	43.33	56.67
Southern Asia	16.67	45.19	14.44	44.44	16.67	51.11
South-east Asia	15.50	46.67	17.27	52.12	19.09	53.33
Western Asia	15.63	55.00	19.36	53.75	33.75	58.75
<b>EUROPE</b>	<i>38.75</i>	<i>68.33</i>	<i>40.42</i>	<i>71.09</i>	<i>47.08</i>	<i>73.89</i>
Eastern Europe	48.33	67.78	46.67	65.55	65.00	70.00
EFTA states	40.00	75.56	40.00	77.78	40.00	77.78
Southern Europe	21.67	42.22	30.00	52.22	38.33	58.89
<b>OCEANIA</b>	<i>7.50</i>	<i>20.97</i>	<i>7.50</i>	<i>20.14</i>	<i>10.00</i>	<i>18.89</i>
Australia/NZ	30.00	70.00	30.00	66.67	40.00	63.33
Melanesia	0.00	11.67	0.00	11.67	0.00	10.00
Micronesia	0.00	0.00	0.00	0.00	0.00	0.00
Polynesia	0.00	2.22	0.00	2.22	0.00	2.22
<b>TOTAL</b>	<b>19.42</b>	<b>44.82</b>	<b>20.76</b>	<b>45.45</b>	<b>24.76</b>	<b>46.61</b>

### Streamlining national representation

This is not to say that budget cuts are irrelevant, although the main question is how Member States respond to these challenges. Importantly, most countries find 'solutions' within their own diplomatic services and thus they

have a *national* character. In places where opening or maintaining a resident embassy is not possible or desirable, a variety of options have developed.

In some situations, Member States deem it desirable to maintain a permanent physical diplomatic presence in a country even though ambassador-level representation is not possible or appropriate. In these cases, a frequently-used option is to have an embassy headed by a *chargé d'affaires*.

This arrangement goes by various names, of which 'embassy office' or simply 'representation' are the most common. The advantages of this option are mainly political - the financial benefits compared to resident embassies are less significant, as there are still considerable costs involved in providing office space, local support staff and security measures.

Another way of maintaining a national presence in third countries is via consulates. Headed by a consul rather than an ambassador, they are subordinate to embassies and their tasks are generally restricted to assisting citizens of the 'sending' state in the 'receiving' state and promoting commercial interests. Consulates ensure some sort of permanent representation, but do not carry the same weight as resident embassies in conducting bilateral affairs. Using them as substitutes for (political) diplomatic representations is therefore questionable.

An alternative to having a permanent and/or extensive physical presence in a third state is to use 'side' (or multiple) accreditations, where a resident ambassador to one country is also accredited to one or more others. This is a cost-effective form of representation, and is often used in conjunction with regional embassies, with one diplomatic mission covering several countries. This can bring important benefits of scale, especially when the sending state's interests are regional rather than country-specific.

Taking this concept one step further, roving ambassadors are accredited to one or more countries but are based in the Ministry of Foreign Affairs at home. They travel to the assigned country periodically, but their office is in the home capital.

Although this approach is increasingly favoured by Member States, one of the main problems associated with these accreditations in general – and with roving ambassadors in particular – is that some receiving states may have reservations about this form of representation, interpreting it as a downgrading of their importance.

## Joint representation in third countries

Many Member States have studied the possibility of enhancing cooperation with other EU members' bilateral embassies, which can potentially yield significant reductions in overhead and infrastructure costs. For the newer Member States, for example, opportunities to ensure some sort of representation through one of the 'old' members abound: in 2006, there were 90 third countries where none of the new EU members was represented; of these, 77 were home to at least one resident embassy of the EU-15.

The term "diplomatic cooperation", as it is often used, is rather ambiguous and masks important differences in the scope and intensity of joint arrangements in third countries. This paper distinguishes between two main levels of local cooperation: the sharing of diplomatic *facilities* and the sharing of diplomatic *capabilities*.

The former includes the shared use of embassy premises (often referred to as 'co-location'), which involves either constructing a new embassy compound together with other Member States or renting office space to other EU diplomats. Other examples include the joint use of communications (i.e. diplomatic bags), security measures, the pooling of information on administrative or practical problems, and mutual material and practical assistance.

Although the number of countries involved tends to differ, successful sharing arrangements to date have been limited to five Member States at most, with the majority of projects involving only two to three partners.<sup>2</sup>

The most ambitious plan, for an EU embassy compound in Abuja, Nigeria, has not produced the intended results. Many Member States have opted out of the project since it was first proposed in 2001, and only four states and the European Commission are currently located in the new compound. The second largest project, in Dar Es Salaam, involves the German and Dutch Embassies, the UK High Commission, the UK Department of International Development and the Commission Delegation. To date, none of the new Member States have participated in these larger projects.

Sharing diplomatic facilities has a number of distinct advantages. Most importantly, it reduces the costs of a (semi-) permanent national presence, for example through lower building costs or moving to less expensive office space in another Member State's mission. Furthermore, in politically

unstable areas, co-location and joint security measures have proved useful to enhance the safety of embassies.

In the case of the Nordic countries, symbolism is just as important as resources. Their joint embassy building in Berlin, for example, mainly has a symbolic function: the embassies' operations are still distinct. Even though this project was initiated with the aim of reducing the costs of representation abroad, the 'common Nordic dimension' in Berlin led to an increase in both financial expenditure and the time spent in joint Nordic meetings. Sharing diplomatic facilities cannot in practice substitute for a national diplomatic presence.<sup>3</sup>

The vast majority of cooperation initiatives concern facilities. Far fewer involve diplomatic capabilities, i.e. the sharing of diplomatic and representative tasks in third countries, for example through the secondment of officials to each other's missions or exchanging political information.

As a substitute for a national presence in the form of a resident mission, only the pooling of diplomatic capabilities can be considered a form of common representation. This requires an explicit agreement between two or more states, such as the Joint Declaration by the UK and France on cooperation in Africa as part of the December 1998 Saint-Malo Declaration.

In this case, the two countries agreed to intensify the exchange of information between local embassies, in particular where one or the other partner was not represented, and to experiment in Ghana (which had no French Embassy at the time) and Côte d'Ivoire (which had no British Embassy) with the possibility of acting on behalf of each other. The experiment was not very successful, as both the UK and France have since opened full separate embassies in the places where they were not previously present.

What defines this type of cooperation is that a Member State is ready to organise some form of representation in a third country where it had no previous presence through another member's resident mission.

Few examples of this type of cooperation can be found, as it has noticeable disadvantages. Apart from obvious concerns about sovereignty, a range of practical obstacles often make the effective sharing of diplomatic capabilities very difficult. Differences in foreign services' administrative procedures, hierarchy and culture are just some of them. Other notorious

stumbling blocks include security protocols and regulations regarding the sharing of sensitive information.

For the Member States which joined the EU in 2004 and 2007 in particular, the importance of waving the national flag should not be underestimated. Having only relatively recently regained independence as actors in the international system, developing a national network of diplomatic capabilities seems to have taken priority in recent years.

### **Implications and options**

How are these experiences relevant for the European External Action Service? The following debating points are a contribution to the discussion on the complex question of how to construct the EEAS in a way that ensures complementarity with Member States' diplomatic representations, helps cement cooperation between them and the EEAS, and thus favours the service's eventual success.

Although often neglected in discussions about institutional competence, trends in national foreign services and diplomacy are key in answering this question. This is significant as Member States could benefit from the service's strengths in much the same way as from EU foreign policy in general. At the same time, careful attention should be paid to developments in national foreign services, as the success of the EEAS may depend on its ability to accommodate these changes.

### **Strengthening common representation**

Some of the expected key benefits of the EEAS lie in its capacity to provide 'EU-made' information to fuel the Union's foreign policy-making. Equally important are the benefits for the EU's external representation resulting from having a single EU 'ambassador' rather than 27 rotating names and telephone numbers. Furthermore, by being able to draw more easily on resources from both the Union's first (Community) and second (CFSP) pillars, the EEAS could boost the coherence and effectiveness of EU foreign policy.

Similarly, the main benefits for most Member States relate to the gathering of information from the field. The availability of 'EU-made' information will give some Member States without representation in that country/region access to material which they did not previously receive.

The gathering of this information is also likely to bring important benefits of scale. Over time, an EU ambassador making enquiries with the host country's Ministry of Foreign Affairs on behalf of the Union is likely to reduce the need for all national ambassadors to duplicate these efforts. When requesting information or conveying the EU position to foreign interlocutors, the EU ambassador is likely to have access to a host state's government at a level that ambassadors of smaller Member States do not routinely enjoy.

### **Maximising capabilities, minimising duplication**

To make the best possible use of the potential strengths of the EEAS and to reduce the risk of duplication, it is imperative to take into account the considerable variation in the range of diplomatic capabilities required by individual Member States in different geographical locations. These fall into three broad categories:

- *Geographical areas in which Member States have relatively little national interest.* Here, the need to maintain a permanent diplomatic representation is often minimal. In these instances, most Member States' diplomatic requirements are limited to gathering general information about developments in the countries in question. Reliance on the EEAS would then be an attractive option. As national policies are likely to overlap with the EU position, the European diplomatic service might suffice to communicate opinions to host governments, perhaps supplemented by the occasional use of regional and/or roving ambassadors.
- *Regions in which Member States take a strong interest, or third countries where national foreign policy has a higher profile.* Here, Member States may wish to ensure a permanent national presence, although this need not always take the form of a resident embassy. The more general information gathered by the EEAS could be complemented by country-specific politico-economic material, perhaps facilitated by national diplomats on the ground. For example, bilateral trade sections and political, cultural, and defence departments could be maintained.
- *Areas and countries in which Member States perceive some of their foreign policy interests to be outside the EU framework, and/or where they have strong bilateral relations and wish to maintain detailed national reporting capabilities.* In these instances, the full spectrum of national embassy functions may be desired, as well as high levels of staffing and the highest

level of security for national information. It should, however, be noted that the number of Member States which have 'special relations' with third parties has not increased greatly in recent years: in fact, the number of special relationships separate and separable from those shared by all 27 EU Member States' diplomatic contacts has actually decreased.

These variations in Member States' diplomatic requirements justify exploring the different scenarios under which the EEAS could develop a useful symbiosis with Member States' foreign services.

### **Scenarios for determining the scope of the network in third countries**

The intended geographical scope of the EEAS network could be expressed in the following terms:

#### *Maximalist versus minimalist*

The *maximalist* approach is based on the premise that the service will (eventually) have staff in all EU missions in third countries. Under this option, the Union would seek to transform all current Commission Delegations into EU Delegations, irrespective of patterns of national diplomatic representation or specific EU foreign policy priorities.

This arrangement was reflected in the Draft Constitutional Treaty and is retained in the Reform Treaty (Art. 188q), and its main advantage lies in taking a consistent diplomatic approach to all third countries. This would help tackle some of the problems currently associated with local presidencies (when a Member State holding the rotating EU Presidency does not have an embassy in a third country, and relies on others which do, to fulfil that role locally).

A *minimalist* approach would mean less universal missions, (perhaps) based on a system of regional hubs and/or filling gaps in the 'coverage' provided by individual Member States. EU embassies would be established to solve the most pressing problems of local representation in countries where only a few Member States are present.

A dedicated EU embassy would relieve Member States of the burden of assuming the responsibilities of local presidency. This would be a significant advantage, as there has been a spectacular increase in the number of such

local presidencies over the past few years and the workload associated with this responsibility can be overwhelming, particularly for missions that only have a small staff.

Conversely, in places where many Member States maintain resident embassies, EEAS staff in EU embassies are much more likely to risk duplicating the work of their colleagues in national embassies. Under these circumstances, it remains to be seen how effective the EEAS can be, especially in its first years of operation. For this reason, the key success stories are likely to be in third countries where few EU members are represented at ambassador level.

#### *Organic versus inorganic*

An alternative rationale for the development of EU diplomatic representation in third countries would be based on substantive foreign policy considerations.

The *organic* approach is based on the idea that the EU establishes missions in the areas where it already has 'heavy' CFSP/external relations commitments, and the establishment of missions is determined on the basis of where the EU is 'deepening' its foreign policy commitments. This approach would mirror the development of existing national diplomatic services, which have established missions where they were needed most.

Conversely, the *inorganic* principle is that the Union decides up-front on a set number of missions it wants (or can afford) and implements this decision accordingly.

### **Role and function of the Union Delegations**

Although the Union delegations are tasked with advancing the implementation of EU foreign policy (and are not intended to replace Member States' representation), they could operate as 'subcontractors' for those which do not wish, or are unable, to have a representation in any given third country.

This would reflect the increasing variance in foreign policy priorities and diplomatic capabilities amongst the Member States outlined above. The number of states in the third group, in particular those with the potentially

greater logistical, human and financial capabilities, has increased only marginally over the last two decades.

By contrast, the number of countries which are more receptive to greater harmonisation of foreign policies and have fewer diplomatic resources has increased. In response to the existence of EU-defined positions on virtually every region in the world, the smaller EU states, in particular, have had to develop a certain amount of 'new' foreign policy towards countries in which they previously had little interest. The pressure for diplomatic representation that this generates begs the question of how the EEAS could help countries seeking further cooperation between national and European diplomatic structures.

Two possible options to structure this cooperation are advanced here: co-location and subcontraction.

### **Co-location**

One of the key advantages the EEAS offers for Member States is the opportunity to explore new approaches to maintaining a representation in third countries amidst changing foreign policy demands.

As outlined above, most EU states prefer to have some form of national representation where possible. Not only has the number of resident embassies proliferated, but Member States have also explored various alternatives to having a resident ambassador. In many places, the EEAS could help cater for their desire for a limited diplomatic presence on the ground while taking advantage of the EU Delegations' activities.

Providing office space in the Union Delegations for a limited number of national diplomats from interested Member States could be useful in a number of cases. These diplomats would not be formally part of the EEAS, but would benefit from its information capacity and local contacts to, for example, provide administrative support to a roving ambassador or as the 'spokes' of a regional embassy (the hub). This would contribute to efforts to rationalise national foreign services.

One of the advantages of this option over current co-location projects is that it would streamline a number of practical issues and produce a 'blueprint' that could be followed elsewhere if deemed desirable.

Many of these projects are fraught with practical difficulties, relating, for instance, to differences in administrative and security cultures. Member States interested in co-locating diplomatic personnel in third countries would no longer have to seek arrangements with different 'hosts', but could benefit from standardised procedures at the EU Delegations.

Potential pitfalls could include the lack of space in Union Delegations to accommodate all the national diplomats interested in having a base there. Not all the current Commission Delegations will be large enough, and creative thinking would be required on the question of whether the current Commission Delegations would be the most appropriate buildings in all circumstances if this option is pursued. One possibility might be for Member States with excess embassy space to accommodate the EEAS on a contractual basis.

### **Subcontraction**

Alternatively, Member States could decide to subcontract their representation in third countries to EU Delegations by signing an agreement that allows the latter to act for them. This arrangement is likely to appeal to states which face resource constraints in running an extensive embassy network in third countries, and/or take the view that they do not have foreign policy interests which extend beyond those already pursued collectively through EU foreign policy.

### **Finding the right model**

Much of the above is predicated on the traditional understanding of the forms and purposes of diplomatic representation in third countries. However, as the EEAS is unencumbered by history, tradition or past practices, it provides an opportunity to reassess the role and function of diplomatic missions in the early 21<sup>st</sup> century.

Yet this, in turn, generates a number of questions that have not been raised so far: to what extent could the EEAS 'outsource' and use IT for efficient information gathering/representation without necessarily having extensive staff in third countries? Might consular-type work, for example, be more effectively conducted by outsourcing it to other organisations? Indeed, should the EEAS organise itself along the lines traditionally associated with

diplomatic representation in third countries? Are there alternative models of organisation and representation that might be borrowed from other contexts such transnational business organisations?

Addressing, if not answering in full, all these questions will contribute significantly to putting the fledging EEAS on the right track.

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## Endnotes

1. The representation coefficient is calculated by dividing the sum of the representations in one geographic region per group (EU-10 or EU-15) by the product of the number of Member States and the number of receiving states. This coefficient denotes the actual degree of 'diplomatic strength' compared to the theoretical situation where every Member State would have a resident embassy in every country in that region. To facilitate the interpretation, the representation coefficient is denoted as a percentage. This percentage does not give any information on the distribution of embassies within a geographic region or within the two groups of Member States, but is particularly well-suited to give a comparison of the trends in global patterns of representation between 'new' and 'old' Member States.
2. For example, the UK and German representations share premises in Astana, Lima, Quito and Reykjavik; the UK and Italy in Minsk; the UK, Germany, France and the Netherlands in Almaty; and the Netherlands and Luxembourg in a number of Central Asian and African countries.
3. In consular affairs this may be a different matter. Estonia, for example, which does not maintain an embassy in India, has ensured representation on consular and trade issues in 2005 through a consular diplomat based in the Finnish Embassy in New Delhi.

## Liaison Groups and EU foreign policy

*By Simon Duke and Stephan Keukeleire*

In the debate about how to improve the EU's foreign policy, the contribution which could be made by using Liaison Groups more frequently<sup>1</sup> – with, of course, the necessary safeguards to ensure that they operate on the basis of consensus – should not be overlooked.

The need for specialisation and a division of labour in EU external relations will become more apparent as the list of challenges that require responses across the different 'pillars' of the Union grows. Above all, a willingness to encourage and foster flexibility will become even more evident in an ever-wider Union which has a single legal personality, but a still predominantly intergovernmental Common Foreign and Security Policy (CFSP).

### **ESDP: a pioneer for the liaison approach?**

The idea of Liaison Groups is not new and has a certain provenance arising, for instance, from the brief history of the European Security and Defence Policy (ESDP). In the case of the ESDP, in fact, it was recognised early on that not all Member States were equally capable of becoming involved or motivated to do so. The ESDP has illustrated the need for a degree of 'flexible pragmatism' whilst retaining the idea of closer integration in foreign policy as a more general goal.

Flexibility in the ESDP context appears in a variety of ways, some more formal than others.

The discussions in the Convention on the Future of Europe on the more formal aspects saw fairly quick recognition of the need for flexibility, epitomised by permanent structured cooperation among those who "fulfil higher criteria and which have made more binding commitments to one another in this area".<sup>2</sup> The Council may also entrust the implementation of a task to a group of Member States which are willing to perform this role and have the necessary capability.

The more general stipulations on enhanced cooperation also apply in this domain. In most cases though, the Constitutional Treaty, and now the Reform Treaty, merely recognise *de facto* developments in the ESDP.

When it comes to less formal modes of cooperation, the implementation of the ESDP also depends upon differentiated effort, as in the case of the so-called 'battlegroups', where it is up to each Member State to decide what contribution to make to generating the necessary personnel and resources. Contributions to individual ESDP missions, as well as to the staff of individual administrative bodies and agencies, also vary.

The best example of voluntary, but differentiated, involvement can be found in the 'framework nation' concept, whereby a particular Member State will undertake to provide the necessary headquarters facilities and – as was the case with the French lead in Operation Artemis in the Democratic Republic of the Congo in 2003 – the bulk of the forces.

Contrary to some expectations, the fact that Member States have different capabilities and national priorities has not led to anarchy. Instead, in contrast to much of the wrangling going on in other EU institutions, the ESDP has evolved rapidly in institutional terms and in practical burden-sharing arrangements. It has also led to tacit recognition that those who are capable of contributing more, and who wish to do so, may occupy positions of particular responsibility (such as the Chairmanships of the EU Military Committee or Staff).

At the same time, increasing efforts have been made to define and agree common standards, to adopt voluntarily binding codes relating to arms and equipment, and to address capability shortfalls.

These have been complemented by a certain degree of specialisation and division of labour among the Member States: as a result, now even the smaller ones are able to provide precious niche capabilities. The European Defence Agency (EDA), which started off in 2004 as a rather loose forum of collaboration on industrial defence aspects of the EU's work, has proved essential in this respect.

### **Applicability beyond ESDP**

Are such forms of standardisation, specialisation and division of labour transferable to the CFSP and, even beyond, to EU external relations more generally?

The flexibility demonstrated in the case of the ESDP is undoubtedly spurred on by the type of solution-based pragmatism demonstrated by the military

and police services. However, the presence of numerous informal intra-EU 'Contact Groups' (such as those on Afghanistan, the Democratic Republic of the Congo, Iran or Somalia) confirms the existence of similar practices in the CFSP and, arguably, strengthens the Union's focus and outreach – provided that any such group enjoys the support of all the Member States.

Moreover, the heavy involvement of seconded national personnel (at the military, police and civilian levels) has a confidence-building effect on the CFSP and, more generally, on EU external relations.

Indeed, the involvement of seconded diplomats in the Policy Unit and their close integration into various aspects of DG E's work in the Council General Secretariat have had an impact both on the *fonctionnaires*, who have gone beyond the traditional remit of the Secretariat, and on the national officials and diplomats themselves, who are now more keenly aware of the need for consensus-building at the European level.

The increasing exercise of national influence in Brussels, alongside the continued status of the CFSP as a distinct pillar (in the Reform Treaty as well), will continue to ensure a sense of national ownership and allay sensitivities about overt 'Brusselisation'.

At the same time, the gradual 'Europeanisation' of national diplomacy is a bulwark against potential (re)nationalisation. In both cases, the various forms of specialisation and division of labour may ensure the necessary degree of flexibility and balance between centralisation and re-nationalisation.

Finally, the implications of specialisation and division of labour in European foreign policy may also have more general applicability. This idea should, in fact, come naturally to *fonctionnaires* working in external relations, since this is exactly what happens between and within the various Directorates-General, including the Commission's External Service.

The prospect of legal personality for the Union, the advent of a High Representative of the Union for Foreign Affairs and Security Policy, and the creation of a European External Action Service (EEAS), are more likely to call for more – not less – specialisation. They therefore demand a carefully thought-through distribution of roles and functions. The relatively short history of the ESDP suggests that specialisation and the division of labour have had a largely positive effect, leading to more – not less – integration.

## Liaison Groups in practice

How can all this be translated into practice? It may be worthwhile to dwell in more detail on the membership, creation and possible functions of a hypothetical EU Liaison Group, as well as its eventual position within the EU institutional framework.<sup>3</sup>

Such groups would consist of 1) the High Representative of the Union for Foreign Affairs and Security Policy (or an EU Special Representative working under his/her authority); 2) a number of Member States that are willing to commit themselves to intensifying efforts on a particular foreign policy issue; and, 3) if relevant, the future Commissioner for Neighbourhood Policy or Development Cooperation.

These Member States have to be willing and able, over a longer period of time, to devote extra energy, attention, money and other national resources to support EU engagement in a specific foreign policy matter (a country, region or issue). They must also be able and willing to step up, coordinate and pool their national efforts to that end, in order to bring added-value to the overall EU approach – and their own too. Membership of such EU Liaison Groups may also change over time, depending on how the requirements of the area in question and the attention of the initial participants evolve.

At the diplomatic and administrative levels, an EU Liaison Group would consist of specialised diplomats or civil servants from the participating Member States, the Council's Policy Unit and DG E, and relevant units from the Commission. In principle, therefore, such a group might well come to represent a quintessential training ground and laboratory for the future EEAS. The Council may also decide to involve representatives of the various military structures or other EU agencies in the Liaison Group's activities.

Diplomats from the participating countries and institutions would not only meet in Brussels, but could also convene and operate in other relevant places, such as in the third country or region dealt with by the Liaison Group; or, for instance, in New York, to coordinate with (and within) United Nations' bodies and in other international organisations.

Liaison Group members would agree among themselves on how to manage their internal activities. There could also well be further specialisation and division of roles among institutions and countries participating in the group,

with different (sets of) actors focusing on specific dimensions of the policy on the given area or issue, depending on their competence and expertise.

EU Liaison Groups can be created in several ways. One possibility – and probably the most logical and natural – is to establish them incrementally and organically from below, based on practical experience and concrete needs, demands and opportunities. This means that an EU Liaison Group on a specific foreign policy matter would gradually crystallise on the basis of closer interaction and cooperation between diplomats and officials from some Member States and the EU institutions.

But another possibility is that political leaders would decide to launch an EU Liaison Group when, at a certain moment, some Member States feel the need to intensify and focus policy on a particular issue, and to promote more extensive pooling and coordination of their efforts and resources – from above, in other words, rather than from below.

In any case, the countries that join Liaison Groups must be both willing and able to strengthen their engagement.

They have to accept the commitment to act in a concerted way, and must possess the capabilities to do so in terms of personnel, financial means and other national assets (for example, diplomatic or military influence, close contacts with the elites in a third country, economic support or leverage, credibility to act as a mediator in a region, adequate peace-keeping forces).

Finally, Liaison Groups would not be established for *all* foreign policy areas, as this will not always be possible, desirable or useful. Indeed, the creation of a particular EU Liaison Group would even be ruled out in cases where there were fundamental differences of interest or approach amongst EU Member States on the issue in question – unless, of course, its creation was intended precisely to help bridge those differences in order to shape a common policy (as is often the case with international ‘Contact Groups’).

As suggested in the ESDP area, a Liaison Group’s function would be to take special responsibility for developing a more intensive, dynamic, coherent and (pro)active common policy on a specific area or issue. This would be done through its support for the preparation, elaboration, implementation and follow-up of EU policy, and the intensification and pooling of the individual efforts and assets of a Liaison Group’s members.

An EU Liaison Group could fulfil this function in different ways, depending on the specific needs of the area or issue. What follows is a non-exhaustive list of possible tasks for such groups:

- supporting the Council, the EEAS, the High Representative (or EU Special Representative) and/or the Commission in preparing new EU initiatives and decisions, and/or in concretising, implementing and ensuring follow-up on EU decisions relating to this area or issue;
- examining, proposing and enforcing measures to strengthen the various dimensions of horizontal and vertical consistency (including between the national policies of the Member States participating in the group);
- pooling group members' efforts more decisively and/or adopting new measures to further the EU objectives in this area or issue – particularly in policy domains where the Union as such has little or no competence or capabilities;
- contributing to the broadening and intensification of political dialogue with third countries or regions;
- allowing the EU to mediate or negotiate more intensively with third parties to promote, elaborate or propose concrete solutions for specific problems;
- facilitating and enhancing coordination with other external actors active in the area or on the issue at stake (other third countries, regional organisations, UN agencies, the Organisation for Security and Co-operation in Europe, the World Bank);
- implementing any other tasks which the Council may assign to the group.

### **Coherence and legitimacy**

To ensure that an EU Liaison Group strengthens – and does not undermine – EU foreign policy, and to dispel distrust of a division of labour and specialisation within the Union, it is essential to clearly define the position of Liaison Groups within the Union's broader institutional, legal and policy framework and to set the perimeters for its work. To this end, three main safeguards should be observed.

Firstly, an EU Liaison Group must respect the principles of the current treaties (including, if ratified, the Reform Treaty), the legislation and other decisions adopted in the context of these treaties, and the competences, rights, obligations and interests of those Member States which do not participate in it.

Secondly, all Member States must remain formally involved in the general policy-making process for the geographic area or policy issue that the EU Liaison Group has been created to address. This also means that the group's scope and activities should not undermine, or rival, existing common policies towards the region or issue in question. The relevant EU bodies should ensure that they are regularly informed about the group's activities and that its functioning does not run counter to the above-mentioned principles and restrictions.

Thirdly, all the relevant EU bodies must ensure that the competent European Parliament committees and inter-parliamentary delegations are thoroughly informed about the Liaison Group's activities and that the group, in turn, takes the Parliament's resolutions, reports and other findings into consideration. Specific hearings could also be envisaged.

The EU Liaison Group could, in fact, provide a flexible setting which facilitates the interplay with parliamentary actors without raising legal disputes and inter-institutional wrangling, and allows the relevant inter-parliamentary delegations to be more closely involved in EU foreign policy.

### **Enhanced cooperation in disguise?**

This paper has considered a number of flexible practices and forms of collaboration that have arisen, especially in the ESDP context.

The ESDP's record, although brief, suggests that flexible forms of cooperation have enabled the EU to act on the international stage without damaging the consensual basis of any such action. These forms of flexibility need to be refined and made subject to agreement between the EU Member States. Furthermore, the various forms of flexibility examined here could be distilled into Liaison Groups which would work on a broad range of EU foreign policy issues.

Although the concept is designed with the possible changes introduced by the Reform Treaty in mind, it is not wholly dependent upon its adoption. In any case, questions arise about the relationship between the Liaison Group concept and 'enhanced cooperation' as applied to foreign policy.

At first sight, in fact, the Liaison Group concept outlined in this paper bears a resemblance to that of enhanced cooperation as applied to foreign policy.

There are, however, also some major differences. For instance, a Liaison Group can be created in a more flexible and informal way, without the long and intricate procedures and the minimum threshold of eight Member States (nine in the Reform Treaty) required for 'enhanced cooperation'.

It also allows the participating countries to act beyond the limits of the EU's powers, as they can agree together on initiatives or measures which commit only them (provided they respect the decisions and policies agreed in common within the Union).

Last but not least, in contrast to enhanced cooperation, the system of EU Liaison Groups is not necessarily a last-resort mechanism: policy fields that are already the subject of a dynamic EU policy can also profit from the specialisation and division of labour in such groups.

It remains to be seen whether the concepts of Liaison Groups and enhanced cooperation can meet and overlap at some point in the future. At any rate, a system of Liaison Groups could materialise in a much less formal way, thus constituting a pragmatic but structured intermediate solution between 'enhanced cooperation' proper and the looser 'clubs' and contact groups that already exist inside and outside the EU institutions.

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## Endnotes

1. The idea of 'EU Liaison Groups' was first launched by the Belgian Minister of Foreign Affairs Karel De Gucht in his speech 'Towards greater effect and appeal – Strengthening EU foreign policy' (Helsinki, 27/10/ 2005) ([http://www.upi-fiia.fi/fin/tilaisuudet/menneet\\_tilaisuudet\\_2005/towards\\_greater\\_effect\\_and\\_appeal/](http://www.upi-fiia.fi/fin/tilaisuudet/menneet_tilaisuudet_2005/towards_greater_effect_and_appeal/)). The label 'EU Liaison Group' has the advantage over the label 'EU Core Group' since it avoids being associated with the existing understanding of a 'core Europe' (which is often perceived as excluding Member States). Another possible label for EU Core Groups is 'EU Contact Group', but this name has an even more negative connotation.
2. The Reform Treaty now refers to Common Security and Defence Policy and not ESDP. The current terminology will, however, be retained for the sake of clarity.
3. For further details, see also: Stephan Keukeleire (2007) 'EU Core Groups after the Reform Treaty – Specialization and division of labour in EU foreign policy', *Working Papers - Leuven Centre for Global Governance Studies*, <http://www.ggs.kuleuven.be/publications/workingpapers/default.htm>

## **The EU Special Representatives: what lessons for the EEAS?**

*By Cornelius Adebahr and Giovanni Grevi*

The work of the EU Special Representatives (EUSR) has not figured prominently in the coverage of EU foreign policy-making and output, let alone in the preliminary exchanges concerning the establishment of the European External Action Service (EEAS). Nevertheless, the experience they have accumulated provides relevant lessons to be fed into the upcoming deliberations on how the EEAS might be designed.

The nine existing EUSRs have represented the Union in no less than 23 countries or territories, and provided information and expertise 'from the ground' to help shape the EU's foreign and security policy.

The first EUSR was nominated for the Great Lakes region in March 1996, followed shortly by the one for the Middle East Peace Process. These appointments reflected the EU's long-standing engagement in conflict management in Central Africa, and conflict resolution in the Middle East. It is also noteworthy that these EUSRs preceded the creation of the High Representative for the Common Foreign and Security Policy (CFSP) and the Political and Security Committee (PSC).

To date, none of the EUSRs' mandates have been terminated, and new ones have been added (Macedonia and Afghanistan in 2001, Bosnia-Herzegovina in 2002, South Caucasus in 2003, and Central Asia, Sudan, and Moldova in 2005). This is a sign of the growing importance of the contribution that they make to CFSP and EU foreign policy at large.

The focus of the EUSRs' work is on security policy and crisis management, but their mandates have expanded over time to include support for peace- and institution-building, and assistance in defining the EU's approach to regions and countries where Union interests are at stake.

EUSRs are appointed by the Council of Ministers to represent the Union and its foreign policies in crisis regions around the world. The legal foundation for their work is a Joint Action based on Article 18 (5) of the Treaty on European Union (TEU), which states

that: “The Council may, whenever it deems it necessary, appoint a Special Representative with a mandate in relation to particular policy issues.”

They are, therefore, an instrument of the Union’s CFSP. From a legal standpoint, however, they have CFSP adviser contracts with the European Commission, to which they are accountable for budgetary matters.

Their tenure in office may vary (and has indeed varied) significantly, between Aldo Ajello’s full decade in the Great Lakes region, to just a few months. The degree to which they rely for practical help on the national ministries they have mostly come from has also differed greatly.

With a view to setting up the future EU foreign service, three dimensions of the EUSRs’ work are of particular relevance:

- at the *policy* level, the scope and variety of their mandates, both in terms of geographical distribution and functional remit;
- at the *institutional* level, their close cooperation with the Council but also, increasingly, with the Commission, both in the field and at ‘headquarters’;
- at the *EU policy-making* level, their pragmatic, learning-by-doing style, interpreting and developing their mandates with a results-oriented approach due to the lack of earlier role models.

These three aspects will be addressed in turn in the following sections.

### **Policy: scope and variety of mandates**

The number of EUSRs has risen from two in 1996 and four in 2001 to nine currently, covering the EU’s major regions of concern, as the table overleaf shows.

In the words of EU High Representative for CFSP Javier Solana, the EUSRs “are the visible expression of the EU’s growing engagement in some of the world’s most troubled countries and regions”.<sup>1</sup> They represent the Union and help implement EU policies (a ‘face’ and a ‘voice’ of the Union), and provide the EU with information and analysis about relevant political and security developments (the ‘eyes’ and the ‘ears’ of the EU).

<b>First appointment</b>	<b>Geographical remit</b>
Joint Action 1996/250/CFSP, 25 March 1996	African Great Lakes region (DR Congo, Burundi, Rwanda, Uganda)
Joint Action 1996/676/CFSP, 25 November 1996	Middle East Peace Process
Joint Action 2001/492/CFSP, 29 June 2001	Former Yugoslav Republic of Macedonia
Joint Action 2001/875/CFSP, 10 December 2001	Afghanistan
Joint Action 2002/211/CFSP, 11 March 2002	Bosnia and Herzegovina
Joint Action 2003/496/CFSP, 7 July 2003	South Caucasus (Armenia, Azerbaijan, Georgia)
Joint Action 2005/265/CFSP, 23 March 2005	Republic of Moldova (including the Moldova-Ukraine border)
Joint Action 2005/556/CFSP, 18 July 2005	Sudan
Joint Action 2005/558/CFSP, 28 July 2005	Central Asia (Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, Uzbekistan)

Moreover, they work closely with the representatives of other international actors – be they countries such as Russia, the United States or regional powers – and international organisations like the United Nations, the African Union, or the Organisation for Security and Cooperation in Europe (OSCE). In so doing, EUSRs contribute to supporting multilateral arrangements for crisis management and resolution.

They also play a significant role in the development of a stronger and more effective CFSP by contributing to policy-making with regular reports to the Council working groups and the PSC. This helps provide a level playing field for deliberation and negotiation in these committees, which may make it easier to achieve consensus on common policy guidelines.

The EUSRs' contribution is especially valued by those Member States (the vast majority) which do not have extensive diplomatic networks abroad and lack information from the field. In other words, they provide 'EU-made' information and intelligence to fuel EU foreign policy-making.

Coordination is another important function performed by EUSRs, with a view to enhancing the coherence of all EU instruments in the field. Their work spans policy areas such as the European Security and Defence Policy (ESDP), the European Neighbourhood Policy (ENP), and enlargement policy, thereby potentially contributing to a comprehensive EU approach towards crisis management and to a more integrated EU foreign policy generally.

Mr Solana has argued that the EUSRs (together with the three personal representatives of the High Representative on non-proliferation, terrorism and human rights) are emblematic of what EU foreign policy is all about: conflict resolution, crisis management, tackling the new security threats and standing up for the EU's values and interests, seeking comprehensive solutions to complex and multi-dimensional problems.

### **EUSRs and ESDP**

To date, military and/or civilian ESDP operations have been deployed in all the geographic areas covered by an EUSR, (except Central Asia<sup>2</sup>), and there has been an appointed EUSR for all geographic areas where ESDP operations have been deployed (except Aceh-Indonesia and Iraq).

ESDP operations and EUSRs are expected to perform complementary functions in the pursuit of shared objectives, with a mutually reinforcing effect. EUSRs are mandated to provide local political guidance to civilian ESDP missions and, when need be, can address sensitive political aspects of ESDP missions with the local authorities.

Increasingly, EUSRs have also been called upon to coordinate the work of different ESDP actors when more than one mission has been deployed on the ground. While cooperation has not always been smooth, the interplay between ESDP missions and the EUSRs has, on balance, enhanced the overall effectiveness of EU crisis management.

### **EUSRs and ENP**

The ENP applies to countries like Moldova, Armenia, Azerbaijan, and Georgia, as well as Israel and the Palestinian Territories. It is a Community policy designed and implemented by the Commission, but EUSRs can make an important contribution to fulfilling the objectives of the ENP Action Plans concluded with each partner country.

The experience in the South Caucasus and in Moldova shows that the Commission and the EUSR have devised original formats to cooperate and enhance respective priorities in the pursuit of common objectives. Mutual consultation took place during the negotiations on the Action Plans, and the Action Plans for the three countries of the South Caucasus provide for the EUSR to assist the relevant bodies with the implementation of the plan itself. In the case of Moldova, the mandate of the EUSR provides that he should maintain an overview of all EU activities, notably the relevant aspects of the ENP Action Plan.

Examples of how this has fostered constructive cooperation in practice include the field mission which took place across the South Caucasus in January 2007, involving the EUSR and his team and a number of Commission officials, to address the problem of frozen conflicts; and the interplay between the EUSR team and Community actors on border management and other aspects of security sector reform in Moldova.

### **EUSRs and enlargement**

In countries like Bosnia-Herzegovina and Macedonia, which have an EU membership perspective and candidate status respectively, the main focus of EU engagement is on easing the transition towards accession. The more advanced the transition process, and the more stable the security situation, the more relevant the role of the Commission and the less central the position of the EUSR.

However, given that transition is still under way in both countries, cooperation between the EUSR and the Commission is crucial to help them stay on the reform path. The different stages each is at in the EU enlargement process also account for the differences in the configurations of the EUSR's post.

Interestingly, both these EUSRs wear more than one 'hat'. In Bosnia-Herzegovina, where security concerns are more prominent and the coercive powers foreseen in the Bonn Statement of the Peace Implementation Council (PIC) may need to be used, the EUSR is double-hatted as High Representative for the international community.<sup>3</sup> In Macedonia, the Commission's Head of Delegation has been double-hatted as the EUSR.

### **Institutions: cross-pillar cooperation**

The EUSRs are closely linked to all three major players in EU foreign policy – the Council, the Commission and the Member States – in all phases of their work.

They are nominated by the Council following a selection procedure involving the Council Secretariat, the High Representative's *cabinet* and Policy Unit, and the EU Presidency on behalf of the Member States. Once appointed, they conclude a contract with the Commission to become Special Advisers for CFSP. As such, they are responsible to the Commission for the budget allocated for their missions.

EUSRs receive operational guidance from the High Representative, and strategic guidance from the PSC. Over the last few years, regional task forces including staff from the Council Secretariat, DG E, the Policy Unit, and the EUSR teams have been set up to ensure a more coherent and effective approach to crisis management. These task forces are supposed, among other things, to provide EUSRs with regular policy input and the Commission participates directly in some of them, enhancing joint policy-making across the different pillars of the Union.

There has also been progress in fostering cooperation between EUSRs, the Commission and Member States in the field, although considerable obstacles have had to be overcome and much scope is left for improving coordination.

Whether they are based in their country of responsibility (Bosnia-Herzegovina, Macedonia, and Afghanistan) or fly into their region from Brussels (all other EUSRs), the respective Heads of the Commission Delegations are a primary contact for the EUSRs. These Delegations usually provide office space for travelling EUSRs and for their advisers in the field. In third countries, EUSRs hold regular meetings with Member States' Heads of Mission as well.

That said, more could be done to promote the exchange of information, joint political assessment and common *démarches* between the EUSRs and national missions. Steps have been taken towards achieving this goal, such as requiring them to submit joint reports, and the meeting of all EU Heads of Mission in Central Asia which took place in autumn 2006 in Astana (Kazakhstan) and is now due to be held on an annual basis.

Maintaining close contacts with both Commission and Member States is essential for EUSRs to maximise the impact of EU foreign policy and crisis management in difficult areas. The economic incentives provided under the first (Community) pillar need to be combined with the political leverage exercised through the second (CFSP) pillar.

A particular instance of such cross-pillar cooperation is the 'double-hatting' which has occurred for the first time in Macedonia, with the same person fulfilling the roles of EUSR and Head of the Commission Delegation.

This innovation was introduced for two main reasons: first, to achieve greater coherence between the first and second pillar, and provide fewer opportunities for third parties to play one EU actor against the other; and, second, in recognition of the new stage of transition the country entered into in 2005. On the one hand, it was felt inappropriate for an ESDP mission to be deployed in a candidate country. On the other, establishing a double-hatted EUSR reflected the Union's strong political commitment to address residual tensions in the country and push the reform programme forward.

The experience in Macedonia has shown that such double-hatting can work in practice, although the specific configuration of future double-hatted positions will depend on circumstances on the ground. There seems to be consensus that more integrated forms of EU external representation, including double-hatting, could be applied in Addis Ababa, at the EU representation to the African Union and, over the medium-term, in Bosnia-Herzegovina, when the time is ripe for closing the Office of the High Representative of the international community.

### **EU logic: learning by doing**

A third reason why the EUSRs' experience could feed into the new EU foreign service is that EUSRs were not developed on the basis of any pre-existing model. Neither the United Nation's Secretary-General's Special Representatives nor national special envoys served as a template for their development. Instead, much of this development has resulted from the learning-by-doing approach that is symptomatic of the overall advancement of EU foreign policy.

The first two EUSRs had to perform their functions in a relative political and institutional void. Later, when CFSP institutions such as the High Representative and the PSC were introduced, the EUSRs were still somewhat disconnected from the institutional mechanisms and structures in Brussels. Only with the increase in their numbers and, in parallel, the growing importance of their mandates, did they become more integrated into the Brussels foreign policy machinery.

At the end of 2006, important innovations were introduced to this effect, framing the work of the EUSRs more firmly within the wider system of EU foreign policy-making.

While the EUSRs pioneer foreign policy abroad, it is very important for the success of their missions that they develop an in-depth understanding of the Brussels institutional machinery and of the respective positions of the Member States. They need to strike a balance between their own autonomy and initiative, regular exchanges with 'headquarters' in Brussels, and consensus-seeking among Member States. This delicate balancing act will be a central feature of foreign policy-making under the new EEAS. Pragmatism and political good sense in daily practice will count as much as the formal architecture of the new service.

A certain degree of flexibility will surely be required in setting up the EEAS – itself an unprecedented undertaking – and in defining the place of the EUSRs in the new structure. Their role will largely depend on the precise features of the EEAS, which can hardly be anticipated and will probably be established progressively. On the whole, EUSRs are likely to be subsumed in the new EEAS.

In this respect, two main points are worth highlighting in relation to the ongoing debate.

First, field-based EUSRs, whether double-hatted as the Heads of Commission Delegations or not, will largely be replaced by the Heads of the new, integrated Union Delegations. As such, they can be regarded as transitional tools. Their role of representation, reporting and coordination will naturally fall within the remit of the new service.

Second, EUSRs could still be appointed within the new service on an *ad hoc* basis with a view to addressing specific issues which may fall, essentially, in one of two baskets: *geographic* and *functional*.

EUSRs could be mandated, as they are today, to tackle crises requiring urgent intervention or to sharpen the EU strategic approach to pivotal global regions. They could also be asked to address questions of a horizontal, functional nature (such as non-proliferation, new epidemics and terrorism). From this standpoint, the distinction between EUSRs and the Personal Representatives of the High Representative might well be overcome.

Last but not least, the creation of new EUSR posts should not duplicate the work of the envisaged EEAS, so as to minimise confusion and avoid turf wars.

## Conclusion

By enhancing the synergy between the instruments and resources available to the EU, and by gradually proving their usefulness to Member States, the EUSRs have developed into a relevant foreign policy tool. Their achievements, as well as the system's shortcomings, should inform the process of establishing the EEAS, notably in relation to the question of coherence at both the institutional and the policy level.

The EUSRs have provided the Union with effective representation in more than 20 crisis-ridden countries located in regions of most direct relevance to the EU. The continuity of their presence and the visibility of their engagement have contributed to raising the Union's political profile in these regions, although a lot is yet to be achieved in this respect.

The EU Special Representatives embody the Union's approach to comprehensive crisis management, which is regarded as one of the hallmarks of European foreign policy. They also provide valuable information, intelligence and analysis not only for those Member States that do not have an embassy in a given country or region, but also for the EU as an international actor in its own right.

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## Endnotes

1. Opening remarks by Javier Solana, Seminar with EU Special Representatives, Brussels, 29 June 2005.
2. EUBAM Moldova is not an ESDP mission but is a crisis management mission working in very close cooperation with the relevant EUSR.
3. See the PIC Bonn conclusions, Bonn, 10 December 1997, Article XI.2.

## The 'how' of the EEAS: variables, priorities, timelines

*By Julia Lieb and Andreas Maurer*

The new Reform Treaty takes on the institutional changes contained in the failed Constitutional Treaty, including the provisions relating to the Union's external action.

The implementation of two innovations, in particular, is expected to represent a major step towards a more coherent EU 'foreign policy': the creation of the new post of High Representative of the Union for Foreign Affairs and Security Policy (combining the jobs of the current High Representative for the Common Foreign and Security Policy and the European Commissioner for External Relations) and of a European External Action Service to support the holder of this post.

The broad terms of the Constitutional Treaty left ample room for interpretation and further negotiation, and the Intergovernmental Conference (IGC) transferred those provisions into the new Reform Treaty without any significant changes. This means that the task of addressing the most intricate questions related to the creation of the EEAS has been left to subsequent negotiations between the relevant actors.

Given the existence of different diplomatic patterns and practices across the EU – and conflicting visions of the concrete shape and scope of common diplomatic action – a wide range of sensitive questions are bound to arise at different stages in the implementation process. Indeed, the seven months of preparatory work in 2004-05 between the signing of the Constitutional Treaty and the French and Dutch referenda which consigned it to the deep freeze, already revealed some areas of potential tension.

To prevent the EEAS from being undermined at the outset by the diverse bureaucratic interests and political views of the main players, areas of potential tension should be identified and discussed at an early stage.

To this end, an advisory group – including not only representatives of the Member States, the Commission and the Council Secretariat, but also the European Parliament and selected external experts – could be set up to develop a 'master plan' for the creation of the new service. Such a group could work to resolve potential disputes over the conflicting interests of the

main actors at an early stage, and help to draw up a viable roadmap and a coherent template to drive the process.

At the same time, measures to improve the Union's external action within the existing legal framework – which is bound to remain in place until at least 2009 – could be considered as a means both to enhance current European foreign policy and facilitate the implementation of the new provisions.

### **Towards a European foreign service**

The treaty provisions for establishing the EEAS are clear on one point: the double-hatted High Representative will be mandated to act as the cornerstone and linchpin of the Union's new 'foreign policy' and will be able to rely on the support of a qualitatively new body.

Article 13a-3 of the Reform Treaty states that: "In fulfilling his or her mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States."

There are, however, no guarantees that this will result in a more coherent, consistent and integrated European foreign policy. The expected consolidation of its three key elements – the European Community's external dimension, the Common Foreign and Security Policy proper, and national foreign policies – provides an opportunity, but not a cast-iron guarantee of more horizontal and vertical coherence in the Union's external representation and action.

A clash of diverging objectives is still possible, since the Treaty provisions are a somewhat unstable compromise between different and sometimes diverging methods and concepts of EU foreign policy-making.

Representatives of both national governments and the EU institutions will remain reluctant to open the EEAS dossier before the Treaty ratification process has been (successfully) completed. As in 2004-05, however, a first (re)assessment of the situation could be made in small circles and closed sessions.

But where exactly do the areas of potential tension lie?

## Institutional arrangements

The institutional arrangements arguably represent the most sensitive issue (along with the question of financing, which has hardly been addressed so far).

Preparations will have to begin on the basis of the political *'acquis'* reached during the 2004/2005 negotiations between the Council Secretariat and the Commission. According to the last Progress Report (see Annex 2), it was agreed then to establish a service *"sui generis"* (i.e. a new type of body unlike anything that has gone before), and one "(...) with close links to both the Council and the Commission".

Yet there is an evident conflict between the Commission and Council Secretariat concerning the precise institutional setting. This question is expected to come up again as both strive to preserve their respective structures and competences.

The Commission, with its specialised Directorates-General and widespread network of delegations, fears some kind of intergovernmental 'contamination', a combined re-nationalisation of integrated foreign policy structures and finding itself being transformed into a technical supporting body.

The Council Secretariat is focusing on the development of its comparatively small Policy Unit and enhancing its own pivotal role in formulating foreign policy goals, encompassing the full spectrum of EU capabilities. For their part, the Member States are split along various lines, reflecting in part their different understanding of European integration and in part, also, specific national and bureaucratic interests.

Clarification of the institutional configuration is essential for the development of the EEAS, with important consequences for the new service's structures and hierarchies. This also applies to the operational level of EU foreign policy-making, and the question of the competences and functional instruments of a common diplomatic service. The Progress Report remains vague on this point, mentioning only a common will to avoid duplication and bring together at least the Council's DG E, its Policy Unit (possibly including the military structures), and the Commission's Directorate-General for External Relations (DG RELEX).

Because of these potential conflicts, the question of the links between the EEAS, the Council Secretariat and the Commission needs to be addressed,

bearing in mind the principle of coherence, only briefly alluded to in the Constitutional Treaty. Given that even in the early stages of the foreign policy cycle, the coherence of the Union's external action can only be established through an intensive interlocking of related policy areas, a close relationship or even a symbiosis between the EEAS and the Commission should be considered.

Given that the Union's external relations are anyway affected by the work of almost all the Commission's Directorates-General, the EEAS and Commission need to engage in a process of mutual (internal) consultation.

### **Staff rotation and training**

The Progress Report is also vague on the question of secondment and rotation of staff. There is consensus only on the following points: regular rotation of staff; no quotas to govern the nationality of the personnel, but adequate representation and geographical balance; equal status for all members; nomination on merit; and appropriate selection procedures.

Attention needs to be focused in the preparatory phase on preventing the emergence of a 'core' and a 'periphery' within the EEAS; i.e. a creeping administrative separation and hierarchy between the Brussels-based EU institutions and national foreign ministries. This is why the modalities to be adopted for the rotation of staff will be crucial.

Similarly, if one of the goals of the EEAS is the gradual creation of a European diplomatic *esprit de corps*, a degree of standardisation in training and career planning will be essential at both the national and European level. In other words, 'Europeanisation' must occur not only in the specifically EU-related sections of national foreign ministries, but also in other foreign ministry departments and other internationally-oriented ministries. Additional efforts should also be made in all Commission Directorates-General to spread the specific knowledge and 'culture' of foreign affairs and diplomacy.

In the short term, existing programmes and bilateral initiatives should be further developed. In the longer term, however, an integrated concept needs to be elaborated. To date, the idea of a European Diplomatic Academy has not been approved by Member States, not even in the 'virtual' and decentralised format already adopted for the European Security and Defence College.

## Delegations and bilateral embassies

The 2005 Progress Report conceives of the current Commission Delegations as an “integral part of the EEAS”. However, not all the Delegations’ staff would have to be members of the EEAS. A constellation similar to that of bilateral embassies – i.e. the integration of experts from other governmental departments – could be envisaged.

Another important question concerns the future relationship between the upgraded EU Delegations and national embassies in third countries. This is a crucial issue, as it will have an impact on future European diplomatic actions towards third parties, and the Progress Report indicates that it will require “detailed examination”.

While a single template applicable to all cases hardly seems realistic, some clarification of the possible forms of cooperation and the division of labour would be welcome. In this context, the field of consular affairs and visa delivery could open up interesting perspectives and generate spill-over effects in other, and more political, spheres of diplomacy too.

## A master plan for the EEAS

A convincing implementation scheme for the development of the EEAS would help resolve the obvious conflicts of interest between the various players and concentrate minds on reaching a shared and mutually beneficial goal.

The task of elaborating such a scheme could be given to an *ad hoc* advisory group, arguably modelled on the one set up by former Commission President Jacques Delors in 1989 to prepare the roadmap for monetary union. This new group, tasked with putting together a multi-stage development plan for the EEAS, should include representatives of the Member States, the Commission, the Council Secretariat, the European Parliament, and selected experts with some experience of government and policy-making in international affairs.

It would not replace the technical bodies expected to negotiate on the more technical arrangements, but would help widen the discussion beyond the restricted circles of Brussels-based officials and inject a greater sense of urgency into the drive to enhance the EU’s effectiveness on the world stage, going well beyond the administrative hurdles the creation of the EEAS will inevitably face.

The group could be chaired by a renowned personality – a European ‘elder statesman’ of the calibre of former External Relations Commissioner Chris Patten or former Finnish President and United Nations mediator Martti Ahtisaari – who would give further authority to its proposals, and its final report could be presented to the European Council in the first half of 2008. It should not aim to establish the final shape of the EEAS once and for all, but rather to develop a flexible step-by-step scheme, including alternative options and specific recommendations.

This process could be divided roughly into three phases.

In *Phase 1* – to be concluded by 2009, when the Reform Treaty is expected to come into force – the emphasis should be on the coordination of the existing ‘branches’ that contribute to the elaboration and execution of EU ‘foreign policy’. Existing coordination and communication systems should be assessed, streamlined and made ever more compatible with one another.

In this context, offering uniform training for all the officials rotating into the service and preparing them to work together in a coherent manner would be key priorities. More specifically, it will be essential to prevent the (more or less deliberate) formation of a two- or three-tier EU foreign policy administration.

In order to secure acceptance of the EEAS in Member States, it will be important to avoid the impression that the new structure will effectively consist of a ‘core’ of officials from the Commission and Council Secretariat and a ‘periphery’ of seconded national officials. Training periods for officials from the Member States should therefore be designed with a view to facilitating their rapid insertion into the EEAS, and secondments should be for a minimum of three to five years.

During Phase 1, consideration should also be given to establishing a common Diplomatic Code of Conduct which would be binding on all staff assigned to the EEAS. As is the case with Commission officials today, this Code would forbid them taking instructions from a government, private industry or any other source. While no major problems have emerged in this area so far, it may be appropriate to begin formalising the *modus operandi* of the EEAS if the goal remains to establish a *sui generis* administration. At this stage, however, a simple ‘mission statement’ could well suffice.

By the end of *Phase 2*, in approximately 2012 (towards the end of the period covered by the EU's current 2007-13 Financial Perspectives), the strategic coordination capacities under the leadership and responsibility of the new High Representative should have been developed to such an extent that the EEAS could be tested and evaluated in selected 'pilot representations'.

The goal of Phase 2 should be for the EEAS to collect a number of experiences of common foreign representation in the field, which would then be subject to an evaluation agreed to by all the Member States; and, subsequently, to develop general as well as policy-, case- and region-specific common operating procedures and standards. Needless to say, this would also apply to the financial underpinning for the EEAS to be incorporated into the new EU budget post-2013.

*Phase 3* could be concluded by 2015 or shortly thereafter. By then, the indicators for reaching 'critical mass' in the EEAS will have been established following the experience and the assessment made in Phase 2, taking into consideration *two* rotations in the fledgling new structure.

Towards the end of this third phase, some 'codification' of previous practice into a formalised set of procedures for the EEAS - training and recruitment, a Code of Conduct, internal procedures, lines of accountability, staff rules and budgeting – should occur. A more robust option would be a formal Council decision whereby the institutions (both at Member State and EU level) which send officials to the service 'renounce' their right to give them instructions.

In this context, some sort of EU-wide homogeneous system of career incentives and rewards should also be adopted for all officials rotating into (and out of) the EEAS: a system aimed at both preventing the development of a multi-tier service and promoting a shared, and increasingly 'Europeanised', diplomatic culture and *esprit de corps*.

### **Progress within the existing legal framework**

There are already some options available that could deliver a more coherent and consistent foreign policy through pragmatic adaptations and incremental reforms on the basis of the existing treaties and related secondary law.

These include informal measures for optimising the day-to-day business of European foreign policy; instruments for streamlining established EU foreign policy practices and structures; improvements in terms of consular arrangements; the development of common training structures; and better practical cooperation between Member States.

In summary, these options could be considered as a means both to improve the Union's external actions and to facilitate the implementation of the new provisions of the Reform Treaty. Below are a few examples of how this could be done.<sup>1</sup>

Improving existing reporting and analytical capacities in the broader domain of 'foreign policy' does not require any change to the Treaties, and is badly needed. In particular, joint reporting and analysis by Council and Commission bodies and officials could – and should – be further developed.

A promising, but relatively isolated, precedent was established with the March 2006 Report to the European Council on a 'common external energy policy'. Commission Delegations in third countries, regional desks in the Council Secretariat and DG RELEX, and EU Special Representatives could well start cooperating on a more systematic production of joint papers on matters relevant for the preparation of decisions, especially those with imminent operational implications.

Press statements and *communiqués* on foreign policy issues made by individual Commissioners, the Office of the current High Representative and the rotating EU Presidency should be better coordinated, with a view to ending the current situation where separate declarations are often issued on the same subject by two or three EU bodies.

Whenever different EU players are working together on a given policy issue, the objective should be to speak with one voice and, therefore, to produce *joint* statements. The reporting, analysis and generation of statements could be improved through enhanced mutual involvement in procedures and decisions taken by both Council and Commission officials at different administrative levels.

The current practice of exchanging personnel – between Member States bilaterally, between some Member States and the Council Secretariat,

and through secondments to both the Council and the Commission – could be intensified and extended. The differing priorities and guidelines in individual Foreign Ministries should not hamper the creation of a more widespread diplomatic network across the Union and within Brussels itself. Those countries that have gone furthest in developing exchanges and staff secondments could be looked at as cases of best practice – and appropriate incentives offered to others to encourage them follow these examples.

Last, but certainly not least, there could be recourse to ‘double-hatted’ representatives in third countries and regions relevant to EU foreign policy. This institutional innovation – already in place in the Republic of Macedonia and planned for the Union’s representation to the African Union – could be further intensified and extended.

This is a very sensitive question in both institutional and political terms, and must therefore be handled with care and flexibility. But it could prove a crucial testing ground for the future development of the EEAS.

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## Endnotes

1. Several reports and papers include a variety of reform options: ‘Stocktaking report on measures to increase the effectiveness, coherence and visibility of EU external policies’, Council of the European Union, 13 June 2007 (8909/07); ‘Stocktaking Report on the implementation of measures to increase the efficiency, coherence and visibility of EU external policies and future work’, Council of the European Union, 8 December 2006 (16419/06); Non Paper of the Finnish Presidency, ‘Checklist of measures to increase the efficiency, coherence and visibility of EU external policies’, July 2006; European Commission ‘Green Paper on diplomatic and consular protection of Union citizens in third countries’, 28 November 2006 (COM(2006) 712 final – Official Journal C.30 of 10.02.07); Communication from the Commission to the European Council, ‘Europe in the World – Some Practical Proposals for Greater Coherence, Effectiveness and Visibility, 8 June 2006 (COM(2006) 278 final).

## **Towards a European Foreign Service: conclusions and recommendations**

*By Graham Avery*

The preceding sections of this Working Paper reflect some of the ideas and views expressed by participants in the EPC's Project Group on the European External Action Service in May-July 2007. Although these contributions do not represent a common viewpoint, they illustrate a number of converging themes of the Group's work.

### **Need for good planning**

In the first place, the Group agreed that implementation of the Reform Treaty's 'new architecture' requires a great deal of careful planning. Although the Treaty provides basic guidelines for the creation of the High Representative/Vice-President and the European External Service, many questions – both practical and political – remain to be resolved before the new person and the new service can be operational.

The Reform Treaty still has to be signed, and then ratified by EU Member States. Members of the Group expressed the hope that the signing ceremony would take place before the end of 2007 (the Constitutional Treaty was signed three years ago on 29 October 2004) and that the Treaty will enter into force in 2009 (before the elections to the European Parliament in June 2009).

The ratification period, which is likely to last about 12 months, should be used intensively for planning the new service. Although the preparatory work conducted in 2004-05 by the High Representative and the Commission (see their Joint Progress Report of June 2005 in Annex 2), provides a basis, many key issues still need to be resolved.

### **Improved effectiveness for European foreign policy**

The Project Group was unanimous in considering that this reform offers a real chance to improve the effectiveness of Europe's actions in the world. They noted that in the many debates which took place on the Constitutional Treaty, at national level and in the European framework, the 'foreign affairs' component of the Treaty met with few objections.

Whatever the reasons for the 'No' votes in the referenda in France and the Netherlands, the prospect of an EU Minister for Foreign Affairs was not a significant factor. Opinion polls in the Member States have consistently supported joint decision-making and joint action by Europeans in the field of foreign affairs, and recent global developments have strengthened the case for improvement. This is an area where institutional reform can help the EU to deliver what citizens want.

In light of this, it is not surprising that the provisions of the new Treaty in the field of foreign affairs are practically identical to those of its predecessor.

The only change that has been made in the text of the Treaty – and it is a change of name, not of substance – is that the title “Union Minister for Foreign Affairs” becomes “High Representative of the Union for Foreign Affairs and Security Policy”. While the new name is worse than the old one from a linguistic point of view (and it makes a horrible acronym), it is an improvement in the sense that the term ‘Minister’, borrowed from the vocabulary of the nation state, suggests that the EU is developing in the direction of a super-state.

## **A pragmatic approach**

The members of the Group shared a realistic approach to the future arrangements for EU foreign policy: the implementation of the ‘new architecture’ will be an occasion for practical reform, not radical transformation.

It would be wrong to imagine that this reform will eliminate the duality of the two ‘pillars’ that presently characterise the EU’s activity in foreign affairs: the distinction will remain between the ‘intergovernmental’ approach which provides the framework for the Common Foreign and Security Policy and the ‘supranational’ approach which underlies the Community instruments of foreign policy.

Under the new Treaty, the two pillars will continue to co-exist, particularly at the level of decision-making, where, normally, CFSP matters will be decided by Member States unanimously in the Council of Ministers, without the European Parliament, while Community affairs will be decided by majority vote in the Council, on a proposal from the European Commission and after consulting the Parliament.

In this sense, the Declaration attached to the new Treaty obtained by the British government is correct in saying that “the provisions covering CFSP do not give new powers to the Commission to initiate decisions or increase the role of the European Parliament”.

But, equally, it would be an error to suppose that the new arrangements will make no difference to the functioning of the EU. Although the pillars will remain, the object of the reform is to bring them closer together, so that the different instruments complement each other and form part of a coherent overall policy.

Upstream and downstream – that is in the formation and execution of policy – there is plenty of scope for more coherence in European decision-making. Our partners in the rest of the world generally want the EU to speak with one voice and act more coherently; they are not much interested in understanding the difference between the pillars, except in situations where they can exploit it.

So the implementation of the new structures needs to be more than a superficial rearrangement of names and titles, without a serious effort to draw the pillars closer together in a more coherent framework. That would be an opportunity lost.

## **Recommendations**

Against this background, I was asked by the Group to summarise, in the light of its work, the recommendations which can be made at this stage. The following points represent a convergence of views among members of the Group, although not all its members – particularly those from the EU institutions – were in a position to endorse them.

### **1. Begin preparations soon**

Preparation for the creation of the European External Action Service should re-commence as soon as the Reform Treaty is signed. The High Representative and the European Commission should resume the work which they suspended in May 2005. The Member States should be more closely involved than in 2005, and the European Parliament will also wish to express a view, particularly since the new service will have to be set up in accordance with the EU’s budgetary procedures.

## **2. Provide information on progress**

Although this kind of preparatory work cannot be conducted in public, there should be adequate provision for transparency, in view of the importance of this issue for European citizens and the European Parliament's interest. The High Representative and the Commission President should produce an interim report on the state of preparations during the first semester of 2008.

## **3. Make a reality of 'double-hatting'**

Although the Treaty will not eliminate the two 'pillars' of EU foreign affairs, particularly at the decision-making level, it should bring them closer together both upstream (in the conception and development of policy) and downstream (in the execution of policy and the representation of the Union). That is the reason why the High Representative/Vice-President has a 'double hat', and this objective of coherence should be reflected in the design of the EEAS.

## **4. Include adequate personnel**

The new service should include adequate personnel – in quantity and quality – not only from the EU institutions (the Council Secretariat and Commission) but also from Member States' own diplomatic services. Satisfactory participation by Member States as 'stakeholders' in the service will be a pre-requisite for its success.

## **5. Avoid duplication**

Duplication between the new service and other services of the EU institutions should be avoided (for example, its geographical 'desks' should not be duplicated in the Council and Commission). The EEAS should not be a 'third wheel', adding to the complexity of the Brussels machinery; instead, it should assume a number of tasks presently undertaken by Council and Commission, and execute them more effectively.

## **6. Define the tasks**

To function correctly, an organisation needs a clear mandate. But the Treaty's provisions concerning the EEAS are imprecise. A mission statement should be drawn up to define its functions, both at headquarters and in relation to the new Union Delegations in non-Member States.

### **7. Ensure commencement on time**

The new service should be ready to begin its principal activities the moment the Reform Treaty comes into force (in January 2009, assuming the ratification process is completed successfully), or at the latest by the time the next Commission begins its mandate (which is scheduled for November 2009).

### **8. Provide for development**

It will not, however, be able to perform all its potential tasks immediately. The decision on its creation should include an evolutive clause to allow the EEAS to develop smoothly and gradually over a period of time, taking account of experience acquired and the need for adjustments. For example, after the new service has been created, the possibility of assuming some kinds of consular activity should be considered.

### **9. Give priority to training**

The new service should have high professional standards: members of the service coming from the European institutions should fully understand diplomatic practice, and those coming from national diplomatic services should fully understand the EU. One of its priorities should be to create a capacity for training in European diplomatic affairs.

### **10. Take action now**

To facilitate the creation of the new service, interim measures should already be undertaken by EU institutions and Member States now – for example, on the lines proposed by the European Commission in June 2006 (with the Communication ‘Europe in the World’). The prospect of the new service coming into existence should accelerate (not delay) better cooperation between the services of Council Secretariat and Commission.

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## **Executive summary**

The Reform Treaty provides a new institutional framework for the conduct of the EU's "foreign policy". It basically includes all the relevant provisions previously enshrined in the ill-fated Constitutional Treaty, including the appointment of a 'double-hatted' High Representative of the Union for Foreign Affairs and Security Policy (as the "Foreign Minister" has been renamed) and the establishment of a European External Action Service (EEAS) to assist him.

With the negotiations over the precise shape of the latter due to start immediately after the new Treaty is signed, this Working Paper tries to provide an analytical background and a few ideas aimed at framing the debate and offering viable solutions.

It examines the current state of affairs, both at the Brussels 'headquarters' and in third countries; and explores some possible avenues for both a more effective conduct of 'foreign policy' in a 27-strong Union and a better use of existing tools and norms.

In addition, it draws up a roadmap, a timeline and a few guiding principles for the establishment of the EEAS itself – in the hope of helping to prevent the coming months from becoming a period of internal confrontation over competences and bureaucratic infighting, to the detriment of the actual implementation of a (more) common policy vis-à-vis the outside world.

## Annex 1

### 'Towards a European Foreign Service' Project Group

#### List of participants

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November 2007

## **Annex 2**

### **9 June 2005: Joint Progress Report to the European Council by the Secretary-General/High Representative and the Commission**

1. The European Council at its meeting on 16-17 December 2004 invited the Secretary-General/High Representative and the Commission to prepare a joint progress report on preparatory work on the European External Action Service for its meeting in June 2005 at the latest.

#### **Introduction**

2. Following the signature of the Constitutional Treaty in October 2004, preparatory work on the European External Action Service (EEAS) was undertaken by the Secretary-General/High Representative and the Commission as well as the Member States. The High Representative and the President of the Commission circulated a joint issues paper which served as the basis for a first round of discussions with Member States in COREPER on 10 March 2005.

3. The Presidency, together with the Council Secretariat and Commission, then carried out bilateral meetings with all Member States between 27 and 29 April, and also subsequently with Romania and Bulgaria. A collective stocktaking of these bilateral meetings took place in COREPER on 12 May. This report has been drawn up on the basis of the joint issues paper and these discussions.

4. In parallel, discussions have begun among Member States on a number of technical aspects: the legal status of the EEAS, personnel issues, budgetary questions, administrative functions and the management of Union Delegations. Six meetings have taken place on the basis of a number of papers drawn up by the Council Legal Service and the Commission services. Some preliminary orientations have emerged as a result of these discussions, as reflected in paragraphs 14 and 15.

5. The European Parliament also had a debate on the EEAS in plenary session on 11 May, after preparation in the relevant Committees, and subsequently adopted a resolution on this subject on 26 May.

## The form and functions of the EEAS

6. The joint issues paper from the High Representative and the President of the Commission indicated that the EEAS should be a service of a “*sui generis*” nature. There is broad consensus among Member States in support of this approach, which would mean that the EEAS would not be a new “institution”, but a service under the authority of the Foreign Minister, with close links to both the Council and the Commission. For a large number of Member States, the EEAS could use support functions carried out by the General Secretariat of the Council and/or the Commission. Indeed some see this as an important factor in minimising duplication and saving costs.

7. All Member States underlined that the purpose of the service was to assist the Minister in his various functions, including that of Vice-President of the Commission. He must have the means to shape the agenda, to make proposals, and to ensure overall coherence and consistency, subject to the relevant treaty provisions. At the same time, he must be in a position to conduct the CFSP/CSDP and to fulfil his representational duties.

8. On the issue of the organisation of the EEAS, the joint issues paper highlighted the need to ensure that the double-hatted Minister is equipped to fulfil all his responsibilities effectively. It suggested that the EEAS should comprise services currently dealing with CFSP (including CSDP), together with geographical desks covering all regions of the world and thematic desks dealing with issues such as human rights, counter-terrorism, non-proliferation and relations with the UN. A small number of Member States consider that the EEAS should be restricted to covering CFSP/ESDP, whilst a few would instead prefer it to have a broad remit including areas such as enlargement, neighbourhood and development policy (there is a consensus that trade policy should not be included). The view of the majority of Member States lies somewhere between these two positions, with most as a result drawing the conclusion that the EEAS should consist of at least the relevant parts of the Council Secretariat (DGE and Policy Unit) and of the Commission (DG External Relations). A large body of opinion tended to view the military staff as part of the service, but some doubts were also expressed in this respect. Views differed over whether Siten from the Council Secretariat should be included.

9. Member States agreed that the duplication of functions should be avoided as far as possible. In this respect, there was broad agreement that the geographical

and thematic desks within the service should not be duplicated either in the General Secretariat of the Council or the Commission, even though this will not prevent the Commission from organising its Directorate-Generals in other fields such as trade, development or enlargement so as to allow them to fulfil their tasks.

### **Council preparatory bodies**

10. Many Member States would prefer the Council's preparatory bodies in the area of external relations and dealing with what are now first pillar matters to continue to be chaired by the rotating Presidency. Concerning pure CFSP groups or groups working closely with the PSC, a majority said they could accept, or were open to, chairmanship by a member of the EEAS, in line with the approach advanced in the joint issues paper. As to groups with mixed competences, the feeling was that the decision should be taken on an *ad hoc* basis.

### **Delegations**

11. There is broad consensus that the existing network of Commission delegations should become the future Union Delegations, and that as a consequence of the provision of the Constitutional treaty which places them under the authority of the Foreign Minister, they should be an integral part of the EEAS. Moreover, these arrangements will have to respect the treaty provisions covering the institutional responsibilities for external representation of the Union. For most Member States this does not necessarily imply that all staff working in the Delegations would need to be members of the EEAS (those covering specific policies such as trade and management of financial assistance would continue to come from the services of the Commission). Many Member States cited the example of their own embassies or permanent representations to the EU (composed of staff from different home ministries, yet all collectively under the authority of the head of mission) as a model for the future functioning of Union Delegations.

12. The joint issues paper also raised the idea that Union Delegations might take on additional tasks such as consular protection and visas. A majority of Member States supported this, although it was recognised that this was a complex issue which would require some detailed examination. Some suggested that Union Delegations should provide logistical and technical support for high-level visits from Member States. It was also proposed that certain categories of reports from Union Delegations should be shared with Member States.

## **Personnel and budgetary issues**

13. The joint issues paper highlighted a number of administrative and organisational questions that require further analysis. In this context, few delegations expressed a view on the overall size of the service, considering that it should be defined by its scope and functions. As its staff will be drawn from three sources (Council Secretariat, Commission and Member States), Member States underlined the importance for them of having a sufficient number of national diplomats in the EEAS and in a range of positions at all levels. Nearly all considered that personnel from the Member States should be temporary agents rather than seconded national experts to ensure that all staff in the EEAS had the same status and conditions of employment.

14. There was broad agreement on the need for nomination of staff to the EEAS to be based on merit, with appropriate selection procedures. These should imply a central role for the Minister, including his agreement on final decisions. Almost all delegations underlined the importance of guaranteeing adequate geographical balance, whilst avoiding the introduction of quotas.

15. Delegations agreed that the implications of financing the EEAS for the budget of the Union, the role of the Minister in relation to the function of authorising officer of the EEAS as well as the related issue of its administrative status, and other personnel and budgetary issues required further examination, building on the discussions which have taken place to date.

## **Issues paper on the European External Action Service**

### **Introduction**

1. The Constitutional Treaty (the treaty) introduces important institutional innovations in the field of foreign affairs. It foresees the creation of the post of a Union Minister for Foreign Affairs who shall at the same time be Vice-President of the Commission (the Minister). The treaty also provides for the setting up of a European External Action Service (EEAS). Heads of State or government have decided that following its signature on 29 October, the SG/HR, the Commission and the Member States shall begin preparatory work on the EEAS. Once the Constitution enters into force, the Minister will put forward a proposal for a European Decision establishing the EEAS. The Council shall act on this proposal after consulting the European Parliament and after obtaining the consent of the Commission.

2. This paper, which is presented jointly by the High Representative and the President of the Commission, sets out some issues relating to the tasks and structure of the EEAS. It is intended to serve as the basis for first discussions with Member States in the context of the preparation of a joint progress report from the HR and the Commission for the European Council in June 2005, as requested by the European Council in December 2004.

### **The roles of the Minister**

3. Article 28 of the treaty gives the Minister a number of tasks:

- Conducting the Union's Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP);
- Presiding over the Foreign Affairs Council;
- Ensuring the consistency of the Union's external action;
- Being responsible within the Commission for responsibilities incumbent on it in external relations;
- Coordinating other aspects of the Union's external action within the Commission.

4. The Minister will thus have important responsibilities in terms of initiative and proposition, coordination and representation. In terms of decision-making and execution, the treaty makes clear that the various instruments retain their own specificity. This is true for national means – which are in fact far larger than EU means –, and also for CFSP and other instruments of external action at EU level. It is important to ensure that once adopted, a policy is backed up by coherent use of the resources of the EU as well as by national instruments, subject to their respective decision-making processes.

5. Giving the chair of the Foreign Affairs Council to the Minister is a major innovation. The replacement of the rotating Presidency in the external field implies fundamental changes elsewhere in the organisation. A draft Decision contained in a Declaration of the IGC concerning article 24 of the treaty stipulates that the PSC, whose role in terms of CFSP and CSDP is defined under article 307 of the treaty, will be chaired by a representative of the Minister. The text of the draft applies the same logic to the working groups dealing with issues going to the Foreign Affairs Council: *“The chair of the preparatory bodies of the various Council configurations, with the exception of the Foreign Affairs configuration, shall fall to the member of the group chairing the relevant configuration...”*.

## Consistency and coherence in external actions

6. It is important to ensure consistency between the different areas of EU external action. The creation of the post of Minister is meant to contribute to that objective, as described in paragraph 3. It should be noted that the Foreign Affairs Council will be in charge not only of CFSP matters, but “*shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent*”, as stated in Article 24-3. More generally, in accordance with Article 292-3, the Council and the Commission, assisted by the Minister, have to ensure consistency between the different areas of the Union's external action and between these and its other policies.

7. For the Minister to be able to fulfil his mandate, he must have the means to shape the agenda, to make proposals, and to ensure overall coherence and consistency, subject to the relevant treaty provisions. At the same time, he must be in a position to conduct the CFSP/CSDP and to fulfil his representational role in these areas, including the replacement of the Troika.

8. It is not the task of the Minister to manage all the various external action instruments at the disposal of the Union, but to ensure coherence with the political orientations of the Union which he will help to shape.

## Principles

9. Against this background, a number of principles should be respected:

- Strict compliance with the provisions of the treaty, including in particular the application of the procedures and the extent of the powers of the institutions laid down by the treaty (see Article 308);
- Avoidance of duplication of responsibilities and establishment of a clear division of tasks;
- Coherence and consistency of external action.

## The EEAS

10. The EEAS will assist the Minister in fulfilling his mandate. This does not preclude him from drawing on other services within the Council General Secretariat (CGS) and the Commission. The EEAS will work in cooperation with the diplomatic services of the Member States and will comprise officials

from the relevant departments of the CGS and of the Commission as well as staff seconded from national diplomatic services of the Member States. The insertion of a specific legal base within the treaty confirms the political will of the authors of the treaty to foresee an innovative *sui generis* solution, i.e. the creation of a new integrated service. The question arises as to whether this should be an autonomous service, neither in the Commission nor in the CGS, or whether it should be partly attached to either or both.

11. The organization of the EEAS needs to ensure that the double-hatted Minister is equipped to fulfil all his responsibilities effectively. The first question in this respect concerns the scope of the EEAS and the nature of its relations with the Commission and the CGS services.

12. In view of the Minister's particular role in conducting CFSP (including CSDP), the services presently working in those areas both within the Council and the Commission should be an integral part of the EEAS. Given that CSDP and crisis management are part of the Minister's core responsibilities, the Military Staff should be integrated within the EEAS. The European Security Strategy emphasises that today's threats cannot be tackled by purely military means and underlines the importance of bringing together all EU instruments for crisis management. In view of the multiple functions of the SITCEN, its location requires further thought. In any event, the Minister will be one of its main clients and must be able to order assessments and evaluations directly.

13. In order to allow the Minister to play the roles he has been given by the treaty, the EEAS must be able to provide unified policy advice and briefing not only to the Minister, but also to the other Commissioners and the President of the European Council. This requires that the EEAS comprises geographical desks which cover all the countries/regions of the world. These desks, which should not be duplicated either in the CGS or the Commission, should assist the Minister in shaping a coherent policy framework for relations with a particular country or region. This will not prevent the Commission from organising its Directorate-Generals in other fields such as trade, development or enlargement so as to allow them to fulfil their tasks.

14. There should be single thematic desks, located within the EEAS, on issues such as human rights, counter-terrorism, non-proliferation and relations with international organisations such as the UN.

15. It will be important to organize effective consultation between the EEAS and the services of the Commission with external responsibilities including those primarily responsible for the management of internal policies with significant external projection. Similar issues could arise over the interface between the EEAS and the services of the CGS.

16. Beyond these areas of external action, there are also areas such as trade, development policy and humanitarian assistance, management of external financial assistance programmes, and the enlargement negotiations. Due to their specific nature, there is no prima facie case for integrating the corresponding services into the EEAS. Generally speaking these areas are however co-ordinated by the Minister inside the Commission.

17. In view of the growing importance of the European Parliament in external relations, the EEAS should contain a service responsible for relations with the EP. It will require in addition support services such as protocol, security, press, and information technologies. It is too early to go into details at this stage.

### **Union delegations**

18. A major innovation of the treaty is the establishment of Union delegations in third countries. Under Article 328 of the treaty, the Union delegations will be under the authority of the Minister. The question arises as to whether in view of the various responsibilities in terms of external representation of the EU as described in the treaty (see Articles 22, 26 and 296 in particular), the delegations should form part of the EEAS or not. Rules concerning staff regulations, origin and recruitment of personnel and financial management, should apply accordingly. As is the case for national embassies, the Union delegations can include personnel seconded from other services to cover issues such as trade, JHA, financial matters, agriculture, transport and other areas. Such personnel should be under the authority of the Head of Delegation, as is the rule in national diplomatic missions. It is important to make sure that all representatives of EU bodies in third countries should be a part of a single structure, i.e. the Union delegation.

19. Questions requiring further thought include the future role of the Union delegations in consular protection and possibly in the issuing visas as well as the provision of other services to Member States.

20. Questions also arise concerning the relationship between the EEAS and national diplomatic services. These include:

- Exchange of information between the EEAS and national diplomatic services at headquarters and in third countries;
- Arrangements for the Heads of EU delegations to chair all meetings of Heads of Missions of EU Member states in third countries.

### **Administrative questions**

21. It is premature to tackle the many administrative questions that will have to be looked at with respect to the future EAS. At this stage, it may be useful just to list a few general questions that require further work:

- How the EEAS, although drawing on three separate sources of personnel, could have a single *“tableau d’effectifs”*;
- How the Minister could be the appointing authority, responsible for recruitment on the basis of merit, while ensuring that staff are recruited on the broadest possible geographical basis, drawing as appropriate on the three sources of personnel (Council/Commission/Member States);
- How specific requirements of the EEAS could be reflected in the general implementing rules of the Staff Regulations, to which its staff would be subject;
- How to meet the administrative costs of the EEAS including payment of staff from the EU budget with the necessary degree of management autonomy.

### **Concluding remark**

22. In line with the conclusions of the European Council of December 2004, the Secretary-General/High Representative and the Commission will prepare a joint progress report on the preparatory work, carried out by themselves and the Member States, to be presented at the latest at the June European Council.

## **Annex 3**

### **Extracts from Reform Treaty**

These extracts concerning the 'new architecture' for foreign policy are taken from the Reform Treaty, October 2007.

Amendments and new insertions to the EC/EU Treaties.

#### **High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the European Commission**

##### **Article 9e TEU**

1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the High Representative of the Union for Foreign Affairs and Security Policy. The European Council may end his or her term of office by the same procedure.
2. The High Representative shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development of that policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.
3. The High Representative shall preside over the Foreign Affairs Council.
4. The High Representative shall be one of the Vice-Presidents of the Commission. He or she shall ensure the consistency of the Union's external action. He or she shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the High Representative shall be bound by Commission procedures to the extent that this is consistent with paragraphs 2 and 3.

##### **Article 13a TEU**

1. The High Representative of the Union for Foreign Affairs and Security Policy, who shall chair the Foreign Affairs Council, shall contribute through

his or her proposals towards the preparation of the common foreign and security policy and shall ensure implementation of the decisions adopted by the European Council and the Council.

2. The High Representative shall represent the Union for matters relating to the common foreign and security policy. He or she shall conduct political dialogue with third parties on the Union's behalf and shall express the Union's position in international organisations and at international conferences.

**Article 23 TEU (former article 25 of the TEU amended by the Reform Treaty)**

(...) Within the scope of this Chapter, the Political and Security Committee shall exercise, under the responsibility of the Council and of the High Representative, the political control and strategic direction of the crisis management operations referred to in Article 28. (...)

**Protocol No 10 on Transitional Provisions, Title IV, article 5**

The members of the Commission in office on the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community shall remain in office until the end of their term of office. However, on the day of the appointment of the High Representative of the Union for Foreign Affairs and Security Policy, the term of office of the member having the same nationality as the High Representative shall end.

**Article 2 of Declaration 3 on Article 9c(9) of the Treaty on European Union concerning the European Council decision on the exercise of the Presidency of the Council**

(...) The Chair of the Political and Security Committee shall be held by a representative of the High Representative of the Union for Foreign Affairs and Security Policy. (...)

**Declaration ad Article 9e of the Treaty on European Union (adopted in Lisbon on 18/10/07)**

1. The Conference declares that, in the course of the preparatory work preceding the appointment of the High Representative of the Union for

Foreign Affairs and Security Policy which is due to take place on the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community in accordance with Article 9e of the Treaty on European Union and Article 5 of the Protocol on transitional provisions and whose term of office will be from that date until the end of the term of office of the Commission in office on that date, appropriate contacts will be taken with the European Parliament.

2. Furthermore, the Conference recalls that, as regards the High Representative of the Union for Foreign Affairs and Security Policy whose term of office will start in November 2009 at the same time and for the same duration as the next Commission, he or she will be appointed in accordance with the provisions of Articles 9d and 9e of the Treaty on European Union.

### **Role of Commission in external representation**

#### **Article 9d TEU**

1. (...) With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it [the Commission] shall ensure the Union's external representation. (...)

### **European External Action Service**

#### **Article 13a TEU**

3. In fulfilling his or her mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of the European External Action Service shall be established by a decision of the Council. The Council shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission.

### **Declaration 22 on Article 13a of the Treaty on European Union**

The Conference declares that, as soon as the Treaty amending the Treaty on European Union and the Treaty establishing the European Community

is signed, the Secretary-General of the Council, High Representative for the common foreign and security policy, the Commission and the Member States should begin preparatory work on the European External Action Service.

### **Union Delegations**

#### **Article 188q ECT**

1. Union delegations in third countries and at international organisations shall represent the Union.
2. Union delegations shall be placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy. They shall act in close cooperation with Member States' diplomatic and consular missions.

### **Consistency of external action**

#### **Article 10a TEU**

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

### **Joint proposals in the field of external affairs**

#### **Article 10 b TEU**

2. The High Representative of the Union for Foreign Affairs and Security Policy, for the area of common foreign and security policy, and the Commission, for other areas of external action, may submit joint proposals to the Council.

### **Common Foreign and Security Policy**

#### **Article 11 TEU**

1. The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the

Union's security, including the progressive framing of a common defence policy that might lead to a common defence.

The common foreign and security policy is subject to specific procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. The Court of Justice of the European Union shall not have jurisdiction with respect to these provisions, with the exception of its jurisdiction to monitor the compliance with Article 25 of this Treaty and to review the legality of certain decisions as provided for by the second paragraph of Article 240a of the Treaty of the Functioning of the European Union

#### **Declaration No 30 concerning the common foreign and security policy**

The Conference underlines that the provisions in the Treaty on European Union covering the Common Foreign and Security Policy, including the creation of the office of High Representative of the Union for Foreign Affairs and Security Policy and the establishment of an External Action Service, do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy nor of their national representation in third countries and international organisations.

The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States.

It stresses that the EU and its Member States will remain bound by the provisions of the Charter of the United Nations and, in particular, by the primary responsibility of the Security Council and of its Members for the maintenance of international peace and security.

#### **Declaration No 31 concerning the common foreign and security policy**

In addition to the specific procedures referred to in paragraph 1 of Article 11 of the Treaty on European Union,, the Conference underlines that the provisions covering CFSP including in relation to the High Representative of



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the Union for Foreign Affairs and Security Policy and External Action Service will not affect the existing legal basis, responsibilities, and powers of each Member State in relation to the formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and participation in international organisations, including a Member State's membership of the Security Council of the UN.

The Conference also notes that the provisions covering the Common Foreign and Security Policy do not give new powers to the Commission to initiate decisions nor do they increase the role of the European Parliament.

The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States.