



# **THE NEW EU FOREIGN POLICY ARCHITECTURE**

**REVIEWING THE FIRST TWO YEARS OF THE EEAS**

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## LIST OF ABBREVIATIONS

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AFET	Committee on Foreign Affairs (Affaires étrangères) of the EP
CFSP	Common Foreign and Security Policy
CIVCOM	Committee for Civilian Aspects of Crisis Management
COELA	Council Working Group on Enlargement
COEST	Council Working Group on Eastern Europe and Central Asia
COREPER	Committee of Permanent Representatives
COREU	European Correspondents
COTRA	Council Working Party on Transatlantic Relations
COWEB	Working Party on the Western Balkans Region
CPCC	Civilian Planning and Conduct Capability
CSDP	Common Security and Defence Policy
CSPs	Country Strategy Papers
DCFTA	Deep and Comprehensive Free Trade Area
DCI	Development Cooperation Instrument
DG DEVCO	Directorate-General for Development and Cooperation – EuropeAid
DG ECHO	Directorate-General for Humanitarian Aid and Civil Protection
DG TRADE	Directorate-General for Trade
DG RELEX	Directorate-General for External Relations
EDF	European Development Fund
EEAS	European External Action Service
ENI	European Neighbourhood Instrument
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood and Partnership Instrument
EUMC	EU Military Committee
EUMS	European Union Military Staff
FAC	Foreign Affairs Council
FPI	Foreign Policy Instruments
GAERC	General Affairs and External Relations Council
GAC	General Affairs Council
HR/VP	High Representative of the Union for Foreign Affairs and Security Policy and Vice President of the European Commission
IfS	Instrument for Stability
INTCEN	Intelligence Analysis Centre
MaMa	Mashreq/Maghreb Working Parties
MFF	Multiannual Financial Framework
NIP	National Indicative Programme
PSC	Political and Security Committee
RELEX	Foreign Relations Counsellors
RIP	Regional Indicative Programme
RSP	Country and Regional Strategy Paper
TPC	Trade Policy Committee

## EXECUTIVE SUMMARY

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The functioning of the European External Action Service (EEAS) has been a highly controversial topic since its establishment over two years ago. Emerging from nearly a decade of delays and ‘turf wars’, the EEAS had to quickly construct a relationship with the diplomatic services of the EU member states, the European Commission and the European Parliament as well as transform the Commission’s Delegations into Union Delegations. Inter-institutional linkages have not always functioned smoothly and tensions have run high at times. Insiders but especially outsiders have often struggled to understand how the new EU foreign policy machinery functions. In the midst of forming its own distinctive identity among the EU institutions and vis-à-vis the EU member states, the EEAS is facing major review this year and a revision of its mandate in 2014.

This CEPS study examines two interrelated topics: 1) the way in which the EEAS has functioned in the EU institutional architecture in its first two years of existence and 2) the improvements that could be made through the 2013 review and the 2014 revision of its mandate. This study contributes to the current debate through an in-depth analysis of the EEAS’ relations with the EU member states, the European Commission, the European Parliament and its delegations.

The EEAS’ relations with the member states focus primarily on the Council of the European Union (Council), the European Council and the rotating Presidency of the Council. In order to be successful, the Common Foreign and Security Policy (CFSP) requires an enhanced sense of ownership of the member states, which have to accept the new structures, feel represented by the different policy choices as well as be convinced that the EEAS provides added value. The permanent chairing by the High Representative/Vice President (HR/VP) and the EEAS of the meetings of the foreign ministers and their preparatory working groups increases the continuity as well as the

cohesiveness of the work of the Council in this area. However, this comes at the expense of a certain 'drive' of EU foreign policy that the rotating Presidency ensured in the old system. Measures that lead to a better setting of priorities and management of the agenda can help in overcoming this problem.

The Lisbon Treaty strengthened the role of the European Council as a foreign policy forum once again. In the new system, the foreign ministers no longer participate in the European Council. This change, combined with the fact that neither the Foreign Affairs Council nor the High Representative is a formal part of the preparatory process of the European Council, had the effect of disconnecting the Heads of State or Government from the foreign policy administrations. The High Representative and the EEAS are well positioned to improve the European Council and the Council link through multiple avenues.

The rotating Council Presidency still chairs some of the working parties and Council formations with external action portfolios. Presidency priorities usually touch on external action issues and its foreign ministers even sometimes represent the EU internationally or in relation to the European Parliament.

The relations between the Commission and the EEAS reveal some of the most problematic issues raised by the creation of this new body. The Commission ensures the EU's external representation with the exception of the CFSP but, at the same time, it is the High Representative with the help of the EEAS that has to ensure the coordination and consistency of all aspects of the external action of the Union. The creation of the EEAS outside the Commission structures did not pass without incident. The Commission defended its portfolios, with some Commission officials fearing that the creation of the EEAS could lead to a politicisation of their work. In order to clarify inter-institutional relations between the two bodies, several working arrangements and *vademecums* were written, although not always with the proper consultation of the parties involved. The 2013 review could be a good opportunity to see what works, what does not work and what can be improved.

Cooperation between the EEAS and the Directorate-General (DG) for Development of the Commission has been mixed. The Union's external cooperation programmes

remains under the responsibility of the Commission, but the EEAS contributes to several steps of the programming cycle. This requires an increased effort to ensure better coordination between the Commission services and the EEAS. This also applies to the field of Humanitarian Aid and Civil Protection where both the Commission and the EEAS have responsibilities.

The creation of the post of HR/VP and the EEAS has not dramatically affected the EU's trade policy-making structure, with the classic relationship between the former External Relations and Trade parts of the European Commission, characterised by both cooperation and rivalry, being largely transposed in the new institutional set-up. In the candidate and potential candidate countries, the enlargement process is the prime mover of EU policy and this seems to be respected by the EEAS. However, some candidate or potential candidate countries still pose serious political challenges to the EU that require the involvement of the High Representative and the EEAS.

The collaboration of the EEAS and the Commission in the area of the European Neighbourhood Policy (ENP) is highly complex and follows a distinct logic. So far, it has functioned relatively well. As opposed to policy areas such as trade, development cooperation and humanitarian aid, there is no specialised DG for neighbourhood policy in the Commission and the ENP Commissioner relies on the support of the EEAS. The current structure could serve as a model for a system in which one of the Commissioners could serve as a deputy to the HR/VP, at least concerning her work inside the Commission.

In the EEAS' relations with the European Parliament, MEPs from the main political groups of the Parliament are in general satisfied with its set-up and performance. By merging the tasks of the High Representative, the External Relations Commissioner and the rotating Presidency, the HR/VP is left as one of the main interlocutors for the European Parliament. Given the workload of the HR/VP, it is important to find an efficient system of deputisation in the European Parliament. Rather than relying on the rotating Presidency, the European Parliament should use the opportunity to have the EEAS as a permanent interlocutor. The High Representative can use her six appearances per year to gather support for her positions and as a public stage on which to present and promote them.

The new EU delegations are the backbone of EU representation around the world, but they would remain toothless if they wouldn't be able to properly cooperate with the member states' 3,000 missions and the European Commission. The more political role of the EU delegations enables them to represent EU statements and démarches and to chair EU internal coordination meetings with the member states' embassies. While bilateral representation in most of the third countries is in general acknowledged as successful, representation of the EU in multilateral organisations faces more challenges. Some member states see the enhanced status of an EU delegation in international organisations as problematic. Information-sharing and effective coordination with the member states and the Commission DGs remain a challenge, which could be overcome in the long-term with the necessary political will and gradual cooperation.

### **Policy Recommendations**

Specific recommendations can be found throughout this CEPS book. They can best be summarised by the three following roles that should guide the EEAS' relations with its EU partners – the member states, the European Commission and the European Parliament – both in Brussels and on the ground around the world.

- *Leader*

The High Representative and the EEAS in many cases took over the role of the rotating Presidency – in the Council as well as on the ground in third countries and international organisations. One of the core political functions of the foreign policy administration in this regard is to provide leadership. A better setting of priorities and management of the foreign policy agenda is of key importance. To this end, an inclusive approach that highlights close cooperation with its EU partners has to be reflected in the working procedures. Member states, the European Commission and the European Parliament have to feel represented by the priorities of the EEAS.

- *Coordinator*

A major task of the EEAS and the High Representative is to ensure the overall coordination of EU external action. The division of responsibilities between the Commission and the EEAS should be clarified in some areas and working

arrangements between the two bodies should be streamlined. Besides multilevel coordination at the level of the services, the role of the High Representative as Vice-President of the Commission has to be strengthened in order to allow the incumbent to ensure the coherence of the EU's international activities across policy areas. Establishing a system of deputies for the High Representative can also facilitate better coordination with its partners.

- *Information hub*

The EEAS is a service to its EU partners. As such, it has to provide visible added value for them. The EEAS can show its strength by being the 'one-stop shop' for foreign policy expertise. Information-sharing and close cooperation are important factors in establishing a coherent international profile of the EU. Providing support and briefings for the European Commission, European Parliament, European Council President, the rotating Presidency as well as the member states are important tasks of the EEAS in this regard. Appropriate funding and working procedures enable the service to gather and deliver the necessary information. Information-sharing should be reciprocal. As a consequence, the EEAS can also strengthen its position as a valuable and reliable interlocutor in the international community.

# 1. INTRODUCTION

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The European External Action Service (EEAS) and its head, the High Representative of the Union for Foreign Affairs and Security Policy and the Vice-President of the European Commission (HR/VP), are the central innovations brought about with the enactment of the Treaty of Lisbon. Although the post-Lisbon changes include, *inter alia*, the modification of the composition of the European Council, the revision of the formations of the Council of the European Union (Council) and the creation of the post of the President of the European Council, it is the EEAS and the HR/VP that were expected to significantly improve the EU's profile in the world.

The EEAS is an unprecedented actor within the already highly sophisticated institutional structure of the EU. It is not a supranational institution similar to the European Commission (Commission) or the European Parliament. Nor is it intergovernmental in nature like the Council. The EEAS has to navigate between the 'community' and the intergovernmental decision-making methods with the mission to support the EU member states, while maintaining complex relations with the Commission and the European Parliament. This report examines two interrelated questions: 1) How has the EEAS functioned within the EU institutional architecture in the first two years of its existence? 2) What improvements could be made through the 2013 review and the 2014 revision of the EEAS' mandate?

Methodologically, the report combines qualitative and quantitative methods drawing on data and information obtained from multiple sources. Firstly, the report examines primary documents such as legal texts, official documents, statements and press releases. Secondly, the study analyses the observations and insights shared in the course of extensive interviews with officials of the EEAS, the member states' Permanent Representations to the EU, the Commission's staff and Members of the European Parliament involved in the establishment and workings of the EEAS. The

interviews, which were conducted over the period May 2011 to December 2012, were granted on the condition of anonymity. And finally, the report makes critical use of secondary academic and policy-oriented literature.

The EU needed about eight years to agree on the set-up of the EEAS starting from the European Convention in 2002 until the Council decision establishing the Service in 2010. Throughout this period, the 'EU's foreign office' project was intensively debated by all the major EU players, namely the member states, the Commission and the European Parliament in the framework of the Constitutional Convention (2002), two Intergovernmental Conferences (2003-04 and 2007) and the 'quadrilogue' meetings (that debated the final basic structure of the service).

The EEAS emerged as the result of a *classic* EU compromise yet with an *unusual* outcome. Most member states felt the need for a more continuous and coordinated EU foreign policy. While some of the member states advocated a more integrated external action of the EU, others were hesitant to fully integrate all external activities, especially the Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP) within the Commission. The Commission aimed to protect its 'turf' and the European Parliament aimed to increase its competences. Consequently, the EEAS has a long job description. It is supposed to fulfil functions of a Presidency, diplomatic service, ministry of development and defence, as well as coordinating overall coherence of external action. Another example of its kind is hard to find in the international system.

At the institutional level, the EEAS supports the HR/VP in her different capacities as the High Representative, President of the Foreign Affairs Council, Vice-President of the Commission and coordinator of the other aspects of the Union's external action. The EEAS also assists the President of the European Council and the President of the Commission and supports the Commissioner responsible for Enlargement and Neighbourhood Policy and the Commissioner responsible for Development Policy. Furthermore, the EEAS cooperates with and supports the member states' diplomatic services, the Council Secretariat, the services of the Commission, the European Parliament and the Union's other relevant institutions, bodies and agencies.

By bridging the Council-Commission divide and linking all the major actors and policies of the EU external action, the EEAS was expected to achieve what no other entity in the EU's history had managed to deliver: a consistent and efficient external action of the Union. Not an easy task, considering the multiplicity of actors with their formal and informal competences, varying interests, diverging preferences and distinct decision-making procedures. Therefore, the initial enthusiasm for the quick fix of the EU's external action problems through the establishment of the EEAS faded rapidly.

The unusual outcome of the compromise between the EU member states and the institutions is also inherent in the EEAS' composition. The EEAS comprises staff from the Commission, the Council Secretariat and the national diplomatic services of the member states within its headquarters and EU delegations to third countries and international organisations. These different categories of staff bring their distinct socialisation, training and working methods to the new service. The former Commission staff is familiar with the more hierarchical and technical work of the Commission. Those coming from the Council Secretariat are familiar with the sensitivities and political nature of the work within the Council. Finally, the member states' diplomats bring a fresh national perspective from the capitals. In theory, the merger was supposed to strengthen the ties between the main actors of the EU's external action. In reality, however, the cultivation of an *esprit de corps* within the EEAS remains a challenge.

In addition to persistent and diverging internal interests among the member states and the institutions, the setting up post-2009 European foreign policy architecture did not have much luck with the timing of international developments either. While these developments provided 'windows of opportunity' for the new service to prove its added value, they arrived at a stage when the EEAS was not yet fully prepared. The findings of this report point to mixed results delivered by the EEAS.

In the following four chapters we examine the changes and new roles of the institutions working in the EU's foreign affairs. We look at how the EEAS has been cooperating with the member states and institutions. First, we analyse the EEAS' relations with the European Council, the Council and the member states in general. This partnership remains ambiguous; among many issues still pending to be addressed

properly is how to make most of the permanent chairmanship of the High Representative and the EEAS, while giving fresh impetus to new foreign policy initiatives. Second, we look at the complex relationship of the EEAS and the European Commission. The EEAS cooperates with some of the Directorates-General (DGs) of the Commission better than with others. In some policy issues, the EEAS and the Commission managed easily to find a consensus, whereas in other areas, the relationship was mired in disagreements. Third, we examine the new relationship of the EEAS with the European Parliament, where issues of political accountability have been at times confused with micro-management. The quest for democratic accountability for the EU's foreign policy – if it was to be provided by the Parliament – has been largely a disappointment for the legislature, even if some important steps have been taken. Fourth, the study examines the coordination and cooperation of EU delegations. While experiencing numerous difficulties, EU delegations are gradually taking over the external representation and internal coordination role from the rotating Council Presidency in third countries and various multilateral fora. Information-sharing and effective coordination with the member states and the Commission DGs remain a challenge.

## 2. COOPERATION WITH THE MEMBER STATES – THE COUNCIL, THE EUROPEAN COUNCIL AND BEYOND

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The creation of the EEAS and the HR/VP can be seen as a ‘critical juncture’ in the development of the Council. The changes that were motivated by, *inter alia*, bringing about a greater coherence, continuity and streamlined representation resulted, among other things, in the loss of most of the rotating Presidency’s functions in the area of CFSP. Moreover, the member state representatives are confronted with a new service in Brussels presiding over a large part of the EU’s external action machinery. This triggered the need to establish practices for cooperation and joint work between the member state governments (especially the one holding the rotating Presidency) and the EEAS. It also created tensions between the new system’s demands for increased efficiency and the need to maintain political ownership of European foreign policy among member states. Gradual work in the spheres of 1) long-term planning, 2) common representation and 3) institutional memory of the Service might increase the efficiency of the EU’s external actions. But short-term costs are self-evident: member states’ engagement is at stake. EU external action and especially the CFSP can only be conducted on behalf of the member states, which have to ‘buy into’ the new structures and feel represented by the different policy choices. Greater efficiency of the new service can also increase the feeling of ownership among the member states, which in times of austerity need to see that the common foreign policy institutions provide added value.

In this chapter, we present the emerging central role played by the HR/VP supported by the EEAS as the new permanent Presidency of the Foreign Affairs Council. First we look at the new organisational set-up of the Council’s work and the European Council. Secondly we examine quantitatively the CFSP statements and declarations that the

High Representative issues. In the third part we look at the new relationship between the permanent leadership (provided by the HR/VP and the EEAS) and the rotating Council Presidency.

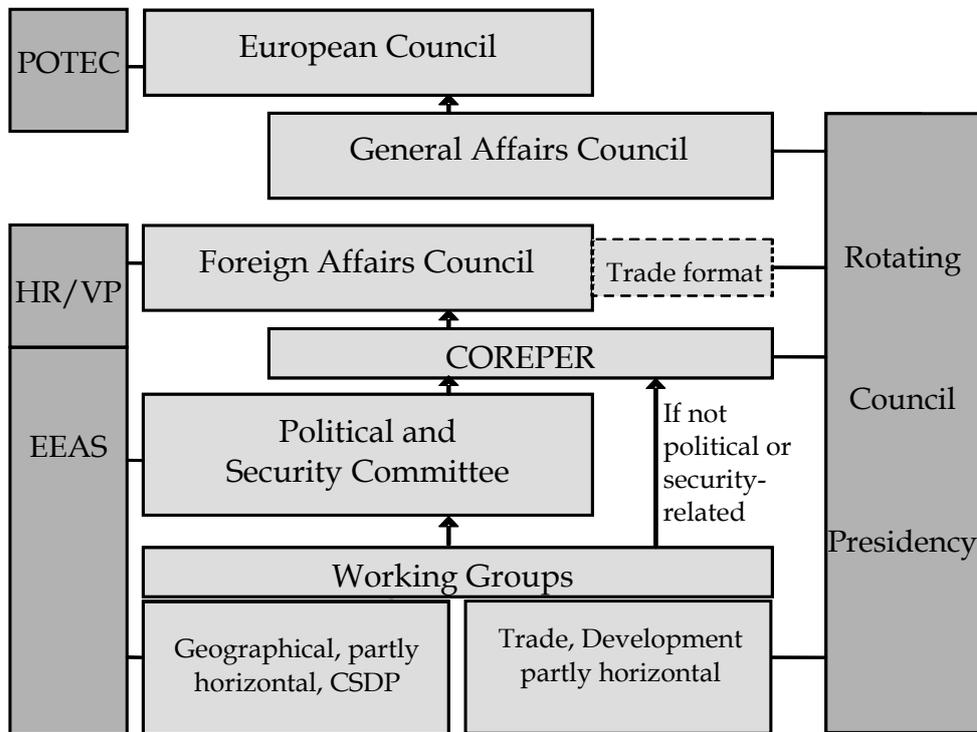
## **2.1 The new set-up of the Foreign Affairs Council: Making sense of complexity**

The Lisbon Treaty added complexity to the rules of chairmanship in the Council in which members of the rotating Presidency had previously chaired almost every Council formation and preparatory body. With the new treaty, the old General Affairs and External Relations Council (GAERC) was split into two formations: Foreign Affairs Council (FAC) and General Affairs Council (GAC). The rotating Council Presidency continues to chair the General Affairs Council. The new Foreign Affairs Council, dealing with foreign policy, development and defence, is chaired by the HR/VP.<sup>1</sup> Within the new system, officials of the EEAS have taken over the chair from the rotating Council Presidency of the majority of working groups that prepare the meetings of the Foreign Ministers (see Annex 1), including the important Political and Security Committee (PSC). Furthermore, the EEAS prepares the draft documents that form the basis for discussions in these working groups up to the FAC level. However, the rotating Presidency still chairs foreign policy-relevant gatherings, like working groups on trade (including the Council-level meetings when trade-related issues are discussed), development and meetings of the permanent representatives (COREPER meetings). A system in which vertical coherence across Council levels and horizontal coherence across policy fields was partly ensured by the common chairmanship of the rotating Presidency made way for a more complex system that triggers the need for an effective coordination between the EEAS and the rotating Presidency. However, it bears the great potential of a more continuous foreign policy with planning horizons that are longer than the six-month periods of the rotating Presidency.

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<sup>1</sup> On trade matters, the Foreign Affairs Council is chaired by the rotating presidency.

Figure 1. The decision-making flow under the new Foreign Affairs Council



Source: Authors' own compilation.

The fact that officials of the EEAS chair some FAC preparatory working parties as well as the PSC is expected to lead to more continuity in EU external action. Instead of having a planning horizon of six months of a rotating Council Presidency (or 18 months, when taking into consideration the whole Trio Presidency), the EEAS and the HR/VP can adopt a medium-term agenda covering the whole mandate of five years. In practice, the agenda was not set for the five-year term, but for shorter planning horizons and with the flexibility to account for latest developments as well as for changes in the priorities of the HR/VP and the member states. However, the HR/VP and the EEAS faced challenges in its role as an agenda-manager. In the formulation of the agenda, member states felt a lack of clear priorities on which the EU could focus its activities and provide added value. In the implementation of the agenda, some meetings were criticised for lacking the necessary preparation to ensure a goal-oriented conduct. Both of these dimensions – formulation and implementation of the agenda –

were also addressed in a letter from 12 Foreign Ministers to the HR/VP and in the 'Future of Europe' report of 11 Foreign Ministers.<sup>2</sup> They suggest finding better ways to identify political priorities, a yearly (or half-yearly) agenda for the meetings as well as more regular decision-making and policy papers.

Furthermore, interviews with EU officials and member state diplomats revealed that the EEAS and HR/VP are missing the 'drive' of the rotating Presidency in its agenda-management, as they do not have similar deadlines of a half-yearly rotating Presidency. In addition, the member-state rotating Presidency - in contrast to the Presidency by the HR/VP and EEAS - has also been conditioned by its domestic, historical, as well as, geographical preferences that 'naturally' feed into the formulation of their priorities.

Based on these experiences, which revealed shortcomings in the formulation and implementation of the agenda, there is now a demand from the member states to develop clear procedures for a stable agenda-management. One way to ensure a better identification of priorities is to draw from the experiences of the rotating Presidency, which enters its term with formulated priorities for its six month. Starting with the next mandate for the HR/VP in 2014, the incumbent together with the EEAS and in cooperation with the upcoming rotating Presidency should as well formulate the 'High Representative priorities', which would address the first half of its office. Similar to the long-practiced exercise of formulating the priorities of the rotating Presidency, this should be an inclusive process, including for example conferences that ensure the input of the wider academic and think tank world. By clearly setting out this procedure in the upcoming review of the EEAS, the member states can nudge the upcoming HR/VP to develop a vision for its term of office and trigger the political drive needed for the implementation of the agenda. Based on this set of developed priorities, the EEAS and HR/VP can structure the monthly agenda of meetings in a more efficient and goal-oriented way.

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<sup>2</sup> Joint letter to the HR of the Union from the Foreign Ministers of Belgium, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Poland and Sweden, 8 December 2011.

**Recommendation**

Starting with the next mandate for the HR/VP in 2014, the incumbent together with the EEAS and in cooperation with the upcoming rotating presidencies should formulate the ‘priorities of the High Representative’ for the first half of its office.

In addition, the non-rotating Presidency has consequences for the daily work of the various working parties in the Council. Member state diplomats appreciate the greater continuity of the chairing according to the new institutional rules. The ‘January gap’ and the ‘July gap’ – the time each rotating Presidency needed to settle in and reach full cruising speed – are now eliminated. However, permanent chairs of working groups have to face new challenges. Before the Lisbon Treaty, member states could be certain that in the future they would chair foreign affairs preparatory working groups in the privileged position of the rotating Presidency. An EEAS institutional chair does not represent a ‘fellow member state’. A new kind of relationship is being developed between the permanent chairs of the FAC and its subsidiary bodies and other members. Early experiences are mixed: if member state representatives are denied access to certain information or feel excluded in the process of drafting decisions, the new set-up is likely to lead to lower trust towards the permanent chair. It is thus important for the chairing persons to pay greater attention to include all interested members in the process.

The informal modes of working together in the various groups are decisive factors for their effectiveness. In fact, member state representatives acknowledge that compared to the times of the rotating Presidency more efforts are being made by the appointed EEAS chairs to communicate and consult with them on an informal basis ahead of meetings in order to find possibilities for agreement at earlier stages. As emphasised in interviews with officials, it is also important for member state representatives to win the chair of their group for their argument, especially if they have less political clout on a specific foreign policy issue. Since the chairperson does not rotate every six months, in principle the relationships that are developed should be more lasting and translate into greater cohesiveness of the group.

In the end, the personal qualities of the chair are of utmost importance to secure the feeling of ‘ownership’ on the part of the member states. Many of the EEAS chair holders have previously been part of a working group as national representatives, an experience that helps them to run their group effectively. A sustainable system of selection of chairpersons of the working groups, including the consultation of all the members of the group (as was done during the selection of the PSC chair) would lay the basis for securing good working relations between the EEAS and the member state in general, and between the permanent chairs and the member states representatives in the working groups in particular.

**Recommendation**

In the review of the recruitment process, special attention should be given to the selection of the working group chairs. This should include the consultation of the members of the respective working group.

The PSC is still the ‘linchpin’ of the CFSP, as it prepares most of the security and foreign policy-related items of the Council meetings. Comprised of representatives at ambassadorial level from the permanent representations in Brussels, it becomes – especially in times of international crises – the de facto main forum for coordination and development of consent on EU foreign policy issues that are sensitive and cannot be resolved at a working group level. During the height of the ‘Arab spring’ in 2011, the PSC was meeting almost daily to discuss the measures to be taken by the EU.

However, it plays a subordinate role to COREPER, which is the official body for the preparation of all Council meetings and is still being chaired by the rotating Council Presidency. Thus, every text has to pass through COREPER and is subject to a horizontal check on institutional, financial and legal implications. When urgent crises leave only limited time for a COREPER meeting, this can lead to situations in which the permanent representatives are only able to ‘rubberstamp’ the text agreed by the PSC. This unsatisfactory situation arose before the Lisbon Treaty, but it continued under the new institutional architecture. To prevent such situations, it is important that the EEAS is able to prepare the meetings in the Council in a way that leaves enough

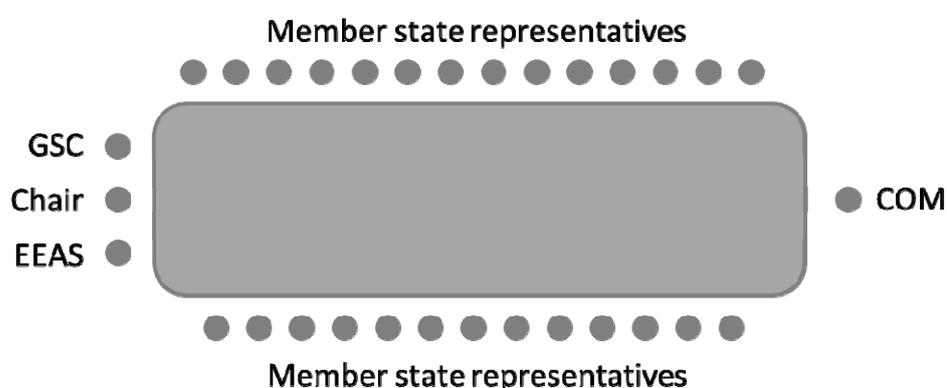
time to the permanent representatives in COREPER to work on the draft texts. In addition, the member states' permanent representations have to ensure communication and coordination between the PSC ambassador and the COREPER representative to keep the latter informed on the timing and the outcome of the discussions. In general, it can be questioned if it is still necessary to have every decision pass through COREPER when a rapid reaction is needed. As pointed out in an interview, since the HR/VP and the EEAS now have the task of ensuring horizontal coherence, the horizontal check by COREPER becomes less relevant and the last checks for institutional, legal and financial implications could possibly be done by written procedure.

The creation of a Political Affairs Department within the EEAS under the political Director Helga Schmid in 2012 can have positive effects on the relations with the member state administrations. The department comprises inter alia the chair of the Political and Security Committee and is linked to the working group chairs. In its function it equals the political departments of national foreign ministries and might be vital in giving future political direction to the Service. In turn, Ms Schmid became the counterpart of the political directors of the national foreign ministries and consults with them on a regular basis. The creation of a political department at the top of the EEAS structure represents a significant improvement of the service, since a lack of political guidance at the highest level of the hierarchy was often mentioned in our interviews. In addition it can serve as a contact point for political sections of the permanent representations in Brussels.

The involvement of the new service and the HR/VP required adjustments in the seating order of the FAC and its preparatory bodies (see Figure 2). In all working groups preparing the PSC and FAC, the chairperson is flanked by a representative of the EEAS and a representative of the General-Secretariat of the Council. The Commission is seated on the opposite side of the table as usual. Some officials see the EEAS official sitting next to the chairman as a "strategic mistake". The role of the EEAS official is less about supporting the chairperson (which is in most cases from the EEAS as well), but more about giving input to the discussion from the perspective of the executive, such as reporting back from international meetings. In this regard the job of

the EEAS official is much closer to the one of the Commission representative in the group. The seating arrangement at present does not allow the Commission and the EEAS officials to coordinate their reporting and forces them to “play ping-pong across the table”. Sitting next to each other instead of at opposing ends of the table could foster the coordination between the EEAS and the Commission and increase the coherence on working level.

Figure 2. Current seating order in the Council bodies



#### Recommendation

In the respective Council bodies, the representatives of the European Commission and the EEAS should be sitting next to each other, opposite to the chairperson and GSC official at the other side of the table, in order to allow for a better coordination on a working level.

At the highest level, the permanent chairing by the HR/VP has visible impact on the work of the Foreign Affairs Council. Clashes between the HR/VP and the ministers have been reported<sup>3</sup> and those responsible for managing the agenda are facing challenges. However, the day-by-day running of the meetings has improved and it

<sup>3</sup> For example, the Swedish Foreign Minister criticised the HR/VP for trying to leave the discussions on Libya before they were completed for another meeting; see “Running out of friends”, *European Voice*, 24 March 2011 (<http://www.europeanvoice.com/article/imported/running-out-of-friends/70622.aspx>).

could be seen as an advantage for the HR/VP not to be a member of the group of foreign ministers, as it enables the incumbent to take a more assertive stance during the meetings. Apparently, according to an official interviewed for this paper, the High Representative tries to prevent foreign ministers from reopening closed items if they cannot produce a solid reason and to cut interventions short. While trying to act as a ‘moderator’ to keep the discussion focused, it is equally important for the HR/VP to have an in-depth understanding of the member states’ ambitions and preferences in order to be able to play the political role of an ‘honest broker’.

### *European Council renewed*

The post-Lisbon period witnessed three major institutional changes in relation to the European Council. Firstly, the European Council (established in 1975) became *de jure* an EU institution. The role of the European Council is to give the necessary impetus for the EU’s development and define the Union’s general political directions and priorities. Based on the European Council’s general guidelines, the Foreign Affairs Council is tasked to conceptualise the EU external action. Secondly, the Lisbon Treaty established a post of the European Council’s President who is elected for two and half years and can be re-elected only once. In addition to the Heads of State or Government and the permanent President, the membership of the European Council includes the President of the Commission. The High Representative takes part in the work of the European Council. Thirdly, differently from the pre-Lisbon era, the member states’ foreign ministers – except special meetings – do not take part in the European Council.

In managing the agenda of the European Council, the permanent President follows the priorities set by the EU Heads of State or Government. During his first term, President Herman Van Rompuy largely focused on the European sovereign debt crisis. The president also aimed to increase the level of ownership of the EU external action by the Heads of State or Government, through facilitating regular debates on foreign policy items in the European Council. However, the ‘euro-crisis’ regularly hijacked the agenda.

In the past, the European Council frequently stimulated the developments of the common EU foreign policy through its conclusions. Nevertheless, in the post-Lisbon

period, the role of the European Council as a foreign policy forum has been strengthened once more. One example was the October 2010 summit with a special emphasis on external action. Van Rompuy intended to trigger a debate on the interaction with the EU's strategic partners, as a reaction to the low profile of the Union at the Copenhagen climate negotiations in December 2009. High Representative Ashton was tasked to prepare and present the major issues related to the EU's strategic partners. Her presentation was not received favourably, however.

Although he has become involved in foreign policy, Herman Van Rompuy as President of the European Council, has rarely been involved in the Common Security and Defence Policy (CSDP). While developments in CSDP in general were rapidly progressing in the last decade, the momentum seems to have been lost in recent years, despite the launch of a few missions. Consequently, close observers state that there is no political requirement to engage in CSDP from the European Council nor is there 'market demand' for that. This is also reflected in the President's position towards the common defence policy, which shows little ambition. With the exception of attending the NATO Summit in Chicago (2012), Van Rompuy has not been active in the framework of CSDP-NATO cooperation either. The year 2013 might show a greater focus on common defence as the December European Council meeting will have a special focus on this policy field and several member states aspire to use the opportunity to progress in pooling and sharing of capabilities and better cooperation in defence.

The European Council's greater importance in the EU external action is seen as having been developed at the expense of the Foreign Ministers. In times of crisis when important decisions have to be taken urgently (e.g. Libya), the Heads of State or Government and their aids take centre stage and the foreign ministers are often sidelined. On the one hand, the absence of the foreign ministers from the European Council solves the issues of overcrowding (from 60+ to 30+ people). On the other hand, it partially breaks the link between foreign ministries and the Heads of State or Government. Interviews reveal that in matters of urgency the regular EU foreign policy-making machinery, including the Foreign Affairs Council, the Political and

Security Committee (PSC), the working groups and the EEAS, cease to be an integral part of the European Council's decision-making process.

A broken link between the European Council and the rest of the foreign policy machinery can also be identified in 'normal times'. The EEAS participates in the activities of the European Council through multiple doors. The service supports three members of the European Council, namely the President of the European Council, the High Representative and the President of the European Commission. However the service, as well as the working groups over which it presides in the Council, are not directly involved in drafting the general conclusions. In the pre-Lisbon era, the General Affairs and External Relations Council (GAERC) prepared the meetings of the European Council and was responsible for drafting the European Council Conclusions. In the post-Lisbon period, the President of the European Council and General Affairs Council prepare the meetings with involvement of the rotating Presidency and the President of the Commission. Conversely, neither the Foreign Affairs Council nor the High Representative are a formal part of this preparatory process.

Before Lisbon, both the European Council and the Council were chaired by the rotating Council Presidency, which facilitated a strong link between the two bodies. After Lisbon, the Foreign Affairs Council as well as the European Council have a permanent chairperson. In addition, the Treaty gives the European Council President a role in ensuring the external representation of the Union on issues concerning its common foreign and security policy on his level. The fact that both posts are permanent and have competences in CFSP should be seen as an opportunity. This creates the chance to institute procedures for close cooperation that also bridge the broken link between foreign ministries and the heads of state and government. Common initiatives of the two posts that are centrally located in the decision-making of the EU architecture can have an important impact on the developments in CFSP and CSDP.

## **2.2 A spokesperson of the Union – CFSP statements and declarations**

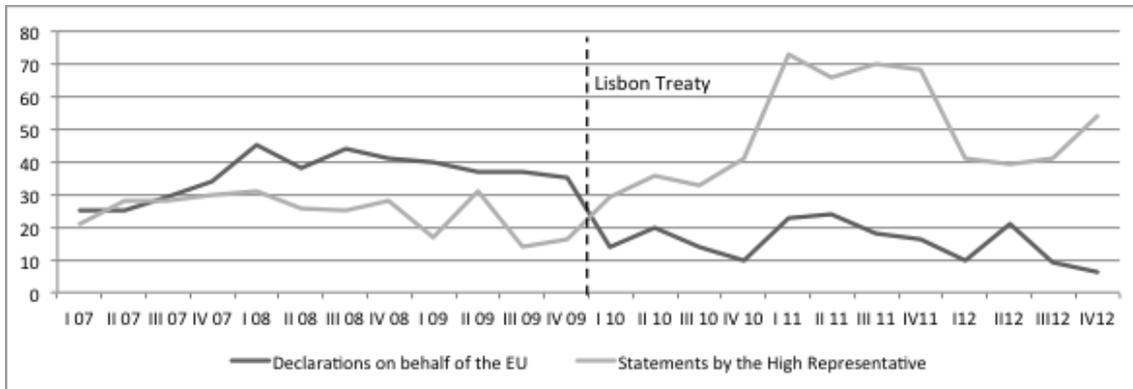
Statements and declarations are some of the traditional tools used by the EU to react to international developments. Before the Treaty of Lisbon, there were two actors responsible for issuing statements and declarations in the area of CFSP: the High

Representative and the rotating Council Presidency. The High Representative issued statements on his behalf (e.g. “I welcome...”). The rotating Presidency was in charge of issuing the formal declarations on behalf of the entire EU, speaking on behalf of all member states (e.g. “The EU welcomes...”). The declarations by the Presidency had to be formally approved by all member states and were revised via the COREU network (see below). The Treaty of Lisbon empowered the High Representative to issue both statements on her behalf as well as declarations on behalf of the Union. The subtle nuance that all member states need to approve declarations, while statements do not necessarily take every single member state’s opinion into account, is probably not recognised by all third parties. Consequently, statements by the High Representative are likely to be seen as the EU position by the external partners and European public opinion, even if all with all member states have not been consulted beforehand.

Since the Treaty of Lisbon’s entrance into force, a new development is taking place: the HR/VP statements become much more frequently used than the CFSP declarations (see Figure 3). The quantity of statements of the High Representative has increased, while fewer declarations on behalf of the Union have been issued. The decline in declarations is probably also due to the fact that in the previous system the rotating Presidencies had tendencies to issue declarations to improve their international profile. Since the end of 2009, this practice has declined; now the High Representative uses statements instead of declarations, which – at least in theory – allow her to react more timely without lengthy consultation. The ‘Arab spring’ of 2011 in particular, triggered a considerable increase in the number of CFSP statements being issued and a growing gap between statements and declarations.

The use of statements can help the HR/VP to develop a stronger international profile, especially if the incumbent uses the leeway of its double mandate as High Representative *and* Vice-President of the Commission (see more in section 2). Issuing statements that are more assertive and pronounced is not without political risk. Sometimes, member states do not agree with the specific details of a statement, but so far these disagreements have largely been kept behind closed doors.

Figure 3. Statements and declarations



Notes: Statements with direct quotes were included for the High Representative Solana and Ashton. Speeches, press conference remarks, statements by spokespersons and nominations (except EUSRs), have been excluded.

Sources: Solana statements: <http://www.consilium.europa.eu/javier-solana-offline/press-releases.aspx?lang=en&BID=109&page=arch>; Ashton statements: [http://eeas.europa.eu/statements/hr/index\\_en.htm](http://eeas.europa.eu/statements/hr/index_en.htm); Declarations: <http://www.consilium.europa.eu/policies/foreign-policy/cfsp-statements.aspx?lang=en&BID=73>.

A greater disassociation of the national foreign ministers and the national foreign ministries with the European foreign policy has to be avoided. For the HR/VP and the European foreign policy to be effective, the ownership by the EU member states is a *conditio sine qua non*. The political challenge of the HR/VP is to find the right balance between two objectives. On the one hand, statements have to reflect the positions of the member states, as EU foreign policy in its current intergovernmental character cannot work without and especially not against the member states. On the other hand, a situation in which statements only reflect the lowest common denominator of the member states would fall short of the EU's ambition to become a global actor.

Despite the centralisation by the Treaty of Lisbon of the European foreign policy leadership, the EU still has multiple actors that issued statements in this area. On several occasions, the HR/VP's statements were issued only after similar statements had been released by the Commission President José Manuel Barroso, President of the European Council, Herman Van Rompuy, and the President of the European Parliament, Martin Schulz. The HR/VP was the last among the EU leaders to issue statements after the killing of Osama Bin Laden in May 2011, or the death of Muammar Gaddafi in October 2011. The Lisbon Treaty assigned responsibilities to EU leaders for

making statements. The Commission is entitled to represent the Union on Community issues and the President of the European Council represents CFSP on his level. While in theory this should delineate who speaks on which issues, in practice these actors are commenting on international developments even if they do not fall within their competence.

### **Recommendation**

A more coherent image of foreign policy at the EU level can be projected if the press offices of HR/VP and of the President of the European Council as well as of the European Commission work to ensure a maximum of coordination on the basis of the competences assigned to each of the leaders. Accordingly, the HR/VP and the President of the European Council should be the first to speak on matters of CFSP and make more frequent use of joint statements. The European Parliament President should withhold its foreign policy statements until the HR/VP speaks.

### **2.3 What role for the rotating Presidency in CFSP?**

The rotating Council Presidency has lost its day-to-day agenda-setting power, as it no longer presides over most of the preparatory bodies or the Council meeting itself. However, the rotating Presidency still has a role to play regarding the international activities of the EU: it chairs some of the working parties and Council formations with effect on the EU's external profile and its priorities usually touch on external action issues and its foreign minister even sometimes represents the EU internationally, replacing the HR/VP.

What lessons can be learned from the first presidencies under Lisbon rules? The year 2010 was a transitional period, as the Foreign Affairs Council preparatory working parties and the PSC were still chaired by the rotating Presidency. Spain had to prepare its 2010 Presidency before the entering into force of the Lisbon Treaty, without an empowered HR/VP and the EEAS in place (hence a Spanish diplomat was among the HR/VP closest advisors during the six-month term). Belgium and Hungary, as the two following Presidencies, respected the new rules which foresaw a limited role of the Presidency. The interpretation of their role was mainly supportive of the activities of

the High Representative and her team. As such, those presidencies did not have a strong foreign policy profile. Their experience has been indicative and the model of the ‘supportive Presidency’ has been largely pursued by the successive Council presidencies of Poland, Denmark and Cyprus.

However, the second semester of 2011, during the Polish Presidency, saw the cooperation between the High Representative and the rotating Presidency slightly modified. The two actors agreed that the national Foreign Affairs Minister would represent the Union also on official trips. Unlike on other occasions, the ‘representation’ function was not delegated exclusively to the country holding the rotating Presidency. The HR/VP and the Polish Minister concluded the list of replacements ahead of the six-months, which gave the Presidency leeway to pursue its own interests. Such an approach goes beyond pure representational functions, and represents a greater involvement in policy-definition. For example, the Polish Foreign Minister went on a policy trip to Afghanistan and Pakistan, where the EU diplomats assisted him. An equally close partnership developed between the two figures during the establishment of the European Endowment for Democracy. However, the somewhat upgraded Polish Council Presidency performance on foreign policy issues remained largely limited in scope. No ‘resurgence’ of the rotating Council Presidency undermining the position of the new structures has taken place so far in the foreign policy domain.

### ***EU Correspondents***

An excellent indicator for the ‘day-by-day’ participation of member states and institutions in CFSP is the network of the European Correspondents (COREU). It serves as the main communications network in the area of CFSP and links the Council Secretariat, Commission and, since January 2011, also the EEAS with the foreign ministries in the national capitals. Messages are circulated via this network in order to clear declarations, get input from national ministries, prepare the Council work and issue démarches to be carried out by heads of Union delegations. In analysing the number of messages processed, the most remarkable – but also intuitive – observation is the landslide decline of involvement of the rotating Presidency in this

communication network (see Table 1 below) since the beginning of 2010. The numbers of messages sent by the member states holding the rotating Presidency crashed from 2008 to 2011, clearly showing the impact of the changes of the Lisbon Treaty in the real world. In 2009, the two Presidency countries (the Czech Republic and Sweden) were sending 23.55% of all messages. This number dropped to 9.4% for the presidencies in 2010. While Spain was still one of the more involved countries with 7.24%, the Belgian input did not significantly increase when it took over the Presidency. According to this indicator, the rotating Presidency did not have a major role in the policy formulation of CFSP anymore. This trend of low participation continued with the Hungarian Presidency and with the allegedly more ambitious Polish Presidency.

Table 1. Number of messages sent in the COREU network

Year	2008		2009		2010		2011	
Total	10201		9462		8476		7030	
	Total	%	Total	%	Total	%	Total	%
<b>Gen-Sec Council</b>	2,583	25 %	2,603	27.51 %	2,706	31.93 %	971	13.81 %
<b>EEAS</b>	-	-	-	-	-	-	1,888	26.86 %
<b>European Commission</b>	288	2.82 %	215	2.27 %	483	5.70 %	53	0.75 %
<b>27 MS</b>	7,330	71.86 %	6,644	70.22 %	5,287	62.38 %	4,118	58.58 %
<b>Slovenia</b>	<b>1,159</b>	<b>11.36 %</b>	126	1.33 %	77	0.91 %	61	0.87 %
<b>France</b>	<b>1,362</b>	<b>13.35 %</b>	461	4.87 %	457	5.39 %	396	5.63 %
<b>Czech Republic</b>	222	2.18 %	<b>1,138</b>	<b>12.03 %</b>	163	1.92 %	118	1.68 %
<b>Sweden</b>	225	2.21 %	<b>1,090</b>	<b>11.52 %</b>	197	2.32 %	147	2.09 %
<b>Spain</b>	209	2.05 %	249	2.63 %	<b>614</b>	<b>7.24 %</b>	199	2.83 %
<b>Belgium</b>	208	2.04 %	146	1.54 %	<b>183</b>	<b>2.16 %</b>	166	2.36 %
<b>Hungary</b>	110	1.08 %	81	0.86 %	81	0.96 %	<b>112</b>	<b>1.59 %</b>
<b>Poland</b>	119	1.17 %	85	0.90 %	79	0.93 %	<b>119</b>	<b>1.69 %</b>
<b>Germany</b>	732	7.18 %	648	6.85 %	958	11.30 %	562	7.99 %
<b>UK</b>	538	5.27 %	541	5.72 %	609	7.18 %	534	7.60 %
<b>Italy</b>	314	3.08 %	248	2.62 %	267	3.15 %	242	3.44 %

\* Figures in bold denote messages sent by the country holding the rotating Presidency.

Likewise, with the formal establishment of the EEAS, the participation of the Council Secretariat – previously the ‘hub’ for CFSP coordination and management<sup>4</sup> – has decreased with its reduced administrative role in the organisation of the Council meetings. In the beginning of 2011, the biggest share of messages has been sent by the EEAS, due to the fact that the EEAS is now not only *de jure*, but also *de facto* steering the agenda in CFSP. Accordingly, the share of all 27 member states in the communication on CFSP has decreased by around 10% since the entry into force of the Treaty of Lisbon. While it is possible to observe a high share of communication of the EEAS, more involvement does not necessarily mean more impact on policy formulation. However, it shows that the EEAS engages with the member states and may provide added value via common reporting and policy formulation.

### *The new CFSP role of the Council rotating Presidency*

The rotating Presidency might formally not be in the ‘driver’s seat’ of CFSP anymore, but it is still vital in EU external action, either because of its competences assigned by the treaty, or in its supporting role for the High Representative.

First, in all matters that are outside or at the edge of CFSP, the rotating Presidency’s activities are based on competences imposed by the Treaty. The rotating Presidency still chairs Council working groups that are relevant for the external action of the Union. Not all working parties are chaired by the EEAS, amongst them the working party of Foreign Relations Counsellors (RELEX), which deals with horizontal financial and institutional aspects and coordinates the agenda of the PSC and COREPER. All issues prepared by the PSC still have to pass COREPER chaired by the rotating Presidency, which also prepares (with the help of the working groups) the FAC items that are not crisis-and security-related. Furthermore, Council formations in the remit of the rotating Presidency have external implications as well, like the trade formation of the FAC, the General Affairs Council (as it prepares the European Council and deals with enlargement matters) or the Environment Council.

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<sup>4</sup> See Bicchi & Carta (2010).

In addition, the rotating Presidency still plays a role in representing and negotiating matters other than CFSP that do not fall within the area of exclusive competences of the Union. Especially for competences shared with the member states,<sup>5</sup> the rotating Presidency shares the external representation with the European Commission. In the past this has led to rows with the Commission on who is allowed to negotiate on behalf of the Union on international agreements as well as on non-legal binding issues at international conferences and events.<sup>6</sup> In the case of the UN negotiations on mercury in June 2010, this led to a deadlock and the EU ended up with no mandate to negotiate.<sup>7</sup> As a consequence, practical arrangements are now adopted on the working party/COREPER level on a case-by-case basis with defined roles of the Commission, the Presidency and possibly other member states.

Second, in the area of CFSP, the Council Presidency acts in a ‘supporting’ manner. The rotating Presidency acts as the deputy of the HR/VP in various situations and formats. Members of the Presidency or the trio-Presidency are foreseen to deputise the High Representative vis-à-vis the European Parliament on matters of CFSP. If the High Representative is not able to preside over the Foreign Affairs Council, which sometimes is the case due to her travel commitments, one of the ministers of the rotating Presidency replaces her as the chair. This was the case at the informal defence minister meetings of the Spanish, Belgian and Polish presidencies. Furthermore, the September Defence Ministers Meeting coincided with the UN General Assembly, forcing the HR/VP to prioritise one event over the other. The ‘Gymnich’ meetings are

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<sup>5</sup> Shared competences are defined in Art. 4(2) TFEU: internal market; social policy, for the aspects defined in the Treaty; economic, social and territorial cohesion; agriculture and fisheries, excluding the conservation of marine biological resources; environment; consumer protection; transport; trans-European networks; energy; area of freedom, security and justice; common safety concerns in public health matters, for the aspects defined in the Treaty.

<sup>6</sup> The treaty does not delineate competences between the Commission and the Presidency in these cases. While the Commission claims to have a ‘universal’ representative role according to Art. 17(1) TEU, the Presidency argues that Article 218 TFEU gives the member states the possibility to choose the negotiator.

<sup>7</sup> For an in-depth analysis of the status quo of EU representation, see Emerson et al., *Upgrading the EU’s Role as Global Actor: Institutions, Law and the Restructuring of European Diplomacy*, January 2011, Brussels (<http://www.ceps.eu/book/upgrading-eus-role-global-actor-institutions-law-and-restructuring-european-diplomacy>).

co-chaired by the Foreign Minister of the rotating Presidency. Moreover, vis-à-vis international partners, the High Representative has to draw on the Presidency to act on her behalf. The EU delegation to Association Council meetings are headed by the foreign minister of the Council Presidency, who also chairs the meetings. In addition, it is sometimes the case that the foreign minister of the rotating Presidency represents the High Representative in bilateral meetings.

While all bilateral summits are now held in Brussels (when the host is the EU), multilateral summits are hosted in the member states of the rotating Presidency. Thus, Spain hosted the EU-LAC summit, Belgium hosted the ASEM summit and the Eastern Partnership summit was supposed to take place in Hungary, but was postponed and was then hosted by Poland in September 2011.

The EU delegations do not cover the entire world. Wherever the Union is not represented by an EU delegation, the Service has to draw on the resources of the rotating Presidency or one of the upcoming Presidency countries.<sup>8</sup> For example, this was the case during the uprising in Libya in 2011 when the Hungarian embassy on the ground coordinated the rescue efforts of EU citizens.<sup>9</sup> There are also no EU delegations in a number of countries such as Iran and North Korea.

The rotating Presidency is essential in providing political impetus, by pushing forward initiatives during its six-month term. There are first signs that the abolishment of the six-month rotation in CFSP may lead to a decrease of political drive: the EEAS has different deadlines to accomplish its priorities. In addition, priorities and ambitions that stem from geographical and historical characteristics of the member state holding the Presidency are not ‘natural’ characteristics of an institution like the EEAS.

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<sup>8</sup> The half-yearly list is composed by indicating the member states that represent and coordinate the EU position in third countries without Union delegations; see for example, EEAS, “EU diplomatic representation in third countries – Second half of 2012”, 11522/1/12, REV 1, Brussels, 2012.

<sup>9</sup> “Hungarian Presidency’s contribution to the EU’s response on the events in the Southern Mediterranean”, Press Release, Brussels, 23 February 2011 (<http://www.eu2011.hu/de/node/14122>).

The role the rotating Presidency plays in international activities of the EU triggers the need of intensive coordination between the Council Presidency staff and the EEAS. No written rules of cooperation have been laid down; however, practices emerged between the two executives. The Spanish Presidency in 2010, which came before the EEAS was in place, represented a special case. During the crises of this period (the military operation of Israel against the Gaza flotilla and the earthquake in Haiti), the Spanish PSC ambassador was invited to the meetings of the HR/VP's cabinet. With the EEAS in place, the Presidency has regular meetings before and during the term with the policy coordination unit of the EEAS and stays in contact with HR/VP's cabinet members. Given the slight ad hoc nature of cooperation in the 'Presidency-Cabinet-EEAS triangle' that builds on personal relationships between the actors in the three entities, there is space for a more structural approach of cooperation.

**Recommendation**

Procedures for the coordination of HR/VP and the rotating Presidency should be clarified,

- to ensure coherence of the international activities of the EU under the Council chairmanship of the High Representative and the rotating Presidency,
- to ensure communication with the rotating Presidency in cases where a minister has to represent the HR/VP and
- to allow the rotating Presidency to give political impetus to the development of EU foreign policy.

### 3. THE INTERPLAY BETWEEN THE EEAS AND THE EUROPEAN COMMISSION

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The relations between the European Commission and the new European External Action Service (EEAS) highlight some of the most problematic issues raised by the creation of this new body. The process leading up to the creation of the EEAS was often characterised by tensions between the actors involved in EU external action after the establishment of the new service. Most of these debated issues concerned the competences of the EEAS. Since the Commission has retained many external action portfolios and remained the EU institution that manages the external action operational budgets, it is of vital importance that the EEAS and the Commission develop good and effective working relations.

According to the Treaty, the Commission ensures the EU's external representation with the exception of CFSP (covered by the president of the European Council, the High Representative/EEAS and the member states) but, at the same time, it is the High Representative with the help of the EEAS who has to ensure the coordination and consistency of the external action of the Union. While one of the major innovations of the Lisbon Treaty was that the High Representative is also anchored in the Commission where it has to coordinate the EU's external action, we can still observe tensions in the system.

The EEAS's intention to coordinate some of the Commission services dealing with external action was generally met by opposition. These Commission DGs, consisting of the Directorate-General for Development and Cooperation - EuropeAid (DG DEVCO), the Directorate-General for Humanitarian Aid and Civil Protection (DG ECHO), the Directorate-General for Enlargement and the Directorate-General for Trade (DG TRADE), are established institutions that have been working on external action for many years and are – sometimes with good arguments – reluctant to be coordinated by

a new service from outside their structures. Many officials in the Commission were apprehensive about the creation of a new service outside the Commission structures. The main reason voiced was the fear of the influence of member states over the integrated areas of the EU's external action. Having the EEAS formally created outside of the Commission, according to this perspective, is a dangerous development of national governments creeping back into Community competences. At the same time, the policy objectives of the Commission sometimes differ from those of the member states. Thus, some of the Commission services feared that the creation of the EEAS could lead to a politicisation of their work (e.g. in trade, development or humanitarian aid).

The negotiations over the delimitation of competences between the Union's institutions and the EEAS resulted in the Commission retaining its trade, development, humanitarian aid and enlargement portfolios. Additionally, several units from the External Relations Directorate (DG RELEX) were transferred in the months preceding the creation of the EEAS to the two new Commission DGs dealing with energy and climate action. To external observers, the Commission was seen as defending its turf and trying to retain its external action portfolios. Another early manifestation of this was the February 2010 nomination of João Vale de Almeida, a former head of cabinet of Commission President Barroso, as head of the EU Delegation in Washington. This action raised eyebrows in EU capitals and was seen as an attempt by president Barroso to retain influence on EU-US relations. EEAS officials were also unhappy with the narrow view of the Commission on the sharing of information. The lack of coordination between the Commission and the EEAS was visible during the February 2011 visit of Prime Minister Putin to Brussels with EEAS officials claiming that the briefings for the meeting were coordinated by the Commission and not shared with the EEAS.

In order to clear some of the institutional fog regarding inter-institutional relations with the new service, the Secretariat-General of the Commission issued at the beginning of 2010 a *Vademecum on Working Relations with the European External Action*

*Service (EEAS)*. The document was not well received within the EEAS, and several officials complained<sup>10</sup> that their units were not consulted during the writing process. Other officials from the EEAS as well as from the Commission were also critical<sup>11</sup> of the heavy-handed way in which the Commission Secretariat-General managed the separation of DG RELEX from the Commission structure. This initial push to create a clear line of demarcation between the Commission and the EEAS was later replaced with a more inclusive approach that led to an improvement of relations. Since then, the Commission and the EEAS have negotiated more detailed working arrangements.<sup>12</sup> The Commission has also issued an updated version of the *vademecum*<sup>13</sup> mentioned and a new *Vademecum on the External Action of the European Union*<sup>14</sup> aimed at clarifying issues related to the principles of the external action of the EU, the external representation of the EU and the negotiation of international agreements.

Most of the former DG RELEX officials have kept their portfolios and after over two years of its establishment, more than one-third of the EEAS staff still originates from the Commission. This has ensured a certain continuity in its relations with the other institutions and was particularly important in its relation with the European Commission. Effectively, many of the institutional tensions related to the establishment of the EEAS were ironed out by these already existing working and personal relationships between officials.

This could change in a longer-term perspective as more member states diplomats are hired into the EEAS. Thus, providing adequate training to these diplomats on the workings of the EU institutions is central for maintaining an effective collaboration

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<sup>10</sup> According to several EEAS officials interviewed, May-June 2011.

<sup>11</sup> As remarked in interviews by European Commission and EEAS officials, June, July and August 2011.

<sup>12</sup> European Commission (2012) Working Arrangements between Commission and the European External Action Service (EEAS) in Relation to External Relations Issues, 13 January 2012, SEC(2012)48.

<sup>13</sup> European Commission (2011), *Vademecum on Working Relations with the European External Action Service (EEAS)*, SEC(2011)1636.

<sup>14</sup> European Commission (2011), *Vademecum on the External Action of the European Union*, SEC(2011)881.

between the Commission and the EEAS. Otherwise, a widening gap between the Service and the Commission could pose serious problems to the operation of the EU's foreign policy machinery.

### **Recommendation**

Adequate training on the workings of the EU institutions for member state diplomats is central for maintaining an effective collaboration between the European Commission and the EEAS.

In the pre-EEAS days, the Commission was represented in 25 out of 39 Foreign Affairs Council preparatory working groups by DG RELEX. Since DG RELEX has been integrated in the EEAS, the role of coordination and representation of the Commission in these working groups has been taken over by the Secretariat-General of the Commission, the Directorates-General DEVCO, TRADE, ECHO, HOME, ENTR and the Foreign Policy Instruments (FPI).<sup>15</sup> This gives the Commission better access to information and better exposure to the politics of the Council and should theoretically lead to better coordination between the two institutions. However, one high-ranking national diplomat who agreed to be interviewed for this paper described the Commission as being less engaged in the external action of the Union than before the creation of the EEAS. According to the official, if before the creation of the EEAS, the Commission was coming with ideas about what could be done with its instruments, now it seems to mostly react in order to make sure that the member states don't interfere with its work. This situation should be prevented as the involvement of the Commission is crucial for the external action of the Union. Some of these working groups continue to be chaired by the rotating Presidency, but the geographical and CFSP working groups are now chaired by the EEAS. That means that member-state diplomats have to deal in these working groups with representatives of two EU bodies, the EEAS and the Commission, whereas previously they were working with the

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<sup>15</sup> A list of the Commission DGs attending the Foreign Affairs Council preparatory Working groups can be found in Annex 1 of this paper.

Commission. If the EEAS and the Commission manage to coordinate their positions and pass similar messages, they are likely to have a bigger influence on member states. The Commission and EEAS services should coordinate their positions as much as possible before meetings in the Council.

### **3.1 General coordination of EU's external action: The role of the HR/VP**

Besides conducting the common Foreign and Security Policy, the High Representative/Vice President, supported by the EEAS, has to coordinate other aspects of the Union's external action and to ensure the consistency and the overall political coordination of the Union's external action. In practice, however, this coordination authority of the HR/VP is only *horizontal* (among equals) and is not backed by an enforcement authority.

The HR/VP is a full member and the only treaty-mentioned Vice President of the Commission. Hence, the High Representative fully participates in *all* matters addressed by the College. Inside the College of Commissioners, the HR/VP is the chair of the Group on External Relations Commissioners (the RELEX group). This group consists of commissioners responsible for 1) Development, 2) Enlargement and Neighbourhood Policy, 3) International Cooperation, Humanitarian Aid and Crisis Response, 4) Trade and 5) Economic and Monetary Affairs. The RELEX group of Commissioners did not have a particularly important coordination role during the Barroso I Commission and the situation does not seem to have changed in the current college. The situation is actually worse so far during the Barroso II Commission (February 2010-December 2012), the group has only met five times, with some of the meetings being chaired by the Commission president, who is allowed to chair the meetings if he chooses to. The low number of meetings seems to be at least partially caused by the difficulty of organising meetings of often-travelling Commissioners but also by the less than optimal personal relations between some of them. The coordination potential of the entire RELEX group of Commissioners has not been fully used.

Within the RELEX group of Commissioners we can identify a smaller sub-group formed by commissioners Ashton, Füle, Piebalgs and Georgieva. In the time of appointment, these Commissioners were instructed by the Commission President that

they should work closely with the High Representative.<sup>16</sup> This could have been seen as an attempt by the Commission President to empower the HR/VP with *vertical* coordination powers over those three Commissioners, but this does not seem to have happened in practice. The interactions between Commissioner Ashton and these three fellow Commissioners are visibly more frequent than with other Commissioners, but they are not of a supervisory nature.

### **Recommendation**

The RELEX group of Commissioners should play a more important role in coordinating the EU's external action. Organising regular coordination meetings between the HR/VP and the other RELEX Commissioners would also give a positive example to the services they coordinate and that are often competing instead of cooperating.

This frequent criticism of the HR/VP leads to the question: how much of “VP” role is there left in the double-hatted position? Catherine Ashton is largely perceived inside the Commission as putting more focus on her High Representative role than on her role in the Commission. In a way, this is a natural development: as the HR she enjoys more flexibility (for example, she issues her own statements or has an individual right of initiative on CFSP questions), but the ‘HR’ hat also ensures her a more elevated position towards other members of the Commission college and the Commission President. An elevated position within the Commission would be justified by Art. 18(4) TEU, which makes the HR/VP responsible within the Commission for external relations and for coordinating other aspects of the Union's external action.

One of the main problems for any coordination at the level of the College is that of time scarcity. In the time period between February 2010 and December 2012, the HR/VP had the highest number of absences (61 out of 122 meetings) in Commission college

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<sup>16</sup> The assignment letters received by Commissioners Füle, Piebalgs and Georgieva from Commission President Barroso mention the fact that they have to work closely with the HR/VP, but this was not the case for the letters addressed to Commissioners De Gucht and Rehn.

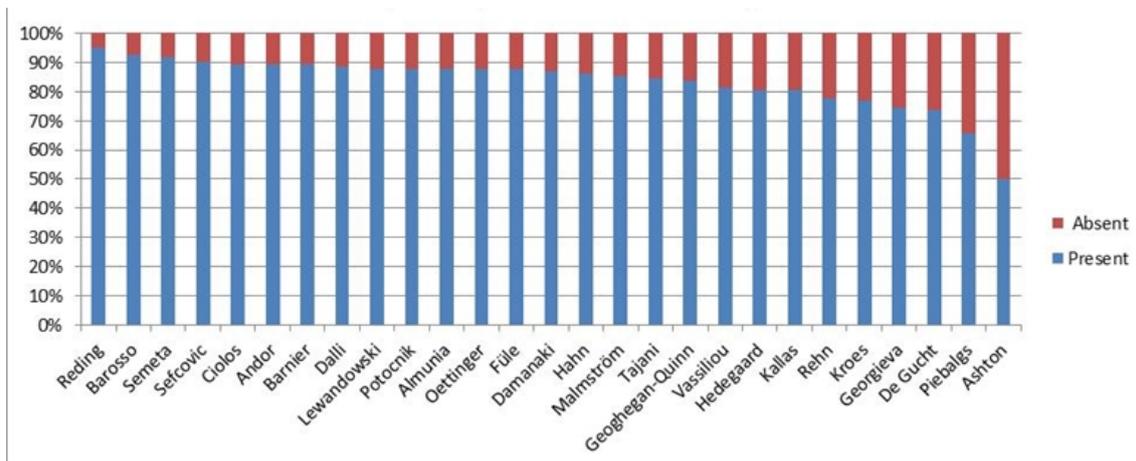
meetings of any commissioner, participating in only half of them. We can see in the graph below that she is followed by other commissioners with external relations portfolios that often require travelling. This rate of participation of 50% should be increased in order to allow for a better coordination between the work being done by Catherine Ashton under her HR and VP ‘hats’. This also raises the necessity of nominating a deputy of the HR/VP that would participate in the college meetings when s/he cannot attend.

### Recommendation

The coordination responsibilities of the HR/VP should be clarified and the post should be in a position to coordinate the services in the Commission that deal with external action.

The HR/VP’s rate of participation at Commission college meetings should be increased in order to allow for a better coordination of EU’s external action.

Figure 4. The rate of participation at Commission college meetings (February 2010-December 2012)\*



\* February 2010-October 2012 for Commissioner Dalli.

Source: Authors’ own compilation based on the minutes of Commission meetings.

If therefore the coordination level remains relatively low in the College of Commissioners, it is pursued elsewhere. First, it is sought mainly through the participation of representatives from the HR/VP cabinet or the EEAS in various preparatory and coordination meetings. One member of the cabinet participates in the

Groupe des relations interinstitutionnelles (GRI), the format used to coordinate inter-institutional relations between the Commission, the Parliament and the Council. As is the case with every cabinet, the Ashton's cabinet participates in the 'Special Chefs' meetings and the Heads of Cabinet meetings (Hebdo). The Secretariat-General of the Commission and the Policy Coordination Unit of the EEAS have weekly coordination meetings, other meetings are organised between the DGs dealing with external issues and the EEAS and numerous other meetings take place between the Service and the different Commission services.

The EEAS and the various Commission services contribute with briefings to the each other's visits and meetings with third countries and international organisation and share the final briefings and the final reports of the visits. The body that coordinates the briefing is determined by the main subject of the meeting. If it's CFSP, the EEAS takes the lead, if development, it is DG DEVCO and so on. The common consultations and briefings play a big role in ensuring the consistency of the external action of the Union.

Moreover, the EEAS is integrated into the various IT systems used by the Commission to manage its work. The EEAS uses the same inter-service consultation tool (CIS-Net) as the Commission and regularly participates in or initiates inter-service consultations. When it prepares and submits proposals to the Commission, the EEAS uses e-Grefte, the IT management system used in the Commission's decision-making process. Moreover, the EEAS participates in the BASIL system used to coordinate the different Commission services for the preparation of replies for questions coming from the European Parliament. It also participates in other systems (such as Petitions 2, Médiateur 2 and ASAP) used for coordinating the preparations of responses to the opinions of national Parliaments, complaints by the Ombudsman or petitions. The launch of the EEAS was accompanied by various IT problems (for example the EEAS staff housed in the Council building did not have access to the common drives of their new units for several months) and the setting up of facilities in the new Brussels headquarters was marred by delays.

As the European Commission has its own internal dynamic, a closer look at the individual bilateral relations between the EEAS and some of the external action DGs is necessary.

### **3.2 The EEAS and DG Development and Cooperation – EuropeAid**

EU development policy was one of the main bones of contention between the member states and the Commission, with the latter opposing any reduction in its competencies over development policy. Underlining this conflict was the fear coming from the European Parliament and the development constituency that giving the EEAS powerful competencies in this sector would lead to a ‘securitisation’ of aid and an unwelcomed political allocation of development funds.

In the end, an agreement was reached in which the management of the Union’s external cooperation programmes remains under the responsibility of the Commission and the EEAS is expected to contribute to the programming and management cycle for these instruments, having responsibility for the preparation of the decisions regarding the strategic, multiannual steps within the programming cycle. The latter include: the country allocations, the country and regional strategy papers (CSPs/RSPs) and the national and regional indicative programmes (NIPs/RIPs). This will be done following the Commission procedures jointly with the relevant Commission services under the responsibility of the Commissioner responsible for Development (for the European Development Fund – EDF – and the Development Cooperation Instrument – DCI) and the Commissioner responsible for Enlargement and the European Neighbourhood Policy (for the European Neighbourhood Instrument). The proposals are to be submitted jointly for adoption by the Commission by the respective Commissioners and the HR/VP.

Thematic programmes (with the exception of the European Instrument for Democracy and Human Rights – EIDHR and the Instrument for Nuclear Safety Cooperation – INSC) are to be prepared by DG DEVCO under the guidance of the Commissioner responsible for Development and presented to the Commission in agreement with the HR/VP and other relevant Commissioners. The programming of the INSC and the EIDHR is prepared by the EEAS under the responsibility of the HR/VP in consultation

with DG DEVCO. Actions taken under the CFSP budget, certain actions under the Instrument for Stability, the Instrument for Cooperation with Industrialised Countries, communication and public diplomacy and election observation are the responsibility of the HR/EEAS, but their financial application is done by the Foreign Policy Instruments (FPI) under the authority of the High Representative acting in her capacity as Vice-President of the Commission. More detailed and clearer steps of the programming cycle were included in the working arrangements<sup>17</sup> between the Commission and the EEAS.

This work is done in the EEAS by the geographic and thematic units and is be coordinated by the Development Cooperation Coordination Division of the service, the development entry-exit point of the EEAS. It remains to be seen how this exercise will take place for the 2014-2020 period as the programming of the different instruments for the current multiannual financial framework predates the creation of the EEAS.

At the level of the Council, the HR chairs the Foreign Affairs Council in its Development configuration, but the rotating Presidency continues to chair the CODEV and ACP Working Parties. This division of labour means that increased efforts need to be made in order to ensure a good coordination between the chairs coming from the rotating Presidency and the development coordination division from the EEAS.

The EEAS was not the only body to experience institutional change. The merger of the former DGs DEV and AIDCO into the new DG Development and Cooperation – EuropeAid (DG DEVCO) – simplified the institutional setup in this field, with the EEAS-DEVCO duo replacing the former RELEX-DEV-AIDCO trio. However, this simplification has not completely eliminated institutional problems. The development and external relations DGs of the Commission already had a long history of rivalry but until now the two sides were inside the same institution. The separation of the external relations portfolio from the Commission structure added to this rivalry a new institutional dimension. At the same time, the transfer of DG RELEX outside of the

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<sup>17</sup> European Commission (2012), Working Arrangements between Commission and the European External Action Service (EEAS) in Relation to External Relations Issues, 13 January 2012, SEC(2012)48.

Commission structure and the other institutional changes had as an indirect consequence an increase in the relative weight and influence within the Commission of DGs such as DEVCO, TRADE and ECHO. With an increase in size and responsibilities (as well as confidence), DG DEVCO is loathe to be relegated to an implementation DG.

Until now, cooperation between the EEAS and DG DEVCO has been mixed. The two sides cooperated reasonably well in preparing the work for the July 2011 informal meeting of development ministers, in particular on the development strategies towards Central Asia and the Pacific. However, disagreements are not rare, especially on the EIDHR, and cooperation tends to be slow and duplication of efforts is not uncommon.

The working arrangements will be tested during the next programming cycle for 2014-2020 that started in 2012. As the EU institutional set-up is not likely to change considerably in the short term, the two bodies will have to work together more closely, both at their headquarters level and in the delegations.

#### **Recommendation**

Increased efforts need to be made in order to ensure better coordination between DG DEVCO and the EEAS and between the chairs of the CODEV and ACP Working Parties coming from the rotating Presidency and the development coordination division of the EEAS.

### **3.3 The EEAS and DG Humanitarian Aid and Civil Protection**

Humanitarian aid is another field of EU action where cooperation between the European Commission (DG ECHO) and the EEAS was accompanied by inter-institutional tensions. These tensions arise from the lack of a clear separation of competencies in this field between the EEAS and the Commission. The Commission/DG ECHO argues that humanitarian aid is a Commission prerogative and that the policy should be kept independent from any political negotiations. The independence of humanitarian aid from foreign policy objectives is also supported by important constituencies in the European Parliament and some of the member states. DG ECHO has offices throughout the world that operate independently of the EEAS

(even though sometimes they are located within the EU delegations) and has a tradition of working in this field. It therefore sees itself as the legitimate actor to coordinate the EU humanitarian action. While the Council Decision of July 2010 establishing the organisation and functioning of the EEAS does not mention Humanitarian aid and civil protection among the instruments for which the EEAS is responsible, it does state that “the High Representative shall ensure overall political coordination of the Union’s external action” and that for this job she is to be supported by the EEAS. What this means in practical terms is the object of dispute and negotiation between the two bodies.

There was a particular incident in the aftermath of the Haitian earthquake in 2010 that contributed to the tension. Partly in reaction to the criticism levelled against what was perceived as a lack of EU coordination and visibility after the earthquake, the HR/VP created within the EEAS the post of Managing Director for Crisis Response and Operational Coordination. The creation of the new post was seen by DG ECHO as encroaching on its own area of competence. The holder of this post drew additional criticism from the Commission service after depicting his April 2011 visit to Benghazi and meetings with the Libyan National Transitional Council as a “humanitarian mission”. This was seen by DG ECHO as an unfortunate use of the word “humanitarian” and as an unnecessary politicisation of the EU’s humanitarian assistance.

In spite of these kinds of tensions, a general division of labour seems to be taking place. In cases of crises that have a humanitarian profile (e.g. natural disasters), DG ECHO is supposed to take the lead, whereas in cases that have stronger political and security implications the coordination takes place at the level of the EEAS and the Crisis Platform, an ad-hoc structure chaired by the HR/VP, the EEAS Executive Secretary General (currently Pierre Vimont) or the Managing Director of the Crisis Response Department, which gathers together representatives from the relevant services of the EEAS (the Civilian Planning and Conduct Capability - CPCC, the European Union Military Staff - EUMS, INTCEN, the Political and Security Committee - PSC, the EU Situation Room and various geographical and horizontal departments), the EU

Military Committee (EUMC) and the Commission's relevant services (ECHO, HOME, DEVCO, etc.).

However, making a clear cut difference between the two types of crises and thus determining who takes the lead in coordination is not that easy and in practice sometimes the coordination role is taken by the body who calls the meetings first. While DG ECHO coordinated the EU action after the 2011 earthquake and tsunami in Japan, the EEAS was the first to call a coordination meeting in the case of the 2011 famine in the Horn of Africa.<sup>18</sup> The EEAS took a coordination role in the latter case even though officials in DG ECHO saw the crisis as falling with their territory of action because they and the resources they manage were the ones to be deployed in the field.

### **Recommendation**

While the division of responsibility between the EEAS and DG ECHO is gaining ground, given the complexity of some of the crisis situations and in order to avoid future institutional skirmishes, the EU should further clarify the division of labour between the Commission and the EEAS in this area. The working arrangements between the EEAS-based Crisis Platform and the future Emergency Response Centre (ERC) that will be responsible for the coordination of the EU's disaster response and will be located within DG-ECHO<sup>19</sup> would need to be streamlined in order to avoid duplications and inter-institutional turf wars.

The two bodies should use the opportunities presented by the development of the comprehensive approach to foreign policy by the EEAS and the Commission to consolidate their cooperation and working arrangements.

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The Crisis Platform was also activated, most notably, for the crises in Libya and Côte d'Ivoire.

<sup>19</sup> COM(2011) 934 final, Proposal for a Decision of the European Parliament and of the Council on a Union Civil Protection Mechanism, [10.12.2012] ([http://ec.europa.eu/echo/files/about/COM\\_2011\\_proposal-decision-CPMechanism\\_en.pdf](http://ec.europa.eu/echo/files/about/COM_2011_proposal-decision-CPMechanism_en.pdf)).

### 3.4 The EEAS and DG Trade

Trade is one of the main aspects of EU external action but also an exclusive competence of the Union that remained with the European Commission. The creation of the post of HR/VP and of the European External Action Service has not dramatically affected the EU's trade policy-making machinery. In its trade configuration, the Foreign Affairs Council (FAC) continues to be chaired by the rotating Presidency and not the High Representative and so does the Trade Policy Committee (TPC) and the other trade-related Council Working groups. DG TRADE continues to represent the Commission in these working groups but in addition it has received the mission to also represent the Commission in some of the geographical working groups<sup>20</sup> of the Council for which the previous lead DG had been DG RELEX.

The split in chairmanship between the geographical groups and the Trade Policy Committee has led to more formal relations between these working groups (previously chaired by officials from the same rotating Presidency) and to more trade issues being discussed in the TPC, as opposed to being discussed in the geographical workings groups. This split chairmanship might in the future create difficulties over communication and information-sharing.

The relationship between DG TRADE and the former DG RELEX was one of the classic examples of EU bureaucratic rivalry. This long-standing relationship, characterized by both cooperation and rivalry, has been largely transposed in the new institutional set-up. The two bodies often have to work together and depend on each other. DG TRADE needs the vehicle of summits and a political impulse in order to start or unlock negotiations, while diplomats often need trade deliverables. One example of the continuity is the fact that the weekly coordination meetings that were organised between DG TRADE and DG RELEX in order to prepare the Transatlantic Relations Working Group (COTRA) have been carried over and now take place between the EEAS, which chairs this working group, and DG TRADE which represents the

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<sup>20</sup> DG Trade represents the Commission in nine out of the 38 Foreign Affairs Council preparatory working groups.

Commission. However, this system of organising coordination meetings was not extended to all the working groups.

Relations between the Commission (DG TRADE) and the team of the HR/VP were strained by what was perceived as a lack of consultation on the part of the HR/VP during the preparation of the progress reports about the EU's relations with three of its strategic partners (Russia, China and the US), submitted to the December 2010 European Council. Commission officials interviewed stated that they were not consulted during the drafting of these reports and even that their offers to contribute were refused. In their view, this has led to thin reports that did not fully include the areas of cooperation administered by the Commission (trade, energy, etc.) and thus proved to be a lost chance for the HR/VP to coordinate external action. There was also dissatisfaction in DG TRADE regarding the late delivery of texts from the EEAS that only allowed little time for comments or reactions and thus had an impact on the quality of the final product. There is evidence of a more positive trend lately, however, with relations between the two bodies improving.

#### **Recommendation**

DG TRADE and the EEAS need to agree on more detailed working arrangements with clear deadlines for contributions. The streamlining of the EEAS' organigramme and internal procedures in order to deliver timely inputs should also be an objective.

### **3.5 The EEAS and DG Enlargement**

Enlargement issues are discussed in the General Affairs Council that is still chaired by the rotating Presidency and so is the Council Working Group on Enlargement (COELA). On the other hand, other Council working groups dealing with the candidate and potential candidate countries from the Western Balkans (COWEB, CIVCOM) are now chaired by the EEAS.

In the candidate and potential candidate countries, the enlargement process is the prime mover of EU policy and this seems to be respected by the EEAS. The unit

dealing with the Western Balkans in the EEAS is formed mainly by officials who dealt with CFSP issues in the Balkans under Javier Solana. DG Enlargement on the other hand covers the different chapters of the enlargement process and has significantly more resources dedicated to these countries than the EEAS. However, some of these countries, whether candidate countries such as Macedonia or potential candidate countries such as Bosnia and Herzegovina, Albania or Kosovo still pose serious political challenges to the EU that require the involvement of the High Representative and the EEAS. Senior officials from the EEAS have been involved in trying to solve the political crises in Albania and Bosnia and the collaboration between DG Enlargement and the EEAS was generally described as “good”.<sup>21</sup> During the referendum crisis in Bosnia, Catherine Ashton’s double-hatting proved especially valuable as she could use the different carrots offered by Commission instruments in her negotiations with the Bosnian Serb leaders.

As the Western Balkans are still not crisis-free, a continuous dialogue between the two services is needed, in order to improve coordination and avoid duplication of work. This has been the case and is facilitated by the fact that Štefan Füle, the Commissioner responsible for Enlargement and European Neighbourhood Policy, is also closely working with the EEAS for the ENP part of his mandate.

### **3.6 The EEAS and the European Neighbourhood Policy**

The collaboration of the EEAS and the Commission in the area of the European Neighbourhood Policy (ENP) is highly complex, follows a distinct logic and has functioned relatively well. As opposed to the other policy areas such as trade, migration, development cooperation and humanitarian aid that have specialised DGs within the Commission, there is no DG Neighbourhood. The Commissioner responsible for the Neighbourhood and his cabinet are the only Commission members that deal specifically with the ENP. The former DG Relex staff that worked, inter alia, on the ENP was transferred to the EEAS on 1 January 2011.

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<sup>21</sup> Interviews with DG Enlargement and EEAS officials, July-August 2011.

The EEAS currently has two Managing Directors dealing with the eastern and southern neighbourhoods and an ENP unit working on three horizontal issues in both neighbourhoods, namely the philosophy of the neighbourhood policy, the money backing up the policy and the regulatory affairs. In the area of the ENP, besides working with the Neighbourhood Commissioner, the EEAS has to collaborate on a constant basis with a number of Commission DGs, including the DG for Energy, DG Home Affairs, DG Trade and DG Development and Cooperation - EuropeAid (DEVCO).

Having a Commissioner responsible for the European Neighbourhood Policy but without a DG has defined the EEAS' relations with the Commission. The EEAS' divisions dealing with the ENP became the de facto service of Commissioner Füle. Following the same logic, the Commissioner responsible for the ENP 'works for' the EEAS inside the walls of the Commission. The HR/VP intervenes in neighbourhood issues mostly when for instance there is a major crisis in one or more of the ENP countries. Day-to-day activities are conducted by the EEAS units concerned, under the leadership of Commissioner Füle.

The Council decision of 26 July 2010 establishing the EEAS also facilitates cooperation between the Neighbourhood Commissioner and the HR/VP on the European Neighbourhood and Partnership Instrument (ENPI), which is the current financial instrument for funding projects in the area. According to Art. 9 (5) of the Council decision, the proposals concerning the ENPI have to be "prepared jointly by the relevant services in the EEAS and in the Commission under the responsibility of the Commissioner responsible for Neighbourhood Policy and shall be submitted jointly with the High Representative for adoption by the Commission".

The Eastern Europe and Central Asia (COEST) and the Mashreq/Maghreb Working Parties (MaMa), composed of member state representatives working on the Eastern and Southern Neighbourhoods respectively, are the primary *fora* for the EEAS and member states' interactions in the area of neighbourhood. The EEAS' initiatives are stronger vis-à-vis the member state representatives in the cases when the preferences of the EEAS and the specific Commission DG involved converge in a given sector and *vice versa*. As interviews reveal, the EEAS for instance might go against the preference of

the Commission's DG for Energy and even receive preliminary support from the member state representatives of COEST or MaMa concerning an energy-related issue within the neighbourhood. However, at the next stage, the member state diplomats in the Working Party on Energy with whom the DG for Energy works on a constant basis are likely to block the initiative citing energy reasons. The DG for Energy has an informational advantage in relation to the EEAS on the member states preferences in energy issues. Therefore, in order to table successful proposals in the energy sector within the framework of the ENP, the EEAS needs to cooperate with the Commission's DG for Energy.

Another complex area of cooperation is migration, particularly in the context of relations with the southern neighbourhood where the EEAS has to work with the Commission's DG Home Affairs. DG Home Affairs is more in agreement with the representatives of the interior ministries of the member states than with the EEAS. The EEAS seeks to increase the mobility with the neighbourhood countries more than the Commission's DG Home Affairs. However, the ability of the EEAS is rather limited not only by the disagreements with DG Home Affairs but also with the representatives from the national foreign ministries in the MaMa who are also influenced by interior ministries of their respective national governments.

The Commission's DG DEVCO collaborates with the EEAS on a regular basis facilitating yet another link between the Service and the Commission in the area of the ENP. In this specific policy area, the EEAS' relations with DG DEVCO have been improving after the initial problems. In the post-Lisbon system, the EEAS takes a lead on programming the country allocations in the multiannual financial framework, country and regional strategic papers as well as national and regional indicative programmes. DG DEVCO leads the programming of the annual actions and their implementation (see above). The EEAS and DG DEVCO coordinate the ENPI funds together. The former works on the programming and the latter is responsible for the projects and the implementation. The debates are primarily about how much money has to be allocated to which neighbouring region or country.

The opening of the Deep and Comprehensive Free Trade Area (DCFTA) negotiations with Georgia, Moldova and Armenia is an example of the EEAS strength to influence

the member states when it is in agreement with the Commission. The DCFTAs with small neighbours are insignificant for the EU's trade purposes but quite important for the EU's foreign policy goals. Moreover, DG Trade viewed the partner countries as not ready to reform. These considerations made DG Trade reluctant to open the negotiations with the small eastern neighbours. However, after the initial opposition, the EEAS managed to convince DG Trade to seek a mandate from the member states to start the negotiations. Once the EEAS and the DG Trade were on the same page, the member states gave the green light to open the negotiations.

For the upcoming seven-year (2014-2020) multiannual financial framework (MFF), the EEAS requested €18 billion for the European Neighbourhood Instrument (ENI).<sup>22</sup> This sum is slightly higher than that allocated to the ENPI. The EEAS, although constrained by the Commission DGs' preferences and the decision-making rights of the member states, is likely to continue pushing the countries of both neighbourhoods to do their homework and implement real reforms.

In sum, the institutional set-up of having the EEAS working with the Commissioner responsible Neighbourhood functions well. After DG Relex's transfer to the EEAS, no parallel structure was set up in the Commission. Thus, the duplication of resources was avoided. The EEAS' units working on the ENP collaborated well with Commissioner Füle, and the Commissioner became the ally of the EEAS inside the Commission. Having the Commission involved in the ENP is also logical, since the neighbourhood policy has many features that are in line with the EU's internal policies rather than external action as such. The HR/VP came into play only in cases when there was a major crisis with a neighbourhood country. Therefore, the current structure does not need to be changed drastically but could serve as a model to deputise the HR/VP by a Commissioner. However, the coordination between the EEAS and a number of Commission DGs could be improved.

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<sup>22</sup> The ENI is set to replace the ENPI in the upcoming MFF. As opposed to the ENPI, Russia is not a beneficiary of the ENI. See "The Multiannual Financial Framework: The Proposals on External Action Instruments" ([http://europa.eu/rapid/press-release\\_MEMO-11-878\\_en.htm?locale=en](http://europa.eu/rapid/press-release_MEMO-11-878_en.htm?locale=en)).

**Recommendation**

The EEAS' relations with the Commission DGs will largely benefit from more flexible rotation procedures across the institutions. The leadership within the EEAS and the Commission should work towards constructing an environment where moving from the Commission to the EEAS or vice versa is viewed in a positive light.

**3.7 Service for Foreign Policy Instruments**

The Service for Foreign Policy Instruments (FPI) is a new Commission department that manages the CFSP budget, the Instrument for Stability (IfS) and other actions such as elections observation under the authority of the HR/VP in her capacity as Vice-President of the Commission. This new service was created inside the Commission as it is the Commission – not the EEAS – that manages the operational budget of the Union. The FPI has also been co-located within the new EEAS headquarters.

Part of the personnel that was transferred to the FPI constituted an object of contention for the European Parliament, the EEAS and the Commission. The Commission was accused of not transferring all the necessary IfS personnel to the EEAS. On 29 October 2010, the Parliamentary rapporteurs on the EEAS (MEPs Brok, Gualtieri and Verhofstadt) sent a letter to Commission President Barroso explaining that under the Madrid agreement the High Representative should commit herself to “integrating current Commission (Instrument for Stability) planners into the EEAS, side by side with the Council’s CSDP structures, both under her direct authority. The Commission supported this and it formed an integral part of the agreement found in Madrid on 21 June.” The three MEPs accused the Commission of acting “contrary to the letter and the spirit of the Madrid agreement” by putting in a budget amendment “that foresaw only a very limited transfer of IfS-Personnel to the EAS”. In response, the Commission (FPI) argued that it needs these people to implement the IfS and that the EEAS should transfer some of its own staff to those peace-building units that need them. These kinds of disagreements are indicative of the difficult start of the EEAS. While there are voices calling for the integration of the FPI within the EEAS, this would be complicated from a legal point of view while, at the same time, the Service for Foreign Policy Instruments, in its current setting, has the potential to be one of the institutional links that keeps the Commission and the EEAS constructively engaged with one another.

## 4. RELATIONS WITH THE EUROPEAN PARLIAMENT AND THE QUEST FOR POLITICAL ACCOUNTABILITY

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During the setting-up of the EEAS, the European Parliament aimed to ensure that the new service and its actors would be politically accountable to the only directly elected institution of the EU. As the EEAS and the HR/VP took over tasks of the Council Secretariat and the rotating Presidency, the relations regarding information-sharing and reporting that partly rested on interinstitutional agreements<sup>23</sup> had to be put on a new basis. In addition, the new powers of the Parliament in the area of international agreements<sup>24</sup> triggered the need for more extensive forms of cooperation.

By threatening to block under co-decision rules the decision on budget and staffing of the EEAS, the European Parliament succeeded to obtain a de facto co-decision power on the Council decision on the EEAS.<sup>25</sup> The European Parliament actively used the ‘quadrilogue’ with the Commission, Council and the HR/VP on the design of the EEAS to carve out a new foundation for political accountability: declarations on

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<sup>23</sup> Interinstitutional agreement between the European Parliament and the Council concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy, 2002 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2002:298:0001:0003:EN:PDF>); Interinstitutional agreement between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management, 2006 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:139:0003:0003:EN:PDF>); Framework Agreement on relations between the European Parliament and the European Commission, 2010 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:139:0003:0003>).

<sup>24</sup> Art. 218 TFEU.

<sup>25</sup> Council Decision establishing the organisation and functioning of the European External Action Service, 2010 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:201:0030:0040:EN:PDF>).

political accountability and on the basic organisation of the EEAS' central administration by the High Representative are the reference documents for the cooperation of the foreign policy executive with the Parliament.<sup>26</sup> While the declaration gives broad guidelines on consultation, information and reporting engagements of the HR/VP and the EEAS, it still leaves many questions open.

Our interviews revealed that MEPs from the main political groups of the Parliament are in general satisfied with the setting-up process and the performance of the EEAS. Being aware of the challenges the EEAS has to face, they regard the service as an important institutional innovation. While differences of opinion on the substance of policy surface during debates, the interviewed MEPs value the degree of their cooperation with the HR/VP and the EEAS. The embrace of the new service might be surprising at first sight, but MEPs have their reasons to side with the new player in town: the HR/VP and the EEAS in the future might turn out to be important vehicles and partners through which to increase the participation of the European Parliament in the EU's external action.

#### **4.1 The HR/VP's presence in the Parliament and the question of deputies**

By merging the tasks of the High Representative, the RELEX Commissioner and the rotating Presidency, the HR/VP is left as one of the main interlocutors for the European Parliament.<sup>27</sup> This in turn decreased the number of visits to the EP of high-level foreign policy executives (see Box 1) and led to the dissatisfaction of some MEPs. However, this also gives the European Parliament the chance to have the HR/VP and the EEAS as a single interlocutor on a long-term basis.

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<sup>26</sup> See <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0280&language=EN>

<sup>27</sup> However, the current Commission also comprises a Commissioner for neighbourhood policy, which was previously part of the RELEX Commissioner portfolio (see chapter on the Commission relations in this study).

*Box 1. The High Representative in the European Parliament*

The Committee on Foreign Affairs (AFET) faces a reduction of high-level visitors from the foreign policy executive. In the legislative term 2004-2009, High Representative Solana visited AFET ten times, RELEX Commissioner Ferrero-Waldner 15 times and the foreign minister of the rotating Presidency 19 times.<sup>28</sup> This total of 44 high-level visits can hardly be met by the post-Lisbon High Representative and Catherine Ashton is not intending to do so. Generally it has been agreed with Parliament that she will be present two times a year, which equals the frequency of Solana's meeting with AFET. For the debriefing of the Foreign Affairs Council, a system for deputising the foreign policy chief has to be found (see below).

However, the plenary is more frequently visited by the HR/VP. While the foreign minister of the Presidency visited Strasbourg only once or twice per term, it is agreed that the HR/VP will speak to plenary six times a year, of which two sessions have a special question hour. She also insists that at least one member of the EEAS corporate board and two managing directors of the EEAS accompany her in Strasbourg.

The unsettled question who debriefs the Committee on Foreign Affairs (AFET) about the meetings of the Foreign Affairs Council (FAC) reveals the challenges of implementing the new system of representation in the Parliament. In 2010 the system of debriefing had teething problems: from the 11 regular FAC meetings,<sup>29</sup> the first was debriefed by the Presidency, one was debriefed by Robert Cooper, a high-ranking official from the General Secretariat of the Council and two were debriefed by Catherine Ashton in the scope of her regular exchanges with AFET. Seven of the FAC meetings were not debriefed.

In theory, there are three different options of representing the HR/VP in the committee: a commissioner, the foreign minister of the rotating Presidency or a representative of the EEAS. In 2011 the first option was tested; thus except for one meeting debriefed by Ashton, all other meetings in the first half of the year were

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<sup>28</sup> Ibid.

<sup>29</sup> Excluding extraordinary meetings and meetings on trade.

debriefed by Commissioner Füle for Enlargement and Neighbourhood Policy. Since a Commissioner has no competences in the area of CFSP, this led to a rather unusual approach and put him in a position in which he is questioned by MEPs on the outcome of Foreign Affairs Council meetings even though he had no influence on many areas of the discussions, such as CFSP. Thus, this modus of debriefing did not continue.

Since the second half of 2011, the foreign ministers of the rotating presidencies debriefed the ministerial meetings for the MEPs, although quite sporadically. Already the experience from the pre-Lisbon period shows that only six of 33 debriefings in the last legislative session were held by foreign ministers, the large majority (82%) being held by state secretaries or ministers for European affairs.<sup>30</sup> The limited availability of foreign ministers of the rotating Presidency shows that a comeback of the rotating Presidency in this function might be suboptimal. Especially the advantage envisaged with the Lisbon Treaty of having one permanent interlocutor would be lost. Furthermore, the rotating Presidency is no longer in charge of planning the FAC agenda.

Interviewees from the EP and the EEAS suggested that an interlocutor for AFET should come from within the structure of the EEAS. An ideal choice would be the Secretary-General of the EEAS, as the post-holder knows developments of the EEAS from the inside and is also present in meetings of foreign ministers. The current holder of the post, Pierre Vimont, already participates in the debriefings in AFET, and the benefit of having this linchpin-post as an interlocutor is also acknowledged by MEPs. But also the Political Affairs Department of the service, including the chair of the PSC and its Political Director Helga Schmid, would be a natural interlocutor for the MEPs. The only flaw for any EEAS representative is that he/she is not 'politically accountable'. For instance the Secretary General of the EEAS is not mandated by the Council, but has been nominated 'only' by the High Representative. An effective

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<sup>30</sup> Calculation based on Committee on Foreign Affairs activity report for the 6<sup>th</sup> legislature 2004-2009

(<http://www.europarl.europa.eu/document/activities/cont/200905/20090505ATT55147/20090505ATT55147EN.pdf>).

solution would be an agreement between the Council and the European Parliament that an EEAS representative is mandated by the foreign ministers to report on their meetings under the political responsibility of the HR/VP.

### **Recommendation**

The new HR/VP and the EEAS offer the European Parliament the advantage of having one interlocutor for the democratic oversight of the EU's external action. To make full use of this advantage, it has to avoid a 'comeback of the old pillar structure' when it comes to the representation of the HR/VP. As a consequence, an EEAS representative, such as the Secretary-General of the EEAS, could represent the HR/VP for the debriefings on the Council meetings of the foreign ministers in the Committee on Foreign Affairs of the Parliament instead of the rotating Presidency or a Commissioner.

The commitment of the High Representative towards the European Parliament regarding the plenary is high. Rather than evaluating her six appearances per year as purely a matter of duty, the meetings should be used by the High Representative to gather support for her positions and as a public stage to present and promote them. In general, the High Representative can rely on the support of the majority of the house, whenever she speaks out for a strong and unified EU position, going beyond the lowest common denominator of disagreeing member states. As an example, Ashton's effort to facilitate a dialogue between Kosovo and Serbia was backed by the European Parliament, which in a resolution underlined the importance of the recognition of Kosovo by all member states.<sup>31</sup> Nevertheless, positions of the High Representative and the MEPs can also clash, as was the case at the plenary session on 9 March 2011. During the discussions on the crisis in Libya, several MEPs spoke in favour of military options in the form of a no-fly-zone. MEPs also invited representatives of the National

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<sup>31</sup> The EP's vote on this issue lined up along member state lines, with MEPs from the countries that did not recognise Kosovo (Cyprus, Greece, Romania, Slovakia and Spain) to a large degree opposing the adopted text. See also the breakdown of the vote by votewatch ([http://www.votewatch.eu/cx\\_vote\\_details.php?id\\_act=854&lang=en](http://www.votewatch.eu/cx_vote_details.php?id_act=854&lang=en)).

Transitional Council from Benghazi to Strasbourg. However, Catherine Ashton did not take a strong position on a military intervention nor did she recognise or even publicly meet the National Transitional Council. In the view of some MEPs, this projected a picture of an HR/VP waiting for the member states to find their positions, rather than an HR/VP who takes the initiative, secures the support by the European Parliament and finds a strong compromise with the member states.

### **Recommendation**

The European Parliament in its majority demands a strong and coherent EU foreign policy. This can be used by the HR/VP to seek the support of the European Parliament for its own positions and proposals. The HR/VP should use the plenary sessions of the Parliament not only as a forum to present ideas to MEPs, but also to win the public for EU foreign policy initiatives.

The clear interests of the MEPs in a strong EEAS became once again clear, during the European Parliament's debate and report on the yearly performance of CFSP in August 2012. In their reaction to the annual report presented by the High Representative, the MEPs called for a strengthening of the EEAS, the definition of strategic priorities as well as the realisation of the comprehensive approach that ties different external tools and policies of the EU together.<sup>32</sup> This is also a surprising development, as it represents a strategic change of the MEPs. During the set-up of the EEAS, the primary focus of the European Parliament was to create a service that was not independent, but rather was tied to the Commission in order to strengthen the 'supranational aspect' of foreign policy. The more pragmatic approach taken by the European Parliament now is to strengthen the EEAS as a strong player in its own right, while ensuring oversight possibilities. The constructive and supportive approach by the MEPs should be used for those who want to make comprehensive changes in the EEAS review possible.

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<sup>32</sup> Report on the Annual Report from the Council to the European Parliament on the Common Foreign and Security Policy, Committee on Foreign Affairs (<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2012-0252&language=EN>).

## **4.2 Day-to-day contacts**

The importance of having close contacts with the European Parliament is recognised within the EEAS. The High Representative as well as the Secretary-General of the EEAS have pronounced the importance they attach to engagement with the MEPs and parliamentary delegations to third countries. Frequently taking part in delegations' preparatory meetings, for example, can prevent the policy objectives of the two bodies from working against each other. Before the Lisbon Treaty came into effect, the General-Secretariat of the Council followed the practice of interacting with parliamentary delegations only on the level of directors and above, but DG RELEX also sent desk officers to the delegation meetings. As a positive development, the EEAS has chosen the later approach and opened up its structures to the European Parliament on all levels: not only directors but also desk officers from the EEAS frequently take part in meetings of the parliamentary delegations. In the AFET Committee, managing directors are regularly present for exchanges of views and the EEAS director for relations with the European Parliament is present at almost every committee meeting. These day-to-day contacts are especially valuable for the European Parliament, as they further increase the Parliament's expertise in foreign policy. Knowledge and understanding of policy processes is essential for the MEPs to play a greater role in a policy area, such as the CFSP, in which their formal participation roles are limited.

## **4.3 Exchange of views with the heads of delegations**

The possibility to have an exchange of views with the newly appointed heads of EU delegations as well as EU special representatives was a central request of the European Parliament during the negotiations on the EEAS. The declaration on political accountability foresees that the HR/VP has to respond positively to a request of the Parliament to meet a new EU ambassador. After each round of appointments, each parliamentary group can name up to four new heads of delegation that they would like to invite and the coordinators of AFET further reduce the number and compile a list which is then sent to the HR/VP. Between the entry into force of the Lisbon Treaty and the end of the 2012 parliamentary summer break, 97 heads of delegation and EU

special representatives were appointed,<sup>33</sup> of whom 31 were invited to an exchange of views in AFET.

Even though less than a third of the appointees were actually called to AFET, this is still in line with what the Parliament wanted to achieve. Rather than having US-style congressional hearings to vet all appointments, the majority of MEPs only want to see 'strategically important' EU ambassadors. The exchange of views takes place *after* their appointment by the High Representative, but ideally *before* they start working in their host country. According to the interviewed MEPs, a system in which every single head of delegation appears in Parliament would overstretch their resources and could cause delays in the process of filling the posts. Problematic is also the low attendance rate of MEPs at some of these meetings. This is in contrast with the MEPs' initial demands for political accountability. Whilst some regions discussed in these exchanges are only of interest to particular MEPs, minimum standards of preparation and participation have to be met in order to make these exchanges a useful exercise. Furthermore, if the aim is to have a maximum of democratic oversight, MEPs should aspire to review a majority of the ambassadorial appointments. The fact that not even every one-third of the appointments is controlled by the MEPs raises the question if this aim is being achieved.

Even though the head of delegation has already been appointed by the time he/she appears in front of the Committee, the European Parliament cannot be ignored in the nomination process. Some of the heads of delegation had to deal with very difficult questions, such as the new head of delegation to Brazil. However, thus far none of the appointees has been judged as unsuitable for the job. In the case of an unqualified or controversial candidate, however, the pressure on the HR/VP to address this issue could mount quickly. After the exchange, an evaluation is drafted by the AFET Secretariat and sent to the political parties before it is submitted to the HR/VP. Whilst

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<sup>33</sup> Including the last appointment by the European Commission on 17 February 2010, of Joao Vale de Almeida as Head of Delegation of the European Union to the United States by Commission President Barroso, which sparked a controversy as it came in the midst of the process of consultation over future practises of nominating these posts.

the document as such is confidential and MEPs are compelled to refrain from sharing the contents of the meetings, it is likely that a negative assessment would eventually go public. Legally speaking, it is still the HR/VP taking the decision, but in order to avoid 'rough relations' with Parliament, the High Representative would probably withdraw the appointment or ask the respective person to step down. In the end, the HR/VP has to anticipate the evaluation of the Parliament before the nomination and only give serious consideration to experienced and acceptable candidates.

The exchange of views is not just about democratic oversight of the appointment. The establishment of contacts between the head of delegation and MEPs and EP staff is at least as essential. As an example, heads of delegations do not come to the Parliament just for the exchange, but meet with the coordinators of AFET beforehand. A good working relationship between the MEPs and the heads of delegation is valuable for both sides: the heads of delegation need the support of the Parliament for specific policies and the MEPs need information from the delegations in order to make valid assessments. Furthermore, the European Parliament has to draw on the support of the Union delegations when acting abroad. National diplomats appointed as heads of delegation are generally less familiar with the cooperation with the European Parliament on the ground. In these cases a visit to the Parliament can ensure smoother relations between the EU delegations and MEPs. To further expand the contacts between MEPs and the EU delegations, the EEAS informs the secretariat of the European Parliament of every visit of a head of delegation to Brussels. The secretariat then arranges contacts with the AFET chair, delegation chairs or respective rapporteurs.

The question whether the exchanges of views with heads of delegations should take place in public or *in camera* triggered a strong controversy between the HR/VP and the European Parliament in late 2010. While the in-camera setting of the exchanges of views is currently not disputed by the Parliament, one could reconsider opening up meetings to the public. An argument for that is an increased visibility and transparency of EU foreign policy. Already now, hardly any information discussed in these meetings can be labelled as confidential: the heads of delegation have not yet started to work in the field, which limits their knowledge of sensitive information. Heads of delegation

can even be hesitant to share information with MEPs (and the assistants in the room) in an in-camera setting and would prefer smaller meetings (like the meeting with the AFET coordinators) to speak about sensitive issues. At present, however, both sides – the EEAS and the European Parliament – appreciate that *in camera* meetings allow for a frank exchange. Having journalists and host country officials in the room limits the possibility to touch upon sensitive issues, especially in cases where human rights issues are under discussion.

#### **4.4 Sharing confidential information**

In the area of CSDP, a special committee of five MEPs (see Box 2) is an important forum to exercise the scrutiny rights of the European Parliament. In the end of the mandate of High Representative Solana, exchanges between him and the special committee were held usually four times a year. With the new HR/VP and also new parliamentarians who needed security clearance, the system had to be reactivated. Several meetings have taken place so far and the MEPs have been informed by Catherine Ashton herself and Pierre Vimont, Executive Secretary General of the EEAS. The fact that the High Representative could not be present at an occasion, but was represented by her Secretary General caused some discontent among the MEPs, not because of the quality of the exchange, but because of the repeated demand of the European Parliament to interact with politically accountable interlocutors. Whilst the benefit of these meetings is to have a frank exchange on foreign policy with the possibility of the High Representative to speak openly to the MEPs, the shared information apparently does not always justify its *confidential* classification.<sup>34</sup>

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<sup>34</sup> As remarked by an official in an interview.

*Box 2. The special committee for CSDP oversight*

The system of a special committee dates back to the Inter-institutional agreement between the European Parliament and the Council from 2002<sup>35</sup> and will be part of the update of the agreement in early 2013: A group of five MEPs with security clearances will be granted access to confidential documents on the Council's premises and they will be informed by the High Representative on sensitive issues that he/she cannot share in a wider setting like AFET or the plenary. The group includes the chair of AFET, two EPP and two S&D MEPs. One MEP of ALDE serves as a substitute in case one of the members is absent. Because of the limited number of members of this committee, not all political groups are represented.

Confidential information is now also supposed to be shared with 'office holders', especially rapporteurs. This is in line with the increased powers of the European Parliament in the area of international agreements. The Commission already agreed that access to confidential information could be granted to the respective rapporteurs, particularly in areas in which the consent of the European Parliament is required.<sup>36</sup> In addition, the High Representative repeated in the declaration on political accountability that parliament will be immediately and fully informed at all stages on negotiations of international agreements like required by Article 218 TFEU.<sup>37</sup> The declaration on political accountability also covers the area of CFSP and foresees that the High Representative gives access to CFSP documents on a 'need-to-know' basis to MEPs who require those documents to perform their 'institutional function'.<sup>38</sup>

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<sup>35</sup> Art. 3.3, Interinstitutional agreement between the European Parliament and the Council concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy, 2002 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2002:298:0001:0003:EN:PDF>).

<sup>36</sup> Framework agreement between the European Parliament and the European Commission, 2010 Annex II, Point 3.2.1. (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:304:0047:0062:EN:PDF>).

<sup>37</sup> Art. 218 (10) TFEU; Declaration of the High Representative on political accountability, point 2.

<sup>38</sup> Declaration of the High Representative on political accountability, point 4.

Consequently, the possibility to grant access to sensitive information in the area of CFSP to *inter alia* rapporteurs and committee chairs is part of the updated inter-institutional agreement between the European Parliament, the Council and the High Representative, which is being concluded in early 2013. However, the decision of whether access is granted still rests with the Council and the High Representative. Information marked as 'top-secret' will in any case not be forwarded to the European Parliament premises.

## 5. THE EEAS ABROAD: COORDINATION AND COOPERATION BETWEEN EU DELEGATIONS

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With the establishment of the EEAS, all Commission delegations on the ground were transformed into EU delegations. Overnight they were no longer representing the Commission, but the EU as a whole, including on matters of CFSP. They embody the heart of the EU representation around the world, but would remain toothless, if they wouldn't be able to cooperate with the other big players of EU external action: the member states with their own established embassy networks around the world of over 3,000 missions and the European Commission, which is managing the important international dossiers (such as trade, development and enlargement).

### *The EU's external representation*

Establishing the EU delegations alongside the existing representations of the member states awakened the old debate about the delimitation of competences between the EU and national level. When is the EU level allowed to represent or coordinate the positions of the member states?

If not on cultural affairs and consular protection, EU delegations to third countries progressively took over the lead and assumed the coordination function previously fulfilled by the rotating Presidency. With the same reasoning that underlies the setting-up of permanent chairs in the FAC working groups in Brussels, the aim was to achieve more continuity. The 'more political' role of the EU delegations enables them to represent EU statements and demarches and to permanently chair EU internal coordination meetings with the member states' national embassies. The enhanced

political role of EU delegations was introduced gradually, given considerations of the member states and other technical issues.<sup>39</sup> An important factor was the reinforcement of the political sections, which are still being built up in many EU delegations.<sup>40</sup> Where it is effectively in place, the EEAS-led coordination has been working well in general and the “[o]verall assessment of the EEAS on the ground [...] reveals that the EU has since the creation of the EEAS gained more visibility and enhanced its impact in the majority of host countries”.<sup>41</sup>

Not only for the coordination of the EU position, but also for the support of visits of foreign ministers or MEP delegations, the EEAS delegations provide more and more added value. A recent positive example is a visit by the Swedish, Polish and Bulgarian foreign ministers to the countries of the South Caucasus in early December 2012. Afterwards the ministers thanked the High Representative in a letter for the support and preparation of the trip. The local head of delegation was participating in all meetings.

However, the international presence of the Union is not yet completely ensured by the new service and the role of the Commission and the member states is not completely substituted. In a number of countries around the world, the coordination and representation functioning is still assumed by the member state holding the rotating Presidency or other member states present on the ground, mostly because the EEAS is not present with a delegation on the ground itself.<sup>42</sup>

While, bilateral representation is in general acknowledged as successful, representation of the EU at multilateral organisations faces more challenges. The EU treaties now state that “Union delegations in third countries and at international organisations shall

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<sup>39</sup> See Andrew Rettman, EU commission 'embassies' granted new powers“, EU Observer 21 January 2010 (<http://euobserver.com/foreign/29308>).

<sup>40</sup> In the end of 2011, more than 20 EU delegations did not have a political section, see Report by the High Representative to the European Parliament, the Council and the Commission 22nd December 2011 ([http://eeas.europa.eu/images/top\\_stories/2011\\_eeas\\_report\\_cor+\\_formatting.pdf](http://eeas.europa.eu/images/top_stories/2011_eeas_report_cor+_formatting.pdf)).

<sup>41</sup> Internal assessment paper of a member state.

<sup>42</sup> See EEAS, “EU diplomatic representation in third countries – Second half of 2012“, 11522/12, 15 June 2012, Brussels.

represent the Union”.<sup>43</sup> The problems, however, are numerous.<sup>44</sup> Among them is the basic fact that the EU is not a state and as such is not (nor can it be) a full party to many international organisations. While the EU with the Lisbon Treaty acquired legal personality (Art. 47 TEU), its member states still have to agree on the cases where the EU can speak on their behalf. A simplified interpretation of the treaties would be that regardless of the delimitation of competences in the treaty, the EU delegations have the right to act on behalf of the member states. This is far from the post-Lisbon reality. Some member states see the enhanced status of EU delegation in international organisations as problematic and the UK government send around notes to its national embassies warning of a ‘competence creep’ of the EEAS. In the second half of 2011, the question of who is entitled to represent the EU caused major disruptions in the EU’s representation in international organisations, as many statements and demarches were blocked. As a rejection to this unsolved issue, the Council agreed on arrangements for EU statements in multilateral organisations.<sup>45</sup> Legal commentators, however, are very sceptical about the diplomatic and legal consequences of this document, as it grants the right to speak to member states even in cases where the established interpretation of shared competences and the duty of cooperation give the EU the right to act internationally.<sup>46</sup> Equally cautious is the assessment of the High Representative in the report to the European Parliament on this issue, stating that “it is to be hoped that the recent [arrangements for EU statements] can lead to a more visible and active EU presence in future”.

Another point of discussion concerns the role of EU delegations as consular services. A dividing line goes through the member states, with some of them expressing a strong wish that EU delegations can help EU citizens abroad in consular affairs, while others

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<sup>43</sup> Art. 221 TFEU

<sup>44</sup> For more on the issue, see Michael Emerson et al. (2011) and Piotr Maciej Kaczyński (Helsinki, 2011)

<sup>45</sup> See Council of the European Union, “EU Statements in multilateral organisations - General Arrangements”, 15901/11, 24 October 2011, Brussels.

<sup>46</sup> Ramses A. Wessel and Bart van Vooren, “The EEAS’ Diplomatic Dreams and the Reality of European and International Law”, paper presented at the UACES Conference Exchanging Ideas on Europe 2012, Old Borders – New Frontiers, 3-5 September 2012, Passau.

are strictly opposed to the idea of the EU becoming active in this national competence. The EEAS decision states that EU delegations can support member states in their role of providing consular protection of EU citizens on a resource neutral basis. Given the limited capacities and expertise of EU delegations in this area, however, further development of EEAS run consular affairs would need the consent of the member states to politically and financially support the EU delegations in establishing the necessary resources. However, the lack of political will in some member states makes further steps towards this end in the upcoming EEAS review highly questionable.

In many instances a common representation is facing challenges, but a successful example of cooperation between the member states and the EEAS could be witnessed in Syria in early 2012. While it was politically necessary for some member states to close down embassies in conflict-torn Syria, they did not want to give up all presence on the ground. As a consequence, so-called 'lap-top diplomats' from Spain, Italy and Belgium were stationed at the EU delegation in Damascus. Given the increasing austerity measures in member states, 'lap-top diplomats' could be a way forward for member states to pool and share their representation in some places in the world.

### *Information-sharing with member states*

With the creation of a common service, especially the small and middle-sized member states hoped for an increase of shared information. A shared and comprehensive pool of information is seen as the ideal basis on which a one-voice European foreign policy can be developed. To the discontent of some member states, the sharing of information faces several challenges.

Technically, in most third countries, the EU does not possess a secure system of communication to exchange classified documents locally between the national embassies and the Union delegations. Currently, pilot projects are running to install such communication systems. For example in Washington, D.C., EU delegations and member state delegations on the ground can share their reporting through a website

interface.<sup>47</sup> Sharing reports locally is seen as the most effective way, as it provides member states and the EEAS with the information where they need it.<sup>48</sup> However, the development of such systems takes time and can only gradually be implemented within the current budget lines of the EEAS.

Apart from technical limitations, the sharing of information still suffers from a rather unstructured and ad-hoc nature of reporting. As a consequence, the quality and quantity of reports varies from delegation to delegation.<sup>49</sup> This problem is even accentuated as delegations often ask the geographical desks in the headquarters in Brussels for permission to share reports, which is not based on a legal requirement and in many cases causes significant delays. While time passes, ambassadors from member states with less diplomatic and information capabilities learn informally about certain developments from their colleagues with a better access to information (sometimes from within the EEAS).<sup>50</sup> This causes displeasure and decreases the feeling of 'ownership' among those member states that argue that the default position of the EEAS should be to share all information with all member states.

The EU delegations are also sometimes accused of 'cleaning' the information before sending it to the member states. In order to be able to gather information and to act independently from the member states, EU delegations sometimes have to conceal their sources and the information they received. Some contacts might refuse to disclose information, knowing that it will be in the hands of all 27 member states in a short period of time, including the contacts' identity. If member states want to have a stronger EU presence on the ground, they have to accept that delegations will not be able to share all information with all member states every time. A balanced trade-off that allows for a strong EU representation on the ground securing its information,

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<sup>47</sup> Bart van Vooren and Ramses A. Wessel, "External Representation and the European External Action Service: Selected Legal Challenges", CLEER Working Paper 2012/5, Centre for the Law of EU External Relations, Asser Institute, Den Hague.

<sup>48</sup> Interview in Brussels.

<sup>49</sup> Bicchi, Federica, "The European external action service: A pivotal actor in EU foreign policy communications?", *Hague Journal of Diplomacy*, 7 (1), 2012, pp. 81-94.

<sup>50</sup> Interview in Brussels.

while not risking the feeling of ownership of the service by the member states, has to be found.

Information exchange, however, is not a one-way street. Currently the information handed over by member states' embassies to EU delegations is limited. While the first proposal of the Council on the setup of the EEAS explicitly mentioned that Union delegations "shall on a reciprocal basis, provide all relevant information"<sup>51</sup>, this sentence was dropped in the final EEAS decision. EEAS officials and also some member states stress the importance of reciprocal information-sharing to allow for a coordinated and vertical coherent EU foreign policy.<sup>52</sup> However, mutual transparency depends on trust, which can only be established in the long-term by gradual cooperation.

### *Cooperation EU Delegations - Commission Services*

Next to the cooperation with the member states, EU delegations work on a daily basis with the Commission services. Because the management of EU operational funds is done by the Commission and not the EEAS, most EU delegations also comprise Commission staff. The process of transforming the former Commission delegations into EU delegations and integrating the EEAS and Commission staff has gone fairly smoothly, partially because the rotation of personnel in the delegations is done gradually. However, the process is not accident-free and a few challenges remain to be addressed.

Most of the Commission staff in EU delegations comes from DG DEVCO while in candidate countries and potential candidate countries, the monitoring of pre-accession preparations and implementation of assistance is done by DG Enlargement staff. Both the EEAS and the Commission staff in the delegations are put under the authority of the head of delegation that comes from the EEAS. Normally, this should not raise too

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<sup>51</sup> Art. 5(9), Proposal for a Council Decision of (date) establishing the organisation and functioning of the European External Action Service, 25 March 2010 ([http://eeas.europa.eu/docs/eeas\\_draft\\_decision\\_250310\\_en.pdf](http://eeas.europa.eu/docs/eeas_draft_decision_250310_en.pdf)).

<sup>52</sup> Based on interviews in Brussels.

many problems: the situation is similar to the one found in many member states' embassies where staff from different line ministries work alongside diplomats. However, the heads of delegations do not have the same leverage as national ambassadors. The supervisors of the Commission employees in the delegations are located in Brussels – not in the delegations and this can potentially influence their loyalties. Both the High Representative/EEAS and the Commission issue instructions to the delegation and both benefit from the reporting done by them. Top down, when the Commission issues instructions to delegations, it has to provide a copy to the head of delegation and to the EEAS central administration. Bottom-up in the delegations, both categories of personnel (Commission, EEAS) have to copy the head of delegation in their communication with their respective headquarters.

Having two categories of staff in the delegations poses challenges when the issue of replacement appears. Only the head of delegation (HoD) is double-hatted and has – besides his or her EEAS hat – sub-delegated implementation powers for European Commission-run projects. If the head of delegation is not available, the chargé d'affaires (who is often the head of the political section and, thus, belongs to the EEAS) does not have these powers and is not able to sign for any payments.

**Recommendation**

One possible solution for assuring a replacement for the HoD, at least in some capitals, would be to increase the use of a head of operations who would be able to replace the head of delegation.

## 6. CONCLUSIONS

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The first two years of the EEAS present a mixed, but generally positive, picture. 'Teething problems' should not come as a surprise to anyone, given the complexity of setting up a new institution of this kind. Internally, the service had to find the right structures to deal with the different policy fields it touches on, ranging from traditional diplomacy, to crisis management, to the programming of external financial instruments. In relation to the other actors in the EU foreign policy machinery, the new player in town had to set up efficient working relations. This study highlights that the solutions to internal as well as external challenges go hand in hand, as the service's success heavily depends on the functioning of its relations with its partners in Brussels and abroad.

Our analysis of the relations of the EEAS with member state representatives, with the different Commission structures and with the European Parliament, reveals that close, structured and open contacts with its partners are indispensable for the service. In cases where the communication is working well, the service and its partners bring added value to EU's external action. Cooperation with the EEAS is valued on the working group level in the Council, in the Committee on foreign affairs in the European Parliament and in the relations with certain Commission portfolios, such as the European Neighbourhood Policy. If, however, the service does not engage properly with its counterparts, problems arise. The report identified that challenges in cooperation emerge especially on the top hierarchical level of the Commission and with Commission services that view themselves as 'non-political', such as humanitarian aid. Coordination of the High Representative with the other top EU posts – the President of the European Commission and the European Council – can certainly be improved. However, the undefined relations with the rotating Presidency turned out to work out quite well, with effective coordination of activities on various levels.

The 2013 review of the EEAS can be used to address shortcomings of the current set-up in practical ways. The key is to realise the full potential of having a central administration dealing with foreign policy. The main opportunity is that it represents a single and permanent interlocutor for its partners inside and outside of the EU – for international partners, EU member states as well as EU institutions. To make use of this opportunity, the review should fully address the procedures and working relations of the EEAS. An enhanced coordination role of the HR/VP in the Commission, better information-sharing between EU delegations and national embassies abroad, and central reporting of the EEAS to the European Parliament and its committees are a few of the recommendations made in this report. It is likely that the EEAS review will lead to changes to the EEAS Council decision from 2009 and possibly to the Commission rules of procedures and portfolios for the 2014 Commission mandate. The review and following reforms represent an excellent opportunity to address the shortcomings in the EEAS' relations with its partners.

The review comes at a challenging time for Europe and its foreign policy ambitions. The financial and economic crisis in Europe is still the main battle and point of interest for the EU leaders and institutions. The development of the foreign policy of the Union does not generally rank high on their agenda. The EU's attractiveness and influence in the world will depend on how it manages to tackle its internal crisis but also on the coherence of its external action. Indications of the UK partially retreating from common policies, the formation of a 'core Europe' and other navel-gazing exercises might consume too much of Europe's energy. However, the reality 'out there' and the shifts in the international tectonic plates such as the rise of China and the strategic turn of the US away from Europe towards the Pacific area, should keep EU's attention focused. It is clear that institutional adjustments cannot alter the difficult conditions EU foreign policy has to face. However, the opportunity of the review should be used to underline the added value that common foreign policy-making can bring – both in strengthening the EU's international weight and in realising budget savings for the member states in times of austerity. That in turn might reactivate the political will – currently lacking in some of the member states – to make a stronger EU foreign policy possible.

The upcoming EEAS review is not the only debate on EU foreign policy in 2013. After the CSDP has lost its momentum, some member states are interested in reviving the debate on common defence, on issues such as pooling & sharing of capabilities or the coordination of national reforms in this sector. The heads of state or government have scheduled a debate on common defence issues in December 2013. Furthermore, the debate on strategies and priorities of EU foreign policy is going to continue, although likely without reaching a concrete outcome in the short term. However, Italy, Sweden, Poland and Spain will present a think-tank report on possible elements of a European Global Strategy in May 2013. In addition, the High Representative underlines the adoption of a comprehensive approach to crisis management as one of the possible success stories of her term. If the goal is to improve the EU's international role, these elements have to be seen as interdependent and be addressed in a comprehensive manner.

This report has outlined how the EEAS can improve the coordination with its partners in Brussels and in the member state. Strengthening the role of the EEAS and the High Representative as well as tweaking the organisational structure and working procedures of the different bits of the EU foreign policy machinery can have a positive effect in improving the effectiveness of the EU's external action.

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# ANNEX 1. CHAIRMANSHIP AND COMMISSION ATTENDANCE IN FOREIGN AFFAIRS COUNCIL PREPARATORY WORKING GROUPS

Working Group	Chair	Lead Commission DG before 1.01.2011	Lead Commission DG from 1.01.2011
Political and Security Committee (PSC)	EEAS	RELEX	Commission SG
<b>Geographic WGs</b>			
Mashreq/Maghreb (MAMA)	EEAS	RELEX	DEVCO
Eastern Europe and Central Asia (COEST)	EEAS	RELEX	TRADE
Western Balkans (COWEB)	EEAS	ELARG	ELARG
Middle East / Gulf (COMEM/MOG)	EEAS	RELEX	DEVCO
Asia-Oceanic (COASI)	EEAS	RELEX	TRADE
Latin America (COLAT)	EEAS	RELEX	TRADE
Transatlantic Relations (COTRA)	EEAS	RELEX	TRADE
Africa (COAFR)	EEAS	DEV	DEVCO
<b>Horizontal WGs</b>			
RELEX Counsellors	Rotating Presidency	RELEX	FPI
Nicolaidis	EEAS	RELEX	Commission SG
Global Disarmament and Arms control (CODUN)	EEAS	RELEX	DEVCO
Non-proliferation (CONOP)	EEAS	RELEX	DEVCO
Conventional arms exports (COARM)	EEAS	RELEX	DEVCO
Human rights (COHOM)	EEAS	RELEX	DEVCO
Middle East Peace Process (COMEP)	EEAS	RELEX	DEVCO
Terrorism - international aspects (COTER)	Rotating Presidency	RELEX	HOME
Application of specific measures to combat terrorism (COCOP)	Rotating Presidency	RELEX	HOME
OSCE and Council of Europe (COSCE)	EEAS	RELEX	DEVCO
United Nations (CONUN)	EEAS	RELEX	DEVCO
Public international law (COJUR)	Rotating Presidency	SJ	SJ

Law of the Sea (COMAR)	Rotating Presidency	MARE	MARE
Consular affairs (COCON)	Rotating Presidency	JUST	JUST
CFSP Administrative affairs and protocol (COADM)	Rotating Presidency	RELEX	Commission's Nicolaidis representative
<b>CSDP-related WGs</b>			
Military Committee (EUMC)	EEAS	RELEX	ECHO
Military Committee WG (EUMCWG)	EEAS	RELEX	ECHO
Politico-Military WG (PMG)	EEAS	RELEX	ECHO
Civilian aspects of crisis management (CIVCOM)	EEAS	RELEX	FPIS
European Arms Policy (dormant)	EEAS	RELEX	ENTR
<b>Trade and development WGs</b>			
Trade Policy Committee	Rotating Presidency	TRADE	TRADE
Development Cooperation (DEVGEN)	Rotating Presidency	DEV	DEVCO
ACP Working Party	Rotating Presidency	DEV	DEVCO
EFTA	Rotating Presidency	RELEX	TRADE
Dual Use goods	Rotating Presidency	TRADE	TRADE
Trade questions	Rotating Presidency	TRADE	TRADE
Commodities	Rotating Presidency	DEV	DEVCO
Preparation for international development conferences/UNCCD desertification / UNCTAD	Rotating Presidency	DEV	DEVCO
Humanitarian aid and food aid	Rotating Presidency	ECHO and DEV	ECHO

## ANNEX 2. METHODOLOGY

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### *Interviews*

Between May 2011 and December 2012, 48 interviews were carried out with officials from the EEAS and the Commission as well as with representatives from the member states and the European Parliament.

### *Statements by the High Representative*

HR/VP Catherine Ashton and her team introduced a hierarchical system of press releases, which separates statements from press conference remarks and other contributions, like speeches. Statements are labelled as 'Statement by the High Representative'. Such statements, similar in wording and content, made by the previous High Representative Solana had different headings. In order to make the statements of Ashton and Solana comparable all 'Statements', 'Comments', 'Declarations', 'Congratulatory', 'Condolences', 'Appeals' or 'Condemnations' followed by a direct quote in italics were counted for Solana. Speeches, press conference remarks and nominations (except EUSRs) have not been counted for both actors.

Sources: <http://www.consilium.europa.eu/>; <http://eeas.europa.eu/>.

### *Council conclusions*

The Council conclusions have been counted between 2007 and 2011 on the basis of Council conclusions of the meetings of the General Affairs and External Relations Council (pre-Lisbon) and the Foreign Affairs Council (post-Lisbon). Considered were items under the headings 'Foreign Policy', 'Defence' and 'Development'. Conclusions on trade or enlargement were not counted, as these are still in the remit of the rotating Presidency after the Lisbon Treaty (either in the General Affairs Council or in the trade formation of the Foreign Affairs Council).

Source: <http://www.consilium.europa.eu>.

### *Presence in the European Parliament*

The number of visits of high ranking members of the executive in the parliament was counted on the basis of minutes of the Committee on Foreign Affairs and the plenary sessions. For the 2004-2009 legislature numbers provided by the activity report of the Committee of Foreign Affairs were used.

Source: <http://www.europarl.europa.eu>.

### *Presence in Commission college meetings*

The presence of the HR/VP and the current commissioners in the meeting of the Commission college were determined on the base of the minutes of the meetings available on the European Commission webpage.

Source: <http://ec.europa.eu/transparency/regdoc/pvOverview.cfm?CL=en>



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