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# EU Foreign Policy After Lisbon

Will the New High Representative and the  
External Action Service Make a Difference?

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## Summary

The Lisbon treaty will fundamentally alter the foreign policy set-up of the European Union. Among the key innovations figure the establishment of the foreign affairs high representative and the European External Action Service (EAS). Their creation may well lead to a new era of European diplomacy, providing the Union with a genuine foreign policy chief and a full-fledged foreign service. Are these only high hopes, or will the Lisbon institutional engineering really make a difference? Will the Union henceforth speak with one voice at the international level? And will it back up its talk with firm action?

This paper attempts to answer these questions by, first of all, *analysing the treaty provisions concerned and establishing the way they are to be implemented*. This includes ascertaining the high representative and EAS's responsibilities and competences, their respective relationship with other key actors, as well as the possible structure, composition, size and scope of the EAS. In a second step, the paper *assesses the new arrangements' implications for EU foreign policy-making*. It analyses how foreign policy-making will change and to which extent current institutional shortcomings of EU external action will be addressed. The analysis takes a neo-institutionalist approach, drawing on insights from both historical and sociological institutionalism.

The paper argues that the new high representative will be agenda-setter, decision-shaper, coordinator and consensus-builder. He will be chief representative and principal negotiator, implement EU foreign policy and watch over the Union's crisis management. The EAS will support the high representative in all his tasks and is likely to develop into the new analytical hub of EU foreign policy-making. Together, the new office and its service will increase the visibility, continuity, consistency and efficiency of EU external action. They will enhance diplomatic professionalism and have the potential to mitigate the Union's structural lack of leadership. However, many questions still remain open and some new problems might crop up. The ultimate significance of the Lisbon reforms will depend on several conditions, chiefly relating to: the high representative's relations to the Commission president and European Council president; the EAS's exact scope; the member states' feeling of ownership of the new service; and the high representative's skill to pursue a proactive agenda while gaining the member states' confidence.

## Introduction: Reforming EU Foreign Policy

Making the European Union “stronger in the pursuit of its essential objectives and more present in the world”<sup>1</sup>: So was the objective when the Union started its latest constitutional adventure seven years ago with the ‘Laeken declaration’. At the end of this convoluted process emerged the Treaty of Lisbon, concluded in December 2007 and due to enter into force in January 2009. It will bring about some fundamental changes in the internal and external set-up of the European Union (EU). Among the key innovations are two foreign policy features: the establishment of the foreign affairs high representative and the External Action Service (EAS). Their creation may well lead to a new era of European diplomacy, providing the Union with a genuine foreign policy chief and full-fledged foreign service. Are these only high hopes<sup>2</sup>, or will the Lisbon institutional engineering really make a difference? Will the Union henceforth speak with one voice at the international level? And will it back up its talk with firm action?

Much will depend on future political will. But the institutional alterations made by the Lisbon treaty will significantly shape the political process ahead, and they form the basis upon which concrete foreign policy will be developed. An analysis of the new institutional foundations of EU external action is therefore essential for understanding whether the Union will indeed be more present and more influential in the world. In fact, it is not only the new treaty provisions that merit a thorough examination, but also the preparation process that is currently under way. As will be shown, the Lisbon treaty itself leaves many questions open. This is why the implementation process will be instrumental in determining the powers and responsibilities of the new high representative, and the size, scope, structure and influence of his<sup>3</sup> service.

The signing of the Lisbon treaty has thus been followed by a phase of widespread uncertainty about what is actually to come. For this reason, this paper will first of all *analyse the treaty provisions concerned and attempt to ascertain the way they are to be implemented*. To this end, the work aims at establishing the high representative and EAS’ responsibilities and competences, as well as their respective relationship with other key actors. Furthermore, the paper will examine the possible structure, composition, size and scope of the External Action Service, including its relation to the future Union delegations.

Research aim

Once the contours of the new institutions have become clearer, the analysis can turn to the second research question. Namely, it will attempt to *assess the new arrangements’ implications for EU foreign policy-making*. The paper will analyse how foreign policy-making will change with the creation of the high representative and his service, and to which extent these alterations will address current institutional shortcomings of EU external action.

The analysis will take an institutionalist approach to EU foreign policy-making. Its theoretical assumptions and methodological tools are based on the neo-institutional discourse. This school has, over the last decade, increasingly informed the study of EU institutional development and indeed of the Union’s progressing international relations.<sup>4</sup> The work will draw on insights from both historical and sociological institutionalism. On the most basic level, neo-institutionalism argues that institutions matter and are not just cars waiting for drivers.<sup>5</sup> More precisely, the analysis will be based on three principal neo-institutionalist assumptions:<sup>6</sup>

Methodology:  
an institutionalist approach

*Firstly*, political and administrative actors are characterized by bounded rationality. That is, they may have certain self-serving goals when participating in both EU institutional reform and EU foreign policy-making. However, they do not have all the information necessary to take optimal decisions or cannot process them with full adequacy.

*Secondly*, institutions can condition and shape actors' interests, preferences, priorities, and even identities. That is, institutions are not mere neutral mechanisms serving policy-makers' goals, but rather have the capacity to alter these goals and the strategies to reach them. Institutions may also change the expectations of policy-makers. Overall, these processes reflect 'social learning' and explain how the EU foreign policy set-up shapes the framing ideas of EU external action. Likewise, the participation of member states in the EU foreign policy system conditions their national foreign policies and their approach to EU institutional reform. Clearly, the term 'institution' is understood in this context in a broad sense. It includes not only legal arrangements and 'physical' institutions, but also informal norms and conventions.

*Thirdly*, institutions may develop feedback effects prompting 'path dependency' or 'lock-in effects'. That is, the outcome of institutional bargains concluded in the past may influence future decisions and institutional developments. Even though actors try to control the evolution of institutions, decisions made in one context may have long-term consequences (and often unexpected ones) that affect later behaviour and bargains. Prior institutional arrangements thus shape what is seen as possible or appropriate at a given time. In other words, institutions themselves provide some clues about the future path of institutional change.

Does this all mean that actors and their political will do not matter? Definitely not; in particular not in the field of EU foreign policy, where national governments retain a considerable degree of autonomy. Neo-institutionalism as it is understood here simply points to the importance of the institutions within which these players act and are constrained. In addition, institutions (in their formal sense) in fact reflect the power and preferences of member states. They reflect, to a certain extent, the prevailing conceptions and the level of agreement about the scope and nature of EU external action. After all, they are the outcome of the bargains among member states (and EU bodies).<sup>7</sup> Studying institutions of EU external action therefore does not neglect the importance of the political will particularly of national governments (as realists or liberal intergovernmentalists might fear). Neo-institutionalism rather assumes that there are "reciprocal links between institutional development and the propensity of states to cooperate to achieve joint gains."<sup>8</sup> It should finally be recalled that this paper does not analyse the bargaining of the Lisbon treaty or explain the treaty's coming about. The analysis is rather concerned with the bargain's outcome and possible implications thereof.

'External action' vs.  
'foreign policy'

The paper thus examines how the Lisbon treaty changes the EU foreign policy system. The way this system is conceptualised here will be discussed in the following paragraphs. Beforehand, however, the terms 'EU foreign policy' and 'EU external action' necessitate some clarification. In the understanding of the present analysis, 'EU external action' constitutes the broader term comprising the common foreign and security policy (CFSP), as well as 'Community' political external relations and EU development, humanitarian aid, neighbourhood, trade, and enlargement policy.<sup>9</sup> 'EU foreign policy', in turn, forms part of the Union's external action, constituting a kind of subcategory. It embraces first of all CFSP but is not limited to it. 'EU foreign policy' further comprises political aspects of 'Community' external relations. Though

a sharp delineation is impossible, it can be assumed that matters currently dealt with by the Commission directorate-general for external relations (DG RELEX) rather fall within the field of 'foreign policy', whereas the other DGs rather handle 'other aspects of EU external action'.

Since the 1970s, the EU foreign policy system has developed "from an informal inter-governmental 'gentlemen's agreement' with unwritten rules into a system of formal [...] obligations, plus organizations with budgets, staffs, and permanent headquarters."<sup>10</sup> At the same time, member states shifted from a bargaining style of cooperation to a problem-solving one,<sup>11</sup> and EU foreign relations saw the fusion of intergovernmental, transgovernmental, and supranational methods of policy-making.<sup>12</sup> The result of this progressive integration of foreign policy can best be described as 'intensive transgovernmentalism'.<sup>13</sup>

The EU foreign policy system

Intensive transgovernmentalism differs from intergovernmentalism in that cooperation is of greater intensity and more dense structuring. In fact, EU member state governments have committed themselves to extensive engagement and discipline that is unknown from traditional forms of intergovernmental cooperation. At the same time, however, they have not been prepared to apply the full supranational institutional framework of the Community policies. Intensive transgovernmentalism is thus characterized by

the active involvement of the European Council in setting the overall direction of policy; the predominance of the Council of Ministers (or an equivalent forum of national ministers), in consolidating cooperation; the limited or marginal role of the Commission; the exclusion of the [European Parliament] and the [European Court of Justice] from the circle of involvement; the involvement of a distinct circle of key national policy-makers; the adoption of special arrangements for managing cooperation, in particular the Council Secretariat; the opaqueness of the process, to national parliaments and citizens; but the capacity on occasion to deliver substantive joint policy.<sup>14</sup>

Other forms of EU external action might rather be understood as being based on the 'traditional Community method'. Trade policy, for instance, has been characterised by a considerable delegation of responsibilities to the Commission for developing and managing policies, instruments and agreements.<sup>15</sup>

The paper is divided into three parts. The *first* part will make the case that there has been an undeniable need for reform. To this end, the shortcomings of the current system of EU external action will be singled out. This section will also briefly review the process that led from the Laeken declaration over the Constitution to the Lisbon treaty. In the *second* part, the high representative and the EAS will be discussed in detail. The analysis will outline the new treaty provisions and how they might be implemented. In addition, it will give an overview of other key innovations in the field of external action, and explore the current negotiation process preparing the implementation of the new office and its service. Finally, the *third* part will evaluate the implications of the reforms. It will measure the innovations against the shortcomings identified in the first section, and will apply the 'Europeanisation' and 'Brusselisation' concepts to the Lisbon reforms.

Outline

## 1. Pre-Lisbon: The Need for Reform

EU foreign policy has developed apace over the last decades. From the European Political Cooperation (EPC) over the Maastricht and Amsterdam treaties to the treaty of Nice, European foreign policy arrangements have been gradually and continuously enhanced.<sup>16</sup> In fact, foreign policy is probably the area where the EU has most advanced in recent years; the Union now “operates as a political entity in dealing with terrorism, the Balkans, the proliferation of weapons, the Middle East peace process, African development and many other issues”<sup>17</sup>, as Frasier Cameron concludes. This remarkable progress notwithstanding, current foreign policy-making in the European Union still suffers significant shortcomings. They may be summarised as a lack of leadership, continuity, consistency and diplomatic resources. This results in a lack of strategic thinking, proactive decision-making and coherent action, which is why the Union punches below its economic and (potential) political weight in foreign policy.<sup>18</sup>

European underperformance in international affairs cannot only be traced back to lack of political will, but also to the EU institutional set-up. In fact, there are several institutional peculiarities that have hampered the development of a firmer EU foreign policy. They relate both to the Union’s cumbersome internal structures (1.1.), and to its diffuse external representation (1.2.). They figured prominently in the process that led to the conclusion of the Treaty of Lisbon (1.3.).

This section is not meant to talk EU foreign policy down, nor does it ignore its nature of a non-state entity. This section’s purpose is not to present an overview of the Union’s foreign policy system<sup>19</sup> or its practical record<sup>20</sup>, but to clearly single out the institutional shortcomings that necessitate reform. Naturally, that leads to a negligence of the success stories and the arrangements that work well. The analysis is guided by the idea that there is a need for a strong and coherent EU foreign policy, and that this is principally attainable at the current stage of European integration.

### 1.1. Cumbersome internal structures

The EU foreign policy machinery represents a complex set of political and bureaucratic actors with varying competences and differing resources. There is, in fact, a state of scattered responsibilities that gives rise to shortcomings in developing and implementing foreign policy. Namely, there is a risk of inconsistency within and between policy fields resources are unevenly allocated and sometimes duplicated, and decision-making procedures are weak. Altogether, this set-up impedes the development of leadership necessary for a firm and proactive EU foreign policy.

Struggling with consistency

Due to the Union’s pillar structure, the developing and executing of external policies lies with different actors, depending on the concrete subject in question. Whereas the Commission takes the lead in Community matters, it is the Council and its Secretariat that do so in CFSP affairs. This well-known division of labour entails the duplication of geographical and, in some cross-pillar issues, thematic desks in the Commission and the Council Secretariat (CGS). This, in turn, necessitates laborious cooperation between the two sides of *Rue de la Loi*. In practice, both services cooperate well and complement one another in some cases, but indulge in some form of competition and turf wars in others.<sup>21</sup> This form of ‘rival partnership’<sup>22</sup> is particularly pronounced in the relationship between the Commission and the CGS Policy Unit. Rivalry between the Commission and the Policy Unit is most likely to happen



in areas of overlapping competences, such as crisis management, security sector reform, non-proliferation, and disarmament.<sup>23</sup> This state of affairs is not only of conceptual interest – some fear a ‘CFSPisation’ of previous Community policies – but gives also rise to the concrete risk of inconsistencies between policies pursued by the Council and the Commission.<sup>24</sup>

Apart from the problem of ‘institutional consistency’ just discussed, the Union sometimes also struggles with ensuring ‘horizontal consistency’ between different policy areas that might well fall in the realm of the same institution but follow different objectives.<sup>25</sup> A case in point would be the consistency between trade and development policy, or trade and human rights. There is an obvious need of an effective arbitration mechanism. The European Commission has established to this end the ‘relex group’ comprising the commissioners for external relations and neighbourhood policy, enlargement, development aid and trade. This team is currently chaired by Commission president José Manuel Barroso himself, whereas the coordination position felt to the external relations commissioner in the commission of Romano Prodi. Even though this arrangement has been, overall, working reasonably well, there remain some turf battles between the persons and services involved.<sup>26</sup>

The scattered responsibilities in EU foreign policy-making generate problems even when policy inconsistency is duly avoided. Namely, foreign policy resources are unevenly distributed among the pillars; as a consequence, decision-making power and implementing capacity do not always coincide. According to the treaties, it is the Council that decides on the common foreign and security policy. This policy is, in turn, to be implemented by the Council presidency, the high representative\* for CFSP and member states. However, their support structure, the Council Secretariat, lacks human, technical and financial resources; it has actually no more than 390 staff members working on international affairs and only two offices abroad.<sup>27</sup> It is, by contrast, in the Commission where the capacity to implement and manage external action is located – it disposes of around 2260 staff in charge of external action in Brussels and 4755 personnel in its 123 delegations abroad.<sup>28</sup> In reality, therefore, it often falls to the Commission to put at least parts of CFSP decisions into effect; it also plays a key role in long-term conflict prevention, an important concern of CFSP.<sup>29</sup>

Split of resources

This state of affairs necessitates a laborious cross-pillar coordination effort and obviously enhances the risk of inconsistency as described above. In addition, it puts the high representative\* in a miserable position. He, in essence, disposes of no executive resources. In fact he is, in a sense, in a weaker position than the external relations commissioner, who might be of lower political profile but has a considerable autonomous control over first pillar instruments. Moreover, the high representative\* also lacks control over genuine second pillar instruments since they lie with the member states (military means, for instance).<sup>30</sup> This lack of resources somewhat weakens the high representative’s\* standing vis-à-vis third parties – after all, it is not in his power to deliver on commitments he might make.

On the other hand, there is not only an uneven distribution of resources among institutions, but also a duplication of means. The need to duplicate geographical and sometimes functional desks has already been mentioned; add to this the duplicated representations to the United Nations in New York and Geneva (Commission delegations and Council liaison offices) as well as the two technically well equipped and protected crisis centres (Situation Centre in the Council Secretariat and Crisis Room in the Commission).

Weak decision-making  
procedures

This constellation of actors in EU foreign policy-making is not only pretty complex, but it is also governed by weak decision-making procedures. However, other than the widely criticised inefficient bureaucratic complexity (and the weak external representation), the decision-making rules are frequently defended. They are seen as essential for safeguarding member states' autonomy. Justified or not, such weak policy-making procedures impede a stronger role of the EU in international affairs and have thus figured repeatedly in the discussion on reforming the EU foreign policy machinery.

Most importantly, the Union's capacity to act (proactively) in the field of CFSP is considerably limited by the unanimity requirement. Except for few and strictly circumscribed cases, the Union needs consensus among member states to take on a position. In addition, other than in Community affairs, member states are fairly free to decide whether they want to use the EU machinery at all for pursuing certain policies in the area of CFSP, or whether they prefer to go ahead alone or in case-specific coalitions. Finally, the current institutional set-up cannot guarantee full 'vertical consistency'<sup>31</sup>. Even though member states are legally obliged to comply with CFSP decisions once they have been taken, the Union lacks the means known from the first pillar to enforce them vis-à-vis national actors. Namely, the European Court of Justice's jurisdiction is excluded from the area of CFSP.

Lack of leadership

The split of responsibilities and resources and the weak decision-making procedures impede the development of leadership. It becomes pretty clear that there is no centre of policy entrepreneurship, let alone a centre of power, that could provide strategic thinking and steer EU foreign policy in a proactive, coherent and continuous way. Neither the external relations commissioner nor the Commission president or high representative\* are supposed to play such a role, nor would they have the capacity to do so. The Council presidency, in turn, is not only constrained in Community aspects of international affairs, but also rotates every six months. This structural lack of leadership may well be regarded as one of the greatest shortcomings of EU external action. Given that some might see it as competition for national foreign policies, it will, however, be difficult to promote greater leadership from Brussels.

## 1.2. Diffuse external representation

The Union has gone some way to improve its external representation, for instance by creating the post of the high representative\* for CFSP in the Amsterdam treaty. However, its external representation remains diffuse. This constitutes a major obstacle to the Union being more visible and influential on the international scene. In short, EU external representation is characterised by a lack of continuity, plethora of actors, and lack of diplomatic professionalism.

Lack of continuity

Most striking is the lack of continuity in Europe's external representation due to the system of rotating Council presidency. In fact, the treaties assign to the presidency the top responsibility of representing the Union in CFPS matters, and thus in the core aspects of foreign policy. As a consequence, the face and voice of Europe changes every six months. The high representative\* is, at least formally, only tasked to assist the presidency; the creation of this office has therefore alleviated the problem of discontinuity, but has not solved it. The changeable representation undermines the building-up of stable personal relations and confidence among actors, factors known to be important in international politics. Likewise, the focus of European foreign policy is likely to change every six months, as is the reputation and weight of the

personalities in charge. In fact, powerful interlocutors may not fully involve the Union in their action if they regard the member state holding the presidency as not heavy or credible enough.<sup>32</sup>

The drawbacks of the rotating presidency do not only apply to representation on the top, but also to the situation on the ground. In fact, it is the embassies and missions of the member state chairing the Union that are charged with representing the EU in third countries or at international organisations in CFSP affairs. Principally, this entails the same problems known from the central level. Add to this the fact that many member states have a rather limited network of embassies. In case the presidency is not present in a given third country, another member state is assigned to take care of its responsibilities. In fact, the Union's representation in third countries more often than not falls to a member state that is actually not in the chair in Brussels.<sup>33</sup>

Another important obstacle to clearer visibility is the plethora of actors charged with external representation. At present, the Union is represented at the top level by the Commission president (for Community matters) and the head of state or government of the presidency (CFSP); at ministerial level, the Union speaks and acts through the commissioner for external relations (Community matters), and the foreign minister of the presidency and the high representative\* in CFSP affairs. In case of sectoral policies that fall under shared or mixed competences (such as development, the environment or justice and home affairs), the Union's representation is even more complicated. Then, the EU might act through the commissioner concerned, his counterpart in the government holding the presidency, or both. Finally, usually when it comes to more comprehensive talks or issues, the different foreign policy actors also appear together in form of the troika, comprising the Commission, the presidency, and the high representative\*, sometimes supplemented by the subsequent presidency.

Plethora of actors

This complex situation obviously gives room for confusion in partner countries (and among the European public). Indeed, it might not always be clear whom to address in a given situation. In addition, there is a constant risk of inconsistent messages sent and commitments made by one EU actor or another, which, in order to avoid, necessitates an enormous coordination effort among the different representatives of the Union and their staff. It is this plethora of actors, together with the rotation of the presidency, which has provoked the notorious quest for Europe's phone number.

Moreover, the Union's different actors charged with external representation differ considerably in their capacity to be present on the ground. Namely, the high representative\* has, with the exception of the two Council liaison offices to the United Nations in New York and Geneva, no representation abroad. As discussed above, this might also apply to the presidency. Thus, in terms of genuine EU actors, it is only the Commission that is permanently and globally represented in third countries – but it is limited in its competences to act on behalf of the Union. Finally, the treaties require the missions of the member states and the Commission to cooperate locally so as to ensure a unified front. Whereas arrangements to this end work smoothly in some places, they do not in others. One problem is, for instance, the possible lack of experience in EU affairs among presidency diplomats on the ground.<sup>34</sup>

The Commission delegations are hence the only EU actors as such that ensure a global representation of the Union in third countries. Their staff, however, are no trained diplomats and, in principal, do not engage in tasks known from traditional nation-

Lack of diplomatic  
professionalism

state embassies, whereas the Union is increasingly expected to provide such kind of diplomacy. It is true that the political dimension of the delegation's work has increased since the 1990s and the Commission has consequently steadily reformed its External Service (which the delegations are part of). For instance, the training of staff was intensified and extended to all aspects of external relations. In addition, the missions' profile was upgraded since the head of delegations now enjoy ambassadorial status and are accredited by the heads of state rather than foreign ministers.<sup>35</sup> Yet, the delegation staff still "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."<sup>36</sup>

At the central level, the EU faces similar problems. It is first of all the Commission staff (in DG RELEX) that lack diplomatic training and experience. To a lesser extent, this applies also to the Council Secretariat (which has, however, acquired genuine diplomatic expertise through national detachments and temporary agents). The shortage of diplomatic professionalism, both on the ground and at headquarters level, limits the Union's analytic capacity needed for policy-making and its implementing capacity for firm and effective policy execution.<sup>37</sup>

### 1.3. The path to Lisbon

In light of the growing expectations that the European Union has faced in the field of foreign policy, the need for reform became undeniable in the early years of the decade. The institutional overhaul of external action therefore formed an important part of the overall debate on EU constitutional reform after the disappointing results of the Nice treaty in 2000. With the 'Laeken Declaration' of December 2001 setting up a Convention on the future of the Union, the EU chose an unprecedented and innovative way to reform its legal foundations. As to external action, the Laeken European Council tasked the Convention with making the Union "stronger in the pursuit of its essential objectives and more present in the world"<sup>38</sup>. The Convention took on this charge stating that:

expectations continue to grow, both within and outside the EU. The challenges of globalisation and increased interdependence of States and regions require the Union to be a strong and credible player on the international stage, not only in economic but also in political terms. The central question was therefore not whether the Union had a role to play but how it should organise itself in order effectively and coherently to promote fundamental values, defend common interests and contribute to the overall objective of global peace, security, and sustainable development.<sup>39</sup>

The Convention presented its draft Constitution in July 2003. Its external action provisions were, with some amendments, endorsed by the intergovernmental conference of EU member states, which, in June 2004, finally concluded the Constitutional treaty. After the negative referendums in France and the Netherlands and the stalemate that followed, the substance of the Constitutional treaty was almost completely transferred into the Lisbon treaty, signed in December 2007 and due to enter into force in January 2009. Being of a more modest fashion, this document did not replace the former EU treaties but amended them – in a quite thorough manner though.

During the process of renegotiating the Constitutional treaty, there was a broad consensus that the proposed provisions on external action should be maintained. And indeed, the few changes made following British demands were of a “cosmetic” or “symbolic”<sup>40</sup> nature, even though they should not be completely neglected. The ‘Union Minister for Foreign Affairs’ was renamed ‘High Representative of the Union for Foreign Affairs and Security Policy’, the unified title on all external action was split into two parts and two declarations underlining the specific nature of CFSP were issued with the treaty. These qualifications notwithstanding, the Lisbon treaty is set to put the substance of the Constitutional treaty provisions on external action into effect. Provided that it is ratified, it thus marks the destination of the reform path that was taken with the Laeken declaration in 2001.

## 2. Lisbon: Key Innovations

The Lisbon treaty will bring about one of the biggest EU institutional reforms in the fifty-year history of European integration. Prominently among the modifications figure the innovations in the area of external action. This part of the paper will first give an overview of these innovations (2.1.). It will then turn to the key elements thereof: the high representative and the External Action Service. Before discussing the new office (2.3.) and its service (2.4.) in detail, the analysis will briefly examine the current preparation and implementation process of the treaty provisions concerned (2.2.).

### 2.1. Major external action innovations

The Lisbon treaty considerably alters and strengthens the external action machinery of the European Union.<sup>41</sup> The most important innovations are doubtlessly the redesign of the high representative and establishment of the External Action Service. But also besides these key elements, other significant alterations can be identified.

To begin with the fundamental legal structure, the new treaty will formally abolish the pillars, merge the Community and the Union, and provide the EU with a single and express legal personality. This will remove any remaining doubt about the Union’s capacity to act under international law and within international organisations.<sup>42</sup> The overcoming of the pillar structure further opens the way to bringing previous Community external action and CFSP closer together; namely by merging treaty provisions and establishing Union delegations.

As regards the former, the Lisbon treaty merges all *general* treaty provisions on external relations into one title, which were previously spread across two treaties. Henceforth, all external action, be it CFSP, trade or development, will be governed by the same general principles and objectives. As to the *specific* provisions on concrete policies, the Lisbon treaty takes a middle path between the Constitution and the current treaties. It will bring together all specific provisions on previous Community external policies in one section. Other than the Constitutional treaty, however, the Lisbon treaty keeps these specific provisions clearly separated from those on CFSP.<sup>43</sup> The new treaty also unifies the legal basis for the conclusion of international agreements. The decision-making procedures will, however, still differ; the Council will act by qualified majority with respect to agreements on most ‘Community’<sup>44</sup> matters, but by unanimity in CFSP affairs.<sup>45</sup>

As regards the representation on the ground, the Lisbon treaty will transform the Commission delegations into Union delegations. They are to be put under the authority of



the high representative and will represent not only one of the Union's institution, but the Union as a whole. Whether the delegations will be integrated in the External Actions Service is left open by the treaty. This question will be dealt with below.<sup>46</sup>

Two further changes in the field of external representation relate to the president of the European Council and the representational role of the Commission. Firstly, the Lisbon treaty creates the office of a permanent president of the European Council. He will be appointed for two and a half years and replace the rotating presidency at the level of the European Council. His main tasks include the chairing and preparation of European Council meetings and their follow-up. In addition, the president is charged to represent the Union "at his level and in that capacity" in CFSP matters, "without prejudice to the powers" of the high representative.<sup>47</sup> One likely meaning of this somewhat opaque phrasing is that the president is supposed to represent the EU at the level of heads of state and governments, but not at the ministerial level.

The second change relates to the Commission. The Lisbon treaty will entrust it for the first time expressly with the external representation of the Union in all areas except CFSP and the Euro.<sup>48</sup> This codifies previous practice and case law. The provisions can, however, also be regarded as a strengthening of the Commission's role vis-à-vis the still existing rotating Council presidency in sectoral policies – though without providing a clear delimitation of competences. Obviously, the representational roles of both the European Council president and the Commission (as a college) leave room for conflicts with the high representative and the rotating Council presidency. The discussion will come back to this.<sup>49</sup>

The decision-making procedures in external action remain widely unchanged. Besides changes in trade policy (see below), there are minor modifications in the field of CFSP. Yet, unanimity remains the overwhelming rule here. Two interesting novelties will be introduced, though. Firstly, the so-called 'passerelle' clause, which enables the European Council (acting by unanimity) to pass policy areas or specific cases from decision-making based on unanimity to decision-making based on qualified majority voting. This radically simplified procedure dispenses with national ratification and applies to all areas apart from those having military implications.<sup>50</sup> Secondly, qualified majority voting on CFSP actions or positions will be possible when proposed by the high representative, following a specific request from the European Council (acting by unanimity).<sup>51</sup>

The Lisbon treaty also strengthens the common security and defence policy (CSDP)<sup>52</sup>, an important area of activity of the high representative. Notably, the EU crisis management tasks will be extended to areas such as disarmament and counter-terrorism.<sup>53</sup> A mutual assistance and a solidarity clause will be introduced into the EU treaties, the former relating to armed aggression, the latter to terrorist attacks and natural or man-made disasters.<sup>54</sup> Furthermore, the treaties will provide for the first time for differentiation in the field of CSDP; notably by allowing that the execution of CSDP tasks may be entrusted to a group of member states (acting in association with the high representative), and by enabling a group of countries to enter into a 'permanent structured cooperation'.<sup>55</sup> The Lisbon treaty will also create the express legal bases for the (already existing) European Defence Agency and a start-up fund for CSDP operations.<sup>56</sup>

Finally, the Union's external action is also reinforced in the field of trade. The (already considerable) competences of the EU are clarified and extended in that all trade poli-

cy will be an exclusive EU competence, whether relating to goods, services, intellectual property or foreign direct investment.<sup>57</sup> Correspondingly, the use of qualified majority voting will be further extended and apply to all areas save some few exceptions, notably in the field of culture. Overall, the decision-making procedures will be significantly simplified and the European Parliament granted full co-decision rights.<sup>58</sup>

## 2.2. Preparation and implementation process

When the member states concluded the Lisbon treaty in December 2007, they issued a declaration stating that the preparatory work on the EAS should start upon the signature of the treaty.<sup>59</sup> This task was entrusted to the high representative\*, the Commission and the member states. In doing so, the Union followed the same approach it had taken three years earlier with regard to the Constitution's implementation. The obvious reasoning is to have the necessary arrangements – at least in a basic form – in place when the treaty enters into force, which will presumably be 1 January 2009.

The preparation of the EAS is inseparably bound with the discussions on the new office of high representative. After all, the first and foremost task of the service will be to 'assist' the high representative. The EAS's shape will therefore not least be determined by the shape of its head's office. Hence, the preparatory discussions are inter-related and concern, indeed, also the office of European Council president. The latter will have representational tasks as well and might – or might not – draw on the services of the EAS. He will also influence the shape of the high representative's office.

In fact, the jobs of the European Council president and the high representative will figure high in public attention in the second half of 2008, since both offices have to be filled in this period. Whereas the president will be appointed for a full tenure of two and a half years, the high representative's term of office will only last until a new Commission is appointed in fall 2009, after the elections to the European Parliament.<sup>60</sup> The first office holder will therefore only be of a transitional nature. Given however that he will lead the initial implementation process of the External Action Service, he will play a crucial role. It is very likely that the Council will appoint Javier Solana for the transitional period<sup>61</sup>; however, Solana is unlikely to continue within the new Commission.<sup>62</sup>

The preparatory work on the EAS is supposed to prepare the formal decision by which the service is to be created once the Lisbon treaty has entered into force. According to Article 27 (3) TEU, the EAS's organisation and functioning shall be established by a decision of the Council, acting on a proposal from the high representative. The Commission has to give its consent and the Parliament has to be consulted. Although the preparation has to deal with quite a few technicalities, it is of a highly political and very sensitive nature. In fact, none of the principal actors involved have been prepared to discuss the issue publicly or in a formal setting for the concern that such a debate might negatively influence the treaty's ratification process. In particular (and not arbitrarily) the Irish government has refused any formal handling of the EAS within the Union institutions. Ireland is the only member state to hold a referendum on the Lisbon treaty.

Yet informal discussions have taken place already. They are conducted mainly by the member states' permanent representatives and the top levels of the Commission and Council Secretariat. In both institutions it is respectively Barroso and Solana who oversee the process; they have already had informal talks with member state ambassadors

and senior MEPs. COREPER<sup>63</sup>, too, has repeatedly discussed the matter informally in very restricted sessions – with only the ambassadors and their respective principal adviser ('antici') present. However, due to the sensibility of the issue, these talks haven't been very thorough. The preparation process is hence at a very early stage.<sup>64</sup>

Preparations will accelerate after the Irish referendum on 12 June 2008, and the topic might then figure on the agenda of the General Affairs and External Relations Council (GAERC) and might even be briefly discussed at the June European Council. Yet, real progress is not expected before September, when the French presidency plans to undertake a political assessment of the ratification process in order to then intensify the implementation process. At the moment, there is no consensus whether all major decisions should be taken (albeit informally) this year, or whether this should only be done once the new high representative has taken up his duties. However, the former position appears to be shared by the majority of actors and it seems likely that agreement on the principal issues will be reached already by late 2008 – at least in regard to the initial period of implementation in the course of 2009.<sup>65</sup>

Basis of the recent discussions has been the work that had been done between the signing of the Constitutional treaty and the negative referenda. Solana and Barroso had issued a report on the preparatory process in June 2005, summarising the consultations and setting out where consensus had been reached.<sup>66</sup> Even though this paper had never been formally approved before the Constitution's implementation was interrupted, it is today regarded as the starting point of any further negotiations, despite some reservations on the part of the United Kingdom.

The actual implementation of the new treaty provisions will start in January 2009. A 'big bang' is not to be expected. The EAS will rather commence its work with a limited outfit that will be extended at a later stage.<sup>67</sup> Initially, the implementation process will probably be focused on the headquarters level. The Commission delegations, by contrast, are likely to be transformed into full-fledged Union delegations only at a later point of time – maybe with the exception of some pilot delegations that could be established early on. When the initial stage will start, and thus when the EAS will take up its work, remains unclear. According to optimistic estimates in the Council Secretariat, this could be as early as February or March 2009.

### 2.3. Foreign policy chief in the making

#### 2.3.1. A new office

The Lisbon treaty creates the European Foreign Minister envisaged in the Constitution, but gives him a more modest name. It will now be the 'High Representative of the Union for Foreign Affairs and Security Policy' who acts as the Union's single foreign policy chief and as vice-president of the European Commission.<sup>68</sup> He will combine the previous offices of the high representative\* for CFSP and the commissioner for external relations. This 'double-hatted' nature is the groundbreaking feature of the post. It is meant to overcome, at least to mitigate, the dichotomy between 'Community' and CFSP policies in EU external action.

With his 'Council hat', the high representative will chair the Foreign Affairs Council and conduct the Union's foreign and security policy as mandated by the Council. With his 'Commission hat', he will be a member of the college and one of its vice-presidents. The high representative will exercise the Commission's responsibilities in



“external relations” and coordinate “other aspects of the Union’s external action”<sup>69</sup> – such as development or trade policy that will (almost certainly) continue to be conducted under the authority of specific commissioners.

While the Lisbon treaty will therefore bring together the execution of previous first and second pillar tasks, it won’t completely merge them. The high representative will indeed wear two hats instead of one. That is, while conducting CFSP, the high representative will act according to the specific rules applicable in this policy area and under the mandate of the Council. Commission procedures won’t apply since the Lisbon treaty entrusts the responsibilities concerning the execution of CFSP specifically to the high representative and not to the Commission as such. On the other hand, whenever dealing with ‘Community’ external affairs, the high representative will be fully bound by the college rules and less supervised by the Council.

The high representative will be appointed by the European Council, acting by qualified majority. Importantly, the Commission president has to give his assent to the nomination. In addition, the high representative will be subject to the European Parliament’s vote of approval for the Commission college. His term of office (normally five years) may be ended by the European Council, again acting by qualified majority. The Commission president may also request the high representative to resign. This request, however, has to be confirmed by a qualified majority in the European Council.<sup>70</sup> Finally, the European Parliament can dismiss the Commission as a college, (de facto) including the high representative.<sup>71</sup>

### 2.3.2. Key responsibilities

The new treaties will entrust a considerable amount of tasks to the high representative. This clearly marks an end to the current situation of split responsibilities and might well be the basis for making the high representative an influential policy entrepreneur. His principal duties, competences and powers can be grouped under five headings: (1.) initiative and agenda-setting, (2.) coordination and consensus building, (3.) representation and negotiating, (4.) implementation, and (4.) crisis management.<sup>72</sup> They will be discussed in turn.

The high representative will have extensive possibilities to take the initiative in EU foreign policy and to shape the Union’s agenda in international affairs. This results first of all from his position as chair of the Foreign Affairs Council (FAC).<sup>73</sup> In this capacity, the high representative will replace the rotating presidency that will (according to the treaties) no longer play any particular role in the FAC.<sup>74</sup> He will prepare the Council meetings and have the right to convene extraordinary gatherings if need be.<sup>75</sup>

Initiative and agenda-setting

The high representative might furthermore steer EU foreign policy by way of his (new) right of initiative in the Foreign Affairs Council, including on matters with military or defence implications. In CFSP affairs, he will share this right with any member state; he can ask the Commission for support, but won’t depend on it. In fact, the Commission as a college will formally lose its right to table CFSP proposals.<sup>76</sup> In non-CFSP matters, the exclusive right of initiative will remain with the Commission.<sup>77</sup> The high representative (or any member state) thus won’t be able to act alone here; however, it will be him who drives forward such Commission proposals. Finally, the high representative will take part in the work of the European Council.<sup>78</sup> This too will give him the opportunity to contribute to shaping the Union’s international agenda.

Furthermore, the high representative will initiate the appointment of EU special representatives and the conclusion of international agreements. Special representatives represent the Union with regard to a particular policy issue. They will be appointed by the Council (acting by qualified majority) on a proposal from the high representative.<sup>79</sup> Likewise, the negotiating of international agreements can be triggered only by an initiative from the high representative (in CFSP matters) or from the Commission (in 'Community' matters). It will be up to them to suggest to the Council the opening of talks and propose the negotiating guidelines.<sup>80</sup>

Taken together, the various opportunities for taking the initiative and shaping the agenda enable the high representative to play a decisive role in EU external action. He will not only be able to introduce new issues, but also to assign priority to certain topics and to demote others.<sup>81</sup> Certainly, in most of the cases it will still be the Council who takes final decisions. However, if the high representative makes skilful use of the instruments at his disposal and demonstrates a confident but measured will of initiative, he might well exercise a certain amount of leadership. In fact, being in the chair of the deliberation process, he might develop the ability to shape not only the agenda, but also the final decision itself. This has been a feature of the Council presidency,<sup>82</sup> which the high representative is set to replace as the "key animating force of the CFSP"<sup>83</sup>. In fact, in his role as agenda-setter and decision-shaper, he will be even less constrained than the presidency has been. After all, he will not have to start from scratch every six months. Instead, he can drive forward his agenda over a longer period of time, build up channels to key actors, and gain the necessary confidence among member states.

Coordination and  
consensus building

More than any national foreign policy, EU external action is to a large extent about policy coordination and reaching compromise. The high representative will play a prominent role in this endeavour. This results again first of all from his role as chair of the Foreign Affairs Council. One of the high representative's principal tasks will thus be to build up consensus among member states, in particular in CFSP, but also beyond. In fact, he will have a vital interest in bringing member states together since this will be the prerequisite for him conducting any policy in the area of CFSP. Besides this role within the Council, the treaties will task the high representatives also with informing and consulting the European Parliament on developments in CFSP. He shall ensure that the MEPs views are duly taken into consideration.<sup>84</sup>

The high representative will further play a bridging role with regard to the newly established flexibility in foreign policy. The Lisbon treaty considerably extends the possibility of groups of member states going ahead in certain policy areas or with specific tasks.<sup>85</sup> It will thus constitute an important responsibility for the high representative to ensure cohesion and solidarity among member states and to act as a trusted transmitter between those who are 'in' and those who are 'out'.

Moreover, the high representative will have to ensure horizontal and vertical consistency of EU external action. The treaties task the Council, the Commission as well as high representative with ensuring the consistency between the different areas of the Union's external action and between these and its other policies (horizontal consistency).<sup>86</sup> Arguably, the high representative will be the focal point of this endeavour as he represents the interface between the different institutions and policies involved. A particular aspect of the high representative's horizontal coordination role relates to his position as Commission vice-president. In this capacity, he will be tasked with coordinating the work of his fellow commissioners on "other aspects of external action"<sup>87</sup>.

With regard to vertical consistency, the treaties stipulate that it is the high representative who shall ensure “compliance”<sup>88</sup> by the member states. That is, he will be tasked with watching over the principle that member states shall support the Union’s foreign policy, comply with its decisions, and develop their national foreign policies in a spirit of mutual solidarity and without impairing the Union’s “effectiveness as a cohesive force in international relations”<sup>89</sup>. This will doubtlessly be an as important as challenging task for the high representative. In fact, the treaties provide no instruments to this end.<sup>90</sup> He will thus have to rely on his persuasion as well as his skill in coordination and consensus building.

Not surprisingly, representing the Union externally will figure among the key duties of the new EU foreign policy chief. At the ministerial level, he is indeed likely to become the Union’s single voice in foreign affairs. At lower levels, it will be the EAS, Union delegations and special representatives that ensure unified external representation under his authority. The Commission will continue to entrust other commissioners and their staff with external representation in sectoral policies, including issues such as trade and development. It will, however, be the high representative alone that represents the Union in foreign policy as such.<sup>91</sup>

Representation and negotiating

More precisely, the high representative shall conduct political dialogue with third parties and act on the Union’s behalf in international organisations and at international conferences.<sup>92</sup> He will be further tasked with coordinating member states’ action in such multilateral fora. As regards the United Nations Security Council (UNSC), defending the Union’s interest will fall to the EU member states sitting thereon. What is more, however, it will be the high representative that represents the Union point of view before the UNSC whenever the EU has agreed on a common position. This is already possible today; however, it is voluntary, and rarely exercised. The Lisbon treaty, by contrast, will render this arrangement obligatory.<sup>93</sup> There is thus a real chance that the Union will be increasingly represented in the world’s top body by a single and familiar face.

The high representative will furthermore negotiate international agreements on behalf of the Union. Even though the new treaty provisions task the Council to nominate the EU negotiator on a case-by-case basis, this duty will all but certainly always fall to the high representative as far as foreign policy agreements are concerned.<sup>94</sup> He will conduct the negotiations under a mandate given by the Council (on his initiative) and under the scrutiny of a special Council committee. It will then be up to the Council (and, in many cases, also the European Parliament) to ratify the treaty, on a proposal from the high representative.<sup>95</sup>

The implementation of EU foreign policy will be another key element of the high representative’s responsibilities. He will take over the previous external relations commissioner’s political and managerial functions within the Commission. In addition, the high representative’s role in CFSP will be considerably upgraded compared to Javier Solana’s current responsibilities. In fact, the treaties will task the new high representative to “conduct”<sup>96</sup>, “carry out”<sup>97</sup> and “put into effect”<sup>98</sup> CFSP. He will moreover be charged with “ensur[ing] implementation”<sup>99</sup> of foreign affairs decision of the Council and the European Council. This clearly demonstrates the importance the new foreign policy chief will play. However, his room for manoeuvre will always depend on the willingness of the member states to grant him such freedom to act. In fact, the treaties clearly state that the high representative will conduct and implement CFSP “as mandated by the Council”<sup>100</sup>. It is certainly the Council that remains the principal in foreign policy.

Implementation

Major instruments serving the high representative in implementing foreign policy will constitute the External Actions Service, the Union delegations and the special representatives. All of them are placed by the treaties under the authority of the high representative<sup>101</sup>, thus equipping him with considerable resources and means of influence.

Crisis management When conducting CFSP, crisis management will figure high among the high representative's responsibilities. The Lisbon treaty will extend the common security and defence policy (which comprises crisis management), and provide for an important role for the high representative therein. It will namely be under his responsibility (and that of the Council) that the Political and Security Committee (COPS) exercises the "political control and strategic direction"<sup>102</sup> of EU crisis management operations. What is more, member states agreed during the negotiations of the Lisbon treaty on entrusting the COPS chairmanship to a representative of the high representative, thus replacing the rotating presidency.<sup>103</sup> In addition, the treaties will task the EU foreign policy chief with coordinating the civilian and military aspects of crisis management missions.<sup>104</sup> Overall, the high representative's central position in managing crises might be an important step forward in ensuring efficiency and horizontal consistency. In fact, crisis management has been one of the major fields of institutional infighting between the Council and the Commission, resulting in quite some duplication on the ground.<sup>105</sup>

### 2.3.3. Structures and resources

In order for the high representative to handle his huge field of responsibility, he will have to rely on well-structured and well-equipped support services. The high representative's main resources (in terms of personnel, expertise and information, as well as financial and implementation means) will notably be the EAS, the Union delegations and the special representatives. The Lisbon treaty thus equips the EU foreign policy chief clearly and firmly with the necessary resources to fulfil his functions. As for the structures of the new office itself, however, the new treaties leave much open.

Cabinet(s) The question of structures principally relates to the high representative's cabinet(s) and deputies. The treaties remain silent on both issues. With regard to the high representative's private office, two options are conceivable: There could be either one single cabinet; or there could be two distinct offices, one for the Commission 'hat' and one for the Council 'hat'. This question is in the end to be decided by the foreign policy chief himself. However, a unified cabinet would clearly be much more promising in terms of efficiency and coherence. After all, the idea behind the creation of the new high representative is to overcome the pillar dualism. That is why it is likely that there will be indeed only one cabinet for both 'hats'.<sup>106</sup>

Deputies Far less predictable is the establishment of deputies to the high representatives. It was already the Constitutional convention that has discussed the issue without coming to a conclusion. In fact, the 'father' of the 'double-hatting' himself has spoken out in favour of establishing deputies<sup>107</sup>, and so have several observers.<sup>108</sup> It is usually proposed to create one deputy for Commission affairs and one for CFSP or, more specifically, for CSDP. Such a CFSP/CSDP deputy could chair COPS, deputise the high representative as FAC chair if need be, and liaise with the EU Military Committee and the European Defence Agency. The Commission deputy could, for instance, deal with the European neighbourhood policy and deputise for the high representative at college meetings. Regarding the appointment of such deputies,

opinions differ. The deputies might be simply appointed by the high representative, or might need the approval of the Council and/or the Commission president. Another point at issue is whether the deputies should be political figures or rather senior officials.

Again, it will be up to the high representative to decide. However, he will face some legal constraints. It is, for instance, contested whether the treaties will allow for 'dual-pillar capable' deputies (they probably will), and whether a deputy would have the right to vote in the Commission college (probably not).<sup>109</sup> There are also alternatives conceivable. Instead of a deputy, it could be the head of cabinet that would deputise for the high representative in the Commission, as is today the case for commissioners. For issues relating to the Council, it could be the foreign minister of the rotating Council presidency that takes up some tasks. Finally, the high representative might also appoint special envoys on an ad hoc basis instead of having institutionalised deputies. That is, he might task seasoned politicians or senior officials with dealing with a specific issue or holding talks on his behalf (they would have a more limited and less formal mandate than EU special representatives).<sup>110</sup> At the end of the day, the first high representatives might set some precedent here. Solana is reported to be rather sceptical about formal deputies.<sup>111</sup>

#### 2.3.4. Relations with key actors

The high representative will be at the centre of a complex web of actors. His political weight and influence will much depend on how this set of interactions is organised. In fact, the crucial question will be how much room for manoeuvre the key actors grant the foreign policy chief.<sup>112</sup>

It was stated before that the Council presidency will lose any specific role in EU foreign policy: the presidency's head of state or government will lose his specific tasks to the European Council president, and the presidency's foreign minister will lose his to the high representative.<sup>113</sup> The treaties are indeed clear on that, and yet much remains uncertain. Interestingly, a real discussion about this issue has developed only in recent months. It seems as if, during the negotiations of both the Constitution and the Lisbon treaty, member states weren't fully aware of the scope of their decision:<sup>114</sup> the abolition of any prominent role precisely for the two top figures of the government holding the EU presidency. The more this fact has sunk in, the busier member states have become in looking for new jobs for the presidency.

Council presidency

It is in particular the Czech Republic and Sweden – both due to hold the presidency in 2009 – that demand a certain role in foreign policy for (their) prime ministers and foreign ministers. They seem to meet some goodwill among other member states. Yet as of today, it is unclear whether any possible arrangement will be of a transitory or long-term nature. Several such arrangements are being discussed among member states and in the Council Secretariat.<sup>115</sup> First of all, informal European Council and FAC meetings could continue to take place in the country holding the presidency and could be chaired or co-chaired by that state. With regard to bilateral summits with third parties, they too might be held in the presidency country rather than in Brussels. However, finding a role for national politicians would be more difficult here, since the new treaties will confer external representation clearly to the Union actors. Presidency representatives might yet, in some form or another, be present during formal talks and host dinners or other more informal events.<sup>116</sup>



Another suggestion would have the presidency head of state or government (rather than its foreign minister) chairing the General Affairs Council.<sup>117</sup> This idea is rather astonishing but reported to meet some sympathy among member states. According to other proposals, presidency foreign ministers would serve as formal deputies of the high representative or act as ad hoc special envoys. Finally, concerning the working level, the presidency will certainly chair a number of Council external relations working groups. In fact, this has always been intended. The issue at point is rather where to draw the line between groups chaired by the presidency and groups chaired by staff of the high representative.

In sum, the high representative's relationship to the presidency is difficult to evaluate as yet. The current discussion notwithstanding, the presidency probably won't play any major role in EU foreign policy, but might well get some 'handshaking jobs' – at least during a transitional period. Anything else would, in fact, be against the idea behind the provisions of the Lisbon treaty. After all, any prominent role for the rotating presidency in external representation, but also in foreign policy-making, would run counter to the attempt of creating more visibility, continuity and consistency.

European Council president

Much less of a transitional nature is another awkward constellation of actors: the tri-lateral relationship between the high representative, the Commission president and the European Council president. In fact, the treaties assign a role in foreign policy to all of them, but without spelling out the terms of their interaction. The European Council president's representational role in CFSP was described above.<sup>118</sup> A likely separation of labour will be that the president meets heads of state and government, whereas the high representative deals with foreign ministers. This arrangement should work well as long as the president will indeed limit himself to such rather occasional high-level interaction. However, it would become much trickier should he decide to set policy guidelines or even assume responsibility in day-to-day business. After all, there is no clear line of accountability and command between the president and the high representative that could govern such intensive interaction.

Thus, depending not least on the personalities involved, some infighting between president and high representative cannot be excluded. However, it is likely to be rather the exception than the rule.<sup>119</sup> First of all, the treaty provisions simply do not provide for too strong a role of the president in foreign policy.<sup>120</sup> Secondly, it is the European Council that will define the overall priorities and strategic orientations.<sup>121</sup> These, in turn, will have to guide both the president and the high representative, therefore setting a certain framework for their interaction. Inconsistency between the two actors would be even less likely should it indeed be the EAS that supports the president in foreign policy matters.<sup>122</sup>

Commission president

The third player in the new trio at the top will be the Commission president. His relationship with the high representative may indeed be among the most difficult ones. After all, the Commission president must reconcile himself to having a vice-president that is appointed by the European Council and answerable directly to the Foreign Affairs Council. The high representative will thus be to a considerable extent removed from the president's authority.<sup>123</sup> Viewed from the high representative's perspective, this means split accountabilities to both the Commission president and the Council that won't always be easily reconciled. Another element of the relationship between the high representative and the Commission president concerns external representation. It will be the latter who represents the Union abroad in non-CFSP matters at the level of head of state and governments. The Lisbon treaty might

therefore give rise to a new form of troika embracing the high representative and the presidents of the Commission and the European Council. Whether consistency can always be ensured under such a constellation remains to be seen. However, similar arrangements are known from nation-states with semi-presidential systems.

The treaties won't determine which commissioners with external action portfolios are to be appointed besides the high representative. Most probably, there will remain a commissioner respectively for trade, development and humanitarian aid, and enlargement. The European neighbourhood policy, by contrast, is likely to fall in the remit of the high representative.<sup>124</sup> The (three?) remaining external action commissioners – and other commissioners as far as external aspects of internal policies are concerned – are to be coordinated by the foreign policy chief in his capacity as vice-president. How well this arrangement will work depends not least on the personalities involved, as well as on the Commission president. *Prima facie*, the high representative will be *primus inter pares* without legal authority over his fellow commissioners.<sup>125</sup> However, his political position will clearly be superior to that of his colleagues, a fact facilitating effective coordination.<sup>126</sup>

Commission college

In any case, the high representative will need to develop good working relations with his fellow commissioners. After all, he will depend on the college's support in 'Community' matters, where major decisions have to be adopted by a majority of commissioners (collegiate principle).

The Foreign Affairs Council will be supposed to develop the Union's external action on the basis of strategic guidelines by the European Council and to ensure the consistency of external action.<sup>127</sup> This will make the FAC the central actor in EU foreign policy, and the high representative's actual power and influence will much depend on the confidence of the foreign ministers sitting thereon. His chairmanship will offer him ample possibilities to shape the Council's work. However, it is the FAC that will be the principal, making it another actor the high representative will have to accommodate (besides the European Council president, Commission president and Commission college<sup>128</sup>). The FAC will be, in fact, his by far most important interlocutor. After all, the high representative will fulfil most of his duties "as mandated by the Council"<sup>129</sup>, and will rely in CSDP matters on member states' resources. Thus, a close and trusting relationship with national foreign ministers will be indispensable for the high representative to be effective.<sup>130</sup>

Council and member states

## 2.4. Foreign service in the making

### 2.4.1. A new service

The establishment of the new office of high representative will be accompanied by the creation of a new service set to 'assist' the foreign policy chief. In fact, this new External Action Service will be essential for the high representative to fulfil his functions effectively. Though the EAS might fundamentally alter EU foreign policy-making, the treaties remain remarkably brief in this regard. In fact, there is only a single and rather general paragraph. According to Art. 27 (3) TEU, the EAS shall work in close cooperation with national diplomatic services and comprise officials from the relevant departments of the Council Secretariat, the Commission and the member states. Its organisation and functioning shall be established by a Council decision, adopted unanimously upon a proposal from the high representative. The Commission has to give its consent and the Parliament has to be consulted.

It will therefore be only during the coming months that the scope, institutional status, staff regulations and internal structures are set. In addition, the treaties leave it open whether the new Union delegations are to be integrated in the EAS or not. These issues will be discussed below in turn. Two general remarks can already be made however. Firstly, the main tasks of the service are determined by the functions and competences of the high representative and are therefore related to what was discussed above. Secondly, the key feature of the EAS will be its 'inter-pillar' nature. Just as the high representative wears a 'double-hat', so does the EAS bear responsibilities both in CFSP and 'Community' matters.

#### 2.4.2. Scope of action

The EAS won't be established from scratch. There will rather be a transfer of existing administrative units from the Commission and the Council Secretariat to the new service. The decision on which units are to be concerned exactly is of highest political importance and crucial for the future character and power of the EAS. Likewise, it will determine the remaining role of the Commission and the Council Secretariat in EU external action. Not surprisingly, the issue is highly contentious among institutional actors in Brussels. And so it is among member states; after all, a comprehensive and strong EAS might well enhance the overall foreign policy role of the European Union and will affect national diplomatic services.

The EAS will have to assist the high representative in all his functions, including his role as Commission vice-president, chair of the Foreign Affairs Council and external face of the Union.<sup>131</sup> This means the service will have to engage in coordination, planning, agenda setting, monitoring, intelligence gathering, analysis, crisis management, representing, negotiating and maybe also programme implementation.

#### Composition of the service

Even though the broad lines of responsibilities are set, the precise institutional and political scope of the EAS remains an open question. A minimalist solution would simply include parts of the Council Secretariat's directorate-general for external and politico-military affairs (DG E) and its Policy Unit, as well as parts of the Commission's directorate-general for external relations (DG RELEX). A maximalist approach, by contrast, would incorporate the new Union delegations and all external relations directorates-general from the Commission: external relations proper, trade, development, EuropeAid co-operation office, humanitarian aid, and enlargement. In addition, it would transfer from the Council Secretariat not only all DG E and the Policy Unit, but also the EU Military Staff and the Situation Centre (SitCen).<sup>132</sup>

Neither of these solutions is likely to prevail. A too-small service would not be able to function as the bridging tool between previous first and second pillar policies – the fundamental idea behind the Lisbon reforms. On the other hand, many actors are also wary of a too big and strong EAS. Within the Commission, there are concerns that it will lose much of its grip on external action when the bulk of its relevant resources is transferred out of its immediate realm. Some member states too remain suspicious, as they don't know yet where the service will stand: closer to the Council or to the Commission. Too many previous Commission services within the EAS, they fear, will make it lean rather towards the latter.

Though final decisions won't be taken before late 2008, the new service has already taken some shape.<sup>133</sup> The reform will be guided by the 'single desk' principle. That is,



no functional or geographical desk shall be duplicated in any EU service (EAS, Commission, CGS). If need be, the other services shall rely on the desk provided by the service that is principally in charge of the issue at hand. As for the EAS, it seems to be broad consensus that it is to comprise all services dealing with CFSP (including CSDP), all geographical desks, as well as thematic desks covering issues such as human rights, counter-terrorism, non-proliferation and relations with the United Nations.

More precisely, it is likely that all of the Commission's (political) geographical desks will be transferred to the External Action Service. This concerns mainly DG RELEX, but also DG enlargement as well as DG development, where most of the (political) Africa desks are located.<sup>134</sup> In addition, the bulk of the remaining units of DG RELEX will be shifted to the EAS as well, in particular the CFSP desks and other thematic desks, as well as the External Service. However, some of its purely administrative and technical units might well stay with the Commission in order not to overload the EAS. On the other hand, all remaining external action departments are very likely to remain separate within the Commission: trade, development, EuropeAid, humanitarian aid, and enlargement. As a likely but not yet certain consequence of the scenario described, the European neighbourhood policy will be henceforth dealt with by the EAS.<sup>135</sup>

With regard to the Council Secretariat, the bulk of DG E, the Policy Unit and most likely the staff of the special representatives will be shifted to the new service. Only those units of DG E dealing with enlargement, trade and development issues are likely to remain in the Secretariat's remit. No consensus has emerged so far regarding the EU Military Staff (EUMS) and the Situation Centre, the latter also providing services in the field of internal security. As for the EUMS, some few member states seem to be concerned about a too-strong entanglement of civilian and military aspects of foreign policy and about the special status of its staff. However, whereas it is rather unlikely that the SitCen will form part of the EAS in the end, the discussion on the EUMS tends rather towards shifting it to the new service. If not, it might at least be given a special status and directly attached to the high representative.<sup>136</sup>

The EAS' scope will embrace further responsibilities and resources.<sup>137</sup> First of all, it is likely that the future Union delegations will be integrated therein, though maybe in a gradual process over some time.<sup>138</sup> The EAS is furthermore likely to provide some of its services not only to the high representative, but also to the presidents of the European Council and the Commission in their representational capacities. Though that remains a political issue, discussions hint that considerations of efficiency and consistency will prevail. The EAS will probably also assist the special representatives. Finally, the EAS is likely to be tasked with chairing Council foreign policy working groups. There is, however, no consensus among member states on the exact scope of that responsibility. The service will probably chair those bodies that deal purely with CFSP or are directly linked to COPS, which is likely to be chaired by an EAS representative, too. Other external action working groups – handling previous Community issues such as trade or development, as well as groups with horizontal or mixed competences – will probably be chaired by the rotating presidency. This would, not least, reflect the newly aroused strive for preserving a substantial role for the presidency.

Additional responsibilities

### 2.4.3. Institutional status and location

The Lisbon treaty does not specify the External Action Service's institutional location and status. Not surprisingly, the Commission wants the service to be as close to its remit as possible, whereas many member states envisage a solution closer to the Council's structures. Broadly, there are four options conceivable. The service could be integrated in the Commission; it could be incorporated in the Council structures; or it could be administratively split between the Commission and the Council Secretariat but with very close ties linking the two subdivisions. Finally, the EAS could also be created as a new '*sui generis*' body, organisationally independent from the Commission and the Council structures.<sup>139</sup>

Early on, a consensus emerged that only a *sui generis* solution is politically feasible.<sup>140</sup> However, most actors haven't yet got a clear idea of what that might actually mean. One model often referred to in Brussels these days is that of the European agencies.<sup>141</sup> Unfortunately, this analogy is little instructive. In fact, there is no 'European agency' as such. First of all, there are 'Community agencies' on the one hand (like the European Environment Agency), and 'CFSP agencies' on the other (such as the European Defence Agency), which differ considerably from each other. But also within these broad categories, one agency is different from the other. There is simply no authoritative definition of what an agency actually is, neither in the treaties nor elsewhere. Every EU agency is established by a Union legal act and modelled according to the respective needs. Apart from that, none of the existing agencies could really serve as a model for the EAS. Firstly, the External Action Service will be entrusted with far more competences and far more staff than existing agencies are. Secondly, the organisational structure prevailing in the Union agencies – a division of power between an administrative or management board, an executive director, and sometimes one or more scientific or technical committees – is hardly applicable to the EAS.<sup>142</sup>

The External Action Service will therefore indeed be of a *sui generis* nature. It will be more autonomous from the Commission than 'Community agencies' are, but not as close to the Council and member states as 'CFSP agencies'. However, whether it will be in a position of 'equidistance' between both sides is not decided. The Commission lobbies for close ties to its services, putting forward that only then could the EAS ensure its coordination function both of all external action – of which much will continue to be conducted by the Commission – and of external aspects of internal policies. Many member states, on the other hand, point out that the specific nature of CFSP – arguably the EAS's main task – prohibits too-close links to the Commission but necessitates close ties to the Council.<sup>143</sup> In the end, the External Action Service will have to develop close relations to the Commission services, the Council Secretariat and the member states, both at the political and desk level. The composition of its staff appears to be a good precondition for finding workable arrangements.

In any case, the EAS' status will have to fulfil some basic conditions that seem to be widely consensual. Firstly, it needs a certain degree of budgetary autonomy. Secondly, it must possess appointing authority; that is, the high representative must be able to take staffing decisions. Thirdly, the service needs functional legal personality in order to enter into contracts, for instance.<sup>144</sup> Besides, the European Parliament insists on an arrangement that ensures sufficient parliamentary oversight.<sup>145</sup>

#### 2.4.4. Staff composition

According to the treaties, the EAS 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.”<sup>146</sup> This provision has often been understood as implying an equal share for each of the three sources. However, such a distribution of posts appears hardly practicable, at least in the beginning.

At headquarters level, the Commission employs currently 750 people in DG RELEX alone,<sup>147</sup> whereas the Council Secretariat has about 390 staff working on external relations (of which around 215 are themselves detached from member states).<sup>148</sup> The national diplomats, in turn, will still have to be recruited, a process that will take time. Obviously, the situation is still more uneven regarding the delegations where virtually all of the current one thousand EU officials are from the Commission.<sup>149</sup> In light of this reality, member states do still hold up their demands for one third of the share, but privately indicate that they could live with less – at least initially. In fact, they are rather preoccupied with the quality of the positions they will get than their mere quantity.<sup>150</sup>

Given the number of unknowns, the overall size of the EAS is difficult to estimate. It will probably lie somewhere between one and two thousands at headquarters level. Estimating the future EAS staff abroad is even harder since the unknowns are still larger in number. A few thousand might be a fair educated guess. Finally, the distribution of the ‘national’ posts among member states is another issue at point. Most likely, there won’t be formal quotas, but a ‘geographical balance’ will have to be respected.

Apart from numbers, it is the personnel’s status that matters. For member states it is essential that their diplomats will work on fully equal footing with the staff from the EU institutions. It seems therefore consensual that national diplomats won’t be employed as ‘detached national experts’ but rather as ‘temporary agents’. This solution would also ensure that it is the Union that pays for them. As for the Commission and CGS staff, they could be either detached or transferred to the External Action Service. Only the latter would free the staff from obligations towards their parent institutions and allow the application of a uniform statute.<sup>151</sup> On the other hand, creating such a uniform statute for the EU officials would necessitate complicated amendments of existing staff regulations. Whereas it seems very likely that member state diplomats will indeed be employed as temporary agents, the question of the institutional staff’s status remains open.

Other open questions relate to the concrete recruitment procedures, possible training schemes, and rotation procedures for Commission staff (that is, whether they will be subject to rotation to remaining Commission services). However, one of the most crucial challenges will set in only after these technical (though often also political) issues have been solved. Namely, the new service will have to develop a common culture linking together staff with very different professional backgrounds. The evolution of a proper *esprit de corps* will be instrumental for the success of the External Action Service and EU foreign policy.

#### 2.4.5. Union delegations

The new Union delegations will all but certainly emerge from the current Commission delegations. They are likely to form an integral part of the External Action Service. Even though the treaties leave the matter open, integrating the delegations into the EAS was described as 'natural' by many interviewees for this paper and had already been regarded as consensual in 2005. This does not imply that all the delegations' staff will be members of the EAS. As it is the case for most national embassies, other departments could send personnel to the missions according to local needs. This will most prominently concern the Commission's external action directorates-general, but could in some cases also involve the Council Secretariat or the European Parliament. In fact, delegations will probably rely on Commission staff in particular for trade issues and the management of financial assistance – indeed two matters that will continue to be key responsibilities of most EU missions. Political reporting and representation, however, will be conducted by EAS members. Likewise, the head of mission is to be expected to come from the service. In which way the EAS staff will rotate between headquarters and delegations remains to be decided, but some form of rotation is likely to be established.<sup>152</sup>

Having said that, Union delegations won't take on their duties on a global scale right away. To the contrary: for the time being, most delegations will continue to be organised and composed as they used to be. Consequently, they won't fulfil additional political tasks, or at least not in their entirety. In fact, member states are not prepared to confer to delegations full responsibility in CFSP as long as current Commission staff haven't been complemented by member state diplomats – including at the level of head of delegation, whose appointments are likely to become more political. It might thus well be that during an initial period, full-fledged Union delegations co-exist as 'pilot missions' next to old-style (de facto) 'Commission' delegations.

As regards the exact scope of responsibilities of the Union delegations, opinions differ. Once they have been fully established, they might take over all the tasks currently fulfilled by the embassy of the state holding the presidency. EU foreign policy arrangements on the ground would thus reflect the situation at headquarters level. This would clearly boost the Union's position vis-à-vis third countries and contribute to the EU speaking with a single voice. However, such a solution might also be met with opposition from national diplomats. After all, this arrangement would mean that the EU delegations take the lead, for instance, in coordinating national EU embassies. Moreover, too-strong EU missions might be regarded as unwelcome competition.

Likewise, it remains open whether the delegations should take over responsibilities in issuing (Schengen) visas and providing consular services. Both are supported in particular by smaller and medium-sized member states with limited diplomatic and consular networks. Others, however, oppose the idea. Maybe solutions will be found so that it is up to each member state to decide which competences the Union delegations shall exercise with regard to its citizens in any given country.

Overall, Union delegations will considerably increase EU diplomatic resources. They will contribute to the EAS's monitoring, reporting, analytical and representational capacities and enhance the Union's ability to exercise influence on third governments and international organisations. The delegations will thus be important

means at the disposal of the high representative. They will, however, also be for the benefit of member states themselves. After all, they are likely to have access to at least parts of the delegations' services; likewise, a member state's particular interests might be better heard if articulated by a unified European voice. Hence, it might be first of all the small and medium-sized countries that embrace the idea of strong EU 'embassies'. However, in times of constrained national resources, even larger member states might appreciate this opportunity of rationalisation.

### 3. Post-Lisbon: Possible Implications

The Lisbon treaty brings about fundamental alterations in the EU foreign policy system. But how will all that affect actual policy-making and daily policy outcomes? This part will, in light of the theoretical assumptions spelt out in the introduction, evaluate the short- and long-term implications of the reforms discussed in the previous section. It will first measure the innovations against the shortcomings identified in part one (3.1.). The analysis will subsequently apply the concepts of Europeanisation (3.2.) and Brusselisation (3.3.) to the alterations made. It will finally turn to new problems and open questions (3.4.).

#### 3.1. Addressing the shortcomings?

##### 3.1.1. Strengthened internal structures

In the first part of this paper, four major institutional shortcomings were identified in the field of internal structures that govern EU external action: shaky consistency, split of resources, weak decision-making procedures, and lack of leadership. To what extent will the Lisbon reforms address these flaws? This will be discussed in turn.

The high representative and the External Action Service will most certainly enhance the Union's ability to ensure coherent and efficient external action. Both will contribute to overcoming the pillar split and unifying competences. The single desk principle will reduce duplication, and the clarification and concentration of responsibilities will reduce the overlap of competences between Commission and Council services – for instance in crisis management. Consequently, the risk of rivalry in foreign policy and resultant turf battles will decrease, and so will the need for time-consuming inter-institutional coordination. At the same time, the Union will improve its capacity for improving its overall policy coordination. In fact, as permanent chair of the Foreign Affairs Council and Commission vice-president, the high representative will be in a good position to better ensure consistency of the Union's broader external action, both with regard to other Commission policies and the foreign policies of member states.

Enhanced consistency

It will, however, still remain to be seen to which extent other commissioners charged with external action will, in practice, accept such coordination by a fellow college member. In fact, the treaties provide the high representative with no concrete or even enforceable means vis-à-vis other commissioners. Whether the treaties' firm *political* mandate for the foreign policy chief to ensure consistency will suffice will not least depend on the personalities involved.

The Lisbon treaty will merge EU foreign policy resources into a single service under the authority of a single foreign policy chief. This will radically change the situation

## Concentration of resources

where assets have been unevenly split across pillars and sometimes duplicated. The high representative will henceforth have all foreign policy resources available at the European level at his disposal, and the EAS will be likely to develop into a strong analytical hub. In addition, the high representative's position as Commission vice-president is likely to further enhance the Union's capacity to develop a comprehensive approach in international affairs, bringing together, for instance, diplomatic and economic means. Taken together, the concentration of resources will boost both the high representative's capacity to act and his credibility abroad.

However, the high representative will continue to heavily rely on the member states' political will. After all, it is the Council that holds the power, especially in CFSP, and decides on common positions. In addition, many of the resources employed in EU foreign policy actually lie with the member states. The Union will therefore continue to rely on its members' will to put them at its disposal, in particular when it comes to military means.

## Weak decision-making procedures

The decision-making procedures in foreign policy will remain basically unchanged.<sup>153</sup> The slight increase in cases where the Council may act by qualified majority in CFSP matters is unlikely to make a significant difference in practice. This will clearly constitute the principal obstacle to a more proactive EU foreign policy and limit the high representative's room for manoeuvre. Moreover, there will continue to be no enforcement mechanism to ensure member states' compliance with CFSP decisions. Member states will further, in practice, remain free not to involve the Union in foreign and security issues in the first place.<sup>154</sup> However, a strong and visible high representative, supported by a globally present External Action Service, might render it more difficult to sideline the Union.

## Potential for leadership

The high representative will have the potential to mitigate the Union's structural lack of leadership. He will be Commission vice-president, chairman of the Foreign Affairs Council, chief interlocutor for third parties, and head of one of the largest diplomatic services in Europe. This puts the high representative in a strong position to develop leadership in EU foreign policy. However, the Lisbon treaty is unequivocally clear in stating that he can, as far as CFSP is concerned, act only within the limits of his mandate set by the Council. Given that unanimity will remain the rule and some member states will continue to guard their foreign policy autonomy, the high representative's room for manoeuvre will remain circumscribed. Moreover, the high representative will have to find arrangements for his relationship with the European Council president, the Commission president and fellow college members. These constraints notwithstanding, the Lisbon treaty creates at least the potential for the high representative to become a veritable policy entrepreneur. This would, in turn, contribute to the Union developing a more strategic, more proactive and more coherent foreign policy – at least in the medium term.

## 3.1.2. Clarified external representation

Several institutional shortcomings have weakened the Union's external representation. The analysis in part one determined three major flaws in this regard; namely a lack of continuity, plethora of actors, and lack of diplomatic professionalism. Again, the Lisbon treaty's response to each of them will be discussed in turn.

The transfer of virtually all competences from the rotating Council presidency to the high representative constitutes one of the most radical reforms of the Lisbon treaty.



This will certainly boost continuity in the Union's external representation. The new foreign policy chief will be globally recognised and able to build up confidence and stable personal relations to key players. He is likely to be a politician of high rank<sup>155</sup> and will be supported by a proper diplomatic service. Moreover, a similar case could be made with respect to the newly permanent European Council president. Finally, the Union's representation in third countries and international organisations will be considerably increased. After a certain transition period, the Union will be represented in all its policies in almost any given country by a single and permanent EU delegation.

Boosted continuity

The Lisbon treaty will considerably reduce the number of top foreign policy actors, thus enhancing the Union's visibility abroad. Most fundamentally, there will be only a single foreign affairs representative at the ministerial level.<sup>156</sup> Likewise, on the working level, it will be solely the External Action Service that negotiates on behalf of the Union in foreign policy.<sup>157</sup> At the very top, however, dualism will remain. The European Council president will represent the Union at the level of heads of state and government in CFSP affairs. In non-CFSP matters, by contrast, this task will fall to the Commission president. Hence, the Union's striving for a more unified external representation remains limited. Having said this, the interface position of the high representative and his service promises to ensure the necessary coordination between the three actors, at least in general.

Increased visibility

The External Actions Service's composition is likely to enhance the diplomatic professionalism available to the Union. The influx of member states' diplomats will enrich the EU with the valuable diplomatic experience it has previously been short of. Together with the expertise stemming from the Commission and CGS officials, the EAS appears to be well equipped to serve the specific needs of the Union as an international actor, both at headquarters level and on the ground. It remains to be seen, however, how the different parts of the service will fit together and be able to form an effective ensemble.

Enhanced diplomatic professionalism

### 3.2. Europeanising national foreign policy

The high representative and the External Action Service will not only affect *EU* policy-making; they will also reverberate to the member state level, further 'Europeanising' national foreign policy.<sup>158</sup> In fact, the existence of considerably reinforced European foreign policy institutions will certainly require adjustments in national political and administrative structures. In addition, this 'national adaptation' might well be supplemented by a process of 'identity reconstruction'. The mere presence of the high representative and his service are likely to increase expectations of a common EU policy, thus constraining national policy choices and further enhancing the 'coordination reflex' among capitals. This will matter all the more since the coordination process will henceforth be led by genuine European actors rather than 'national' Council presidencies.

This permanent interaction of national diplomats with the External Action Service will ensure 'European considerations' receive a high amount of attention when national policies are developed. This phenomenon of 'elite socialisation' will experience an enormous additional boost due to the influx of national diplomats into the EAS. After all, these officials will most certainly rotate back into their national foreign services, bringing with them a certain European mindset and familiarity with the Union's enhanced role as an international actor.

### 3.3. Brusselising EU foreign policy

The Lisbon reforms will not only further Europeanise national foreign policies, but also further 'Brusselise' EU foreign policy. This term basically refers to the process of shifting the focus of EU foreign policy-making from national capitals to Brussels. That is, for instance, the transfer of competences from the rotating EPC secretariat to the Council Secretariat, or the replacement of the Political Committee by COPS composed of Brussels-based diplomats. Such developments entail a common socialisation process, contribute to the creation of a shared mindset, and encourage consistency.<sup>159</sup> The establishment of the EAS with its contingent of member state diplomats will constitute another move in this direction. Similarly, the replacement of the rotating presidency by the high representative and his service can be somewhat understood as a step towards further Brusselisation, too.

What is more, one might identify a 'global spread of Brusselisation'. Namely, the Union delegations are likely to take over (after a certain transition period) the responsibilities currently exercised by the embassies of the member state holding the presidency. Though this won't change the composition of actors involved, it might well mean an alteration of perception. This might have an impact on the diplomats' mindset and encourage the development of a common foreign policy on the ground.

### 3.4. New problems and open questions

The Lisbon treaty promises to bring about a string of improvements (see above 3.1.). However, it leaves important questions open and might well cause some new problems. High among such concerns figures the question of the high representative's loyalty. Will it rather lie with the Commission or the Council? Will he be the "Council cuckoo in the Commission nest"<sup>160</sup>, as some fear, or will he even end up being 'double-hated' rather than 'double-hatted'? Indeed, his somewhat awkward position between the two sides of *Rue de la Loi* will demand much skill from the high representative. He will have to gain the confidence of both top institutions – the Council as well as the Commission (and increasingly that of the European Parliament) – in order to be effective.

Similarly challenging will be the high representative's relationship to the Commission president and the European Council president. They will have to find a workable division of labour in the decision-making process, and will have to ensure consistency in external representation. Even though it is most likely the high representative that will take the lead in representing the Union, a new kind of troika might emerge.

Furthermore, the role of the rotating presidency remains unclear. At least during an initial period, it might still figure in EU foreign policy. The high representative will thus have to find arrangements that both accommodate the presidency's ambitions and the need for more visibility, continuity and coherence. In this regard, the Union will also have to find sound arrangements for the chairmanship of Council external relations working groups. Finally, it remains to be seen whether a new rivalry will develop between COREPER, chaired by the rotating presidency, and COPS, chaired by a representative of the high representative.

Further questions await answers. First of all, how much room for manoeuvre will the member states be prepared to grant the high representative? Will they insist that he



closely sticks to express mandates set by the Council? Or will he be able to make full use of his agenda-setting power and develop a proactive style of foreign policy-making? Or is there ultimately an intractable contradiction between building consensus and driving forward a proactive agenda? Much will depend on the high representative's skill to win the member states' confidence as well as his ability to deliver added value in foreign policy. His freedom to act will certainly differ according to the issue and region in question. In general, however, an effective and efficient high representative and External Action Service, both aware of national sensibilities, might well develop a kind of policy entrepreneurship that goes beyond mere implementation of Council decisions.<sup>161</sup>

Besides this, other questions remain open. In conceptual terms, one might wonder whether the new arrangements will rather lead to an intergovernmentalisation of previous Community matters, or to a Communitarisation of CFSP. More technical questions relate, for instance, to the exact size and scope of the External Action Service, its staff's status, and rotation procedures. Finally, the funding of the new service has still to be decided.

### **Conclusion: A New Era of EU Foreign Policy?**

Many unknowns still surround the emergence of the post-Lisbon foreign policy system. Some key features, however, have already taken shape. The External Action Service is likely to develop into the new analytical hub of EU foreign policy-making. It will bring together the expertise from two institutions that, for long, lived separate lives. To this will be added the diplomatic experience of the member states' foreign services. The precise scope of the EAS has still to be decided; but it will almost certainly comprise the key units from the Commission and Council Secretariat necessary to develop and implement EU foreign policy more efficiently and more consistently. Provided the single desk principle indeed guides the implementation, duplication in other parts of the EU administration will be reduced to a minimum. The status of the staff, its recruitment and rotation are not finally settled, nor is the service's precise relation to the Union delegations. However, the delegations are likely to form an integral part of the EAS. The new EU diplomats will thus have at their disposal a global network of missions increasingly resembling what many would call 'embassies'.

The service's key task will be to support the high representative in all his responsibilities. And there will be many of them indeed. The new and (importantly) permanent foreign policy chief will be agenda-setter and decision-shaper, coordinator and consensus-builder. He will implement the Union's foreign policy and watch over its crisis management; he will represent the Union abroad and negotiate on its behalf. The high representative is thus indeed set to be the face and voice of the European Union, at least at the ministerial level. But how will his relationship with the European Council president and the Commission president look like in practice? This remains a vital question, not least when it comes to the Union's external representation at the very top level. Other crucial issues relate to the high representative's ties with the Commission college and the Council. The Council, in fact, will remain in many cases his principal, defining EU foreign policy and the mandate the high representative can act within.

Hence, the Lisbon reforms won't turn the EU foreign policy system upside down. The decision-making procedures will remain to a large extent unchanged and unanimity the

rule in CFSP. EU foreign policy-making will therefore continue to be best described as a form of 'intensive transgovernmentalism'. However, member states' foreign policies will be further Europeanised, thus reinforcing EU foreign policy itself. EU foreign policy, moreover, will witness a considerable strengthening of Brussels-based, and indeed, supranational actors.<sup>162</sup> The new institutional architecture is likely to enhance the Union's efficiency, coherence, visibility and effectiveness. Add to this the increased diplomatic resources, and the Lisbon reforms are indeed set to make the Union "stronger in the pursuit of its essential objectives and more present in the world"<sup>163</sup>.

But how far will this development ultimately carry? Much will depend on member states' future political will. However, their policy choices will be constrained by the new institutional reality and the strategies pursued by the Union institutions themselves. It is too early to come to final conclusions. But if certain conditions are met, the high representative and his service will indeed make a difference:

*Firstly*, the three top actors – the high representative, the Commission president and the European Council president – have to establish a good working relationship. This is most likely to happen if the two presidents largely draw on the support of the EAS.

*Secondly*, the EAS must be developed as a comprehensive service, bringing together all foreign policy responsibilities of the Commission and the Council Secretariat. This does not necessarily include other aspects of EU external action. In light of the analysis above, this condition is indeed likely to be met.

*Thirdly*, member states have to develop a certain feeling of ownership of the new service, and a feeling that it adds value to their own diplomatic structures. At the same time, however, the position of the high representative as the EAS's head must not be compromised, nor the stakes of the Commission and the Parliament in the new service.

*Fourthly*, the high representative has to make use of his agenda-setting and decision-shaping capacity in order to pursue a steadier and more proactive European foreign policy agenda. However, he can do so successfully only if he gains the confidence of member states and respects the limits of his mandate.

Far from being certain, there is yet a real possibility that these conditions will be met in the medium term. The new institutional architecture might well stimulate a new dynamic towards a more common foreign policy approach that might over time lead to more political integration. In any case, the European Union is set to have a genuine foreign policy chief and one of Europe's biggest diplomatic services at its disposal. This in itself constitutes a fundamental change in the Union's external action machinery. Whether it will ultimately herald a new era of EU foreign policy remains to be seen.

## Notes

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Many of this paper's findings are based on interviews conducted in Brussels in April 2008. The interviewees were officials from the Commission directorate-general for external relations (directorate L: strategy, cooperation and analysis); the Commission secretariat-general; the Council Secretariat private office of secretary-general/high representative Javier Solana; the Council Secretariat directorate-general E: external and politico-military affairs; and the permanent representations to the EU (PermReps) of France, the United Kingdom, Sweden, the Czech Republic, and Luxembourg. In addition, Andrew Duff (MEP) was interviewed.

\*) The paper marks the term 'high representative' with an asterisk whenever referring to the current office of 'High Representative for the common foreign and security policy' (pre-Lisbon). 'High representative' without further specification refers to the future 'High Representative of the Union for Foreign Affairs and Security Policy' to be created by the Lisbon treaty.

- 1) European Council, *Presidency Conclusions*, SN 300/1/01 REV 1, Laeken, 14 and 15 December 2001, par. 3.
- 2) Or exaggerated fears, for that matter.
- 3) The paper will entirely use the male form when referring to the high representative. This is solely for better readability of the text.
- 4) Sophie Vanhoonacker, 'The Institutional Framework', in Christopher Hill & Michael Smith, *International Relations of the European Union*, Oxford, Oxford University Press, 2005, p. 70.
- 5) John Peterson & Michael Shackleton, 'The EU's Institutions: An Overview', in John Peterson & Michael Shackleton, *The Institutions of the European Union*, Oxford, Oxford University Press, 2006, 2nd edn., p. 5.
- 6) Michael E. Smith, *Europe's Foreign and Security Policy: The Institutionalization of Cooperation*, Cambridge, Cambridge University Press, 2004, pp. 29-32; and Vanhoonacker (note 4), pp. 68-70.
- 7) Vanhoonacker (note 4), p. 69.
- 8) Smith (note 6), p. 17.
- 9) To this can be added the external aspects of internal policies. In fact, this element of external action increasingly gains importance.
- 10) Smith (note 6), p. 11.
- 11) *Ibid.*
- 12) Michael E. Smith, 'Towards a theory of EU foreign policy-making: multi-level governance, domestic politics, and national adaptation to Europe's common foreign and security policy', *Journal of European Public Policy*, vol. 11, no. 4, 2004, p. 740.
- 13) Helen Wallace, 'An Institutional Anatomy and Five Policy Modes', in Helen Wallace, William Wallace, and Mark Pollack, *Policy-Making in the European Union*, Oxford, Oxford University Press, 2005, 5th edn., p. 87f.
- 14) *Ibid.*
- 15) *Ibid.*, p. 79f.
- 16) On the historic development see, for instance, Roberto Francia & Miguel Abellán, 'Striving for a Common Foreign Policy. A Brief History', in Dieter Mahncke, Alicia Ambos & Christopher Reynolds (eds.), *European Foreign Policy: From Rhetoric to Reality?*, Brussels, Peter Lang, 2004, pp. 117-64.

- 17) Fraser Cameron, *An Introduction to European Foreign Policy*, London, Routledge, 2007, p. 204.
- 18) On the EU's foreign policy record in practice see Brian Crowe, 'Towards a European Foreign Policy', *The Hague Journal of Diplomacy*, no. 1, 2006, pp. 107-14.
- 19) On the EU foreign policy system see Simon Hix, *The Political System of the European Union*, Houndsmill, Palgrave, 2005, 2nd edn., pp. 374-405; Cameron (note 17), pp. 40-57; and Simon Duke & Sophie Vanhoonacker, 'Administrative Governance in the CFSP: Development and Practice', *European Foreign Affairs Review*, vol. 11, no. 2, 2006, pp. 163-82.
- 20) See note 18.
- 21) Antonio Missiroli, 'A tale of two pillars – and an arch', in Graham Avery & Antonio Missiroli (eds.), *The EU Foreign Service: How to build a more effective common policy*, EPC Working Paper no. 28, Brussels, European Policy Centre, 2007, pp. 17f.
- 22) "partenaire-rival" in the original (Yves Buchet de Neuilly, *L'Europe de la politique étrangère*, Paris, Economica, 2005, p. 64).
- 23) David Spence, 'The Commission and the Common Foreign and Security Policy', in David Spence (ed.), *The European Commission*, London, John Harper, 2006, pp. 366-73.
- 24) On 'institutional consistency' see Simon Nuttall, 'Coherence and Consistency', in Christopher Hill & Michael Smith, *International Relations of the European Union*, Oxford, Oxford University Press, 2005, esp. pp. 98-103.
- 25) This categorisation has been developed by Nuttall, though he focuses with regard to 'horizontal consistency' more on the consistency between internal and external policy areas. See *ibid.*, esp. pp. 96-98 and 103-106.
- 26) Missiroli (note 21), pp. 11f.; and Michael Smith, 'The Commission and External Relations', in David Spence (ed.), *The European Commission*, London, John Harper, 2006, p. 389.
- 27) Figures provided by a CGS official.
- 28) Personnel in delegations comprise around 990 EU officials and 3765 local staff. See David Spence (ed.), *The European Commission*, London, John Harper, 2006, annex J, p. 558.
- 29) On the Commission's role in CFSP see Spence (note 23), pp. 356-95.
- 30) *Ibid.*, pp. 367 and 379.
- 31) That is, consistency between EU policies and national policies. See Nuttall (note 24), pp. 106-8.
- 32) For instance, according to Crowe, the US was not prepared to accept the Greek EU presidency as interlocutor for handling the crisis in Bosnia, a fact which contributed to the creation of the Bosnian Contact Group in 1994 to the exclusion of the Union as such. See Crowe (note 18), p. 110.
- 33) For figures on the embassy networks see Spence (note 28), annex J, p. 558.
- 34) Cameron (note 17), pp. 15f.
- 35) David Spence, 'The Commission's External Service', in David Spence (ed.), *The European Commission*, London, John Harper, 2006, esp. pp. 406-14.
- 36) Missiroli (note 21), p. 13.
- 37) This view was also supported by Commission and CGS officials.
- 38) European Council (note 1), par. 3.
- 39) European Convention, *Final Report of Working Group VII on External Action*, CONV 459/02, Brussels, 16 December 2002, part B, para. 2.
- 40) Missiroli (note 21), p. 18.
- 41) For an overview see Jean-Claude Piris, *The Constitution for Europe: A Legal Analysis*, Cambridge, Cambridge University Press, 2006, pp. 60-62 and 145-164; and

Sebastian Kurpas et. al, *The Treaty of Lisbon: Implementing the Institutional Innovations*, Brussels, CEPS, EGMONT & EPC, 2007, pp. 123-141.

42) Simon Duke, 'The Convention, the draft Constitution and external relations: effects and implications for the EU and its international role', *Romanian Journal of European Affairs*, vol. 3, no. 3, 2003, p. 38.

43) The general provisions on external action will henceforth be united in Title V TEU. The specific provisions on CFSP are to be found in Chapter 2 of Title V TEU, whereas those of the other external policies are grouped in Part V TFEU. The Constitutional treaty would have united all provisions in Title V of its Part III.

44) Even though the Community will cease to exist, this paper will continue to refer to 'Community' matters since no alternative term has emerged yet.

45) Art. 218 TFEU. All treaty references relate to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) as amended by the Lisbon treaty.

46) See below 2.4.5.

47) Art. 15 (6) TEU.

48) Art. 17 (1) TEU.

49) See below 2.3.4.

50) Art. 48 (7) TEU.

51) Art. 31 (2) TEU.

52) Formerly known as European Security and Defence Policy (ESDP).

53) Art. 43 TEU.

54) Art. 42 (7) TEU and Art. 222 TFEU.

55) Art. 44 and 46 TEU.

56) Art. 45 and 41 (3) TEU.

57) So far, trade in cultural and audiovisual services, educational services, and social and human health services have fallen within shared competence.

58) Art. 207 TFEU and Sophie Meunier & Kalypso Nicolaidis, 'The European Union as Trade Power', in Christopher Hill & Michael Smith, *International Relations of the European Union*, Oxford, Oxford University Press, 2005, pp. 252-54.

59) Conference of the Representatives of the Governments of the Member States [IGC], 'Final Act (2007/C 306/02)', *Official Journal of the European Union*, C 306, 17 December 2007, p. 255 (declaration 15). See also European Council, *Presidency Conclusions*, 16616/1/07 REV 1, Brussels, 14 December 2007, par. 4.

60) This procedure was agreed during the Lisbon IGC. See IGC (note 59), p. 254 (declaration 12).

61) As regards the 'transitional' high representative, the Parliament will only be consulted. In fall 2009, by contrast, the high representative will, as member of the Commission college, be subject to parliamentary approval.

62) Interviews with three PermRep officials.

63) Committee of Permanent Representatives

64) The picture drawn in this and the subsequent paragraphs is based on interviews with several PermRep, CGS and Commission officials.

65) To a certain extent, decisions in 2008 are inevitable since the 2009 budget will be discussed and presumably adopted in the second half of 2008.

66) It should be noted though that the report left many crucial questions open. See Council of the European Union, *Progress Report: European External Action Service*, 9956/05, Brussels, 9 June 2005.

67) Besides the interviews see also House of Commons Foreign Affairs Committee, *Foreign Policy Aspects of the Lisbon Treaty: Third Report of Session 2007-08*, London, 16 January 2008, par. 185; and Benita Ferrero-Waldner, *The European Union and its place in the world – the current agenda*, SPEECH/08/182, Bruges, 7 April 2008, p. 3.

68) Art. 18 TEU.

69) Art. 18 (4) TEU.

70) Art. 18 (1) and 17 (6-8) TEU.

71) Formally, such a vote of censure affects only the Commission duties of the high representative; he would continue to fully exercise his responsibilities under CFSP. In practice, however, this provision makes little difference since the Parliament would have to give its assent to the high representative when it approves the new Commission replacing the dismissed one. At this point, the Parliament would thus have a veto opportunity against the high representative.

72) See also Giovanni Grevi, Daniela Manca & Gerrad Quille, 'The EU Foreign Minister: Beyond Double-Hatting', *The International Spectator*, no. 1, 2005, pp. 65-67.

73) Art. 18 (3) TEU.

74) The Lisbon treaty splits the current General Affairs and External Relations Council (GAEC) into two separate configurations: the Foreign Affairs Council, to be chaired by the high representative, and the General Affairs Council (GAC), which will continue to be, like all remaining Council configurations, chaired by the rotating presidency.

75) It remains to be seen, however, which policy issues next to foreign policy proper will fall in the remit of the FAC. It is possible that, in the future, some external relations dossiers will be dealt with by the GAC chaired by the rotating presidency. The Council might decide, for instance, that trade and development are to be shifted to the GAC (enlargement policy is already dealt with under 'general affairs' by today's GAERC). It should be noted, however, that Art. 16 (6) TEU states that the "Foreign Affairs Council shall elaborate the Union's external action". That might well constrain the Council's discretion in this regard.

76) Art. 30 (1) TEU.

77) Art. 17 (2) TEU.

78) He won't be a 'member' of it, however. See Art. 15 (2) TEU.

79) Art. 33 TEU.

80) Art. 218 TFEU.

81) On the agenda-setting power of the Council presidency in CFSP see Duke & Vanhoonacker (note 19), p. 166-69.

82) On the decision-shaping power of the Council presidency in CFSP see *ibid.*, p. 169-77.

83) House of Commons (note 67), par. 137.

84) Art. 36 TEU.

85) There will be three forms of flexibility: (1.) implementation of a specific task by a group of member states, (2.) enhanced cooperation, and (3.) permanent structured cooperation. See, for instance, Kurpas et. al (note 41), pp. 136f.

86) Art. 21 (3) TEU.

87) Art. 18 (4) TEU.

88) Art. 24 (3) TEU.

89) *Ibid.*

90) Recourse to the ECJ, for instance, continues to be excluded in CFSP. See Art. 24 (1) TEU.

91) Art. 17 (1), 18 (4) and 27 (2) TEU.

92) Art. 27 (2) TEU.

93) To put it precisely, EU member states sitting on the UNSC will be required to request, whenever there is a common EU position on a subject on the UNSC agenda, that the high representative will be invited to speak on the Union's behalf. See Art. 34 (2) TEU.



- 94) In sectoral policy areas, the task will rather be incumbent upon other commissioners.
- 95) Art. 218 TFEU.
- 96) Art. 18 (2) TEU.
- 97) *Ibid.*
- 98) Art. 26 (3) TEU.
- 99) Art. 27 (1) TEU.
- 100) Art. 18 (2) TEU.
- 101) Unfortunately, the treaties remain equivocal on whether the special representatives can only act in CFSP, or also non-CFSP matters. See Art. 33 TEU.
- 102) Art. 38 TEU.
- 103) IGC (note 59), p. 253 (declaration 9).
- 104) Art. 43 (2) TEU.
- 105) See above section 1.1.
- 106) Interview with a Commission official.
- 107) Gunter Pleuger, "Double hat", working document 17, European Convention working group VII, Brussels, 5 November 2002, p. 4; and European Convention (note 39), part B, para. 35.
- 108) See, for instance, Giovanni Grevi & Fraser Cameron, *Towards a European Foreign Service*, Issue Paper 29, Brussels, European Policy Centre, 2005, p. 22; and Missiroli (note 21), p. 21.
- 109) Interview with a Commission official.
- 110) Interview with Commission, CGS and two PermRep officials.
- 111) Interview with a PermRep official. But there are also reports to the contrary; see House of Commons (note 67), par. 151.
- 112) For reasons of space, the relations with the European Parliament won't be discussed.
- 113) As to the latter, the foreign minister might still chair the General Affairs Council. However, with respect to countries such as the Czech Republic, the GAC will be chaired by the European affairs minister.
- 114) This point of view is shared by several CGS and PermRep officials.
- 115) Interview with several CGS and PermRep officials.
- 116) In fact, it is the Czech and Swedish governments that currently prepare and (will probably pay for) the bilateral summits scheduled for 2009.
- 117) Member states might as well be tempted to move some dossiers from the FAC to the GAC. See note 75.
- 118) See above section 2.1.
- 119) Such a rather optimistic point of view was also expressed by interviewees in the Commission and the Parliament.
- 120) In addition, the European Parliament is determined to limit the president's power by way of its budgetary authority. See Honor Mahony, 'MEPs to use budget power over EU president perks', *euobserver.com*, 22 April 2008.
- 121) Art. 15 (1) and 26 TEU.
- 122) This case was made, for instance, by Ferrero-Walder (Ferrero-Waldner (note 67)), and by an interviewed Commission official.
- 123) Brian Crowe, *Foreign Minister of Europe*, London, Foreign Policy Centre, 2005, p. 5.
- 124) Interview with a Commission and two PermRep officials. There might be, however, a transitional period until fall 2009 where Ferrero-Waldner remains in office as commissioner for ENP.
- 125) Piriš (note 41), p. 154.

126) Missiroli suggested that the college rules should be altered so as to make certain decisions by individual commissioners depended on the agreement of the high representative. See Missiroli (note 21), p. 22.

127) Art. 26 TEU.

128) And, to a lesser extent, also the European Parliament.

129) Art. 18 (2) TEU.

130) In fact, that will especially apply to his relations with the United Kingdom, France and Germany, which are instrumental in EU foreign policy.

131) This was already agreed among member states in 2005. See Council (note 66), annex I, par. 7.

132) Different options are discussed in Missiroli (note 21), pp. 21-6; and Laura Rayner, *The EU Foreign Ministry and Union Embassies*, London, Foreign Policy Centre, 2005, pp. 8-14.

133) All of the following is based on interviews with several Commission, CGS and PermRep officials and Andrew Duff; and Council (note 66), annex I, par. 8f., and annex II, par. 10-16.

134) DG development is charged not only with development issues, but also with the political relations to the ACP countries.

135) There are also some voices that would prefer to transfer the ENP to DG enlargement.

136) The creation of the EAS might thus mark the end of the considerable increase in the CGS' responsibilities and influence since the 1990s, which followed the establishment and extension of CFSP. In fact, it will lose much of its political role, even though it might gain some new responsibilities thanks to its support role for the European Council president.

137) The following remarks are based on interviews with Commission and three PermRep officials; and Council (note 66), annex I, par. 10.

138) See below section 2.4.5.

139) Different options are discussed in Grevi & Cameron (note 108), pp. 19f.; Rayner (note 132), pp. 14-17; and Kurpas et. al (note 41), p. 134.

140) Council (note 66), annex I, par. 6. However, the European Parliament called, in 2005, for an incorporation of the EAS in the Commission structures. It hasn't repeated this demand in its initial examination of the Lisbon treaty, but is likely to insist on an 'administrative connection' of the EAS to the Commission. See European Parliament, *European External Actions Service*, P6\_TA(2005)0205, Strasbourg, 26 May 2005, par. 2; European Parliament, *Report on the Treaty of Lisbon*, Committee on Constitutional Affairs, A6-0013/2008, Brussels, 29 January 2008; and Simon Taylor, 'MEPs threaten to block EU diplomatic corps', *European Voice*, 8 Mai 2008.

141) Other voices also invoke the Economic and Social Committee, the European Personnel Selection Office, or the European Anti-Fraud Office, to quote but three.

142) On European agencies see Martijn Groenleer, 'The European Commission and Agencies', in David Spence (ed.), *The European Commission*, London, John Harper, 2006, pp. 156-72.

143) Interviews with several Commission, CGS, and PermRep officials; and Ferrero-Waldner (note 67), p. 3.

144) Interviews with CGS officials.

145) Interview with Andrew Duff; and David Cronin, 'Solana moots diplomatic service independent of the Commission', *European Voice*, 3 March 2005.

146) Art. 27 (3) TEU.

147) House of Commons (note 67), par. 182, note 424.

148) These figures include the 180 (detached) personnel of EUMS, and were provided by a CGS official.



149) There are around 990 Commission officials working in the 123 delegations. The two Council offices abroad are staffed with together 20 officials. The delegations employ in addition around 3765 local staff. See Spence (note 28), annex J, p. 558.

150) This and the following paragraphs are based on interviews with several Commission, CGS and PermRep officials; see also Council (note 66), annex I, par. 13.

151) This follows from five papers prepared by the Council legal service in 2005. See David Cronin, 'Presidency intensifies diplomatic corps talks', *European Voice*, 28 April 2005.

152) This and the following paragraphs are based on interviews with several Commission, CGS and PermRep officials; Council (note 66), annex I, par. 11 and 12; and House of Commons (note 67), par. 199.

153) However, the decision-making in trade policy will be strengthened.

154) However, formally, the member states increased their commitment to a common policy. See Art. 32 TEU.

155) The appointment of Javier Solana as high representative\* in 1999 has somewhat set a precedent. It is highly unlikely that the Union would opt for a lower-profile personality after having radically enhanced the legal and political status of the position.

156) The Union's representation in sectoral policies remains an open question. In this regard, the Commission might have been strengthened by the Lisbon treaty vis-à-vis the Council presidency. See discussion above in section 2.1.

157) And it is also the EAS that will coordinate other EU services cooperating with third parties on sectoral policy issues.

158) On the concept of 'Europeanization' see Reuben Wong, 'The Europeanization of Foreign Policy', in Christopher Hill & Michael Smith, *International Relations of the European Union*, Oxford, Oxford University Press, 2005, pp. 134-153.

159) Nuttall (note 24), p. 101; and Duke & Vanhoonacker (note 19), pp. 169-77.

160) Spence (note 23), p. 389. Others, by contrast, see the high representative rather "captured" in the Commission (Interview with Andrew Duff).

161) This is suggested by the experience of Javier Solana's first years as high representative\*, neo-institutionalist logic, as well as interviewees' responses (Interviews with several Commission, CGS and PermRep officials). See also Yves Buchet de Neuilly, 'L'irrésistible ascension du Haut représentant pour la PESC: Une solution institutionnelle dans une pluralité d'espaces d'action européens', *Politique européenne*, no. 8, pp. 12-31.

162) As a matter of fact, the high representative and the EAS will be 'supranational' actors.

163) European Council (note 1), par. 3.





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