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THE EU 'FOREIGN SERVICE':  
UNDER CONSTRUCTION

Antonio Missiroli



**EUROPEAN UNIVERSITY INSTITUTE, FLORENCE**  
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## **Abstract**

With the operational launch of the European External Action Service (EEAS), exactly one year after the entry into force of the Lisbon Treaty, a key piece of the new EU external action puzzle falls into place. From now on, the game is likely to change, internally and externally. Yet change will be gradual and its pace will depend on a number of political and institutional factors.

This paper analyses the preparatory steps that – throughout 2010 – led to the eventual establishment of the new service; the positions and stakes of the main players; the uncertainties that still linger on its development; and the main functional challenges it is likely to be confronted with. The EEAS is seen as a crucial test for the EU's capacity to operate more effectively on the international scene as well as for a more pragmatic and 'hybrid' approach to its institutional and policy set-up.

## **Keywords**

European Union, Foreign Policy, Lisbon Treaty, EEAS





## **Introduction\***

The creation of new institutional figures and bodies is always a game changer. This will be the case also with the EU's Lisbon Treaty. No matter what the drafters of the new provisions had in mind originally, things will no longer be the same again. There is an inherent logic of self-assertion and functional expansion that drives the behaviour of new players - and this is bound to reshape processes and outcomes, shake up old habits, and possibly produce also unintended consequences.

For the Lisbon Treaty, such change may take some time, since its actual implementation is proving at least as important as its original negotiation and subsequent ratification. But change will indeed happen (and is already happening), if anything because the situation in which the treaty entered into force, on 1 December 2009, was very different – inside as well as outside the EU – from the one in which it was first conceived (2002-03) and later finalised (2007).

The policy area where the new treaty is most likely - and was actually meant - to generate change is that of foreign policy and external action. It is of course very difficult to offer a stringent interpretation of what 'foreign policy may mean, both in general (if one looks beyond the remit of national foreign ministries) and especially with reference to the EU. The fragmentation of relevant competences across and even within the old 'pillars' as well as the peculiar nature of the Common Foreign and Security Policy (CFSP) proper - let alone its coexistence with national policies – make it possible to speak of a EU 'foreign policy' only in terms of intuitive association, combination, and possibly synergy between all the various programs, instruments and resources for external action now at the disposal of the Union.

Within this broad conceptual framework, this article will focus almost exclusively on the role of the High Representative and Vice-President of the Commission (the brand new position held by Baroness Catherine Ashton) and that of the dedicated EU 'foreign service' created by the Lisbon Treaty to assist her. It will also try to highlight that there are indeed other players to be taken into account - both individual and collective. But its main emphasis will remain on the new 'core' of the EU political administrative system in this specific domain.

Still, precisely because change will take time and the dust has not yet settled, this article inevitably represents only a first endeavour to shed light on actual developments to date - late November 2010 - and offer some insight into possible ones ahead. At this stage, in fact, the spectrum of resources that the EU devotes to its foreign policy and external action, per se, is unlikely to change much in quantitative terms (all the more so in light of the current economic and fiscal crisis). Their ingredients, in other words, will remain more or less the same. What will surely change are their combination and interaction, and possibly the final output.

## **I. The HR/VP**

The cornerstone of the new EU system in the domain of external action is the creation of the position of High Representative (HR) of the Union for Foreign Affairs and Security Policy. This is a hybrid institutional figure combining: a) the pioneering role previously played by Javier Solana as High

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Just like its subject matter, this paper has been a work in progress throughout the negotiations that have led to the eventual creation of the European External Action Service (EEAS) in December 2010. Early versions including bits and pieces of this analysis were published by the College of Europe (Bruges Political Research Papers, no.14, May 2010); in the Joint Study by EPC, Egmont and CEPS on 'The Treaty of Lisbon: A Second Look at the Institutional Innovations', September 2010 (as an anonymous report on 'External Action'); and in the "European Foreign Affairs Review", X (2010), no.4.

Representative for CFSP (1999-2009); b) that of a Vice-President (VP) of the Commission in charge of external relations and coordinating other relevant portfolios; and c) the role hitherto played by the Foreign Minister of the country holding the rotating EU Presidency – which includes chairing the Council formation dealing with Foreign Affairs at large [artt.17-18 TEU et al.]<sup>1</sup>.

To these various responsibilities in the CFSP/ESDP (now CSDP) area should be added chairing the Boards of domain-relevant agencies such as the European Defence Agency (EDA), the EU Satellite Centre (EUSC), the EU Institute for Security Studies (EUISS) and the European Security and Defence College (ESDC).

The new HR/VP, however, is no longer also the Secretary-General of the Council of the EU. Indeed this is a function that Solana hardly carried out himself in practice during his ten-year mandate, preferring to leave this to his long time deputy, Pierre de Boissieu<sup>2</sup>.

Nor is the new HR/VP - contrary to Solana - also the Secretary-General of the Western European Union (WEU), if anything because the new Commission 'hat' makes that impossible<sup>3</sup>.

Finally, the new HR/VP has a legal right of initiative both as HR only (in strictly CFSP matters) and as double-hatted VP [art.22.2 TEU]. Similarly, the HR/VP has also dual loyalties and accountabilities, appointed as s/he is first by the European Council (as HR) then, as a member (and VP) of the new Commission, by the European Parliament.

Such a *multi-hatted* position represents a unique opportunity to bring coherence to the Union's "foreign policy" - but also a daunting challenge for the post holder, especially the first one. When Baroness Catherine Ashton accepted the European Council's nomination to the HR/VP post on 19 November 2009<sup>4</sup>, she probably did not realize how intractable the job description was to become. A few months into it, she must have become well aware of the need to put in place a structure that would allow her to delegate administrative, operational and even representational tasks to a number of deputies (*de facto* if not *de jure*), leaving her more free to concentrate on policy coordination and strategic leadership.

Her beginnings in the new job were a bit shaky. To start with, the Haiti earthquake caught her in the middle of the transition to the new job and, therefore, little able to react with the readiness and technical knowledge that the situation required. Furthermore, the packed agenda engendered by her multiple 'hats' obliged her to make painful choices, some of which - such as the decision to attend the inauguration ceremony for the new Ukrainian President in Kyiv rather than a meeting of EU defence ministers in Spain - raised a few eyebrows among colleagues and observers. On top of that, a marked tendency to resort to generalities when confronted with specific questions could be seen as a way of avoiding potentially dangerous sweeping statements but gave also the impression of a steep learning curve awaiting her in the new post.

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<sup>1</sup> See the excellent inventory provided by F.Santopinto, *Collection of Articles on the External Policy of the EU*, at [www.grip.org/en/siteweb/de.asp?N=simple&O=750](http://www.grip.org/en/siteweb/de.asp?N=simple&O=750).

<sup>2</sup> De Boissieu was indeed appointed Council Secretary-General in November 2009 and will stay in office until June 2011. He will be succeeded by Uwe Corsepius, a close aide to German Chancellor Angela Merkel.

<sup>3</sup> For WEU a pragmatic (if temporary) solution was adopted, whereby the Head of the residual Secretariat in Brussels, Arnaud Jacomet, was appointed Acting Secretary-General, while the Ambassadors to the EU Political and Security Committee from the ten WEU full members (Belgium, Britain, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal and Spain) have kept their second 'hat' as Ambassadors to WEU. See also below and fn.34.

<sup>4</sup> After UK Foreign Secretary David Miliband declined the offer to take up the post, in late October 2009, the British government came up with three names: Business Secretary Peter Mandelson (also former European Commissioner for Trade), former Defence Secretary Geoff Hoon, and notably Baroness Ashton, who had replaced Mandelson in the Commission a year earlier and, therefore, was already a member of the College. Art. 18 TUE would have allowed a ballot by QMV, but the appointment – which included Van Rompuy's - was consensual. Ashton started right away as HR but had to wait until the parliamentary confirmation of the whole new Commission to exercise fully her VP function, although she 'switched' her Commission portfolio with that of the outgoing Commissioner for External Relations Benita Ferrero Waldner almost immediately.

See [http://www.consilium.europa.eu/uedocs/csm\\_data/docs/presdata/en/ec/111343.pdf](http://www.consilium.europa.eu/uedocs/csm_data/docs/presdata/en/ec/111343.pdf).

Of course, her own (and her old cabinet's) lack of experience in diplomatic affairs and CFSP matters - along with the institutional and procedural vacuum into which she was catapulted after Solana's departure - did not help, and made her 'baptism of fire' particularly difficult. Yet she was little familiar also with the Commission's external relations and foreign aid machineries, despite her symbolic decision to set up her provisional office in the Berlaymont (where the College of Commissioners is based) rather than the Justus Lipsius building (home to the Council). In other words, while some of the criticism she initially received was quite unfair, she had to cope with the daunting complexity of her job description without a significant record in the field and a clear strategic compass.

This is also why the establishment of the European External Action Service (EEAS) has taken centre stage since and become the bedrock of the new system as well as the quintessential catalyst of all the issues that have haunted European 'foreign policy' for its first two decades.

## **II. Inside the College**

The HR/VP is a full member of the *European Commission* and is expected to generate policy coordination and coherence not only within the College – albeit under the overall leadership of President Barroso - but also at Directorate-General (DG) level. When the new Commission was nominated by the President (27 November 2009) and later appointed by the European Parliament (9 February 2010), Catherine Ashton was conferred the role of a '*prima inter pares*' - if anything, by virtue of her double 'investiture' - among her fellow College members dealing with external policies proper.

Interestingly, she was called upon to "coordinate" the Commissioners for Enlargement and Neighbourhood Policy (Stefan Fuele), for Development (Andris Piebalgs), and for International Cooperation, Humanitarian Aid and Civil Protection (Kristalina Georgieva)<sup>5</sup>. Until Lisbon, the EU treaties have not allowed for any formal hierarchy among Commissioners (bar the President), but Ashton's special place was thus to some extent acknowledged. For his part, Piebalgs (the only one among the three to have already served a full mandate in the Barroso-I College) was designated to represent the Commission proper on the Foreign Affairs Council now chaired by the HR/VP.

Further details as to exactly how such "coordination" would work in practice were left to subsequent decisions, including those regarding the EEAS. It is worth mentioning here that the new Trade Commissioner (Karel de Gucht) was implicitly exempted from such coordination, thus leaving the President of the Commission (and the College as a whole) the ultimate task of bringing about coherence across the entire range of EU common policies with external ramifications. It is also worth noting that other Commission portfolios and Directorates-General – starting with the broad area of Justice, Liberty and Security (JLS) – deal with actions and policies (counter-terrorism, piracy, trafficking, border management and asylum) that have a significant external dimension.

Catherine Ashton is not the only VP in the new Commission: there are six others. However, she stands out as the most senior one, in part also thanks to her participation in the meetings of the European Council [art.15.2 TEU] which, in turn, puts her also above the 27 Foreign Ministers, who are no longer entitled to attend them on a regular basis.

It is nevertheless worth noting that on 16 April 2010 the College approved the creation of a series of "Groups of Commissioners", starting notably with one on external relations chaired by Ashton which encompasses not only Piebalgs, Fuele, Georgieva, but also de Gucht and the Commissioner for Economic and Monetary Affairs Olli Rehn, with the possible association of others at a later stage<sup>6</sup>.

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<sup>5</sup> See <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1837>.

<sup>6</sup> The Groups of Commissioners are established to ensure an effective preparation of certain key initiatives. Each Group is chaired by a lead Commissioner and meant to work on the basis of a mandate from the President setting out its purpose and the 'products' to be delivered. Groups are not to take decisions but to prepare for collegiate deliberations, and they

### III. EEAS: the context

The establishment of the *EEAS* - as foreseen by the Treaty [Art.27 TEU] - and its precise nature, status, scope and set-up were to (and have indeed) become the object of additional negotiations. Their outcome will inevitably mark the direction the EU will take in its external action in the next decade<sup>7</sup>. Some paradoxes deserve therefore to be highlighted in this respect.

Firstly, while the broad traits of the EEAS had already been agreed upon in early 2003 (within the framework of the Convention on the Future of Europe), concrete talks over its actual implementation started only in early 2010. Many years, therefore, were wasted without engaging in serious discussions. The few preparatory meetings devoted to the EEAS in early 2005 (right before the failed referenda on the then Constitutional Treaty in France and the Netherlands brought them to a halt) produced very little indeed<sup>8</sup>.

Similarly, the further paralysis generated by the first Irish referendum on Lisbon in June 2008 put all relevant talks on ice until the autumn of 2009. As a result, by early 2010 all players were under huge pressure to deliver quickly on an issue that raised intricate and at times intractable problems. The main institutional players, however, had used those five 'wasted' years to consolidate and even reinvigorate their bureaucratic (red) lines of defence and resistance to change.

Secondly, the relevant provisions in the Treaty were at the same time too specific and too vague: too specific when the implicit one-third rule of the thumb (apparently accepted by then Commission President Prodi at the 2004 Intergovernmental Conference) was laid down whereby the EEAS should come to incorporate, in roughly equal shares, staff from the relevant Commission DGs, the Council General Secretariat (CGS), and the Member States' foreign ministries; and too vague regarding the possible nature and location of the EEAS in the EU system.

Thirdly, the array of players involved in making the relevant decision(s) was unusually wide: it encompassed not only the EU-27 and the Commission - through the Committee of Permanent Representatives to the EU (COREPER), the Council, and the entire College in its own right - but also the European Parliament, in particular regarding staff regulations and budgetary procedures (both subject to co-decision). This generated potholes and roadblocks rather than paved the way for speedy progress.

Fourthly, and the final paradox: in late October 2009 a somewhat artificial deadline (30 April 2010) was set for the 'founding' Decision on the EEAS. However, while it was expected that the EEAS be launched as soon as possible, its actual implementation and development would inevitably require constant monitoring, review and, quite possibly, further legislative and organizational adjustments in a few years.

In other words, while the EEAS can only take shape gradually and as part of work in progress, its foundations had to be laid down in a hurried and one-off legislative procedure. On top of that, any major delay to its launch and implementation was likely to be (and has already been) seen - both inside and outside the Union - as evidence of infighting, disarray and lack of strategic vision.

(Contd.) \_\_\_\_\_

will include the President's Cabinet and the Commission's Secretariat-General [*Note d'information de M. le Président*, SEC (2010) 475, 16 avril 2010 – revised on 21 April]. To date, however, they have rarely played a significant role.

<sup>7</sup> The literature on the EEAS has been produced in waves, especially between 2008 and 2010, subject to the likelihood of its eventual creation. See e.g. footnote 8 below as well as B.Crowe, *The European External Action Service: Roadmap for Success*, Chatham House Report, London, 2008; G.Avery, *Europe's Future Foreign Service*, "The International Spectator", 43, no.1 (March 2008), 29-42; J.Lieb and M.Kremer, *Empowering EU Diplomacy*, SWP Comments, February 2010, at [www.swp-berlin.org](http://www.swp-berlin.org); M.Lefebvre and C.Hillion, *The EEAS: Towards a Common Diplomacy?*, EPA, June 2010, at [www.sieps.se](http://www.sieps.se).

<sup>8</sup> The resulting papers can be consulted in the Annex to G.Avery and A.Missiroli (eds.), *The EU Foreign Service: How to Build a More Effective Common Policy*, EPC Working Paper 28 (Brussels, November 2007), 82-90, at [www.epc.eu](http://www.epc.eu).

#### **IV. The making**

The main steps in the establishment of the EEAS since the entry into force of the Lisbon Treaty (or, more precisely, since the 'Yes' vote in the second Irish referendum, on 2 October 2009, that paved the way for its eventual ratification) have been the following:

- - on 20 October, MEP Elmar Brok presented the first draft Report on the institutional aspects of the creation of the EEAS. The main emphasis in both the Report and the ensuing discussion was on the (desired) proximity of the new service to the Commission – with some MEPs arguing for its full inclusion in it (against the letter and the spirit of the Lisbon Treaty) – and on tight parliamentary control over its personnel and budget, especially regarding development aid policy. Slightly differing views were also expressed on the possible full incorporation of the existing politico-military structures in the EEAS. The Report was eventually adopted in the EP Plenary Session on 22 October 2009 by 424 votes to 94;
- - on 23 October, in turn, the Swedish EU Presidency came up with its own Report, as broadly agreed upon in the COREPER (after preliminary talks at Antici Counsellors' level). Although not strictly binding for the HR/VP and future deliberations, the Presidency Report set the stage for the ensuing debate by addressing the scope of the EEAS' activities, its legal status, staffing, financing, and the organization of EU Delegations abroad. It also mentioned 30 April 2010 as a tentative deadline for finalizing the relevant decision at General Affairs Council level, building on a draft proposal to be put forward by the new HR/VP<sup>9</sup>;
- - to this end, once Catherine Ashton was appointed and later confirmed by the European Parliament as a member of the new College of Commissioners, a dedicated 'High Level Group' was formed to support the HR/VP in her initial task<sup>10</sup>. Shortly afterwards, a Special Adviser was also appointed to assist the HR/VP in her preparatory work, namely the former Danish Permanent Representative (and former Commission official) Poul Skytte Christoffersen;
- - the following phase, from early February onwards, was characterized by the circulation of a number of draft documents and non-papers (from the HR/VP-led steering group)<sup>11</sup>, position papers and statements (mostly from MEPs) and media articles that conveyed an impression of lingering confusion and ongoing turf battles<sup>12</sup>. The general climate was hardly helped by the Commission's appointment, on 17 February 2010, of Joao Vale de Almeida (then Head of President Barroso's Cabinet) as new Head of the EU Delegation to Washington DC. The appointment, although legally legitimate at that stage, was in fact seen as a sort of pre-emptive strike by the Commission and raised loud political criticism from Member States;

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<sup>9</sup> The full text is available at <http://register.consilium.europa.eu/pdf/en/09/st14/st14930.en09.pdf>. The April deadline was probably dictated also by concerns about a possible change of government in the UK (following parliamentary elections due in May 2010) and its repercussions on the whole Lisbon foreign policy 'package' – although Conservative leaders later gave assurances as to their compliance with EU decisions in this domain.

<sup>10</sup> Chaired by Ashton, the group encompassed the two Secretaries-General, Catherine Day and Pierre de Boissieu; the two relevant Directors-General, Joao Vale de Almeida (DG Relex) and Robert Cooper (DG E); the Heads of the respective Legal Services; Patrick Child (Head of all EC/EU Delegations in third countries) and Helga Schmid (Director of the CGS's Policy Unit); James Morrison, Ashton's Head of Cabinet; and representatives of the 'trio' presidencies involved in the Council negotiations (Spain, Belgium and, from January 2011, Hungary) – that is, all the key players but the EP, whose formal role in shaping the decision was not on the same footing as Council and Commission.

<sup>11</sup> In mid-late February, for instance, separate drafts were circulated on the "vision", the functioning and the organizational structure of the EEAS: the drafts still presented alternative options for the most controversial points in the ongoing talks.

<sup>12</sup> In particular, MEPs Elmar Brok (Foreign Affairs Committee) and Guy Verhofstadt (Constitutional Affairs Committee) co-signed on 18 March 2010 a 'non-paper' demanding i.a. a status for the EEAS that would still make its link with and eventual integration into the Commission possible, and the creation of three 'political' deputies for the HR/VP alongside the three Commissioners Füle, Piebalgs and Georgieva. Other MEPs demanded at some stage the separation between ACP countries (to remain with the Commission) and the other geographical desks (to be moved to the EEAS). Extensive reporting on these developments can be found in [www.europeanvoice.com](http://www.europeanvoice.com); [www.euobserver.com](http://www.euobserver.com); [www.europolitics.info](http://www.europolitics.info); [www.euractiv.fr](http://www.euractiv.fr).

- - next, on the occasion of the 25 March General Affairs Council, the HR/VP tabled a "proposal for a Council Decision"<sup>13</sup>, subsequently followed on 26 April by some amendments that reflected the outcome of further negotiations between EU bodies and among Member States. On the basis of this blueprint, formal consultations were opened with the European Parliament in the context of the so-called "quadrilogue" involving Ashton's aides, the Commission proper, the Spanish EU Presidency, and an EP informal delegation including MEPs from the three main party groups (Elmar Brok for EPP, Roberto Gualtieri for S&D, and Guy Verhofstadt for ALDE);
- - finally, on 21 June in Madrid, an agreement was reached between the four parties that included a number of amendments to the previous proposal as well as two separate Declarations by the HR/VP: one on political accountability and another on the basic structure of the EEAS central administration<sup>14</sup>. The agreement was then submitted for approval – as a joint report by Brok and Verhofstadt - to the EP plenary on 8 July. An overwhelming majority of MEPs supported it – with 549 votes in favour, 78 against, and 17 abstentions - and everyone hailed the Madrid agreement as "historic".

The very last stage in this process included the request by the Council (13 July) to the Commission to give its consent; the subsequent unanimous act by the College of Commissioners (20 July); and the formal approval of the Decision by the General Affairs Council (26 July) - exactly four months after the presentation of the initial “proposal” by the HR/VP.

The adoption of the Financial Regulation and the Staff Regulations was expected to follow after the summer break, according to the co-decision procedure (with the Legal Committee of the EP in the lead) and on the basis of the groundwork laid down during the "quadrilogue" talks. And indeed, after some additional disputes and last-minute concessions, they were both adopted at the EP plenary on 20 October 2010 - exactly one year after the approval of the Brok Report - and hailed, once again, as “historic” achievements.

The Report by Enzo Rivellini (EPP) on the former was approved by 578 votes to 39, with 28 abstentions, and the Report by Bernhard Rapkay (S&D) on the latter by 513 votes to 51, with 98 abstentions. Finally, the amendment needed to the 2010 EU budget to fund the EEAS start-up before the end of the year, as planned, was adopted by 608 votes to 41, with 11 abstentions. On 25 October, the Council gave its final approval to the whole package of legal acts.

As a result, the EEAS would be in the condition to be formally launched on 1 December 2011 – on the 1<sup>st</sup> anniversary of the entry into force of the Lisbon Treaty – and to start operations on 1 January 2012. This implies also the simultaneous termination of the Commission’s DG RELEX as we know it.

## V. The design

After the inter-institutional deal of late June 2010, the likely *chassis* of the EEAS - defined in the draft decision as "a functionally autonomous body" - would consist of a *sui generis* stand-alone structure, separate from both the Commission and the Council. A "service" in its own right, its status and *modus operandi* will be original and distinct from existing models, and its budget would be comparable to that of an "autonomous institution".

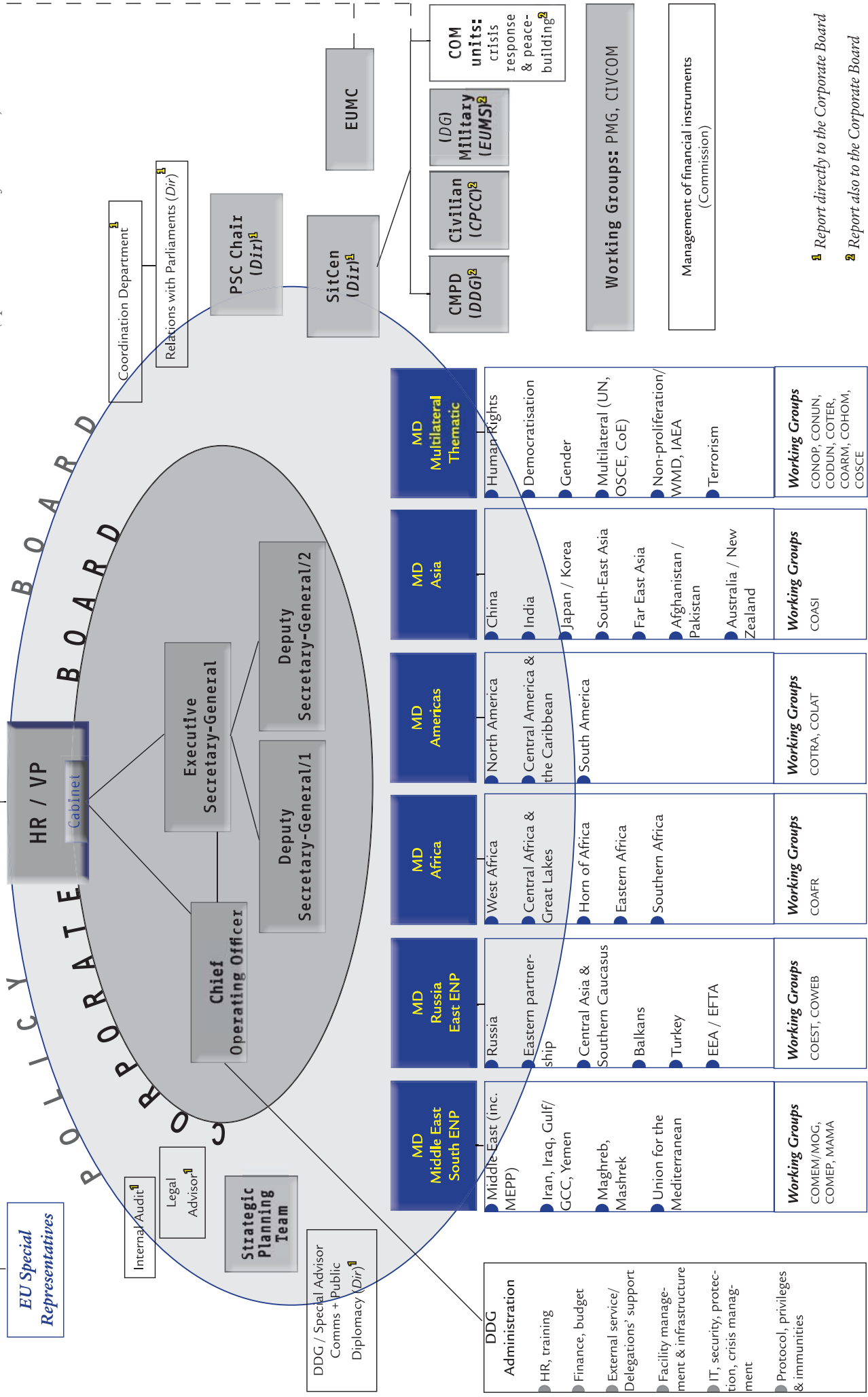
As the tentative chart reproduced below tries to explain [Table 1], such a structure will have an organizational 'cockpit' encompassing the HR/VP as the "appointing authority" and a sort of 'quadrumvirate' including:

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<sup>13</sup> See [http://eeas.europa.eu/docs/eeas\\_draft\\_decision\\_250310\\_en.pdf](http://eeas.europa.eu/docs/eeas_draft_decision_250310_en.pdf)

<sup>14</sup> The relevant official joint statement (IP/10/771) can be found in the EU RAPID system.

(operational chain of command)



<sup>1</sup> Report directly to the Corporate Board

<sup>2</sup> Report also to the Corporate Board

- a) an Executive Secretary-General (following the example of most national foreign ministries), in charge of key 'horizontal' and management functions<sup>15</sup>, flanked by deputies:
- b) two deputy SGs, whose precise and respective tasks are not spelt out in the Decision, although some options were discussed inside the 'High Level Group'<sup>16</sup>;
- c) at the insistence of the EP delegation, a Director-General for Budget and Administration, who will oversee all financial, budgetary and auditing procedures in close cooperation with the relevant bodies and under EP scrutiny.

Of all the members of this 'quadrumvirate' (initially only a 'triumvirate'), the fourth is the one that is bound to come from the top ranks of the Commission. In the business language Catherine Ashton has deliberately chosen, he or she would be the EEAS' Chief Operating Officer - in fact, the new number two after the Executive SG, who would be its Chief Executive Officer.

Still, within such 'cockpit' no rigid or formal hierarchy would be established, although the Executive SG would act as a *primus inter pares* (for instance, by deputizing for Ashton in her absence). With them, the HR/VP would form a sort of 'corporate board' including also her Head of Cabinet. It remains to be seen exactly where the Chairperson of the Political and Security Committee (who, according to art.38 TEU, must be a representative of the HR) and the Head of the new Strategic Planning Team (that will incorporate *inter alia* the Council's Policy Unit) might be placed. This could well depend also on the personal record and standing of the first holders of those posts.

Underneath them, a 'policy board' would encompass a number of specialized DGs, each led by a Managing Director (MD): there will be geographic ones (up to five)<sup>17</sup>, a thematic one, another devoted notably to budgetary and administrative matters, possibly one for "crisis response" proper (Haiti *docet*), and a number of horizontal 'departments': for strategy and analysis, information and public diplomacy, and (yet again at the MEPs' insistence) inter-institutional relations and coordination.

The array of structures and bodies operating in the domain of crisis management and civil-military planning are also all expected to be brought within a dedicated DG, but the Decision does not specify what chain of command and what reporting lines may be established – especially with reference to the 'corporate board' and its members.

In terms of staffing, officials from the Council Secretariat (especially DG E) and the Commission (mostly DG RELEX, plus some from DG Development), will maintain their status and privileges, although some issues related to the mobility of Commission officials remain open.

Interestingly, the implicit one-third share laid down in the treaty will be implemented more flexibly, in the wake also of the negotiations with the EP. In fact, once the service is up to full speed (by June 2013), EU officials proper "should represent at least 60 % of all EEAS staff at AD level" (including those diplomats from the member States who will have become EU officials), while national diplomats should amount, in turn, to "at least 33 %".

The remaining gap between the two targets is probably meant to help manage the transition and deal with current temporary agents and especially with Seconded National Experts (SNEs), who were initially expected to play a bigger role in the overall set-up of the service but are now being considered, instead, only for "specific cases" and in "a limited number".

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<sup>15</sup> The 25 March proposal mentioned simply a 'Secretary-General' "assisted" by two deputies, but especially MEPs objected that only institutions (such as the Council and the Commission, but also e.g. NATO) have a proper SG. Some member states also disliked such a pyramidal structure with an all-powerful administrative figure at the top.

<sup>16</sup> One of these entailed a distinction between a sort of Political Director and a Director of Operations, another one the supervision of geographical and operational desks. In the end, the specific profiles of the first post holders are likely to contribute to solving the issue (see below).

<sup>17</sup> One way of clustering the existing desks in both the Commission and the Council is to resort to a purely geographic criterion (as in Table 1). Another is to regroup them, for instance, under OECD countries, developing ones, and EU neighbours. Both options have pros and cons. At this stage, however, the former seems to be the preferred one.



All EEAS officials, however, will serve under the same rules and obligations. Especially those from the Member States, who are not to be transferred *en bloc* to the service, will be selected on the basis of "merit whilst ensuring adequate geographical and gender balance", as the HR/VP Report reads. This means that "the staff of the EEAS shall comprise a meaningful presence of nationals from all Member States" - a formulation that is now also included in the Decision, after lengthy and detailed negotiations within the "quadrilogue"<sup>18</sup>.

For them, tours of duty in the service should in principle not exceed two four-year terms although, in exceptional cases, an extra two years may be granted. For their part, the national ministries 'of origin', so to speak, must provide a guarantee of immediate reinstatement for their officials at the end of their period of service. Finally, mobility and rotation will be also ensured *within* the EEAS, in particular between the Brussels 'headquarters' and the EU Delegations abroad.

In the initial phase, recruitment for the service will take place only from within the ranks of the three 'founding' components, whereas from July 2013 officials and experts from other EU institutions (e.g. the European Parliament) will also be entitled to apply. In terms of timing, the EEAS is expected to start with an immediate block transfer of some 800 AD level officials from both the Commission (three quarters) and the General Secretariat of the Council (one quarter, including the current Policy Unit). Some 100 new posts (20 in Brussels and 80 in the Delegations) may be added shortly - for a draft 2010 amending budget of roughly EUR 9.52 million, as agreed with the EP<sup>19</sup> - and some additional 300 from 2011, for a total staff of little more than 1,200.

Included in the EEAS will be also the 135-plus EU (formerly EC) Delegations in third countries and international organizations – although the Lisbon Treaty was rather vague about this. The Heads of such Delegations will be directly accountable to the HR/VP [artt.32, 35 TEU] and, now, her 'corporate board'. While a single chain of command is expected to be in place in each Delegation, further arrangements have been hammered out regarding the position of those officials belonging to Commission DGs (such as trade or development) that are not under Ashton's coordinating authority, and who have (and may wish) to receive separate instructions flowing down from their direct Brussels hierarchy<sup>20</sup>. A similar procedure has been agreed for expenditure, combining the preservation of the Commission's own primary responsibility for its execution with the possibility of special transfers of power to Heads of Delegation whenever required.

The Council Decision on the establishment of the EEAS also includes an Annex with a detailed list of the existing departments and functions to be transferred directly to the service, including the Council's Policy Unit, most of the Commission's DG RELEX, the ACP-related geographic directorates of DG Development – but not those in charge of budget execution, which remains a Commission prerogative, neither EuropAid nor ECHO (the Commission's aid agency and humanitarian office, respectively).

Indeed, the EP extracted some important concessions from the Council in this domain: the annual spending programs in the development and humanitarian aid sectors will be mainly drafted by the relevant DGs in the Commission and then submitted jointly by the HR and the Commission, for

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<sup>18</sup> The initial wording in the draft decision referred in fact to "the broadest possible geographical balance" among the Member States, which is also the formula enshrined in the staff rules of both the Commission and the Council. The term "adequate" implies a less strict adherence to the principle of equality among the EU-27; also, no formal country quotas would be discussed or negotiated. The HR/VP, on the other hand, is committed to reporting every year on "the occupation of posts in the EEAS" to the Council and, now, also to the European Parliament. A comprehensive review is foreseen in mid-2013, including "suggestions for additional specific measures to correct possible imbalances".

<sup>19</sup> In the initial stages of the drafting of the Decision much emphasis had been put on the principle of "budgetary neutrality" (no new/extra net expenditure in the EU budget). This soon proved unrealistic in light of the need to bring on board diplomats from the Member States and create new temporary EU posts for them. The 2010 budget is therefore meant as an initial allocation that includes the transfer of posts from other institutions for one month, plus some new 70 contract agents between Brussels and the Delegations.

<sup>20</sup> A relevant case in point is Geneva, where the local EU Delegation deals with both the WTO and a number of diverse UN agencies.

instance, and the Commissioners themselves will have a substantial say at all stages (this, in turn, may impinge upon Ashton's role).

In a way, therefore, the Parliament has ended up strengthening the hand of the Commission vis-à-vis the Member States in a way that the Commission itself had not been able to. Furthermore, the Parliament has obtained scrutiny not only (as expected) over the EEAS' operational budget but also - albeit to a lesser extent - over its administrative budget proper, with the exception of military operations proper and the European Development Fund (EDF)<sup>21</sup>.

Finally (and once again at the insistence of the EP, broadly favourable to a 'big' EEAS), the "support staff" in the Delegations will also be part, eventually, of the external service. This may be the reason why media reports in the wake of the Madrid agreement went as far as to mention an eventual overall size of up to 8,000 officials for the service. Size and figures, however, are likely to be much more modest (at least by half) and will inevitably depend on both the initial implementation of the EEAS and, above all, the direction that future negotiations over the next Multi-Annual Financial Framework (MFF) for the EU budget - due to start in late 2011 and be concluded by 2012 - will take.

These, in turn, will be affected by the broader impact of the economic crisis across Europe and the fiscal restraint imposed on the Member States, which have already prompted a debate on both the overall size of the EU budget for 2011 and the structure of the EEAS itself: some MEPs, in fact, consider it top-heavy and push for limiting the costs of personnel and sticking to the principle of "budgetary neutrality" for 2011<sup>22</sup>.

Yet the entire deal on the draft budget for 2011 is subject to reaching a broader (and politically more complicated) inter-institutional agreement on the overall 2011 EU budget by the end of 2010. If the conciliation procedure on this failed, recourse to the system of the "provisional twelfth" enshrined in art.315 TFEU - whereby each chapter of the EU budget would be funded monthly up to a maximum of one twelfth of its appropriations in 2010 - would probably slow down the setting up of the EEAS and limit its functional capacity in the first months of 2011.

## VI. Open questions

The 'design' which has emerged from the "quadrilogue" negotiations will have to be tested - and probably adjusted - over time in light of its gradual implementation. As was to be expected, in fact, it does not automatically solve all the potential functional problems generated by the establishment of the EEAS. In some cases, it even creates some that did not exist in the previous 'dual' structure.<sup>23</sup>

To start with, the precise division of labour within the top brass of the new service is likely to become a case of learning by doing. It is worth noting, however, that the first appointments made by the HR/VP in the wake of the adoption of the final legal package, on 25 October, concerned only the Executive SG/CEO and the COO: the former French Ambassador to the US (and former Permanent

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<sup>21</sup> On the occasion of its extraordinary meeting on 16 September, due to discuss EU relations with "strategic partners" (and attended also by Foreign Ministers), the European Council adopted the decision to create a new budgetary section 10 (X) for the EEAS by amending the existing general EU budget Section 6.

<sup>22</sup> The draft EEAS budget for 2011, as approved on 11 October by the Council with Poland's abstention, amounts to EUR 469.85 million (roughly 60 % of which is earmarked for the Delegations) and includes transfers from the relevant appropriations of the Commission and the Council to cover the salaries of the personnel moving to the EEAS as well as EUR 5 million to support the takeover of some of the functions of the EU rotating Presidency. On the occasion, the Council stated that the establishment of the EEAS "should be guided by the principle of cost-efficiency aiming towards budget neutrality". For her part, HR/VP Ashton underlined that such expenditure amounts barely to 0.33 % of the overall 2011 EU budget.

<sup>23</sup> For an analytical overview of the evolution of parallel structures within the Commission and the Council over the past decades see A.Missiroli, *A Tale of Two Pillars - and an Arch*, Introduction to Avery and Missiroli, *The EU Foreign Service ...* quoted fn.8, 9-27.

Representative to the EU) Pierre Vimont took up the first position, while former Director-General for Trade (and former Secretary-General of the Commission) David O'Sullivan the second one<sup>24</sup>.

The other appointments are expected to follow in quick sequence, starting with the two deputies to the CEO - most likely to be the former Head of the Policy Unit in the CGS, Helga Schmid, and Maciej Popowski, former Head of Cabinet of the President of the European Parliament Jerzy Buzek (to take charge of, respectively, "political" and "inter-institutional" affairs) – while the Swedish Ambassador to the PSC, Olof Skoog, is expected to be chosen to chair it. It is easy to predict that the media will pay a disproportionate attention to their nationality, while the focus should rather be on their professional skills and ability to operate as a functional team.

If one looks beyond nationalities and personalities, however, another unsolved issue is the bureaucratic separation between geographic and operational DGs. It will probably facilitate the transfer of staff from the Council and the Commission, and also help reduce duplication and competition; but it also risks setting up new barriers that go against the logic – inherent to the very concept of the EEAS – of an integrated and comprehensive policy approach. In other words, such compartments should not become silos, and *ad hoc* horizontal task forces may have to be established to fill possible gaps and bring to bear the whole spectrum of expertise at the disposal of the service. This is particularly true of the possible link between geographic and thematic DGs, and between these and the operational structures dedicated to crisis management and peace-building.<sup>25</sup>

This is, incidentally, an area where a new role could be found for the Special Representatives (art.33 TEU) and/or dedicated Special/Personal Advisors. Yet neither the Treaty nor the Decision clarifies what their status and role should resemble. Over the past decade, in particular, these have varied enormously in terms of profile, mandate, resources and timelines. In a couple of recent cases, interestingly, EU Special Representatives (EUSRs) were "double-hatted"<sup>26</sup>, but the extent to which such precedents could be adapted to the new set-up - and maybe further developed - remains still unclear.

Similarly, the functioning of the Council Working Groups that have existed so far has not been addressed (yet): exactly who is going to chair them is an unsolved issue at this stage - although the HR/VP is confirmed as the "appointing authority" - as is their precise number and scope in the new post-Lisbon 'comitology' framework<sup>27</sup>.

Moreover, some of the budgetary and auditing procedures inserted into the final version of the Decision on the basis of the "quadrilogue" deal appear cumbersome and potentially intricate. Hailed by the MEPs as a victory, they may turn out to be a complicating factor in terms of decision- and policy-making (and a source of turf wars inside Brussels). There are grey areas, for instance, surrounding the degree of scrutiny to which the expenditure of EU Delegations will be submitted by the EP, or the

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<sup>24</sup> Interestingly, an ensuing decision by the Commission (on 27 October) made David O'Sullivan temporary Director-General of DG RELEX, with a view to bridging the transition to the end of the year; it also merged DG EuropAid (AIDCO) and DG Development (DG DEV) into a new DG called 'EuropAid Development and Co-operation' (DG DEVCO); and it created a new 'Foreign Policy Instruments Service' under the political authority of Baroness Ashton in her role as Commission Vice-President (IP/10/1938). Last but certainly not least, the Commission Secretariat-General has created a dedicated Unit (F 3) devoted to 'external institutional relations', including the EEAS and the G-8/G-20 – while the Council Secretariat, for its part, has set up a dedicated support structure for the Presidency that brings together two existing Directorates, including all those external policy areas that do not fall within the remit of the EEAS.

<sup>25</sup> See G.Quille, *The European External Action Service and the Common Security and Defence Policy (CSDP)*, in E.Greco, N.Pirozzi and S.Silvestri (eds.), *EU Crisis Management: Institutions and Capabilities in the Making*, Quaderni IAI, 19, November 2010, 55-78, at [www.iai.it](http://www.iai.it); and G.Lindstrom, *The European External Action Service: Implications and Challenges*, GCSP Policy Paper, 8, November 2010, at [www.gcsp.ch](http://www.gcsp.ch).

<sup>26</sup> On the EUSRs see G.Grevi, *Pioneering Foreign Policy: The EU Special Representatives*, Chaillot Paper 106 (EUISS, Paris, October 2007), at [www.iss.europa.eu](http://www.iss.europa.eu).

<sup>27</sup> The formats of such Working Groups/Parties (currently more than 20) have varied a lot over time – some were chaired by the rotating Presidency, others by EU officials - and some reorganization may prove necessary anyway.

criteria and modalities that may drive the possible parliamentary hearings of appointed Heads of Delegation. But only time and experience will tell - and determine - how the new system can work.

## VII. The EP's game

Last but certainly not least, it is not fully clear what balance will eventually emerge between effectiveness and accountability. It is certainly true that the EP scored some important points in this domain and managed to transform a procedure in which it was entitled only to give an opinion (*avis*) into a "*de facto* co-decision" – as MEP Roberto Gualtieri called it. Catherine Ashton will have to submit a first report on the functioning of the EEAS - by the end of 2011 - not only to the Council, as initially foreseen, but also to the Commission and the European Parliament. This, too, will further consolidate a practice of co-decision for all things 'architectural' related to the service.

It is also true that the EP has forced the HR/VP to make it explicit that, when addressing the plenary in Strasbourg, she can be 'deputised' only by fellow Commissioners or, when the agenda is CFSP/CSDP-related, by a serving Foreign Minister, either from the current Presidency or from the so-called 'trio' of rotating Presidencies<sup>28</sup>. Indeed, MEPs had spoken out firmly against the possibility that, were the HR/VP unable to attend, "unelected officials" (and notably the Executive SG) fill in for her.

Regarding top appointments in the EEAS (and other posts in the CSDP domain), however, the wording of the HR/VP Declaration on "political accountability" is much less firm. Hearings at and briefings to the EP and its relevant Committees by appointed representatives in the EU Delegations and/or CSDP operations can be requested and arguably granted, at least in certain cases. Still, the text (whose legal value is hardly comparable to that of the Decision proper) stops short of defining the level at which an obligation to do so may begin or end, considering also the diplomatically sensitive issue of accreditations abroad.

It should therefore come as no surprise that palpable tensions arose after Catherine Ashton announced, on 15 September, her first appointments at the head of some EU Delegations in third countries. Apart from the background noise from all those Member States (and their media) who felt insufficiently represented or acknowledged in that initial round, some MEPs complained about not having been listened to regarding both the gender and (especially) the geographical balance among the new appointees<sup>29</sup>.

The loudest complaints came from the Polish side, and notably from MEP Jacek Saryusz-Wolski, who went as far as to demand an explicit system of geographically-based "indicative recruitment targets" to be put in place and inserted into the final decision on Staff Regulations<sup>30</sup>. His demands were eventually rejected by the Legal Committee, *inter alia* out of concern that the EP be seen as

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<sup>28</sup> This formulation is meant to leave some flexibility for those cases in which the country holding the rotating EU Presidency may find itself in an awkward legal and political situation: in 2012, for instance, the EU Council will be chaired by Denmark (which has an opt-out clause on defense policy) and Cyprus, which has no formal relationship with NATO.

<sup>29</sup> Out of 29 initial appointments - to be followed by others in the ensuing months - seven went to female candidates and four to applicants from the EU-12, i.e. the new Member States. While certain countries did particularly well on paper (i.e. Ireland, Spain and the Benelux countries), virtually nobody pointed out that a majority of posts (16) went to serving Commission officials - who can hardly be characterised in terms of nationality - while three quite important ones (Brazil, Iraq and deputy US) were re-advertised.

<sup>30</sup> Polish officials and researchers had already been quite vocal in claiming more posts for the EU-12 in the EEAS: see R.Formuszewicz, J.Kumoch, *The Practice of Appointing the Heads of EU Delegations in the Wake of Council Decision on the EEAS*, Report of the Polish Institute of International Affairs ([www.pism.pl](http://www.pism.pl)), Warsaw, August 2010. It is worth pointing out, however, that the overwhelming majority of candidates from the EU-12, and especially Central Europe, applied for a very limited number of positions, especially in the post-Soviet world (and got both Kabul and Tbilisi), thus highlighting the comparatively narrow set of interests and expertise of their officials. Their still relatively fresh EU membership, in turn, may contribute to explaining their poor representation among the current Heads of Delegation.

fighting for specific national interests and being enmeshed in a process that should lie primarily with executive responsibility.

Still, the final wording of the decision on Staff Regulations reiterates that that the EEAS should comprise “an *appropriate and meaningful* presence of nationals from all Member States” [italics added], and that specific measures be taken “to promote equal opportunities for the under-represented gender in certain function groups”. Indeed, the marginally less large support for this particular Decision in the 20 October 2010 vote [see above] may well be explained with residual dissatisfaction among Central European MEPs.

Once again, in the months to come concrete practice will end up establishing quasi-legal precedents to this effect. It is indeed arguable that Baroness Ashton's job is almost designed to make every potential 'constituency' a bit unhappy: to a certain extent, this is even a precondition for earning credibility and clout. Yet if narrowly defined national and institutional interests prevail not only among the Member States but also among MEPs, each round of appointments will inevitably generate controversy and ultimately undermine the fledgling EEAS. It is therefore desirable that a workable 'etiquette' for such sensitive inter-institutional relations is adopted and respected by all sides sooner rather than later.

### **VIII. The States' stakes**

In fact, both EU institutions and Member States should bear in mind that, when all is said and done, the strategic rationale and ultimate ambition behind the setting up of the EEAS was (and still is) the creation of a common culture and practice among European officials and diplomats. In other words, beyond the current turf battles and bureaucratic politicking, the service is meant to become an instrument for the cross-fertilization of foreign policy-making across the EU and the interchangeability between national and European administrations.

In this respect, the adjustments that the Decision on the EEAS introduces with respect to the strict 'one-third' rule of thumb enshrined in the Lisbon Treaty reflect the sheer fact that, if one looks at the rough figures on the relative size of the three main components of the service, DG RELEX and the Delegations far outnumber the relevant staff from the CGS (the ratio is in the region of 5:1 or higher) - with the arrival of a significant number of diplomats from the EU-27 inevitably putting additional pressure on the EEAS budget.

There are, however, huge imbalances also among the Member States, notably in terms of quantity and also quality of eligible personnel. The pool of available officials varies enormously between individual countries, and so does their level of experience and expertise. The geographical spread and the concentration of embassies and consulates across the world, too, differ hugely among Member States. Career patterns and recruitment practices are also quite diverse, especially between older and newer Member States. As a result, the procedure of selecting national diplomats 'fit for the service' is likely to be subject to innumerable factors and variables, and the 27 foreign ministries themselves will be confronted with painful dilemmas: should they send their "best and brightest" officials to the EEAS or keep them – and with what incentives in either case?

Of course, this will not apply only to the *institutional* set-up. In and of themselves, the HR/VP and the EEAS will not generate a common EU policy vis-à-vis, say, Russia or China: at best, they will facilitate its initial shaping and subsequent implementation. It is the Member States who must 'buy' into the new system *politically*.<sup>31</sup> In principle, all of them should be offered terms of engagement conducive to making them responsible stakeholders in the new system.

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<sup>31</sup> Incidentally, this issue could soon become evident also on the ground, notably in those third countries where some EU members have strong interests while others do not (and may not even be represented diplomatically) – which could, in turn, affect significantly the way in which the local heads of Delegations operate.

All this will prove particularly tricky especially in the start-up phase, when differences in background, culture, approach and also benefits - not only amongst the EU-27 but also between them and EU officials - will be biggest. Over time, however, as the EEAS develops and grows up, internal imbalances and differences are bound to narrow. Common training<sup>32</sup> and rotation on the job should contribute to reducing them further.

This is why it is certainly wise to plan - as has already been done - a first Report on the implementation of the EEAS already in 2011 (rather than 2012, as originally stated), and a more substantial and stringent review (leading perhaps to a new Decision) by the end of 2013, as it would also fall within the context of the new MFF for the post-2013 budget.

Furthermore, no founding decision can possibly enshrine all the 'evolutionary' aspects of the service - regarding *inter alia* recruitment and training requirements, career patterns inside and outside the EEAS proper, rotation between the Brussels 'headquarters' and the Delegations - which are likely to trigger additional attempts to modify the overall structure in the months ahead.

The launch and development of the EEAS, in other words, will probably occupy the entire term of *all* post-Lisbon institutions and possibly turn into one of the most important tests of their successful action and interaction.

## IX. The new system

Alongside the EEAS set-up proper, a number of political and functional uncertainties still linger over the new external action system created by the Lisbon Treaty.

Some have to do with the internal functioning of the Commission and the overall scope of the Union's external action, which cannot be confined to traditional 'foreign policy' as we know it: the *external* dimension of primarily *internal* common policies is becoming increasingly important in shaping the EU's role and image worldwide as well as vis-à-vis its citizens.

Some other uncertainties have to do with personalities, i.e. whether the two EU Presidents - Herman Van Rompuy and José Manuel Barroso - and Catherine Ashton will get along (or not), and especially whether they will achieve a *modus vivendi* that is sustainable and, above all, beneficial for the EU as a whole.

In terms of protocol, the fact that with the Lisbon Treaty the EU has acquired full legal personality in its own right [art.47 TEU] has changed little so far in terms of substance. Before Lisbon, for example, Ambassadors seeking accreditation to the EU presented letters of credence to both the President of the Commission (EC and Euratom) and the rotating presidency (EU proper), while only the Commission President signed the letters of credence and recall for Heads of Delegations abroad. Now Ambassadors continue to present their letters of credence to Barroso - accrediting them to the EU (into which the EC has been subsumed) and Euratom - but do the same also with Van Rompuy *instead* of the rotating presidency.

Some additional uncertainties may still lie notably with the residual role and competences of the rotating EU Presidency. While the new system, once fully in place, will be entirely 'Brussels-ised' in terms of both location and impulse, individual Member States will still be chairing on a six-month rotational basis both the COREPER and some Council formations that may be relevant for the Union's external action. This will demand the highest degree of inter-institutional coordination.

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<sup>32</sup> Here, too, the EP has been pushing for the creation of a sort of single European Diplomatic Academy, but has encountered strong opposition from both the Commission and the Member States, especially those keen on preserving their national 'champions' in this domain and possibly giving them a European role. It seems therefore likely that, at least initially, the example of the ESDC be followed - that is, a sort of itinerant training syllabus with specific modules being offered by different national academies (e.g. Vienna and Malta) and also EU-related centres (such as the College of Europe in Bruges/Natolin, the European University Institute in Florence, and possibly the European Institute of Public Administration in Maastricht) on a rotational and 'virtual' basis.

Politically, too, a 'niche' role may have to be devised - whether on an *ad hoc* basis or more systematically - for the Prime Minister (where applicable, also the President) and the Foreign Minister of the country holding the six monthly presidency in order, once again, to keep them on board and give them a degree of responsibility and visibility without reneging on the political rationale that led to the new treaty provisions in this domain. This already happened, at least in part, during the Spanish EU Presidency, but more out of necessity than choice. However, it must be handled with care: if turned into common practice or even a rule, in fact, it could give the impression that the old system is still in place.

In terms of external *representation*, the EU's own legal personality has so far translated only into a change of nameplate (from EC to EU proper) in multilateral bodies. Yet it could and, arguably, should have much wider ramifications in the future and act as a catalyst for streamlining the international presence of the Union and its members, still characterized by a maze of different *ad hoc* arrangements<sup>33</sup>.

Such 'patchwork' is the combined result of existing legal competences, political constraints, simple precedents, special agreements, administrative inertia as well as widespread reluctance to overhaul this state of affairs. Addressing it requires both pressure from outside and determination from inside. The former already exists in abundance. The latter is still lacking but could be fostered by and with the implementation of the EEAS - although the first hurried steps taken in this direction within the UN framework have born little fruit to date<sup>34</sup>.

For its part, the European Parliament has already become a much more important institutional player in external action and foreign policy at large. Not only is it setting conditions on the establishment and further development of the EEAS proper, but it is also trying to have an ever bigger say on expenditure, appointments and policy guidelines. Its clout in adjacent policy areas has also increased, be it internal security (as the 2010 dispute over SWIFT has proven), trade (the EP has acquired the right to approve or reject agreements), energy and even agriculture (now subject to co-decision).

Only time will tell whether all of this is transforming the Strasbourg assembly into a sort of 'EU Congress', with all the repercussions that this could have in terms of inter-institutional relations and policy-making.

## **X. Security and defence**

In terms of policy, it is still uncertain how the Common Security and Defence Policy (CSDP, formerly ESDP) dimension of the Union's external action may develop. The Lisbon Treaty creates a more 'permissive' framework in this domain, where a number of enabling clauses would permit new arrangements and initiatives to be put in place.

Interestingly, the only case so far in which the new provisions have already had an impact is the decision, taken through a unanimous Declaration by the ten Ambassadors sitting on the WEU Council on 31 March 2010, to 'terminate' the organization as an indirect consequence of the entry into force of art.42 TEU, which enshrines a qualified mutual defence clause<sup>35</sup>.

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<sup>33</sup> Michael Emerson and Piotr Maciej Kaczynski (CEPS) prepared a tentative table (reproduced in BEPA Monthly Brief, no.38, June 2010), as part and parcel of a broader research project carried out jointly by CEPS, EPC and Egmont. See also S.Gstöhl, 'Patchwork Power' *Europe: The EU's Representation in International Institutions*, European Foreign Affairs Review, XIV (2009), 3, 385-403.

<sup>34</sup> See M.Emerson and J.Wouters, *The EU's Diplomatic Debacle at the UN: What Else and What Next?*, CEPS Commentary, 1 October 2010, at [www.ceps.eu](http://www.ceps.eu).

<sup>35</sup> The decision had been already floated by the Dutch government in 2003 (when it chaired both the EU and WEU Councils) in anticipation of the expected entry into force of the Constitutional Treaty, then put on ice until late 2009. Its actual implementation, however, may still take until late 2011, due especially to the complications related to the dismantling of the WEU Parliamentary Assembly based in Paris.

Apart from this, most new treaty articles in this area basically envisage actions and developments that have already been launched well ahead of the entry into force of the Lisbon Treaty - be it the expansion of the scope of the so-called "Petersberg tasks" [art.43], the conduct of EU peace-building operations by only some Member States [art.44], or the establishment of the European Defence Agency [art.45], which was already launched in 2004.

On the other hand, the scheme envisaging "permanent structured cooperation" (PeSCo) in defence matters [artt.42.6-46 TEU and related Protocol] represents a novelty that will put the willingness of the Member States to cooperate and integrate further in this domain to a decisive test<sup>36</sup>. In all likelihood, much will depend on the views that will prevail in Great Britain – without whose full engagement and commitment CSDP would be hard to pursue effectively, both politically and functionally – as much as on the impact that the current economic and fiscal crisis will have on defence budgets across the EU. Needless to say, the axe may have repercussions also on the readiness of most European countries to engage in military operations abroad, let alone to invest on the modernisation of their armed forces.

If one looks back to the past decade, ESDP was the combined result of two main factors. On the one hand, the catalyst for its launch was widespread frustration across the Union (among governments and citizens alike) over Europe's impotence first to prevent and then to stop the violent dissolution of former Yugoslavia. On the other, the British government led by Tony Blair became the 'policy entrepreneur' that unblocked a long-standing paralysis over European defence dating back to the mid-1950s and generated (through the renewed *entente cordiale* with France sealed at St.Malo in early December 1998) the necessary momentum for the new policy.

If Britain and France - the two most effective diplomatic and military players in the EU, but also those whose opposite views on European and transatlantic security and defence had long blocked any EU ambition in this domain – could find a common ground, everybody else could comply and follow suit.

A few years later, after (and despite) the intra-European divisions over the war in Iraq, some additional impetus was provided by the terrorist attacks of 2004/05 in Madrid and London. Yet in 2010, more than 10 years and 20 EU operations after St.Malo, there is no visible or comparable catalyst for what is now CSDP. If anything, there is a catalyst in reverse – notably Afghanistan, which keeps eating up both resources (human, financial and military) and popular support for peace-building interventions abroad.

For its part, the new Franco-British defence agreement sealed in London in early November 2010 – soon branded by the UK tabloids as *entente frugale* – seems driven more by the need to share the burden of budgetary cuts and create synergies than by a renewed commitment to ESDP/CSDP (hardly mentioned in the relevant documents).

France and Britain together cover roughly half of all defence expenditure in the EU. For the other half - the remaining Member States, all variously affected by similar budgetary woes – the problem thus gets ever worse, as the possible disengagement of the leading 'duo' (comparable, in this domain, to the old Franco-German 'motor' in community matters) makes it all the more difficult to tackle the issue with a balanced mix of incentives and constraints, as PeSCo is intended to.

While the economic crisis makes pooling, sharing and specialising military capabilities all the more urgent, in fact, a well-known combination of mostly symbolic concerns (over national sovereignty and control) and vested domestic interests keeps hampering trans-national cooperation and integration among those who need those most.

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<sup>36</sup> For a legal analysis see M.Cremona, *Enhanced Cooperation and the Common Foreign and Security and Defence Policies of the EU*, EUI Working Papers, Law 2009/21, San Domenico di Fiesole, 2009, at [www.eui.it](http://www.eui.it).



## **XI. Europe's potential strengths**

All this said, the Lisbon Treaty does offer a unique opportunity to generate not only better coordination and coherence, but even synergy between all the different aspects of the Union's action: within CSDP, between its civilian and military spheres; in the wider domain of 'security', *inter alia* through the new so-called "solidarity clause" [art.222 TFEU], which establishes an operational link between its *internal* and the *external* dimensions; within CFSP, between diplomacy and crisis management proper; and, more broadly, between all the various levers and instruments of external action and 'foreign policy' that the Union has at its disposal.

The HR, especially in her capacity as Commission VP, and the EEAS - as potential chamber of compensation of previous inter-institutional competition and actual laboratory of integrated policy-making - are called to lay the foundations for this to happen.

In an increasingly interdependent world, in fact, the EU has the chance to connect the dots first and foremost in its own courtyard. Action against climate change, energy security (both internal and external), regulation of financial markets, exchange rate coordination, border and migration management, peace-building and post-conflict reconciliation, and of course trade negotiations are all policies that - albeit with varying allocation of competencies - fall within the EU remit.

Last but not least, the Union can still exploit the attractiveness of its own model of integration - including the prospect of accession - to bring home foreign policy results. It is not by accident that Catherine Ashton's first tangible success since her appointment as HR/VP has been Serbia's acceptance, in early September, to withdraw a combative draft resolution on Kosovo it had submitted to the UN General Assembly months ago and to table a much more constructive one jointly with EU countries.

This would have hardly been imaginable, especially on such a controversial issue, without the determination of the current government in Belgrade to join the EU as soon as possible - although it remains to be seen how much longer the prospect of future EU membership can be used as a 'foreign policy' tool by a Union that appears increasingly reluctant to expand much further.

In other words, while the current international system appears ill-equipped to address the growing interdependence between not only geographical regions but also policy areas, the EU could - in principle - already do it quite effectively within its own system. This is the key opportunity (and the strategic challenge) confronting both European institutions and political leaders in the post-Lisbon world.

## **XII. Conclusions**

The crucial test of the original system created by the new treaty will indeed be the actual functioning of the new 'hybrid' figures and structures, starting with the HR/VP and the EEAS. Failure to produce significant added value or, worse still, an increase in personal and bureaucratic infighting would cast a gloomy shadow over the Union's international image and action. It would have also negative repercussions on the broader EU internal political climate. Conversely, if the new system proves capable (over time) of improving the effectiveness and also legitimacy of the Union on the international stage, the 'hybrid' model could even be extended.

This could well lead to a further blurring of the differences between the traditional 'intergovernmental' method and the even more traditional 'community' method (with Lisbon, incidentally, the 'community' proper ceases to exist!). Such methods were at the same time ideal-types (as neither, arguably, has ever been 100 % 'pure') and based on distinct rules and procedures which have not been entirely abolished by the new treaty. On the one hand, however, already the role played by Solana as HR for CFSP was hardly a sheer 'intergovernmental' one - and so may turn out to be Van Rompuy's now. On the other, the progressive extension of co-decision has fundamentally altered the role played by the European Commission in the EU inter-institutional 'triangle', partly diluting its

original right of initiative, partly transforming it into a (much-needed) facilitator of decision-making between Council and Parliament, and partly strengthening its position in the implementation phase. As a result, EU policy-making at large is already characterised by many more than just two main patterns or modes.<sup>37</sup>

This is also why the question whether the EEAS may tip the balance in one or the other direction is ultimately irrelevant, as this article has sought to explain. In a speech recently held at the College of Europe in Bruges, German Chancellor Angela Merkel started articulating the notion of a new "Union method" - as distinct from the old 'community' one - that is bound to characterise the next phase of European integration: a method in which the Member States and their elected governments play a much bigger role and in which the new division of competences between the various institutions (old and new) drives "coordinated action in a spirit of solidarity".<sup>38</sup>

Her speech was an eminently political statement, of course, but its aim was to emphasise the growing number of common policy areas characterised by shared competences between the Union and the Member States rather than insist on a neat distinction (or polarisation) between "communitarisation" and "subsidiarity" that is increasingly inadequate to capture the quintessential 'inter-domestic' nature of current EU policy-making.

What is much more relevant than measuring the relative shares of the 'inter-governmental' and the 'supra-national' element in post-Lisbon Europe, in other words, is exploring the extent to which EU 'foreign policy', as defined here, will be affected by the developmental logic that has so far driven every new institutional player.

Indeed, the EEAS (as it is shaping up one year after the entry into force of the Lisbon Treaty) is very likely to become Cathy Ashton's fourth 'hat', i.e. a quasi-institution with its own budget, staff rules, procedures and, in perspective, *acquis* and possibly even 'culture'. This would probably go beyond what the negotiators of the treaty had in mind. But it might also end up being a blessing in disguise for the Union, as it could create a new 'policy entrepreneur' in its own right in a domain that desperately needs one.

Besides, it is already apparent that both international relations at large and EU policy-making are becoming increasingly 'presidential': the key decisions are taken by the Heads of State and Government. The formalisation of the European Council as an EU institution in its own right confirms and seals this trend, in line also with similar developments at domestic level that have weakened the traditional role of Foreign Ministers.

This, in turn, presents the Lisbon Treaty with another big test: how will relations between Presidents Van Rompuy and Barroso be played out? How and to what extent will they cooperate or compete? How will their role(s) be perceived both internally and externally?<sup>39</sup> Could the 'double-hatting' option - whereby the same personal union represented by the HR/VP is replicated also for the two Presidents (as advocated *inter alia* by some participants in the 2002-03 Convention on the Future of Europe) - become at some point in time conceivable? And, more to the point: to what extent will each of them eventually rely (or not) upon the EEAS structures?

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<sup>37</sup> See for instance H.Wallace, *An Institutional Anatomy and Five Policy Modes*, in H.Wallace, W.Wallace and M.A.Pollack (eds.), *Policy-Making in the European Union*, 5<sup>th</sup> edition, Oxford University Press, Oxford, 2005, 49-90.

<sup>38</sup> <http://www.coleurope.eu/template.asp?pagename=speeches>. Interestingly, and perhaps symbolically, the speech was held exactly on the same day (2 November 2010) and at the same time as French President Nicolas Sarkozy and British Prime Minister David Cameron announced the new bilateral agreements on military cooperation in London.

<sup>39</sup> Their recent arrangement on G-8 and G-20 summits, whereby the EU as such will be represented by a single delegation (with Van Rompuy acting as 'first' president in the former and Barroso in the latter, yet each taking the floor for his respective area of competence), is a small but constructive inter-institutional step in the right direction, although it leaves grey areas that might lead to friction in the future.

It would seem that, even with the Lisbon Treaty, the EU will probably not have a single telephone number, nor speak with one voice<sup>40</sup>. Hopefully, it will not follow a popular joke and have separate extensions for British, French and German (or any other) national foreign policy. What is crucial in getting the European act together is a common, well-functioning, Brussels-based switchboard connecting not only the two Presidents but also Catherine Ashton and the EEAS.

The new building tipped to host the EEAS at Rond Point Schuman in Brussels - at the juncture between Rue de la Loi, Avenue de Cortenbergh and Avenue de la Joyeuse Entrée - is called, with unintended pertinence, the 'Triangle'. Will it become a metaphor for the main institutional players in post-Lisbon EU "foreign policy"? And will it also become a metonym for European diplomacy - with the same fond familiarity as the Quai d'Orsay for the French or Foggy Bottom for the American ones?

But no matter how well these new institutional arrangements work, the actual influence of 'Europe' in the 21<sup>st</sup> century will be primarily determined by its economic dynamism, its share of global trade, its clout in financial matters, its access to energy and food reserves.

This is the bedrock on which it stands, and it has also been the traditional bedrock of European integration throughout the decades - the bread and butter of the continent's international standing and status to date. The new 'foreign policy' architecture is only the jam: it can make things smoother, more palatable and attractive. In and of itself, it cannot sustain Europe's place on the world stage - but it can definitely reinforce it.

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<sup>40</sup> See T.Chopin, M.Lefebvre, *Three Phone Numbers for Europe: Will the Lisbon Treaty Make the European Union More Effective Abroad?*, US-Europe Analysis Series, no.43, 6 January 2010, at [www.brookings.edu](http://www.brookings.edu).

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