

EU DIPLOMACY AFTER LISBON: INSTITUTIONAL INNOVATION, DIPLOMATIC PRACTICES AND INTERNATIONAL STRATEGY

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Abstract

This paper analyses the institutional changes to European Union diplomacy constituted by the Lisbon Treaty and the creation of the European External Action Service. These changes were meant to solve serious problems of horizontal and vertical incoherence in EU diplomacy that were caused by the network organization of EU diplomacy and the divide between supranational and intergovernmental policy areas.

The approach is based on three separate analytical dimensions. The first focuses on the reorganisation of the decision-making and policy-planning structures in Brussels, where particularly the new double-hatted post of High Representative and Vice-president of the Commission represents a watershed in EU internal coordination. Secondly, the constitution of the network of EU actors that act internationally is analysed, with special attention given to the now even more central role of the EU Delegations to third states, around which EU diplomatic representation has been streamlined. The picture is more muddled with respect to the EU's participation in international organisations, with the main obstacles to a more coherent EU diplomacy remains: The clash between the EU's non-state nature and the internal law of international organizations. Thirdly, it is argued that the recent institutional changes are indicative of a strategic shift in EU diplomacy, away from traditional transformative objectives of a structural nature and towards the consolidation of a more traditional Westphalian paradigm of the defence of interests in competition with other actors.

Keywords: *European Union, European External Action Service, Diplomacy, Lisbon Treaty*

1. Introduction

Although political disagreement among Member States continues to be the key restriction to an effective EU international role and, in consequence, to its diplomacy towards third states, it is necessary to distinguish disagreement over the political content of EU foreign policy from disagreement over the organization of the EU as a diplomatic actor and the decision-making procedures in different policy areas. When there is no agreement on the political content of EU foreign policy, the organization of diplomacy matters little, since there is no common political position to represent. In contrast, when in the EU there is an increasing political agreement on foreign policy content, including an ever stronger perception that the EU should be acting on behalf of its Member States, the organization of its diplomacy becomes vital to effectively represent the existing political agreement. With the acceleration of the integration process after the 1980s, the increasing political agreement within the EU could not be translated into effective international agency because there was no clarity about who should act in which areas, a fact which has led to bureaucratic turf wars and

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unproductive internal ideological debates.¹ This way, the establishment of the EEAS and the associated institutional innovation contained in the Lisbon Treaty can be seen as a logical consequence of increased political agreement within the EU over foreign policy substance, in particular the necessity making the EU an effective international actor.

Furthermore, the recent institutional innovations contain the provisions for the establishment of a feedback loop, in the sense that intensified cooperation in the new structures will imply a socialization of EU officials and Member State representatives that will contribute to strengthening and generalising the perception of the necessity for EU action as well as general political agreement. To the extent that the EEAS is perceived as successful and a good representative by the Member States, whether in negotiations with Iran over its nuclear programme or in the daily management of relationships with Russia and China, this will in itself also contribute to a greater consensus on the necessity for concerted EU action. The question of the reorganisation of EU diplomacy is therefore also about the identity and nature of the EU as a political entity as well as the status of its Member States as sovereign states.

The question of EU diplomacy is this way also relevant to broader questions about the contemporary transformation of diplomacy and the sovereign nature of the states. As a *sui generis* post-modern political form² characterised by flexibility and uncertainty,³ the EU is a non-state and non-sovereign international actor, radically different from the Westphalian state, which means that EU diplomacy cannot be assumed to share important characteristics with state diplomacy. With the Lisbon Treaty and the establishment of the European External Action Service (EEAS), the EU has arguably undertaken the most significant reorganisation of its diplomacy since the beginning of the process of European integration. Apart from the direct impact of institutional changes, another important question thus becomes whether the institutional innovations mean that the EU is adapting its international strategy to become more state-like as an international actor, or whether its diplomacy retains its unique post-sovereign and networked nature.

This paper starts out by briefly considering the state of EU diplomacy before the Lisbon Treaty, to identify the problems inadequate performance that motivated the changes culminating with the creation of the EEAS. The third section will consider the central administration of EU diplomacy by the institutions in Brussels, whereas the fourth will consider EU diplomacy on the ground in third states and in international organisation. The fifth section will contain an interpretation of EU diplomacy and the changes that the Lisbon Treaty and the EEAS represent in the EU's overall international strategy. The final section 6 contains the conclusions of this study.

2. EU diplomacy before Lisbon: The need for reform

To understand the present configuration and functioning of the European Union as a diplomatic actor it is important to note that this the phenomenon of the EU diplomacy is by no means new but can be understood as the result of the political process that has developed over several decades and the gradual change in the attitudes of the Member States towards the

¹ P. Andrés Sáenz de Santamaría, "Proceso de decisión y equilibrio institucional en la acción exterior europea", in F. M. Mariño Méndez (ed.), *Acción exterior de la Unión Europea y Comunidad Internacional*, Madrid, Universidad Carlos III de Madrid and Boletín Oficial del Estado, 1998, pp. 85-112.

² Expression of Ruggie analysed in more detail by B. Rosamond, *Theories of European integration*, Basingstoke, Macmillan, 2000, p. 111.

³ According to Heartfield, the EU can be characterised as a process without a subject. J. Heartfield, "European Union: A process without subject", in C. J. Bickerton *et al.* (eds.), *Politics without sovereignty: A critique of contemporary international relations*, New York, UCL Press, 2007, p. 131.

global actorness of the EU.⁴ Probably the most important event prior to the formal establishment of the EEAS occurred when the project to create a European Defence Community was finally abandoned in 1954. This nodal point in the history of European integration effectively excluded security and defence matters from the agenda of European integration until the end of the Cold War and meant that bifurcation of the foreign policy of the EU and its institutional predecessors, where economic matters fell under community competence, whereas 'political' matters and those with defence implications were excluded from community action institutionalised as the first and second pillars of EU, respectively, with the Maastricht Treaty in 1993. This bifurcation means that the EU institutions have different roles and make decisions by different procedures depending on the policy area, with the second pillar continuing to be based on consensus. This bifurcation continues to be the most notable characteristic of the EU as an international actor, together with the coexistence of EU foreign policy and diplomacy with parallel activities of the individual Member States.

The persistence of this differentiated integration across policy areas means that EU foreign policy and diplomatic representation is inherently complex and that the roles and forms of interaction among the different EU institutions vary with the political issue area. This has given rise to serious problems of horizontal coherence in EU foreign policy (between the activities of different institutions and between different policy areas), as rivalry between especially the Commission and the Council Secretariat has been inevitable.⁵ Furthermore, this lack of coherence has not been helped by the lack of precision in the EU treaties on the precise competences of each institution as for foreign policy and diplomatic representation.

Apart from the problems of horizontal coherence that have always plagued EU diplomacy to the extent of constituting a serious impediment to the impact of its foreign policy, another principal obstacle to achieving global influence is undoubtedly the combination of a lack of wide-spread agreement on foreign policy issues, coupled with a decision-making procedure in the area of the second-pillar issue areas of the CFSP and CSDP based on consensus. As the individual EU Member States retain full competences in traditional foreign policy and security matters. This means that any EU foreign policy coexists with the 28 individual foreign policies of the Member States, and the scene has thus also been set for serious problems of vertical coherence, i.e. between EU-level policies and those of individual Member States. Furthermore, when consensus is the decision-making procedure, the EU can only formulate and implement a foreign policy if there is agreement among all Member States, which has resulted in many instances of EU inaction on the ground and only vague political statements with which it is nearly impossible not to agree, particularly on some of the most controversial topics.

All the actors involved in the formulation of EU foreign policy and its execution through diplomatic activities, both EU institutions and Member States, are obliged to cooperate, consult and coordinate their activities. Still, this has not been enough to avoid that, taken as a whole, EU diplomacy has been characterised by both horizontal and vertical incoherence with the effect of generating internal power struggles and confusion on the part of third states. According to the Commission, this organization of EU diplomacy has meant a significant loss of visibility of EU action as well as of direct political influence,⁶ and good personal relations between the High Representative (representing the Council in matters of the

⁴ Keukeleire et al. convincingly argues the necessity of understanding EU diplomacy in this context, S. Keukeleire *et al.*, *The emerging EU system of diplomacy: how fit for the purpose?*, Policy Paper, n° 1, Jean Monnet Multilateral Research Network on 'The Diplomatic System of the European Union', 2010.

⁵ G. Edwards and D. Rijks, "Boundary problems in EU external representation", in Swedish Institute for European Policy Studies (ed.), *Institutional competences in the EU external action: Actors and boundaries in CFSP and ESDP*, Stockholm, Swedish Institute for European Policy Studies, 2008, p. 30.

⁶ European Commission, *Europe in the world - some practical proposals for greater coherence, effectiveness and visibility*, 2006, COM (2006) 278.

Common Foreign and Security Policy (CFSP) and the Relex Commissioner (representing the Commission and the foreign policy areas of its competence) have been central in avoiding even greater problems of incoherence.⁷

Apart from these general problems of political coherence, the *sui generis* construction of the EU as an international actor has also had a negative impact through the representation of the EU in third states and in international organizations. The rotating Presidency of the Council meant that every six months, a different EU Member State would represent the EU in the exterior in areas of the CFSP, whereas the Commission Delegation would represent the EU in other areas, a problem identified both the EU and third states.⁸ This has given rise to several problems, the first of which being the lack of clarity on which person legitimately represents the EU in a third state: The Commission or the Presidency? Of course, a third state cannot be expected to understand the intricacies of the international distribution of competences between EU institutions and Member States. Another problem was caused by the rotating nature of the Presidency of the Council. In this case, the EU was represented by a new Member State every six months, with the negative effect that this has on political continuity and the creation of personal relationship with officials of the host state. A partial solution to the problem of continuity was found with the troika formula of the previous, present and future presidencies. Nevertheless, this did not solve the related problem of the EU position being represented sometimes by Member States with very little political weight. An important aspect of diplomatic communication has to do with the rank of the representative sent, and for some third states it was perceived as a lack of interest or a negative message that the EU would send small Member States to represent the Union, as occurred during crisis in Yugoslavia in 1991, where the EU presidency troika was constituted by the Netherlands, Luxemburg and Portugal.⁹ This is probably one of the clearest example of where EU external action suffered not by a lack of political agreement and complex internal organization, but because of its diplomacy. The deception and anger cause by the diplomatic mission of the EU was not caused by the content of its proposals, but by the perceived lack of respect shown by the EU by sending persons considered to be low level and without political weight. To offset the negative effects of the rotating Presidency, the post of High Representative was created and occupied by former Spanish Foreign Minister and NATO Secretary-General Javier Solana. This only solved the problem partially, since in many cases, representatives of third states would still prefer to speak directly to the ambassadors of the United Kingdom, Germany or France. The reality remains that any EU representative can only represent a common EU position when this exists, and that while it is being negotiated, or if the Member States can only agree vague political statements, the relevant interlocutors for third states will continue to be the representatives of the EU Member States with the political determination and economic, military and diplomatic capabilities to act decisively and forcefully. If the new EEAS and the increased powers of High Representative Catherine Ashton will ultimately solve the problem thus also comes back to the ability to create a real policy behind the diplomatic activities, if not the High Representative will continue to fall victim to the lack of convergence of EU Member State interests.

To sum up, due to the nature of the EU as a non-state actor and its complex organization in a network of actors characterised by diffuse structures of authority and a lack of clarity, EU diplomacy has been characterised by a number of problems, to which only partial solutions had been created. So with respect to the diplomatic representation of the EU, an ever stronger perception gradually arose among academic analysts and EU officials that the

⁷ N. Fernández Sola, *El Servicio de Acción Exterior de la Unión Europea*, Working Paper 46/2008, Madrid, Real Instituto Elcano, 2008, p. 3.

⁸ N. Fernández Sola, *op. cit.*, p. 2.

⁹ N. Fernández Sola, *op. cit.*, p. 2.

system had functioned poorly for years and that to continue along the same path was ever less feasible.¹⁰ The phrase that came to dominate the discourses of the Council and the Commission¹¹ was the “need to speak with a one voice” in the world, a concern that has also been reflected in the academic doctrine. The confusion of third states due to the multiple representation¹² seemed to suggest that the requirements to coordinate and cooperate established in the Treaties was no enough to ensure coherence and that it was necessary to reduce the complexity in terms of the number of different actors involved in EU diplomacy.

Furthermore, due to more general processes of economic, political and social globalisation, ever more issue areas are the topic of diplomatic interchange and these are ever more interlinked, a fact which in itself had made the complex network organization of EU diplomacy less adequate and thus created an isomorphic pressure upon the EU to adapt more conventional forms of diplomatic representation in an international system that, although undergoing transformation, at its core remains based on the Westphalian state as a form of political organization. Also, the internal development of the EU as a polity has constituted a source of the isomorphic pressure to create a diplomacy that resembles the classical Westphalian state diplomacy to a greater extent. The EU has competences in ever more issue areas, and decisions are increasingly made by intervention of the European Parliament and majority voting in the Council. With more competences and more decision-making capacity, a more efficient form of diplomatic representation also seemed in order. These isomorphic pressures can also be conceptualised in terms of a gap between the expectations placed upon EU external action and its ability to deliver results, a phenomenon that is widespread among EU officials, third states and academic analysts.¹³

In the rest of the paper, I shall examine the answer of the EU to these perceived problems and weaknesses, i.e. the institutional innovation in the Lisbon Treaty and, particularly, the creation of the EEAS.

3. Institutional innovation: The reorganisation in Brussels

The Lisbon Treaty affirms that the EU is a political entity with legal personality.¹⁴ This reduces considerably the legal complexity of entering into international agreements. The Treaty explicitly states that the international agreements to which the EU is party creates obligations for both the EU institutions and its Member States.¹⁵ Whereas such a unilateral declaration does not itself change the nature of the agreements that the EU has with third states and international organizations, the disappearance of the European Communities as a legal subject differentiated from the EU and its Member States undoubtedly also increases the political visibility of the EU. In effect, the EU can now enter into international agreements spanning all the issue areas of the former three pillars, and the previously used formula of signing international agreements as “The European Communities and its Member States” could be scrapped. The practical implications of the changes should not be overestimated, since the principal limitation on the EU’s ability to conclude international agreements, before

¹⁰ S. Duke, “Providing for European-level diplomacy after Lisbon: The case of the European External Action Service”, *Hague Journal of Diplomacy*, vol. 4, no. 2, 2009, p. 213.

¹¹ C. Portela, “El Servicio Europeo de Acción Exterior: un instrumento para reforzar la política exterior”, in A. Sorroza Blanco (ed.), *Presidencia Española: retos en una nueva Europa*, Madrid, Elcano, 2010, p. 122.

¹² S. Duke, “Providing for European-level diplomacy...”, *op. cit.*, p. 212.

¹³ B. Becerril, “Un paso más hacia una diplomacia común europea”, in A. Sorroza Blanco (ed.), *Presidencia Española...*, *op. cit.*, p. 149. The concept of a gap between the capabilities and expectation was introduced by Christopher Hill, see C. Hill, “Closing the Capabilities-Expectations Gap?”, in J. Peterson y H. Sjursen (eds.), *A Common Foreign Policy for Europe: Competing Visions of the CFSP*, London, Routledge, 1998; C. Hill, “The Capabilities-Expectations Gap, or Conceptualising Europe’s International Role”, *Journal of Common Market Studies*, vol. 31, no. 3, 1993, pp. 305-328.

¹⁴ TEU (Lisbon), art. 47.

¹⁵ TFEU (Lisbon), art. 216.

and after the Lisbon Treaty, derives from the need for internal political agreement among EU institutions, including approval by the European Parliament, and consensus among Member States, depending on the nature of the agreement and the political issue area.¹⁶ Still, the subject status of the EU in the international system is consolidated and on the symbolic level further contributes to strengthening the identity of the EU as an influential international actor. The fact that the European Atomic Energy Community (Euratom) continues to exist as a separate legal subject means that also with the Lisbon Treaty the EU has two distinct international legal personalities, which reduces clarity as for the precise definition of the EU as an international actor. Nevertheless, due to the low visibility and level of international activity of Euratom, the conclusion remains that the Lisbon Treaty significantly simplifies the existence of the EU as an actor in the international system from a formal point of view, with the practical political implications being more difficult to estimate.

Another important aspect of the EU's legal personality is the transformation of the Delegations of the Commission in the exterior into European Union Delegations, representing the EU across all policy areas, with a European External Action Service being not only responsibly for the representation of the EU through the Delegations, but also the hub of EU foreign policy decision-making in Brussels. Rather than the change in the legal status of the Union, the impact of this institutional revolution will probably be much greater, since it streamlines not only the diplomatic representation of the Union, but also creates new structures of interaction between diplomats and policy-makers that allows for the intensification of socialization processes to occur, thereby helping the gradual emergence of greater convergence among EU officials and Member State diplomats and policy-makers with respect not only to the specific political content of EU diplomacy in narrowly defined issue areas, but also more generally with respect to the identity of the EU and the causal ideas upon which its international agency is based. The rest of the paper will therefore focus on the organizational changes and their impact on EU diplomacy more generally, rather than the legal issues.

An important motivation behind the Lisbon Treaty was to offset the problems of horizontal and vertical coherence in EU diplomacy and thereby strengthen the EU as an international actor. In this vein, the Treaty sought to eliminate the pillar structure, an important source of the EU's coherence problems, but although the pillars formally disappear, the exercise was not entirely successful.¹⁷ The Lisbon Treaty creates a single institutional framework for EU external action, with important consequences for its diplomacy, but with respect to the decision making in the CFSP area, the former second pillar of the Union remains differentiated from the rest. It also modifies the general equilibrium between the EU institutions, generally expanding the influence of the European Parliament through the extension of the decision-making procedure formerly known as co-decision, which has now been renamed the ordinary procedure, where it is equal to the Council when approving the proposals of the Commission.¹⁸ Another important factor representing another advancement in the integration process is the extension of Council majority voting to more issue areas, fundamentally leaving consensus-based decision making to foreign and security policy. Whereas these general changes should not be disregarded, a principal conclusion is that the bifurcation of EU external action continues to exist as for the decision making, although it has been substantially modified with respect to the diplomatic representation of the EU in the exterior, as will be analysed in section 4 of this paper.

¹⁶ TFEU (Lisbon), art. 218.

¹⁷ W. Wessels and F. Bopp, *The institutional architecture of CFSP after the Lisbon Treaty - Constitutional breakthrough or challenges ahead?*, Challenge Research Papers, no. 10, Brussels, Centre for European Policy Studies, 2008, pp. 2-3 y p. 10.

¹⁸ C. Gutiérrez Espada and M. J. Cervell Hortal, "El Tratado de Lisboa y las instituciones (no jurisdiccionales) de la Unión", in C. R. Fernández Liesa and C. M. Díaz Barrado (eds.), *El Tratado de Lisboa. Análisis y perspectivas*, Madrid, Dykinson, 2008, p. 171.

Interestingly, the Lisbon Treaty contains only a few general notions on the organization and functioning of its main institutional innovation, namely the creation of the European External Action Service as an autonomous body of the EU, leaving the details to be worked out in later negotiations and decisions by the European Council. In the following subsections, the focus will be on the changes in the individual EU institutions that are most relevant for assessing the changes in EU diplomacy.

3.1 The European Council

The Lisbon Treaty contains a number of innovations with respect to the European Council. It is formally made an Institution of the EU, but more importantly, the High Representative participates in its meetings. This creates a direct link between the institution where the Member States are represented at the highest level with the head of the EEAS. As such, the strategic direction that the European Council is to provide counts with the input both of the High Representative and the President of the European Commission, although neither votes, and there is an opportunity for a formal exchange of ideas between Member States and the EU representative. More importantly for EU diplomacy, the Lisbon Treaty creates the post of a permanent President of the European Council, with a mandate of two and a half years and occupied by Herman van Rompuy. Although an important effect of the permanent President is undoubtedly internal with respect to the management of the functioning of the European Council,¹⁹ there is also an impact on EU diplomacy.

With a permanent President setting the agenda and drafting policy statements, the European Council is less likely to be biased towards the foreign policy interests of the Member State holding the rotating presidency, and as such the institutional innovation should provide greater continuity. This effect is of course relative, since the European Council makes decisions by consensus.

Of more importance is probably the visibility effect of having a permanent President, even if van Rompuy has been frequently criticised for his lack of charisma. Nevertheless, the EU now has a continuous representation of the CFSP policy area at the highest political level in the form of the President of the European Council. Here, the Lisbon Treaty falls short of establishing a precise division of labour between the President of the European Council and the High Representative, since both of them has functions of representing the Union in the CFSP policy area.²⁰ This creates ample scope for conflict and differences of opinion and diplomatic style,²¹ which makes good personal relations vital for a smooth functioning of EU diplomatic representation at the highest level.

In practice, van Rompuy seems to have centred his activity on representing the Union at the highest level of Heads of State or Government in bilateral relations, as well as participation in multilateral summits in the same function. This indicates an informal division of labour also identified by Duke,²² where the President of the European Council does not enter into the detailed foreign policy content or specific negotiations with third states, but leaves this to the High Representative and her EEAS. The parallel to the division of labour between a Head of State or Government and the foreign minister of any given state is rather straightforward, which makes the division of labour beneficial not only for the coherence of EU diplomacy, but also for reducing confusion on the part of third states, in the sense that the EU diplomatic set-up in this case resembles a well-know model. This of course depends on

¹⁹ C. Closa, *Institutional innovation in the EU: The Presidency of the European Council*, ARI, no. 47/2010, Madrid, Real Instituto Elcano, 2010, p. 4.

²⁰ TEU (Lisbon), art. 15.

²¹ B. Crowe, *The European External Action Service. Roadmap for success*, London, Royal Institute of International Affairs (Chatham House), 2008, p. 19; C. Gutiérrez Espada and M. J. Cervell Hortal, "El Tratado de Lisboa y las instituciones...", *op. cit.*, p. 172.

²² S. Duke, "Providing for European-level diplomacy after Lisbon...", *op. cit.*, p. 216.

whether the relatively smooth functioning of this division of labour is the result of the personal relationship between van Rompuy and Ashton, or whether they by their activities have created precedents and customs that their successors will also follow.

3.2. The Council of the European Union

With respect to the organization of the Council, the General Affairs Council is separated from the Foreign Affairs Council. The General Affairs Council is responsible for coordinating the work of the other Council formations and preparing the meetings of the European Council, thus making it a kind of Super-council.²³ In this respect, the Council must cooperate with the President of the European Council as well as the Commission, but since it continues to be presided by a new Member State every six months as the rest of the formations of the Council (with the exception of the Foreign Affairs Council),²⁴ there are also obstacles to continuity and coordination present in the construction.

The Foreign Affairs Council is presided by the High Representative, which provides for greater continuity and coherence, and by means of the agenda-setting power of a presidency changes the equilibrium between Member States and Union. Of course, that fact of having the Foreign Affairs Council segregated from the General Affairs Council and brought under the leadership of the High Representative does not prevent the Member States from discussing issues with foreign policy implications in the General Affairs Council, this way keeping the High Representative and the EEAS out of the loop. Still, for EU diplomacy, the fact of now having both the European Council and the Foreign Affairs Council of the EU presided by permanent presidencies held by EU officials is of paramount importance. By reducing the number of representatives involved in EU diplomacy, for third states it is now much easier to put a face on the EU, and due to the division of labour between the van Rompuy and Ashton, the role of each representative is also relatively clear. A remaining complicating factor is the representative role of the President of the European Commission, which considerably muddies the picture. In the last sub-section, the role of the High Representative will be expressly analysed, but first attention turns to the division of labour among the different institutional bureaucracies in Brussels, the role of the new EEAS and its relationship with the Commission.

3.3. The creation of the European External Action Service

The Lisbon Treaty establishes the European External Action Service as the main institutional innovation, although apart from its role as an organ to service the High Representative, the Treaty text does not provide any specific indications of its functioning or objectives.²⁵ The internal organization and precise role was left to a future Council decision that came about in July 2010²⁶ on the bases of a proposal made by the High Representative the previous March.²⁷

In general, and contrary to what could be deduced from the *impasse* in the process of European integration after the failure of the Constitutional Treaty, the Decision of the Council establishes a configuration that is close to what has been denominated by Duke the “maximalist” version of the EEAS, among the variety of proposals for its competences and

²³ C. Gutiérrez Espada and M. J. Cervell Hortal, La adaptación al tratado de Lisboa (2007) del sistema institucional decisorio de la Unión, su acción exterior y personalidad jurídica, Granada, Comares, 2010, p. 22.

²⁴ TUE (Lisbon), art. 16.

²⁵ TUE (Lisbon), art. 27.

²⁶ Council of the European Union, Council decision establishing the organisation and functioning of the European External Action Service, 2010, 11665/1/10 REV 1.

²⁷ C. Ashton, Proposal for a Council decision establishing the organisation and functioning of the European External Action Service, 2010, unnumbered document, available at: http://eeas.europa.eu/docs/eeas_draft_decision_250310_en.pdf

size in the previous debate.²⁸ Even so, according to the Decision, and contrary to the wishes of the European Parliament,²⁹ the EEAS is established as an autonomous organ of the EU³⁰ and not incorporated into the Commission, a model that was initially defended by both the Parliament and the Commission itself,³¹ and which would seem to make the most sense, if analysed from a strictly functional point of view, where the Commission exercises the executive function in the European polity. This would have been the EU equivalent of establishing a Foreign Ministry within the Federal government. Due to Member State reluctance, the compromise was that of a large EEAS with extensive competences, but separated from the Commission, so as to reflect the double role of the EEAS as the diplomatic representation of the CFSP as well as the policy areas under the Commissions authority.

The EEAS consists of two main functional areas, the Delegations to third states and international organizations, analysed in the following section 4 of this paper, and a central administration in Brussels. This way, it is important to note that the EEAS is not only an organization for the diplomatic representation of the EU, but also a forum for the analysis, planning and formulation of EU foreign policy, drafting Council Conclusions, policy papers and negotiating mandates to be decided upon.³² As for the diplomatic representation of the EU, the EEAS is thus central to the EU's efforts to increase its coherence on the international scene, since one single organization represents the EU's point of view across all policy areas, with the usual exception being areas without political agreement among Member States, in which case the EU will not have a common position, but 28 different opinions represented by 28 diplomatic services.

Also, the Lisbon Treaty formulates the values and objectives of EU foreign policy generally and without prejudice to specific policy areas,³³ which should in help the coherence of EU diplomacy, at least in principle, and the legal basis becomes clearer. Nevertheless, this increased coherence is of course with respects to goals that are compatible, in the sense that the same EU policies towards a specific third state will further them all, some which cannot be simply assumed is the case, e.g. with respect to the liberalisation of world trade, eradication of poverty in the world and the sustainable development of developing countries.³⁴

With the creation of the EEAS we therefore have a good structure for reducing the problems of horizontal coherence in EU diplomacy that stem from the multitude of actors previously involved in representing the EU. The Lisbon Treaty does not change the nature of EU diplomacy as coexisting with Member State diplomacy, so the problem of vertical coherence does not change directly as a function of the institutional innovation, although a denser institutional environment with the EEAS will probably enhance the 'coordination reflex' of the Member States broadly speaking, in the sense that the EU dimension of Member State foreign policy is present at all stages of the policy process and coordination in the EU framework is not simply an option at the last phase of implementing the specific foreign

²⁸ S. Duke, "Providing for European-level diplomacy after Lisbon...", *op. cit.*, pp. 218-221; S. Duke, "The Lisbon Treaty and external relations", *Eipascope*, vol. 2008, no. 1, 2008, pp. 15-16.

²⁹ On the EU European Parliament, see S. Medel Gálvez, "La posición del Parlamento Europeo en torno a la diplomacia común, con especial referencia al Informe Brok," in J. M. Sobrino Heredia (dir.), *Innovación y conocimiento. IV Jornadas Iberoamericanas de Estudios Internacionales*, Madrid, Marcial Pons, 2010; R. Jáuregui Atondo, *El Parlamento Europeo: un actor decisivo en las negociaciones sobre la creación del Servicio Europeo de Acción Exterior* ARI, no. 147, Madrid, Real Instituto Elcano, 2010.

³⁰ Council decision..., *op. cit.*, art. 1.

³¹ S. Duke, "Providing for European-level diplomacy after Lisbon...", *op. cit.*, p. 217.

³² EEAS, "EEAS Review", 2013, unnumbered document, available at: http://eeas.europa.eu/library/publications/2013/3/2013_eeas_review_en.pdf, p. 9

³³ TEU (Lisbon), art. 21.

³⁴ Some of the objectives defined in article 21.

policy initiative. This socialization effect on Member State diplomatic practice should prove a fruitful path for further studies.

3.4. Diplomatic competences and the division of labour in Brussels

The EEAS is not simply the Foreign Ministry of the EU, nor its diplomatic service. It is *sui generis* and can be characterised as an interstitial organization, emerging in the interstices between different organizational field and draws upon the legitimacy, physical, informational, financial and legal resources of these other fields, here Member States and EU institutions and bureaucratic structures.³⁵

The main tasks of the EEAS is to function as support to the High Representative in her mandate to implement the CFSP, preside the Foreign Affairs Council and coordinate and implement the external relations of the Commission, in her capacity of Vice-president of the Commission. In this sense, the EEAS is primarily the secretariat of the High Representative, although it also assists the President of the Commission and the President of the European Council in their function as representatives of the EU.³⁶ This way, the secretariat function of the EEAS transcends the division of representative competences among the three main persons, which should provide greater continuity and coherence to the representation.

With respect to policy making, the EEAS has taken over from the Council Secretariat the tasks of preparing the meetings of the Foreign Affairs Council presided by the High Representative, as well as preparing the activities and presiding the meetings of the foreign affairs-relevant working groups and committees, including the Political and Security Committee (PSC), central to EU policy-making in the CFSP area.³⁷

The central administration of the EEAS is headed by what the press has dubbed a 'French spider', in reference to the fact that the administrative structure of the EEAS is largely modelled on the French administration of its diplomacy. In fact, the Corporate Board of the EEAS consists of a powerful Executive Secretary General and a Chief Operating Officer, who in turn have two deputies to help coordinate the Directorate Generals, the EU delegations and represent the EEAS.³⁸ Below this administrative level, the EEAS is organised into a number of Managing Directorates, which contain both geographically defined desks, as well as multilateral and thematic units. Each of the Directorates must coordinate its activities with the "relevant services" of the Commission and the Council Secretariat. Apart from these structures, specialised departments are responsible for human resources, finance, legal counselling and parliamentary affairs. Interestingly, a service as vital as public diplomacy was maintained within the Commission, although it reports directly to the HR/VP.³⁹

Although the EEAS is a new organ of the European Union, it is based on the transfer of functions and staff from the Commission and the Council Secretariat that took place for the launch of the EEAS in January 2011. From the Council Secretariat the units transferred were basically those working in the area of the CFSP in the DG External and Politico-Military Affairs, but also including the intelligence centre and the EU military staff. From the Commission was transferred the DG Relex, entrusted with the external relations of the Commission, both the Brussels staff and that of the Delegations, together constituting two thirds of the staff initially transferred. Also, part of the DG Development was transferred, so that the EEAS has geographical desks covering the whole globe, whereas the rest of the DG

³⁵ J. Batora, "The 'Mitrailleuse Effect': The EEAS as an Interstitial Organization and the Dynamics of Innovation in Diplomacy", in *Journal of Common Market Studies*, vol. 51, no. 4, 2013, pp. 598-613, p. 601.

³⁶ *Council decision...*, *op. cit.*, art. 2. In fact, in 2012, the briefings for the HR/VP constituted less than a third of the total amount elaborated by the EEAS. EEAS, "EEAS Review", *op. cit.*, p. 8

³⁷ Council Decision, art. 4.

³⁸ EEAS, "EEAS Review", *op. cit.*, p. 6

³⁹ The organization chart of the EEAS is available at: http://eeas.europa.eu/background/docs/organisation_en.pdf (March 2014).

was fused with the DG AIDCO. Although the Commission thus continues to work within the area of development cooperation, the EEAS “contributes” to the programming and management of the instruments with which development policy is executed, such as the European Development Fund and the European Instrument for Democracy and Human Rights. With the EEAS being “responsible for preparing (...) the decisions of the Commission” in this respect, this means basically that the EEAS is involved with the multiannual programming and geographically determined work of the new DG DEVCO in the form of elaboration of national and regional strategies. Thus, the EEAS implies an important reorganization of the EU with respect to its international activities directed at developing countries.

In its strive for increased horizontal coherence, the EU has thus effectively fused development cooperation with the CFSP. This has of course been criticised by numerous NGO’s that fear that the assistance of the EU to developing countries would be increasingly subordinated to the geopolitical concerns of the CFSP, instead of being based on politically neutral criteria aiming to help societies develop and alleviate human suffering. But the inverse could also be argued with CFSP initiatives being obliged to pursue the article 21 objectives of poverty reduction and sustainable development. Whatever is the case, coherence means thinking development and geopolitics together, and in my opinion the discussion should be understood in the general evolution of the EU towards more a more assertive international strategy based on the defence of interests and the lesser priority given to previously primary objectives of democracy promotion, dissemination of human rights values and exporting the EU model of peaceful coexistence among states.⁴⁰

With respect to areas of the European Neighbourhood Policy and Enlargement, these are also divided between the Commission and the EEAS, although of course under the supervision of the High Representative.⁴¹ The enlargement Commissioner still has international projection, although with the new structures of coordination, clearly subordinate to the High Representative. Also other Directorate Generals of the European Commission inevitably has an international dimension in their work, most notable DG Trade and DG Humanitarian Aid and Civil Protection but also Energy and Climate Change, which nevertheless are not mentioned in the Council Decision.⁴² Here it should be noted that this complexity is by no means unique for the EU. The EEAS identifies the close cooperation with the Commission as vital,⁴³ but it should also be noted that this problem of coordination repeats itself also with respect to any Foreign Ministry, whose role is changing from that of a gatekeeper to a boundary spanner,⁴⁴ in the sense that in a globalised world, most sectoral ministries will have an international dimension in their work that should be coordinated through the Foreign Ministry. The EU is in this sense mimicking the state, abovementioned institutional differences aside, with respect to the organization of its diplomacy, since the states are also moving away from a centralised model to one based on the horizontal and

⁴⁰ In this sense, studies indicate that the EU prioritises political stability over democracy and human rights for geopolitical reasons, imposing few, if any sanctions in the framework of the conditionality included in the EU’s international agreements with third states. See R. Youngs, *The end of democratic conditionality: good riddance?*, Madrid, Fundación para las Relaciones Internacionales y el Diálogo Exterior (FRIDE), 2010. Also, sanctions imposed generally reflect the relationship of the EU with the state and the interests of that specific Member States may have, see C. Portela, *European Union sanctions and foreign policy*, London, Routledge, 2010, p. 163.

⁴¹ Council decision..., op. cit., art. 9.

⁴² For details of the relationship of the EEAS with each Commission DG, see N. Helwig, P. Ivan and H. Kostanyan, *The new EU foreign policy architecture: Reviewing the first two years of the EEAS*, Brussels, Centre for European Policy Studies, 2013, pp. 38-49.

⁴³ EEAS, “EEAS Review”, op. cit., pp. 6-9

⁴⁴ B. Hocking, "Introduction: gatekeepers and boundary-spanners - Thinking about foreign ministries in the European Union", in B. Hocking y D. Spence (eds.), *Foreign ministries in the European Union: Integrating diplomats*, Basingstoke, Palgrave, 2002.

vertical coordination of the external activities of the different branches of the central, regional and local administrations of the state.

With respect to the vertical coherence and coordination, the Lisbon Treaty imposes clear obligations on the diplomatic services of the Member States to coordinate and cooperate with the EEAS, although it falls short of establishing procedures for how to implement this cooperation, not even clarifying if it refers to the central administration of the EEAS, where the Member States are directly involved in the CFSP structures through their representatives in key fora such as the Political and Security Committee, or whether it refers to cooperation by the diplomatic missions on the ground in third states and international organizations.⁴⁵ Still, the Council Decision reiterates the obligation of consulting and cooperating of EEAS, the Commission the Council Secretariat and the diplomatic services of the Member States,⁴⁶ so that in practice there is little doubt that the intention not is to establish a strict division of labour among the different actors, but rather seeking a maximum coordination in the network of actors involved in EU diplomacy. In the absence of established procedures, the vertical coherence of EU diplomacy ultimately falls back on the political will of the Member States to coordinate their foreign policies generally, and on the enthusiasm of the individual ambassadors in a given third state.

With respect to the horizontal coordination, the Commission previously coordinated the interaction of the DGs of the RELEX family (those with external activities) through frequent meetings in specialised coordination committee. The Lisbon Treaty builds on this method for horizontal coordination but substantially changes it, since it creates a hierarchy within the college of Commissioners, giving the Vice-president (and High Representative) the authority to coordinate the activities of the other Commissioners. The Vice-president is thus responsible for the overall coordination of the external activities, not only of the Commission, but by virtue of her competences as High Representative, of the entire European Union. This greatly improves the formal basis for coordinating EU foreign policy across policy areas.

With respect to the Brussels-based diplomatic activities, in contrast, the picture is less clear-cut. The President of the European Commission remains the maximum representative of the Commission, also in the exterior. So apart from the relatively simple division of labour between the President of the European Council and the HR/VP in terms of diplomatic representation, the presence of the Commission President complicates the picture, since his role is much less clear with respect to the President of the European Council and the HR/VP. The delimitation of the representative function of the President and Vice-president of the Commission is not clear, and the scene is thus set for potential conflict between the two,⁴⁷ and may create confusion unnecessary confusion in third states as to the roles and competences of each EU representative. In this regard, it is questionable if the current diplomatic troika of the President of the European Council, the President of the Commission and the HR/VP significantly reduces the complexity and possible confusion in the diplomatic representation of the EU when compared to the previous troika of the rotating Presidency, the Commission President and the High Representative. Although the creation of the EEAS undoubtedly dramatically increases the scope for political coordination, the actual reduction of complexity in its diplomatic representation is not to be found so much in the high-level representation of the EU by its top political personalities in Brussels, but in the diplomatic missions of the EEAS, topic of the next section of the paper.

Also, even if the new structures significantly increase the scope for a more efficient horizontal coordination, there are also elements that seem to suggest certain continuity with

⁴⁵ TEU, (Lisbon), art. 27.

⁴⁶ Council decision..., *op. cit.*, art. 3.

⁴⁷ B. Sánchez Ramos, "La representación exterior de la Unión Europea tras el Tratado de Lisboa: en busca de la unidad, eficacia y coherencia," in J. M. Sobrino Heredia (dir.), *Innovación y conocimiento...*, *op. cit.*, p. 486.

respect to possible competitive dynamics among the actors involved in EU diplomacy. Some analysts stress that uniting the staff of different units of the Commission, the Council and diplomats delegated from Member States diplomatic services in the same EEAS bureaucracy does not necessarily mean that the political infighting and competition among these factions should not continue within the new structures of the EEAS.⁴⁸ This will depend on the leadership abilities of the HR/VP and the general support that the new structures will have among Member States. In any case, it is also likely that a corporate identity will emerge within the EEAS, with the staff and units gradually losing their previous identity linked to their institutional origin.

This corporate identity and general support of the Member State will depend on the ability of the EEAS to gain legitimacy and credibility as an institution,⁴⁹ which in turns depends on the EEAS's ability to carry out its mandate and manage the EUs international relations. It should be noted that the Member States have with the Lisbon Treaty and the creation of the EEAS not renounced any competence in foreign policy and diplomacy. The long-term scope for the EEAS to represent the EU in its entirety of course depends on whether the Member States will increasingly let themselves be represented by the EEAS instead of their national diplomatic services, which again boils down to the main source of incoherence in EU foreign policy and diplomacy: the degree of convergence among Member States' interests and foreign policy goals.

3.5 The centre of coordination of EU diplomacy: The HR/VP

The Lisbon treaty centres the coordination of EU external action in the post of High Representative of the Union for Foreign Affairs and Security Policy and Vice-president of the European Commission (HR/VP), occupied by Catherine Ashton. Thereby, three previous posts are merged into one: The President of the Foreign Affairs Council (rotating every six months), the High Representative of the CFSP (occupied by Javier Solana since its creation) and the European Commissioner responsible for External Relations. This construction was initially opposed by Javier Solana⁵⁰ as well as Member States such as the United Kingdom, Sweden and Belgium,⁵¹ and obviously falls short of the ideal option (for the purposes of coordination) of simply integrating foreign policy issue areas into the first-pillar working method of the Union (the ordinary decision-making procedure) and making the EEAS a Directorate General of the European Commission. Still, it is a notable advance with respect to coordination between the CFSP and other foreign policy issue areas, since the same person now heads all the relevant bureaucratic structures. One of the specific objectives of the Lisbon Treaty was to generate more coherence and continuity in the foreign policy and diplomatic representation of the EU, and largely accomplishes this by making the HR/VP responsible for the totality of EU foreign policy and diplomacy. Of particular relevance is here the leadership and political direction that the HR/VP can give to EU diplomacy, now that she has can present global initiatives and policy proposals by having this privilege both in the Council, as for the CFSP, and in the Commission, as for other policy areas. This way, the HR/VP coordinates not only the initiatives of the various DGs of the Commission with external implications to their work, but also relations with the Council, the Commission and the Parliament, with central focus on coordination with the Commission DG's with external implications in their work.⁵²

⁴⁸ B. Crowe, *op. cit.*, p. 14; G. Edwards and D. Rijks, *op. cit.*, pp. 73-75.

⁴⁹ N. Fernández Sola, *op. cit.*, p. 12.

⁵⁰ M. E. Smith, *Europe's foreign and security policy: The institutionalization of cooperation*, Cambridge, Cambridge University Press, 2004, p. 230.

⁵¹ N. Fernández Sola, *op. cit.*, p. 8.

⁵² EEAS, "EEAS review", *op. cit.*, pp. 7-10.

In sum, the scope for horizontal coherence of the EU foreign policy that its diplomatic structures execute is thus greatly increased with the institutional innovation that the new HR/VP represents. Furthermore, this innovation also has a more direct impact on the diplomatic representation of the Union. The HR/VP heads the EEAS,⁵³ including both its central administration and policy-formulating bureaucracy in Brussels and the diplomatic corps of the EU, centred on the Union Delegations in third states and international organizations that are responsible for EU representation abroad across policy areas.⁵⁴ This unified representation of the EU⁵⁵, described in the following section in more detail, has arguably contributed to EU visibility, as has the fact of having a single HR/VP representing the Union continuously and across policy areas.

4. Diplomatic practices: European Union representation in third states and international organizations

4.1 EU diplomatic representation in third states

EU diplomacy is executed by a network of actors, where overall efficiency and impact depends to a large degree on coordination and cooperation. The inevitable context of the diplomatic practices of the EEAS is therefore that they coexist with those of each EU Member States that continue engaging in diplomatic relationships alongside the EEAS as independent sovereign states, although the positions they defend are in many cases the result of discussions in Brussels,⁵⁶ and when no political agreement was possible, substitute a common EU position.

The Lisbon Treaty and Council Decision on the establishment of the EEAS do not contain provisions with a direct impact on Member State diplomacy. Rather, the Treaty clearly specifies⁵⁷ that the EEAS does not affect the responsibility of each sovereign Member State to formulate and execute its foreign policy, nor its diplomatic representation in third states and international organizations. There is no intention to substitute Member State diplomacy, and the EEAS should therefore be understood not as a change of the networked nature of EU diplomacy, executed by Member States and EEAS, but a change within the network that allow it to coordinate more efficiently and achieve a more unified representation in its diplomatic relationships.

Although in a given third state, EU diplomacy thus consists of the activities of both the EEAS and the Member States that cooperate and coordinate, the institutional centrepiece is clearly the European Union Delegations. The previous Commission Delegations represented only the European Commission, whereas the Lisbon Treaty explicitly establishes that the new EU delegations represent the entire EU.⁵⁸

The functions of the Delegations have thereby change in two ways: Firstly, they are now under the authority of the HR/VP, with the Head of Mission being from the EEAS. Although Commission staff continues to work in the Delegations, they are nevertheless placed within the EEAS structure and as such institutionally separated from the Commission. Secondly, the competences of the EEAS in CFSP matters mean that the EU Delegations

⁵³ TUE (Lisbon), art. 27.

⁵⁴ TFEU (Lisbon), art. 221.

⁵⁵ Exceptions remain, in that the Presidency or another Member State represents the EU in third states without an EU Delegation, and the Member State holding the Presidency hosts multilateral summits held in the EU (whereas bilateral summits are hosted by the EU in Brussels. N. Helwig, P. Ivan and H. Kostanyan, *The new EU foreign policy architecture*, *op. cit.*, p. 28.

⁵⁶ S. Riordan, *The new diplomacy*, Cambridge, Polity Press, 2003, pp. 71-72.

⁵⁷ S. Duke, "Providing for European-level diplomacy...", *op. cit.*, p. 224.

⁵⁸ TFEU (Lisbon), art. 221.

assumes the functions that were previously exercised by the embassy of the Member State holding the Presidency of the Council. There is no longer a special role for the diplomatic mission of the Presidency, which comes to have a role in the EU network similar to that of other Member State representations. The Delegations now represent the EU across all policy areas and come to functionally resemble the classical Westphalian state embassies, although of course with respect to content they continue to be subject to the constraint of political consensus among Member States. The innovations thus greatly reduce previously existing problems of continuity and complexity.

The problem of continuity in EU diplomacy was largely a function of the construction of being represented in CFSP areas by the rotating Presidency. This meant a change in political priorities every six months, which in itself is a complicating factor. But the task of diplomats to create stable relations with host state interlocutors was also problematic, since the task fell to new persons every six months. To third states, diplomatic complexity is also reduced, since each state diplomat now represent only the accrediting state and not in some cases also the EU. This makes things simpler, and host state representatives tasked with EU relations do not have to deal with new people every six months.

Complexity is also reduced with respect to policy areas. The host state now interacts with the EU Delegation irrespective of the issue area, whereas before the relevant EU representative was either the working in the Commission Delegation or the in embassy of the Member State holding the Presidency. This is of course particularly relevant with issues that span the internal division of competences in previous pillar structure of the EU, where the EU can now speak with one voice.

But the creation of the EEAS has not only reduced complexity in the EU interaction with the host states, but also had different implications for the internal cooperative dynamics in the EU network of actors executing its diplomacy. First of all, the Delegations needed more human resources to deal with new policy areas, which also made obvious that new physical facilities would be necessary in some cases.⁵⁹ Secondly, the Delegation has assumed the function of coordinating the activities of all the EU actors with diplomatic missions to a third state (EU and Member States) and it now presides over the coordination meetings, instead of this task being performed by the rotating Presidency. This strengthens the role of the EU Head of Mission within the EU network, but also gives her a clearer profile in the negotiations with the host state, since she now coordinates the EU position communicated by all actors across policy areas, and not only in first pillar issue areas.⁶⁰

A first conclusion to be drawn with respect to EU representation in bilateral relationships is therefore that the EEAS greatly simplifies diplomatic interaction, increases the scope for vertical coherence, by moving the balance towards the EU Head of Mission, as well as horizontal coherence, since the EU Delegation now speaks for the Union in all policy areas. A second conclusion is that these diplomatic advantages have come at the price of a greater internal complexity within the EU Delegations, since the divide between supranational and intergovernmental policy areas has now simply been internalised within the EEAS in Brussels and in the Delegations.⁶¹

Whereas before the EU Delegations only worked for the Commission, they now work for different Brussels bureaucracies. First and foremost, they work for the EEAS, which has the coordination role also in Brussels, with the Head of Mission being in all cases an EEAS official. But as mentioned in the previous section, only the DG Relex of the Commission was

⁵⁹ S. Duke, "Providing for European-level diplomacy...", *op. cit.*, p. 229.

⁶⁰ N. Fernández Sola, *op. cit.*, p. 21

⁶¹ E. Hayes, "EU delegations: Europe's link to the world", in K. E. Jørgensen and K. V. Laatikainen (eds.), *Routledge Handbook on the European Union and International Institutions: Performance, policy, power*, New York, Routledge, 2013, pp. 27-41, p. 36.

incorporated into the new EEAS structure. This also means the other DGs of the EU Commission with important external dimensions to their work, such as Enlargement, Development and Trade, continue to exist outside the structures of the EEAS. As such, the EU Delegations work with more issue areas than the central administration of the EEAS in Brussels, and therefore the Delegations have staff not only from the EEAS, but also from the relevant Commission DGs. This state of affairs is obviously the expression of the division of labour in Brussels, where the DGs of the Commission with external implications of their work continue to exist independently of the EEAS. In Brussels, the HR/VP spans the institutions and coordinates the policy content, whereas in the Delegations this task is performed by the Head of Mission, responsible for the totality of Delegation activities and the coordination and coherence of these.⁶²

The issue of the staff of the Delegations was not clarified by the Lisbon Treaty, but left the question to be decided by the posterior Council Decision.⁶³ The general formula is that the Delegation staff comes from the EEAS, and from specific Commission DGs when relevant. The staff of the specific EU Delegation thus largely depends on the third state in question, for instance there will be a predominance of Commission staff working with the implementation of specific projects when the host state is a developing country, whereas there will be more EEAS staff when the host state is one with which the EU maintains more 'political' relations, such as Russia.

A general problem with respect to the staff of the Delegations that has only been partially resolved with the creation of the EEAS is the fact that the persons are in most cases not career diplomats and that they therefore do not feel adequately prepared for representing the EU in diplomatic relationships.⁶⁴ Former Commission or Council officials need traditional diplomatic training and the Member State diplomats that now form part of the EEAS need training in the intricacies of the functioning of the EU, particularly its external relations.

Even without a diplomatic academy for the training of Member State diplomats as well as Commission and Council officials, it is vital that training programmes facilitate the socialisation of the participants, so that the persons working both in the EEAS central administration and in the Delegations abroad come to share an EU identity and common EU outlook, with a primary professional loyalty towards the EEAS and a "European attitude."⁶⁵ This socialisation is already helped by the daily functioning of the EEAS, where staff with different institutional origins work side by side.⁶⁶ Evidence from EU voting in the UN General Assembly shows that over the decades, there is increasing political coherence among EU Member States,⁶⁷ a sign that socialisation and coordination dynamics are functioning.

What must be created is an EU level epistemic community of foreign policy professionals that is compatible with, but distinct from, the epistemic communities existing in the foreign services of each EU Member State and the EU Commission.⁶⁸ This is an on-going process of socialisation, which will determine whether the EEAS becomes a battle ground and tool for other actors where each will struggle to impose its views on the EEAS in its totality or

⁶² Council decision..., op. cit, art. 5.

⁶³ TEU (Lisbon), art. 27.

⁶⁴ B. Sánchez Ramos, *op. cit.*, pp. 150-151.

⁶⁵ N. Fernández Sola, "El Servicio Europeo de Acción Exterior y la nueva gobernanza de los asuntos exteriores europeos", in A. Sorroza Blanco (ed.), *Presidencia Española: retos en una nueva Europa*, Madrid, Elcano, 2010, p. 156.

⁶⁶ C. Pérez Bernárdez, "Un órgano *in statu nascendi*: el Servicio Europeo de Acción Exterior (SEAE) post-Lisboa," en J. M. Sobrino Heredia (dir.), *Innovación y conocimiento. IV Jornadas Iberoamericanas de Estudios Internacionales*, Madrid, Marcial Pons, 2010, p. 462.

⁶⁷ C. Bouchard and E. Drieskens, "The European Union in UN politics", in K. E. Jørgensen and K. V. Laatikainen (eds.), *Routledge Handbook on the European Union and International Institutions: Performance, policy, power*, New York, Routledge, 2013, pp. 115-127, p. 119

⁶⁸ D. Spence, "Taking stock: 50 years of European diplomacy", *Hague Journal of Diplomacy*, vol. 4, no. 2, 2009, pp. 235-259.

whether it will evolve into an EU diplomatic service. An important factor is here that the Member States stop sending problematic or close-to-retirement-age officials, which was previously the norm.⁶⁹ The outcome of this socialisation process will then again feedback into the EU identity as an international actor,⁷⁰ and its nature as a political entity in the international system; a collection of sovereign states that cooperate or a polity and international actor that exists beyond state sovereignty and Westphalian diplomatic culture and structures.

4.2 EU participation in international organizations

Whereas the establishment of the EEAS do not cause great problems in the bilateral diplomatic relationships of the EU, but rather improves the coordination in the EU network, the situation is quite different with respect to the participation of the EU in international organizations. Due to the internal distribution of competences, it was previously the Commission that generally represented the EU in first pillar issue areas; whereas the rotating Presidency of the Council represented the EU in CFSP matters. Therefore, in the many areas of mixed competences and pillar-crossing issue areas, the EU was represented jointly by the Commission and the Presidency. With the establishment of the EEAS, the representations accredited to international organizations are now EU representations, as are the two offices that the Council maintained in Geneva and New York.⁷¹

From the outset, it was not clear whether the Commission or the EEAS should represent the EU and its Member States in international organizations, and at which political level,⁷² although according to the Lisbon Treaty, the Union Delegations should perform the task of representing the EU,⁷³ made possible by the legal personality that the Treaty creates for the EU.⁷⁴ After a struggle over who could and should represent the EU and its Member States outside of the area of specific EU competences, that lead to a crisis in the autumn of 2011 with blocked statements and demarches,⁷⁵ the Council adopted a set of General Arrangements for EU Statements in multilateral organisations.⁷⁶ This gives the right of the Member States to decide on a case-by-case basis whether and how to be jointly represented, by the rotating Presidency, EU Delegation, European Council President or the Commission. Once there is an agreement on who should represent the EU position, there is the question of who is being represented. In this sense, there exist three different kinds of statements of the EU network in international organisations, according to the division of competences between the EU and the Member States in the specific case: On behalf of the EU (EU competences, including actions in the framework of the CFSP when there is consensus in the Council), on behalf of the EU and its Member States (shared competences when there is agreement among Member States) and on behalf of the Member States (state competences when there is agreement among Member States). As such, the diplomatic representation of the EU varies depending on the international organization and also the specific issue being discussed.

⁶⁹ A. Missiroli, "Introduction: A tale of two pillars - and an arch", in G. Avery (ed.), *The EU foreign service: How to build a more effective common policy*, Brussels, European Policy Centre, 2007, p. 15.

⁷⁰ A dimension stressed by Catherina Carta, see: C. Carta, "The EU's diplomatic machinery" in K. E. Jørgensen and K. V. Laatikainen (eds.), *Routledge Handbook on the European Union and International Institutions: Performance, policy, power*, New York, Routledge, 2013, pp. 41-52, p. 45; C. Carta, *The European Union Diplomatic Service: Ideas, Preferences and Identities*, London, Routledge, 2011.

⁷¹ B. Crowe, *op. cit.*, p. 13.

⁷² M. Emerson and P. M. Kaczynski, *Looking afresh at the external representation of the EU in the international area, post-Lisbon*, CEPS Policy Brief, no. 212, Brussels, Centre for European Policy Studies, 2010, p. 3.

⁷³ TFUE (Lisbon) art. 221.

⁷⁴ TUE (Lisbon) art. 47.

⁷⁵ N. Helwig, P. Ivan and H. Kostanyan, *The new EU foreign policy architecture*, *op. cit.*, p. 64.

⁷⁶ Council of the European Union, "EU statements in multilateral organisations – general arrangements", doc 15901/11, 24th October 2011.

Continued confusion of third states' representatives is the consequence, since these are rarely experts on EU law and the division of competences among the actors in the network.

Whereas the non-state nature of the EU in bilateral relationships is not a formal problem, with mutual consent and reciprocity being the guiding norms of bilateral diplomacy, as expressed in diplomatic law.⁷⁷ In the case of international organizations, however, there is a potential clash between the law of the Organization and the nature of the EU that for instance impedes the EU Delegation from speaking.

The cases of the WTO and the UN system illustrate well the general problem field. The EU is a member of the WTO alongside the Member States and within this organization, the Commission has acted like any other foreign policy actor.⁷⁸ DG Trade continues to exist separately from the EEAS, and it is the Trade Commissioner who represents the EU in the WTO ministerial conference, the highest authority within the WTO, whereas it is the EU representation under the EEAS that manages the daily interaction with third states and is formally accredited as a diplomatic mission. Since the EU is a member of the WTO, there are few legal obstacles to EU activities within the organization, the challenge being mainly one of vertical coordination with the Member States and internal coordination between the EEAS and DG Trade. The practice is that the Member States generally refrain from speaking in the trade negotiations and instead focus on supervising and controlling what the EU mission does.⁷⁹ Therefore, the coordination meetings among EU actors are mainly chaired by the rotating Presidency.⁸⁰ The opposite is more or less the case in the UN system, where the EU is not a member. Examples include the Human Rights Council, the ILO and the WHO, where the rotating Presidency speaks on behalf of the EU, but the EU Delegation chairs most of the coordination meetings.⁸¹ The sheer volume of coordination meetings among the actors involved in EU representation indicates the intense effort of coordination, but also the fragmentation of the EU as an actor, with 1300 coordinating meetings taking place in New York and 1000 in Geneva every year.⁸²

With respect to the UN, it should be noted that the EU, in the form of its Member States, is the largest financial contributor to the UN, and that the EU has a special preference for participating in the UN system, given the EU's multilateralist ideology.⁸³ Yet, given its non-state nature, the EU cannot be a member of the UN (with the exception of the FAO, as a separate international organization). UNGA assembly 65/276 gave the EU an enhanced observer status in the Assembly, with the right to speak, although not vote, to have access to all UN meetings, although with seating among the observers, and have its written proposals circulated through the official channels,⁸⁴ and has solved the main problem that the EU previously had in the UN, namely the lack of formal access of its representatives.⁸⁵ Nevertheless, the resolution also means that to vote, co-sponsor draft resolutions and propose candidates is strictly a matter for the UN member states, so in these cases, the rotating Presidency will continue to represent a common EU position, should it exist.⁸⁶ In the case of

⁷⁷ See the Vienna Convention on Diplomatic Relations.

⁷⁸ J. Ladefoged Mortensen, "World Trade Organization and the European Union", in K. E. Jørgensen (ed.), *The European Union and international organizations*, New York, Routledge, 2009, p. 80.

⁷⁹ C. Carta, "The EU in Geneva: The diplomatic representation of a system of governance", *Journal of Contemporary European Research*, vol. 9. no. 2, 2013, p. 417.

⁸⁰ C. Carta, "The EU in Geneva...", *op. cit.*, p. 417.

⁸¹ C. Carta, "The EU in Geneva...", *op. cit.*, p. 417.

⁸² S. Gstöhl, "EU diplomacy after Lisbon: More effective multilateralism", *Brown Journal of World Affairs*, Spring/Summer 2011, no. 11, 2011.

⁸³ S. Duke, "Form and substance in the EU's multilateral diplomacy", in K. E. Jørgensen and K. V. Laatikainen (eds.), *Routledge Handbook on the European Union and International Institutions: Performance, policy, power*, New York, Routledge, 2013, p. 16.

⁸⁴ UN General Assembly Resolution 65/276, of 10th of May 2011.

⁸⁵ S. Duke, "Form and substance...", *op. cit.*, p. 23.

⁸⁶ E. Hayes, "EU delegations...", *op. cit.*, p. 36.

the UN Security Council, the HR/VP has represented EU positions in case of agreement, but this remains a mainly symbolic aspect of EU actorness, that does not encroach upon the French and UK status as permanent members. There is thus no role for the EU in the previous negotiations that is the basis of the UNSC's work, and the EU as an organization is largely on the receiving end of the UNSC's work.⁸⁷

This situation also reveals that in international organizations where the EU is not a member, the situation is not straightforward, since any representation of the EU by a diplomat that does not represent a Member State of the international organization is highly problematic. The problem is not that the Member States do not authorise the EEAS to speak on the behalf of the entire EU, but that the constitution of the international organization does not allow it. There is a basic clash between the establishment of the EU as an international actor by its Member States and represented by the EEAS and the reality of international organizations, which must be resolved through legal innovation, before there can be a coherent EU participation in international organizations through the EEAS.

The general impression is that Lisbon Treaty and the creation of the EEAS do not clarify the matter of the diplomatic representation of the EU in international organizations, but leaves the issue to loose informal arrangements and the flexibility of the actors involved,⁸⁸ as was the case before the Lisbon Treaty.

5. Institutional innovation and the EU's international strategy⁸⁹

The Lisbon Treaty and the creation of the EEAS represent a small revolution in EU diplomacy. The intention was clearly to increase the efficiency of EU diplomacy and make the EU more 'state-like' as a diplomatic actor, thereby allowing it to defend its interests more effectively. Still, the main obstacle to a coherent and unitary diplomatic representation has not been removed with the Lisbon Treaty: The *sui generis* nature of the EU between federal state and international organization and the resulting network organisation of its diplomacy, where the EEAS continue to coexist with the diplomatic services of the 28 sovereign Member States. What has changed is the coordination mechanisms within the network and a less complex and more clear-cut and visible international representation, which undoubtedly helps the EU reconstruct its image as a more Westphalian-state-like actor. With this reservation made, it is nevertheless clear that the Lisbon Treaty and the EEAS constitute a strategic shift in EU diplomacy.

The main identity of the EU as a diplomatic actor is that of existing as a post-sovereign solution to the dilemmas and problems of the Westphalian international system,⁹⁰ in contrast to Westphalian norms of territoriality and sovereignty.⁹¹ The basic construction is that the historical experiences of European countries have shown the limited capacity of Westphalian diplomacy to solve the problems caused by the competitive coexistence of sovereign states.

Until recently, it can therefore be argued, the main impact of EU diplomacy has been structural in nature. Keukeleire's concept of structural diplomacy relates mainly to the EU strategic objective of transforming the internal structures of other states in the international system, particularly the neighbouring states, so that they resemble the Member States of the

⁸⁷ C. Bouchard and E. Drieskens, "The European Union in UN politics", *op. cit.*, pp. 121-122.

⁸⁸ C. Carta, "The EU in Geneva...", *op. cit.*, p. 415.

⁸⁹ This section is based on a paper present to the ECPR-SGIR/EISA "8th Pan-European Conference on International Relations in Warsaw, in September 2013.

⁹⁰ This is also what the EU seeks to communicate about itself. See S. B. Rasmussen, "The messages and practices of the European Union's public diplomacy", *Hague Journal of Diplomacy*, vol. 5, no. 3, 2010, pp. 263-287.

⁹¹ I. Manners and R. G. Whitman, "The 'difference engine': constructing and representing the international identity of the European Union", *Journal of European Public Policy*, vol. 10, no. 3, 2003, pp. 382 and 399.

EU.⁹² However, European Union diplomacy is based on a further causal idea of a structural nature: not only the need for the transformation of the internal structures of other states, but also the need for the transformation of the dominant social structures of diplomacy in the international system towards the institutionalisation and legalisation of interaction. This way, major political changes are achieved through changing the basic structures of the international system, in stark contrast to the dominant idea in Westphalian diplomacy, which assumes the inevitable existence of the structural condition of anarchy and which considers a balance of power among sovereigns a source of peace and stability. The logic of EU diplomacy points to both structural transformations being necessary in order to overcome the alienation that characterises the Westphalian system and its inadequate models for coexistence; hegemony or balancing. The creation of an international order based on effective international institutions is an explicit objective of the 2003 European Security Strategy and constructed as the only source of EU peace and prosperity. And the objectives of norm diffusion and structural transformation remain in the Lisbon Treaty.⁹³

As such, the main impact of EU international agency was hitherto not to be found in the content of its interaction, but in its form, i.e. in its diplomacy,⁹⁴ in that it worked to recreate the foundations of the EU model of peaceful coexistence in its relations with other states and regions. Whether the EU will ultimately be successful in exporting its model is of course highly doubtful, although the increased interdependence and shared destiny of all states in an increasingly interconnected and ecologically fragile world seem to resemble ever more the intra-European conditions when the model was first created.⁹⁵

The organization of the EU as a network actor and the internal distribution of competences among the various actors is not a great obstacle in this respect, since the foreign policy content that the EU transmits through its diplomatic practices is primarily universal values and only to a lesser extent specific material interests (for the defence of which the network organization *is* a great problem). This is again the simple result of the lack of internal agreement about which interests to defend. This lack of strong material interests to be defended internationally in relations with third states, has allowed the structural network diplomacy to function, since it has allowed for the form of interaction to be more important than the specific content in relations with third states, i.e. its diplomacy to be more important than its foreign policy.

As a new kind of actor in the international system, it is very significant that the EU does not break with Westphalian micro-practices, but instead tries to copy them to the greatest extent possible and adapt its network organisation to function more efficiently within the framework constituted by existing international diplomatic law. The 1961 Vienna Convention on Diplomatic Relations⁹⁶ and the related customary law associated with the classical Westphalian states system remain the legal basis for diplomatic interaction in the international system. This suggests that a fundamental condition in the international system for a political entity is the lack of alternatives to Westphalian diplomatic practices, at least for if unwilling to use violence.

Particularly the EU's difficult participation in international organizations reveals the isomorphic pressure and problems that the current functioning of the international system and

⁹² For his notion of structural diplomacy, see: S. Keukeleire *et al.*, "Reappraising diplomacy: Structural diplomacy and the case of the European Union", *Hague Journal of Diplomacy*, vol. 4, n° 2, 2009; S. Keukeleire *et al.*, *The emerging EU system of diplomacy...*, *op. cit.*; S. Keukeleire, "The European Union as a diplomatic actor: Internal, structural, and traditional diplomacy", *Diplomacy and Statecraft*, vol. 14, no. 3, 2003.

⁹³ TEU (Lisbon), art. 21.

⁹⁴ Conclusion also reached by Keukeleire, see above references.

⁹⁵ It is beyond the scope of this paper to consider the impact of the EU on the future of diplomacy and diplomatic theory in detail. For a thought-provoking discussion of this theme, see J. Batora, "Does the European Union transform the institution of diplomacy?", *Journal of European Public Policy*, vol. 12, no. 1, 2005, pp. 44-66.

⁹⁶ Vienna Convention on Diplomatic Relations.

international diplomatic law exercises upon the EU. If the EU were more Westphalian in terms of organization and of being more coherent and consistent, it could participate on a more equal footing with other powerful actors, and it would gain greater influence in the world. This alternative 'euro-nationalist' construction sees the ideal European Union as a unitary actor speaking with one voice and being able to effectively defend the material interests of the Union. This line of reasoning is evident in many current policy debates, not least those relating to the functioning of the EEAS, where the content is clearly more important than the form, in a reversal of earlier logics.

In this sense, the necessity for institutional innovation in EU diplomacy can be seen as a result of an ideological shift with respect to the EU's global role. It is still too early to clearly estimate the impact of the establishment of the EEAS in this respect, but it seems clear that it is motivated by a perception of the content (interests) being more important than the form (structural impact of diplomacy), meaning that the EU is in a process of downplaying the element of *raison de système* which has been a key characteristic of its diplomacy so far, to the benefit of an EU-level *raison "d'union."* This tendency is also reflected in the sanctions policy as referred to above, where geopolitical concerns tend to triumph the normative objectives of promoting democracy and human rights, as argued above.

6. Conclusion

EU diplomacy before the Treaty of Lisbon was plagued by horizontal and vertical incoherence stemming from the distribution of competences between the Union and Member States that led to supranational and intergovernmental forms of diplomatic representation by a multitude of actors organised in a network characterised by its diffuse structures of authority and legitimacy and an extensive lack of legal clarity.

The Lisbon Treaty and the EEAS alleviates some of these problems, whereas others remain. The main obstacle to a coherent and unitary diplomatic representation has not been removed with the Lisbon Treaty: The *sui generis* nature of the EU between federal state and international organization and the resulting network organisation of its diplomacy, where the EEAS continue to coexist with the diplomatic services of the 28 sovereign Member States. What has changed is the coordination mechanisms within the network and a less complex and more clear-cut and visible international representation, which undoubtedly helps the EU reconstruct its image as a more Westphalian-state-like actor. Also, the non-state nature of the EU continues to present serious problems to a coherent representation in international organizations, even when political agreement exists within the EU.

In Brussels, the central administration of the EEAS now coordinates all policy areas, and even though the Commission still does internationally relevant work, the HR/VP is at the pinnacle of all bureaucratic structures, thereby having the potential to greatly improve the horizontal coherence of EU diplomacy. Abroad, what has fundamentally changed with the Lisbon Treaty and the EEAS is the simplification of the network, with the disappearance of the role of the Presidency diplomatic mission in CFSP areas. Now the Delegations represent the Union as a whole and across policy areas, so that the divide between supranational and intergovernmental policy areas is now internal to the EEAS. The real impact of the institutional innovation still remains to be seen, because it will depend not only on the changed formal set-up, but of how the actors involved adopt new coordination practices that will allow the EU to have a unified representation as an actor. This again depends on the socialisation dynamics between staff coming from the Commission, the Council Secretariat and, not least, the diplomatic services of the Member States.

Another main finding of the paper is that the institutional innovations indicate the consolidation of a strategic shift in EU diplomacy that has been on-going several years. The changes are for EU diplomacy to be more efficient and coherent, thereby enabling a more

assertive defence of EU interests on the international scene. This nevertheless represents a break with previous structural notions of diplomacy and a return to more Westphalian modes of conceiving international relations. This strategic shift towards the paradigm of the defence of interest in a competitive logic with other actors, as evidenced by the EU's efforts to become more state-like as a diplomatic actor is not unproblematic. If the Westphalian state as an organizational form was and is a problem for the peaceful coexistence of peoples, the recreation of the state at the European level cannot be a solution.⁹⁷ Of course, a more positive interpretation of the strategic shift is also possible. In a different perspective, thus, the institutional innovations analysed in this paper simple mean that the EU is successfully adapting to the isomorphic pressures exercised by existing diplomatic culture and practices in the international system generally and as such is advancing in the process coming to terms with the realities of international relations. In effect, the institutional innovations are mere indicators that the EU is 'maturing' as an international actor.

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