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Implementing the Lisbon Treaty: The External Policy Dimension

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Implementing the Lisbon Treaty: The External Policy Dimension

by Antonio Missiroli

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Abstract:

This policy brief examines the implementation to date of the Lisbon Treaty's provisions for EU external policy, in particular the High Representative/Commission Vice President and the External Action Service. Numerous challenges inherent to the structure of the system are becoming apparent already, involving as they are complex trade-offs both between EU institutions and among the Member States. The EU's ability to act as a coherent external actor will be tested only after the new 'system' takes a clearer shape. This may take time and require adjustments along the way - while the rapid evolution of the international system and dramatic power shifts at the global level require both immediate action and strategic vision.

The domain of external relations and foreign policy is, arguably, the one most affected by the new Treaty. This is true for Lisbon's letter and spirit, but even more so for its implementation. It could even be said that its actual implementation - inasmuch as it requires additional negotiations and trade-offs, both among the Member States and between all EU institutions – could be as important as the original drafting of the Treaty text. The eventual shape of the new 'system' - unlikely to become fully visible until 2013 - will define the Lisbon Treaty's ambition to make the EU a more coherent and effective international player.

To start with, the Treaty envisages a role in this domain for the newly created *President of the European Council*. Such a role, however, is not spelt out in detail in the text (probably intentional, given the lack of consensus on the actual scope of the President's future mandate). This helped fuel the controversy which erupted in the aftermath of the eventual ratification of the treaty in the autumn of 2009, over whether the appointee should be a 'President' or rather a 'Chairman' of the European Council. Both the choice of Herman Van Rompuy and the first steps he has taken in this particular domain seem to point to an intermediate option, which will be further tested in the months to come, also in light of other developments.

Interestingly, Van Rompuy has tried so far to articulate an autonomous and original analysis of the new international environment in which the Union operates: he has especially highlighted the political effects of globalization and the challenges they

pose to Europe¹; he has sought to find his own role on the diplomatic scene, especially at summit meetings, and he has tried to spur the Member States to discussing openly and at the highest level the current state and the future of EU relations with the big global players, starting with a special European Council meeting convened for 16 September 2010.

It goes without saying that the *President of the Commission* will continue to play a crucial role in external relations, especially if the growing range of policy issues coming under that heading is considered. The realities of the 21st century make the traditional notion of "foreign policy" as just being a combination of skillful diplomacy and military force rather obsolete. For their part, such issues as climate action, financial supervision, border and migration control, and international justice have climbed ever further up the global agenda, thus conferring on the Commission new functions in the wider realm of external policies, and its President a key coordinating function - also in terms of representation in international bodies and fora. This means that the external dimension of hitherto primarily *internal* common policies (single market, JHA, environment, energy, and of course trade) may well come to represent simultaneously an enrichment and/or a complication for the new institutional 'system' created by the Lisbon Treaty.

¹ For example, in his speeches at the College of Europe (Bruges, 25 February 2010) and at the Brussels Forum of the German Marshall Fund (Brussels, 26 March 2010), available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/113067.pdf, and http://www.consilium.europa.eu/uedocs/csm_data/docs/pressdata/en/ec/113630.pdf respectively.

1. The HR/VP

Yet it is equally evident that 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, a hybrid institutional figure combining: a) the pioneering role previously played by Javier Solana as High 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 - namely, chairing the Council formation dealing with Foreign Affairs at large [artt.17-18 TEU et al.], now separate from the General Affairs Council. To these various responsibilities in the CFSP/CSDP area should be added chairing the Boards of domain-relevant agencies such as the European Defence Agency, the EU Satellite Centre, the EU Institute for Security Studies and the European Security and Defence College (ESDC).

The new *HR/VP* is, however, 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 longtime deputy, Pierre de Boissieu². Nor is Catherine Ashton - contrary to Solana - also the Secretary-General of the Western European Union (WEU), as the new Commission 'hat' made that impossible³.

² 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.

³ For WEU a pragmatic solution was adopted, whereby the Head of the residual Secretariat in Brussels, Arnaud Jacomet, has been 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.

Last but certainly not least, Catherine Ashton has a legal right of initiative in both her capacities – as HR only (in strictly CFSP matters) and/or as double-hatted HR/VP [art.22.2 TEU]. 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 Catherine Ashton accepted the European Council's nomination on 19 November 2009⁴, she probably did not realise how intractable the job description was due to become. A few months into it, she must now be aware of the urgent need to put in place a structure that will allow her to delegate administrative, operational and even representational tasks to a number of deputies (*de facto* though not *de jure*), leaving her free to concentrate on policy coordination and strategic leadership.

This is also why the establishment of the European External Action Service (*EEAS*) has taken centre stage and is bound to become the centerpiece 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. Following arrangements made after the entry into force of the Lisbon Treaty, the service is also expected to support both President Van Rompuy and President Barroso (along with the whole Commission) in their external functions.

⁴ After UK Foreign Secretary David Miliband refused 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.

1.1 Inside the College

The HR/VP is a full member of the Commission and is expected to generate policy coordination and coherence not only within the College – albeit under the control of President Barroso - but also at Directorate-General level. When the new Commission was nominated by the President (27 November 2009) and later appointed by the European Parliament (9 February 2010), this translated into conferring on Catherine Ashton a role of a *'prima inter pares'* - if anything, by virtue of her double investiture (by the European Council as High Representative and by the Parliament as COM Vice-President) - 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). The EU treaties do not allow for a formal hierarchy among Commissioners (bar the President), but Ashton's special place has been acknowledged – while Commissioner Piebalgs (the only one among them 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 also worth mentioning that the new Trade Commissioner (Karel de Gucht) was explicitly exempted from such coordination - as were other College members whose portfolios have external ramifications - 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.

Catherine Ashton is not the only VP, although she stands out as the most senior one (thanks also to her formal membership of the European Council): there are six others. So it is worth noting that the College recently (16 April) approved the creation of a series of "Groups of Commissioners", starting notably with one on external relations chaired by Ashton and encompassing 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 stage⁵.

2. The EEAS

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 whose outcome will inevitably mark the direction the EU will take in its external action in the next decade. Three paradoxes deserve 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. Thus many years were lost

⁵ The Commissioners' Groups are established to ensure good 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

without engaging in serious discussions, as 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 indeed⁶. 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 raises intricate and at times intractable problems. The main institutional players, however, had used those five 'wasted' years to consolidate, even reinvigorate their bureaucratic (red) lines of defense and resistance to change.

Secondly, the relevant provisions in the Treaty have proved to be, at the same time, too specific and too vague: too specific when the one-third rule of the thumb was laid down (whereby the EEAS should come to incorporate, in roughly equal shares, staff from the relevant Commission DGs, the Council Secretariat, and the Member States' foreign ministries), and too vague regarding the possible nature and location of the EEAS in the EU 'system'. On top of that, the array of players involved in making the relevant decision(s) is unusually wide, encompassing not only the EU-27 and the Commission (through the 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) - thus generating potholes and roadblocks rather than paving the way for progress.

collegiate deliberations, and they 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].

⁶ The resulting papers can be consulted in the Annex to Graham.Avery and Antonio Missiroli (eds.), *The EU Foreign Service: How to Build a More Effective Common Policy*, EPC Working Paper 28, Brussels, November 2007, pp. 82 ff (www.epc.eu).

The third and final paradox: a somewhat artificial deadline (30 April 2010) was set for the 'founding' Decision on the EEAS. However, while it is expected that the EEAS will be launched as soon as possible, its actual implementation and development will inevitably require constant monitoring, review and, quite possibly, further legislative and organisational adjustments within a few years. In other words, while the EEAS can only take shape gradually and as part of work in progress, its foundations must be laid down in a hurried and one-off legislative procedure. The sheer complexity of the issues to be addressed to make the service work properly demands time and adequate preparation. But, paradoxically, any major delay to its launch is likely to be seen - both inside and outside the Union - as evidence of infighting, disarray and potential failure.

2.1 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 (desirable) proximity of the new service to the Commission – with some MEPs going as far as to argue for its location within it – and on tight parliamentary control over its personnel and budget, especially regarding development aid policy. Slightly differing views were expressed on the possible full inclusion of the existing politico-military structures in the EEAS. The report was eventually adopted in the Plenary Session on 22 October 2009 by 424 votes to 94;

- on 23 October the Swedish EU Presidency, in turn, came up with its own Report, as broadly agreed upon in the COREPER (after preliminary talks at Antici Counselors' 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/VP⁷;

- 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 task⁸. 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;

⁷ 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.

⁸ Chaired by Ashton, the group encompassed the two Secretaries-General, Catherine Day (COM) 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 Council'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 the Council and the Commission.

- the following phase, from early February onwards, was characterised by the circulation of a number of draft documents (from the HR/VP-led steering group)⁹, position papers and statements (mostly from MEPs) and media articles that conveyed an impression of lingering confusion and ongoing turf battles¹⁰. The general climate was hardly helped by the Commission's unilateral appointment, on 17 February 2010, of João Vale de Almeida (a close aide to President Barroso) as new Head of the EU Delegation to Washington D.C. - an appointment that, although legally legitimate at that stage, raised loud political criticism from Member States, seen as it was as a preemptive strike;

- finally, however, the 25 March General Affairs Council produced a "proposal for a Council Decision"¹¹, subsequently followed on 26 April by some amendments that reflected the outcome of further negotiations between EU bodies and among the Member States. On the basis of this blueprint, formal consultations have been opened with the European Parliament, while the College of Commissioners is expected to approve the deal shortly.

2.2 The design

As things stood in late April 2010, therefore, the likely *chassis* of the EEAS - defined in the draft decision as "a functionally autonomous body" - would consist of:

⁹ In mid-late February, for instance, separate drafts were circulated on the "vision", the functioning and the organizational structure of the EEAS: they still presented alternative options for the most controversial points in the ongoing talks.

¹⁰ 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 Fuele, 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; www.euobserver.com; www.europolitics.info; www.euractiv.fr.

- a *sui generis* stand-alone structure, distinct from both the Commission and the Council, i.e. a "service" in its own right - whose status and *modus operandi* will be original and distinct from existing models, and whose budget will be comparable to that of an "autonomous institution" (EP permitting). The HR/VP is to be the sole "appointing authority";

- an organisational 'cockpit' encompassing the HR/VP as "appointing authority", and a sort of 'triumvirate' including: 1) an Executive Secretary-General (along the lines of most national foreign ministries), in charge of key 'horizontal' and management functions¹², flanked by two main deputies: 2) one would be a Managing Director for Political Affairs, with hands-on responsibility for the CFSP/CSDP domain; and 3) the other would be in charge of the various geographical desks (and would probably come from the ranks of the Commission). Still, within such a 'cockpit' no formal hierarchy would be established (although the Executive SG would act as a 'primus inter pares', for instance by deputising for Ashton in her absence. In turn, the HR/VP would form a sort of "corporate board" encompassing not only the members of the 'triumvirate' but also the PSC Chairperson (who, according to art.38 TEU, must be a representative of the HR) and her Head of Cabinet;

- officials from the Council Secretariat (especially DG E) and the Commission (in particular DG RELEX), who will maintain their status and privileges, and diplomats from the Member States - whose eventual share is expected to amount to "at least" one

¹¹ http://eeas.europa.eu/docs/eeas_draft_decision_250310_en.pdf

¹² 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 - typical for instance of the Quai d'Orsay - with an all-powerful administrative figure at the top.

third of all AD levels by 2013 - selected on the basis of their competence while also maintaining the principle of "the broadest possible geographical balance"¹³ and, to a lesser extent, some "gender" balance. All EEAS officials will serve under the same rules and obligations. For the latter component, however, tours of duty in the service should not in principle exceed two four-year terms. In the initial phase (until 2013) recruitment will take place only from within the ranks of the three 'founding' components, whereas after this date also other officials and experts (including from the EP) will also be entitled to apply;

- an additional number of officials to be recruited on a shorter-term basis as "seconded national experts" (SNEs) but not included in the one-third quota reserved to the Member States - as well as an unspecified number of "special envoys", likely to replace the current "Special" and "Personal" Representatives of the HR - but still without a well-defined profile and position inside the EEAS [art.33 TEU]. These, in particular, may or may not be also 'double-hatted' as Heads of Delegations abroad, following a couple of recent precedents;

- the 136 EU (formerly EC) Delegations in third countries and international organisations, whose Heads will be directly accountable to the HR/VP [artt.32, 35 TUE] and her 'triumvirate'. While a single chain of command is expected to be in place in each Delegation, further arrangements are likely to be hammered out regarding the position of those officials belonging to Commission DGs, such as Trade, that are not under Ashton's coordinating authority, and who have (and may wish) to receive separate instructions

¹³ This means that the staff will comprise "a meaningful presence of nationals" from all Member States, although formal country quotas will not be discussed or negotiated.

flowing down from their direct Brussels hierarchy. Finally, especially after the controversy over the Delegation to the US, transparent and collectively acceptable criteria will have to be agreed for top appointments in key third countries.

2.3 The unknowns

It also remains to be seen the extent to which the general principle, set at the beginning, of 'single' geographical desks unified within the EEAS will be met in practice, as a number of exceptions have already been made. This may also have an impact on the overall size of the EEAS, which is not mentioned anywhere (yet). While tentative figures circulated by the media stretch from 2 000 to 8 000, eventual numbers will of course depend also on available budgetary resources as well as on whether, for instance, local staff in the Delegations is included or not. Both the size and figures will become much clearer, however, only when the EEAS reaches "cruising speed". The official deadline for that has now become 2013, which incidentally coincides with the expiry date of the current EU Financial Perspectives (2007-2013).

What is not clear at this stage is exactly which departments of the Council Secretariat-General and the relevant Commission DGs will be transferred – however gradually – to the EEAS. The original thrust of the 25 March blueprint seems to have been diluted significantly after additional talks with the Commission and in anticipation of the EP (non-binding) opinion. As a result, chunks of DG Enlargement, DG External Relations and DG Development may remain where they are, while the entire policy area covered by Commissioner Georgieva (including ECHO) would seem destined to stay out

of the EEAS proper. This could eventually also be the case for the management of external cooperation programmes.

Last but not least, some tricky issues still have to be resolved regarding the actual exercise of supplementary consular functions by EU Delegations in third countries¹⁴ and the functioning of the new system (once the rotational Presidency system is entirely done away with) in international organisations, an area in which the presence and status of the EC/EU vary significantly and are now further affected by the legal personality acquired by the Union [art.47 TEU]. In this respect, some common principles (and possibly also codes of conduct) may have to be established and implemented in order to overcome the array of different situations currently in place - even though a degree of gradualism looks inevitable¹⁵.

At any rate, both the EU institutions and the Member States should bear in mind that, when all is said and done, the strategic rationale and ultimate ambition behind the establishment 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 EEAS is meant to become also an instrument for the cross-fertilisation of foreign policy-making across the EU and the inter-changeability between national and European administrations.

¹⁴ Some Member States appear now lukewarm on principle and/or reluctant to mobilize additional (human and financial) resources to that end – despite the commitments made at the outset.

¹⁵ Arguably, the most intricate case in the patchwork of arrangements in this domain is the United Nations, where the EU as such is considered an international organisation in its own right: as a consequence, each enhancement of its status is seen as a precedent also for other regional groupings (e.g. the Arab League). Even there, however, the previous EC Delegation recently merged with the Office of the Council Secretariat created a few years ago and was put under a single Head, now double-hatted (Ambassador Pedro Serrano). An *ad hoc* arrangement with the Spanish EU Presidency, the other Member States represented on the Security Council and the UNSC Chair allowed Catherine Ashton to take the floor there

2.4 The challenges

This highlights a further paradox of the current situation. In fact, while all the preparatory documents insist equally on both the one-third rule and the principle of budgetary "neutrality" for the EEAS, it is quite evident already at this stage that the two are hardly compatible one with the other. If one looks at the rough figures on the relative size of the three main components of the service, DG Relex and the Commission Delegations far outnumber the relevant staff from the Council Secretariat (the ratio is in the region of 5:1 or higher), whereas the arrival of a comparable number of diplomats from the EU-27 would put unbearable pressure on the current budget.

There are, however, huge imbalances also among the member states - in terms of both quantity and quality of eligible personnel. The pool of available officials varies enormously between, say, Germany and Malta, and so does their level of experience and expertise. As a result, the procedure of selecting national diplomats 'fit for the service' is likely to be subject to innumerable variables and pressures. And this will prove particularly tricky especially in the start-up phase, when differences in background, culture, approach and also incentives - not only amongst the EU-27 but also between them and EU officials - will be biggest. Over time, as the EEAS develops and grows, such imbalances and differences are expected to narrow. Common training¹⁶ and rotation on the job will contribute to reducing them further.

on 4 May on behalf of the EU - perhaps not an absolute premiere in practical terms (Javier Solana had done that on a number of occasions in the past), but certainly one for the HR/VP and the Union per se.

¹⁶ Here, too, the European Parliament has been pushing for the creation of a sort of European Diplomatic Academy – and has encountered strong opposition from both the Commission and the Member States, especially those keen on preserving or even enhancing their national 'champions' in this domain. It seems therefore likely that, at least in the initial years, the example of the ESDC may be followed, with specific

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 2012, and a more substantial and stringent review (possibly leading to a new decision) by the end of 2013 at the latest – also within the context of the new Multi-Annual Financial Framework.

Furthermore, any initial decision cannot 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 structure and its procedures in the months to follow.

All this, however, contributes to highlighting the crucial role that formal talks with the European Parliament play in the eventual delivery of the decision and the actual launch of the EEAS. Formally speaking, the EP has co-decision rights only on such aspects as the budgetary procedures and the staff regulations – plus, of course, an overall say on the budget. In principle, therefore, the decision could be taken by the General Affairs Council (unanimously), chaired by the rotating Presidency, with the collegial consent of the Commission and after simply "consulting" the Strasbourg Assembly. In practice, however, the EEAS can take off only after a comprehensive inter-institutional compromise - and the EP has made it clear that it must be a package deal.

This is why additional and thorough negotiations with the parliamentary party group and committee leaders are required, thus not only postponing the finalization of the Council Decision per se, but possibly also affecting its overall design. In fact, different

modules being offered by different national and also EU centres (such as the College of Europe in

positions have emerged among MEPs over time, and it is difficult to guess what the terms of a final deal may be. It seems plausible, however, that the Council Decision will be formally adopted before the summer break and the remaining regulations not long thereafter, thus permitting the launch of the EEAS and the appointment of its top officials within a year from the entry into force of the Treaty...

All of this only goes to show, however, how similar the role of the EP in the new EU system is becoming to that of Congress in the US, and how transparency and legitimacy may not always (or necessarily) rhyme with efficiency and consistency. The launch and development of the EEAS, in other words, will probably occupy the entire term of *all* the new post-Lisbon institutions - Parliament included - and possibly turn into the most important test of their success.

3. The new system

Apart from and beyond the EEAS set-up, a number of political and functional unknowns still linger over the new external action 'system' created by the Lisbon Treaty. As already mentioned, some have to do with the internal functioning of the Commission and the overall scope of the Union's external action. Some others have to do with personalities, i.e. whether Van Rompuy, Barroso and 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.

Bruges/Natolin and the European University Institute in Florence) on a rotational and 'virtual' basis.

There are unknowns regarding the foreign ministries of the Member States, who will be confronted with new challenges in terms of both influence and staffing. Some of them will face up to painful dilemmas: should they send "the best and the brightest" to the EEAS or keep them, and with what incentives in either case? All of them will have to be offered terms of engagement conducive to making them responsible stakeholders in the new system. This will of course not apply only to the institutional set-up: as such 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 shaping and implementation) unless the Member States 'buy' into the new system politically.

Some additional problems may still lie 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 overall external action. Moreover, a 'niche' role may have to be devised - whether on an *ad hoc* basis or more systematically - for the Prime Minister (occasionally 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 renegeing on the political rationale that led to the new Treaty provisions in this domain¹⁷.

¹⁷ The Foreign Minister could for instance - the possibility has already been floated and partially tested during the Spanish Presidency - deputise for the HR/VP whenever her agenda makes attending a given event impossible. If turned into a formal rule, however, this could give the impression that the 'old' system is still in place. On the other hand, it is already accepted that such 'deputisation' is appropriate in the European Parliament whenever matters related to CFSP proper - as distinct from former EC matters, for which the relevant Commissioner would be called upon - are discussed.

For its part, the European Parliament will inevitably become a more important institutional player in external action and foreign policy at large. Not only will it set conditions on the establishment of the EEAS proper, but it will also try to have a bigger say on expenditure, appointments and policy guidelines. Its clout in neighbouring policy areas has also increased, be it internal security (as the dispute over i.a. SWIFT has proved), 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 this is transforming the assembly into a sort of "EU Congress", with all the repercussions that this could have in terms of inter-institutional relations and policy-making.

3.1 Tests and trends

In terms of policy, it is still unclear how the CSDP (formerly ESDP) dimension of the Union's external action will 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 organisation as an indirect consequence of the entry into force of art.42 TEU, which enshrines a qualified mutual defence clause¹⁸.

While most new articles basically envisage initiatives and developments that have already been launched and implemented ahead of the entry into force of the Treaty -

¹⁸ The decision was floated by the Dutch government already in 2003, 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.

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 EDA [art.45], created already in 2004 – the scheme envisaging "permanent structured cooperation" 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. In all likelihood, much will depend on the prevailing views in Great Britain – without whose full engagement and commitment CSDP would be hard to pursue effectively, both politically and functionally.

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 external action: within CSDP, between its civilian and military spheres; within CFSP, between diplomacy and crisis management proper; and, more broadly, between all the various levers and instruments of "foreign policy" the Union has, in principle, at its disposal.

A key test of the post-Lisbon system will indeed be the actual functioning of these new 'hybrid' structures and figures, starting with the HR/VP and the EEAS. Such *'hybrid-isation'* represents the biggest innovation in the Treaty and, arguably, also its hardest ordeal. Failure to produce significant added value or, worse still, an increase in personal and bureaucratic infighting at the top would cast a gloomy shadow over the Union's international image and action and would also have negative repercussions on the broader EU internal political and institutional climate. Conversely, if the new system proves capable (over time) to improve on the effectiveness and also legitimacy of the

Union on the international stage, the 'hybrid' model could well be extended, both downstream and upstream.

This may also have a bearing on the highest level of the Union's system. It is already apparent that both international relations at large and EU policy-making are becoming increasingly 'presidential': the key decisions are taken by Heads of State and Government, in line also with developments in domestic politics. '*Brussels-isation*' and '*Presidentialisation*' are the other main trends that could possibly characterise European policy-making in the years to come. This is why another big test for the Lisbon Treaty in this domain will be the interplay between the two Presidents, Van Rompuy and Barroso: the way in which they will cooperate and/or compete; the way in which their role(s) will be perceived both internally and externally; and the extent to which they will rely (or not) upon the EEAS structures.

4. The new environment

This said, the real test will probably come from outside the Union. The new Treaty and the resulting structures are only a necessary but still insufficient condition for a more effective external action of the EU. Their impact on the system remains difficult to assess in full, yet their implementation will not occur in a vacuum: it will be significantly influenced and shaped by external challenges.

Last December's Copenhagen fiasco (all the more painful as the EU presented itself as a global leader in tackling climate change) and the emergence of the so-called

BASIC powers; the broader difficulties encountered by multilateralism in several domains, including trade and disarmaments; and the recent troubles in the Euro zone itself have all highlighted a simple fact: in global terms, the European continent is in relative decline, geopolitically as well as economically. Events and developments are increasingly shaped elsewhere and often not in line with 'old' Europe's interests and values. As a result, both the Union as a whole and its individual Member States (including the bigger ones) risk marginalization and irrelevance.

Paradoxically, after fostering interdependence as a peace project (such was the essence of European integration over the past half century), the EU now feels vulnerable to interdependence at the global level. Interdependence, however, exists not only between different areas of the world: it is growing also between policy issues, both within and across regions. Action against climate change cannot be effectively coordinated worldwide without addressing trade-related problems. Regulation of financial markets in one country (or continent) is virtually impossible and, at any rate, requires reforming the existing international financial institutions. Migration flows cannot be governed without adequate development and human security-related policies. Nuclear non-proliferation initiatives need to be credibly linked to more forward-looking global approaches to energy security. And durable peace cannot be guaranteed without justice and reconciliation.

In other words, external and foreign policies are no longer what they used to be, nor are they neatly separable. For their part, the existing international institutions seem incapable of connecting all the dots: multilateral bodies are too specialised and too fragmented. The WTO 'does' trade; various UN agencies and the World Bank 'do'

development; the IMF 'does' finance; the UNSC 'does' peace and security; the IAEA 'does' non-proliferation; the ailing G-8 and the fledgling G-20 'do' this and that, but nothing decisively - yet.

Furthermore, in virtually all these bodies and fora, Europeans are largely *over*-represented (especially in light of recent economic trends and political developments) and, more often than not, *under*-performing. They make for one third of the UNSC (two permanent plus three non-permanent seats), one third of the G-20, and one third of voting shares in the IMF, i.e. almost twice as much as the US and ten times as China (taken together, the euro zone countries alone have nearly one fourth, and are still represented individually also on the IMF Board). This hardly reflects the current balance of power in the world, even less its foreseeable evolution in the years to come. And such mismatch contributes to weakening the same multilateral system the EU claims to be so attached to, as most emerging powers - including large democracies like India, Brazil or South Africa - no longer accept its current set-up.

4.1 Less Europeans, more EU

A more effective 'Europe' in the world needs the Lisbon Treaty as its starting point. Yet a more effective multilateral system needs fewer Europeans and more EU: in order to retain (or regain) its influence, Europe must streamline its presence. This is not simply a matter of quantity but also of quality, and it requires sensitive and sensible trade-offs both inside and outside the EU. The Lisbon Treaty provides some building blocks, and the HR/VP and the EEAS are important cornerstones of the new edifice. Ultimately, however, it is the very nature of the Union that allows it, in principle at least,

to connect the different dots and operate across an increasingly multi-faceted policy board – but only if (and it is a big 'if') its leaders fully realise that "*l'Union fait la force*".

The recent arrangement between Barroso and Van Rompuy on G-8/G-20 summits – whereby the EU as such will be represented by a single delegation¹⁹ – is a small inter-institutional step in the right direction and could pave the way for bigger and bolder ones in other international bodies.

In fact, even with the Lisbon Treaty, the EU will probably still not have a single telephone number or speak with only one voice. Yet a common, well-functioning, Brussels-based switchboard (connecting also Catherine Ashton and the EEAS) will be of crucial help to the Europeans getting their act together and, possibly, contributing to the shape of a better international system in line with the emerging realities of the 21st century.

¹⁹ Each will speak on matters pertaining to his own legal and political competence. In principle, therefore, Van Rompuy is expected to be 'first' President in the G-8, while Barroso continues being spokesperson for issues falling under Commission competence in the G-20. In terms of protocol, Van Rompuy is considered a Head of State. As such, he receives - though more out of accepted practice than actual design - the accreditation letters of new third-country Ambassadors to the EU. On the other hand, the accreditation letters of Heads of EU Delegations abroad (once these have been 'appointed' by the HR/VP) are to be signed by both Presidents.

Bibliography

Avery, Graham and Antonio Missiroli (eds.). The EU Foreign Service: How to Build a More Effective Common Policy, EPC Working Paper 28, Brussels, November 2007, (www.epc.eu).

Council of the European Union, Presidency report to the European Council on the European External Action Service, 23 October 2009,
<http://register.consilium.europa.eu/pdf/en/09/st14/st14930.en09.pdf>

Council of the European Union, 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

Van Rompuy, Herman. Address to the Collège d'Europe, , "The Challenges for Europe in a Changing World", Bruges Concert Hall 'tZand , 25 February 2010,
http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/113067.pdf

Van Rompuy, Herman. Dinner remarks at the Brussels Forum of the German Marshall Fund, "Transatlantic Responses to Global Insecurity", Conrad Hotel, Brussels, 26 March 2010,
http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/113630.pdf

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