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Europe's Future Foreign Service

Graham Avery

The Treaty signed in Lisbon on 13 December 2007 makes important changes in the European Union's handling of foreign affairs. It adapts the institutional structures and develops a new "architecture" for foreign policy, including the creation of a European foreign service. This article examines the questions posed by this innovation.

New structures

The Treaty creates a High Representative of the Union for Foreign Affairs and Security Policy. He/she will take over the task of the High Representative for Common Foreign and Security Policy (presently Javier Solana), a new position as Vice-President of the European Commission, and the chairmanship of meetings of the EU's Foreign Affairs Council in place of the present six-monthly rotating Presidency. It also creates a European External Action Service to assist this person in his/her mandate; it will comprise officials from the Council Secretariat, the Commission and the diplomatic services of EU member states. Since these long titles require abbreviation, and give poor acronyms, the expressions "High Representative/Vice-President" and "External Service" will be employed here.

The only real change in the text of the new Reform Treaty, compared with its predecessor the Constitutional Treaty, is that the High Representative/Vice-President replaces the "Union Minister for Foreign Affairs". Although the new title is less euphonious, it is an improvement since the term "Minister", borrowed from the vocabulary of the nation state, implied that the EU was developing in the direction of a super-state. That is far from the case: the new architecture will not replace national policies by a common European policy.

In this sense, the declaration on the Treaty obtained by the British government is correct in saying that its provisions

will not affect the existing legal basis, responsibilities, and powers of each member state in relation to the formulation and conduct of its foreign policy, its national

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diplomatic service, relations with third countries and participation in international organisations...do not give new powers to the Commission to initiate decisions or increase the role of the European Parliament...do not prejudice the specific character of the security and defence policy of the member states.¹

This declaration, exquisitely crafted by legal experts, gives the impression that the Lisbon Treaty changes nothing: but is that really the case?

Potential improvements

In fact, the Lisbon Treaty offers potential improvements in two ways. First, it reorganises the way in which foreign policy is handled at the European level, drawing together the two “pillars” which presently characterise the system – the intergovernmental pillar of the Common Foreign and Security Policy, managed by the Council Secretariat, and the Community pillar of external policies managed by the European Commission. It does not abolish the pillars – their different modes of decision-making will still apply – but it brings them closer together in the same organisational structure. By eliminating duplication and increasing efficiency, it offers a streamlined and more effective means of doing things at the European level. In a word, it is more *coherent*.

It is also designed to make the European Union more *visible* in the world. The present situation in which the EU is represented by a multiplicity of persons and organs (the rotating Presidency of the Council, the High Representative for CFSP, the European Commission, to name but three) will be replaced by a system which can articulate the EU’s policies and positions with a single voice: the High Representative/Vice-President and relative External Service.

Second, the new system brings closer together the *national* and *European* levels of diplomacy, by creating a structure in which national diplomats and officials of EU institutions will work side by side. Here again, the new architecture does not replace national diplomacy by European diplomacy, or vice-versa. But it offers the chance for foreign policy professionals to work together so that European policymaking is enriched by national experience and national policymaking by European experience. At present, the distance and even rivalry between these two levels exacerbates the antithesis between “national” and “European” even though the differences are often less important than the shared interests and the advantages of common action.

¹ Conference of the Representatives of the Governments of the Member States, Brussels, 3 December 2007 (CIG 15/07). http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/11_12_07treaty.pdf

Historical perspective

The new arrangements are a logical continuation of developments in preceding Treaties. With the Maastricht Treaty signed in 1992, the EU created – or rather, announced – a common foreign and security policy to be conducted in an institutional framework based on intergovernmental cooperation. The fact that this “second pillar” was added to the existing “first pillar” of Community policies for external relations was an important advance. But it was only a first step in the development of an effective system for European foreign policy. It was clear that, sooner or later, it would be necessary to organise the second pillar more efficiently and to bring the two pillars more closely together.

The subsequent Treaties responded to those needs. First, the Amsterdam Treaty signed in 1997 introduced the High Representative for Common Foreign and Security Policy, whose dynamism and professionalism improved the management of the second pillar. Now the Reform Treaty signed in 2007 envisages a new institutional structure in which the first and second pillar will be brought closer together by the creation of the High Representative/Vice-President.

In a historical perspective, this is an interesting example of a process in which the creation of duality in the EU's institutional structures, leading to dysfunction, is followed by the creation of a more integrated structure. Maybe the model could be applied in future to other fields of EU activity, by making the Chairman of the Eurogroup a Vice-President of the Commission, or by merging the posts of President of the European Commission and President of the European Council.

The High Representative/Vice-President

The tasks of the new High Representative/Vice-President will be exceptionally difficult. He/she will have two “hats”: responsibility for common foreign and security policy – the hat presently worn by Javier Solana as High Representative for CFSP – and responsibility in the Commission as Vice-President for coordination of external policies. This hat is presently worn by the President of the Commission, Jose Manuel Barroso, who coordinates the work of Commissioners for External Relations, Enlargement, Development and Trade. In the preceding Commission, the hat was worn by Chris Patten who, although not a Vice-President, had a coordinating role in external affairs.

With the creation of the new post of Vice-President, a member of the Commission other than the President will for the first time have authority over others in the college. Up to now, the post has been honorific,

not hierarchic: a Vice-President may have had responsibility for important policies or chaired groups of commissioners, but he never had real authority over his colleagues. Till now, the principle that all members of the Commission are equal has been jealously protected, and the idea of creating “junior” commissioners encountered the argument that it would imply one nationality being subordinate to another.

The Reform Treaty says that the Vice-President will be “responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union’s external action”. Interpreted literally, this could imply that he is responsible for the entire field of external affairs, without other Commissioners being involved; but more realistically it must mean that he will coordinate the work of other colleagues responsible for individual portfolios. This coordinating role will be subject to the President’s overall coordination of the college.

The timing of the Treaty’s entry into force, planned for 1 January 2009, creates a potential problem. Since the present Commission’s mandate ends on 30 October 2009, the new Vice-President will join a college which still has 10 months of life, and his arrival will mean reorganisation not only in the field of the external affairs but in other fields: if the new Vice-President is Javier Solana, his arrival will imply the departure from the college of his compatriot and the consequent reallocation of the Spanish Commissioner’s portfolio.

The foregoing addresses the two “hats” of High Representative and Vice-President respectively. But the new figure will also have a “third hat” – presently worn by the Foreign Minister of the country holding the Presidency of the Council of Ministers. Under the new Treaty, the rotating six-monthly Presidency will no longer chair the Foreign Affairs Council; in its place the High Representative will chair that Council and “represent the Union for matters relating to the common foreign and security policy”.

This task of chairing and representation will demand time and will be complicated by the fact that many of the matters coming before the Council will be presented and presided over by the same person, the High Representative/Vice-President. The practical difficulties of wearing the third hat, along with the two others, have been underestimated. If Javier Solana in his present post has displayed the qualities of a human dynamo, he or his successor will need to be a superhuman gymnast.

Another element of the EU’s new architecture is a President of the European Council, who, according to the Treaty “shall, at his or her level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy”. The “foreign affairs triangle” of President of the European Council,

President of the European Commission and High Representative/Vice-President will call for good interpersonal relations as well as diplomacy.²

The External Service

For the European External Action Service, the Treaty provides that

- it “shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission, as well as staff seconded from national diplomatic services of the Member States” and that
- its task is “to assist the High Representative in fulfilling his or her mandate”

but the Treaty gives no guidance on its structure or institutional attachment. The absence of detailed instructions is probably wise, since the External Service will need flexibility for adjustment over time, in the light of experience – particularly if it is destined to grow one day into a fully-developed European diplomatic service. Much therefore depends on the next round of decisions, for which the Treaty provides that:

- “The organisation and functioning of the service shall be established by a decision of the Council, acting on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission”.

In the period of seven months which followed the signing of the Constitutional Treaty – from November 2004 to May 2005 – preparatory work was already conducted in the EU institutions. First, there were talks between the Council Secretariat and the Commission, leading to a joint paper presented to the Council by Javier Solana and Jose Manuel Barroso – a so-called Issues Paper. Then bilateral talks were organised by the Luxembourg Presidency with each of the member states, and discussions also took place in the Council’s Antici Group, which prepares the work of the Committee of Permanent Representatives. This work led to another joint Solana/Barroso report in May 2005 – this time entitled Progress Report.³ Meanwhile the European Parliament demonstrated its interest by organising a hearing in Brussels and a debate in Strasbourg.

But the activity came to a halt as a result of the “noes” in the referendums in France and the Netherlands and, in fact, the preparatory discussions identified only

² Brian Crowe has argued that one of the most difficult relationships may be between the new High Representative and the President of the Commission, who “must reconcile himself to having as a Vice-President someone who is answerable to the Council and in large part removed from his authority”. See Crowe, “The Foreign Minister of Europe” (this percipient analysis in 2005 already identified many of the main questions).

³ The texts of the Issues Paper and the Progress Report are reproduced in Annex 2 of Avery et al., *The EU Foreign Service*.

the main questions relating to the creation of the new External Service, not the solutions. What results can we expect when discussions resume after the signature of the Lisbon Treaty?

Timing

One basic question is the calendar envisaged for the creation and development of the External Service. On the one hand, it needs to be available when the High Representative/Vice-President takes up office; otherwise, who will assist him/her in the new functions? On the other hand, since it requires the creation of a new organisation and transfers of personnel, time will be needed. In fact, the proposal concerning the new service to be submitted to the Council by the High Representative (after consulting the European Parliament and obtaining the consent of the Commission) cannot be made until the new Treaty comes into force on 1 January 2009, so the Council's decision will be subsequent to that date. Moreover the High Representative/Vice-President who takes office on 1 January 2009 will be appointed on a temporary basis for only 10 months, with a subsequent decision to be taken on his/her appointment from 1 November 2009 when the five-year mandate of a new Commission commences.

These parameters suggest that a step-by-step approach will be needed. The first stage could be to create a temporary structure to assist the High Representative/Vice-President from 1 January 2009, and the next stage could be to create a permanent structure for the External Service effective from 1 November 2009. The decision on its creation should include an evolutive clause to allow it to develop smoothly and gradually over a period of time, taking account of experience acquired. If it is to develop one day into a European diplomatic service, its statutes should provide sufficient scope for flexibility and adjustment.

Tasks

Essentially, the tasks of the External Service will depend on how the High Representative/Vice-President exercises his functions. Will he be able to combine effectively his two hats as an agent both in the Council and in the Commission? How much time will he devote to each? How seriously will he take the task of coordination within the Commission? Will he be "captured" by the Commission or will he "evade" it?

On the one hand, the new service can be seen as an expansion of the Council Secretariat, occupied mainly with common foreign and security policy but issuing instructions to the Commission for the management of programmes and allocation of the budget. This concept, in which the second pillar handles the political decisions while the Commission executes them, is typical of thinking in the Council and some member states. In the Council Secretariat it is argued that the mandate of the High Representative/Vice-President is so specific – a personal

union of the two pillars – that the new service must be independent or “equidistant” from Council and Commission. There is a fear among the personnel of the Council Secretariat that their professional influence will be reduced if they are placed in an organisation with a larger number of Commission personnel.

Others argue – and this has been the position of the European Parliament – that the service should be placed within the Commission, coordinating its work under the first pillar, but also the work of the second pillar, thus asserting the primacy of the Community method over the intergovernmental method. But the Treaty includes the limiting clause that “in exercising his responsibilities within the Commission, and only for these responsibilities, the High Representative shall be bound by Commission procedures to the extent that this is consistent with the preceding paragraphs”. He will thus be the servant of two masters, Council and Commission, and the management of this duality will be the key challenge for him and his service.

In the Commission, it is argued that if the Vice-President is to coordinate the work of other Commission services – not to mention other Commissioners – then his service must be within the same organisation; otherwise, how can effective coordination be ensured? There is a suspicion within the Commission that the arrival of the new Vice-President will enhance the influence of the Council and member states, promoting the intergovernmental method in foreign affairs to the detriment of the Community method.

Decisions on the structure, tasks and personnel of the External Service will depend in large part on the choices to be made concerning these basic questions. There are other questions, too:

- Should the External Service assist the High Representative/Vice-President with his “third hat” – the chairing of meetings of the Foreign Affairs Council or should this be done by the Council Secretariat, which will assist the chairing of other Councils?
- Should the External Service assist the new President of the European Council in his work on common foreign and security policy or should this also be done by the Council Secretariat?

Design

The design of the new External Service requires skilled institutional engineering. Organisations resist change and European institutions are no exception. There will be important changes for politicians and senior officials working on foreign affairs in the Council Secretariat and the Commission. Bringing together in one structure the two groups presently working in Brussels on opposite sides of the Rue de la Loi – often competitors, sometimes rivals – will not be easy. To ensure synergy between the first and second pillars, so that the EU has a “joined-up” approach to

the formulation and execution of foreign policy, will mean resolving differences of approach and even of loyalty.

The experience of the preparatory discussions between the Council Secretariat and the Commission in 2004-05 was disappointing, with each side perceiving the other as a potential adversary rather than a future partner. Should one really entrust the plans for a new structure to the organisations directly involved, including persons whose careers will be affected by the result? Should one be surprised if this formula leads to concern with narrow organisational interests than wider considerations and long-term strategy? Other means of designing the External Service should now be considered. In the corporate world, where mergers of firms regularly take place, this type of situation is handled by using the services of independent experts and management consultants. For the new External Service, this approach should also be followed, with the use of professional management expertise and an external advisory group.⁴

Place and structure

Perhaps the most elusive piece of the puzzle is how to place the new External Service in the EU's institutional framework, so that can it serve the Council for part of its work and the Commission for another part.

Although the European Parliament in 2005 took the view that the new service "should be incorporated for logistical, administrative and budgetary purposes within the Commission", neither the Council nor the Commission agreed to that approach. The easy solution would be to locate the service in "neutral" territory, equidistant from the Council and the Commission; but this would simply add another wheel to a vehicle which already has too many, and increase the risks of duplication and complication. Since the new service is supposed to work closely with both institutions, not independently of them, the best answer is surely to give it the status of an agency or "office", subordinate to Council and Commission for first pillar and second pillar questions respectively, and organically connected to both. Interesting examples of common services with such a double function are already to be found in the EU's interpretation service and its anti-fraud office.

The big challenge for the new organisation will be to make "double-hatting" work in practice, so that the flow of advice to the High Representative/Vice-President is streamlined and duplication is eliminated. Here again, the temptation will be to adopt easy solutions. A structure which replicates within itself the duality of the first and second pillar – by maintaining separate branches for the two pillars,

⁴Stiftung Wissenschaft und Politik (the German Institute for International and Security Affairs) has proposed an "ad hoc advisory group" composed of representatives of member states, EU institutions (Council, Commission, Parliament) and selected experts, with the task of developing a multi-stage development plan for the new service (Lieb and Maurer, *Making EU Foreign Policy...*).

and even two “cabinets” for the High Representative/Vice-President – would be a second-best solution. A compromise in which the structure of the new service is “mirrored” in the Commission and Council – with parallel sets of geographic services – would be a third-best solution.

Another factor is the huge workload of the High Representative/Vice-President, which means that he will need deputies to assist him. At present, Javier Solana has nine Special Representatives with different geographic responsibilities; the European Commission has four members responsible for external affairs, who in turn have six services at their command: the Directorates General for External Relations, Development, Enlargement and Trade, plus the services responsible for managing external aid programmes (AIDCO) and humanitarian aid (ECHO).⁵

The solution of facility would be for the High Representative/Vice-President to employ Special Representatives as his deputies for CFSP matters and Commissioners as his deputies for Community affairs. But that would only perpetuate the existing dual approach which the new system is supposed to resolve. Moreover, Commissioners, whose appointment is approved by the European Parliament, normally have a more political profile than Special Representatives. It would surely be intelligent to deploy them for both pillars, depending on the matter concerned, in “double-hatted” mode.

What will be the relationship between commissioners and the External Service? In the 2004-05 discussions, it was agreed that trade policy and humanitarian aid should not be included in the remit of the new service, but its relationship to the other policies and services was not clarified. Although it was stated that “duplication of functions should be avoided as far as possible” – in other words, the geographical and thematic desks of the new service should not be duplicated in the Commission – it was also stated that “this will not prevent the Commission from organising its Directorates General in other fields such as trade, development or enlargement so as to allow them to fulfil their tasks”.⁶

This ambiguity will need to be resolved. The rational solution would be for Commissioners with geographical responsibilities to have at their disposal the relevant units of the External Service, and therefore to participate with the High Representative/Vice-President in managing the External Service. Take the Western Balkans, for example, where the EU is involved through the first pillar with pre-accession instruments and through the second pillar in matters of security: surely

⁵ In addition, the commissioners responsible for the Directorates General for Economic and Monetary Affairs and for Justice, Liberty and Security have important external aspects to their work and are usually considered as members of the Commission’s “external relations family”.

⁶ While it is generally agreed that, as a minimum, the personnel of the Commission’s Directorate General for External Relations should be transferred to the new service, other external services of the Commission may also be involved. If it is accepted that there should be no duplication of geographical or thematic desks between the Commission and the new service, then part (or even all) of the Commission’s Directorates General for Enlargement and Development could also be transferred.

this is a case where “double-hatting” must become a reality in Brussels, as it already is in the region itself where the Special Representative of the EU for Macedonia is also Head of the Commission’s delegation.

The Commission is responsible also for managing internal policies with external implications: environment, energy and migration are the main examples, but there are others such as transport, fisheries, the single market, etc. At the national level these “domestic” policies are being drawn more and more into foreign policy, and Foreign Ministries have to deal with the outreach of other ministries in international affairs. At the European level, the EU’s internal policies, as a component of its “soft power”, are increasingly important for its influence in the world. How will the High Representative/Vice-President and the External Service handle this aspect of coordination within the Commission?

Organisation

Many other important questions of recruitment, career structure, salaries, training, etc. will need to be decided for the creation of the new service. Should senior appointments be made by the High Representative/Vice-President acting alone, or with the advice of a selection committee, or a consultative group including representatives of member states and EU institutions? Should the EU’s Staff Regulations apply to all the personnel? To what extent will the new service have access to the confidential information currently made available to the High Representative and his staff by the intelligence services of member states?

Union delegations

The Treaty also creates Union Delegations in non-EU countries, reporting to the High Representative/Vice-President. Although the Treaty does not explicitly mention these delegations as a component of the European External Action Service, it places them under the authority of the High Representative/Vice-President. It is generally agreed that they should be an integral part of the new External Service, and be based on the Commission’s existing network of delegations in non-member countries.

The Commission has more than 120 delegations, accredited to more than 150 countries throughout the world, with nearly 5,000 personnel, of whom about 1,000 are Brussels-based officials and the rest are locally employed (but often European) personnel. They will bring more human resources to the new structure than either the Council Secretariat, where about 350 people work for Javier Solana, or the Commission’s Directorate General for External Relations, which numbers about 700.

Here too “double-hatting” will be crucial: a Head of Delegation will need authority and resources, including a unified staff, capable of handling both pillars, to represent the Union in the country to which he/she is accredited.

The Treaty says that the Union delegations shall “act in close cooperation with member states’ diplomatic and consular missions” in the capitals of non-member countries. This relationship will be important for the success of delegations in their role as representatives of the EU. The word “cooperation” was chosen with care: the mission of delegations will be to make the EU’s presence more effective, not to coordinate the work of embassies or to replace them. The task will not be easy: efforts in the past to promote cooperation between the national embassies of like-minded EU countries, including location in the same building, have not had much success.

On the other hand, consular work, including visas, is an area where some member states are willing to involve the delegations. For the smaller EU states, the possibility of using the services of delegations in countries where they cannot afford a consular presence is attractive, particularly in the light of experience at the time of the 2004 Asian tsunami. But consular work is labour-intensive, and requires training and language skills, so it is unlikely that delegations will be able to play an important role unless their personnel is reinforced.

The role of EU member states

What attitude will the member states have to the new External Service? Their position will be of crucial importance: if the service is really to bridge the divide between national and European diplomacy, the Foreign Ministries of member states must be involved as “stakeholders”. For the moment their contributions, in both quantity and quality, remain uncertain. Will they send their “brightest and best” employees to the new service? Will they expect to occupy the “high-profile” positions in delegations? Creating a unified service from different sources of recruitment in a way that is fair to the personnel, at the same time maintaining a geographic balance, will demand skilful management.

Javier Solana and his team in the Council Secretariat have successfully developed links with national Foreign Ministries, building up the confidential and personal relations necessary for rapid consultation and cooperation between Brussels and member states. For the new External Service, close links with capitals will be of crucial importance for the creation of an integrated approach to European foreign policy.

Among the personnel of diplomatic services, attitudes to the new service differ: the younger generation views it as an opportunity for wider horizons, while mid-career diplomats tend to be less enthusiastic. Perceptions differ also between big and small countries: for Foreign Ministries in smaller countries, the new structure may offer career opportunities, and useful services such as the sharing of political and economic reports, but the fear of a *directoire* persists, and they suspect that the bigger countries will dominate the organisation.

Budgetary aspects

Finally, one point on which everyone agrees is that the External Service will be financed from the EU budget, although this is not actually mentioned in the Treaty. At no stage have member states shown interest in financing it from national contributions. This consensus has important implications: since the European Parliament forms part of the EU's budgetary authority, it will have a voice in the design and functioning of the service. This in turn opens up wider questions of the accountability of the new service, and the democratic deficit of the EU's common foreign and security policy.

With many uncertainties concerning the size and structure of the new service, budgetary estimates are not yet possible. But the "new architecture" should not require substantial additional expenditure. To the extent that it reduces, rather than amplifies, the duplication of work in Brussels, its creation could even be a factor for reducing costs. The personnel of the External Service coming from the Council Secretariat and the Commission are already financed by the EU budget, so the only area where an increase in expenditure would be justified in the short term is the cost of the personnel seconded from national diplomatic services.

In the long term, will the existence of the EU's External Service lead to a reduction in public expenditure on national diplomatic services? Foreign Ministries often complain that they are under pressure from Finance Ministries to cut their personnel and reduce the cost of external representation. Will it be fiscal discipline rather than political conviction that leads to the development of a European diplomatic service? At present national flags seem to have a strong appeal, and the number of EU diplomats and diplomatic missions has increased in recent years, as new EU member states – including some newly independent states – have developed their representation in other countries.

But is Europe's use of these resources rational? The human and material resources devoted to foreign policy and diplomacy by the EU's member states and its institutions exceed those of any other nation or group of nations. But are they deployed effectively? The United States, employing less than half the diplomatic resources, has more than twice as much impact in world affairs. In this light, the argument for a more efficient organisation of EU foreign policy is incontrovertible.

Conclusion

Whatever the reasons for the "noes" which the people of France and the Netherlands gave to the Constitutional Treaty, the new architecture for EU foreign policy that it contained was not a significant factor. That is why its successor, the Lisbon Treaty, contains practically the same provisions. Public opinion in the

EU consistently favours better cooperation among member states for common action in international affairs.⁷

The new Treaty offers big opportunities. The most important involve better coherence and consistency in the Union's policies and actions in international affairs and greater effectiveness and visibility, as well as better cooperation between the Union's institutions, and between them and the member states, in the formulation and execution of policies. Nevertheless, its implementation presents huge challenges. The new External Service will have to provide the authority and means for the new High Representative/Vice-President to undertake the task successfully, combining his different "hats", and will have to make sure that the structure and personnel of the new External Service function effectively, combining the two pillars and bringing national and European approaches closer together in the conduct of foreign policy.

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⁷ In May 2007, in reply to the question "are you for or against a common foreign policy among the member states of the EU towards other countries", 72% of EU citizens supported a common foreign policy; this was an increase compared with the level of 68% registered during 2005-06. Eurobarometer 67, November 2007.