Even if the thought and practice of negotiation have existed as long as the human race, the development of diplomatic institutions is strictly related to the Westphalian state system. Since then, new institutions with particular architecture, power and behaviour have appeared in the international arena, making the diplomatic process both increasingly attractive and challenging. Within this group the European Union’s (EU) European External Action Service (EEAS) is the most interesting and potentially innovative due to its hybrid character.

The EEAS structural features owe much to the reform implemented by the Prodi Commission in 2003 – particularly to the creation of a single External Service Directorate – and to the activity of the High Representative for Common Foreign and Security Policy (CFSP) in 1999. However, the function the EEAS holds nowadays is also influenced by the failure of the referenda on Constitutional treaty in France and the Netherlands in 2005 as well as the first rejection of the Lisbon Treaty by Ireland in 2008. In 2008, the EU institutions and political process faced a threatening scenario as the legitimacy of the Commission and the future of EU integration were both uncertain. However, turning a political failure into a transient impasse is more or less the attitude of any leadership. In particular, implementation of the diplomatic service would have been instrumental to provide – if not craft – the internal consensus the EU institutions lacked at that stage. Positive results in foreign policy and external recognition are indeed able to reinforce a leadership with little internal recognition, and yet the opposite is still valid.

The Treaty of Lisbon was approved in 2009 and the foreign policy issue became its distinctive trait. As an essential part of the agreement, Article 13a III creates the High Representative of the Union for Foreign Affairs and Security Policy (hereafter HR). The European External Action Service (EEAS) was introduced to support that role in its office accordingly.

The role of the High Representative (HR)

The HR is the chief of EU foreign policy. Its role, however, is not simply that of a national foreign minister. Indeed, the EU is not a state actor and thus the power and control the HR exerts on its foreign policy are different as well.
The former High Representative for CFSP was rather exclusively concentrated on foreign policy and had no role in the Commission. On the contrary, according to the Treaty of Lisbon the HR is Vice-President (ex-officio) of the European Commission, as well as President of the Foreign Affairs Council. Moreover the HR joins European Council meetings and was Secretary General of the Western European Union (WEU) until the institution expired in June 2011. As a result, the Lisbon system involves the HR in both the EU internal political process and EU external projection.

As this institutional polymorphism could create new opportunities, scholars and analysts optimistically appraise the HR’s position. However, playing different roles in a variety of institutions also implies a number of problems. Undue flexibility – or overlapping of roles – could negatively affect both the stability of the HR’s role and the underpinning of the EEAS structure. This blind side of the diplomatic system has to be taken into account to avoid misplaced optimism in the HR’s scope backlashing on the entire system, should the EEAS delay or fail to deliver.

The HR intervenes in the external policy making process, where both the Council and the Commission maintain relevant competencies in foreign policy and external relations. The distribution of power and competences among these institutions is certainly more complex than the relations between a national Prime Minister and Foreign Minister. The HR’s potential in shaping EU foreign policy is therefore influenced decisively by the relationship between the HR and the plurality of institutions leading the EU decision-making process. Moreover, the intergovernmental principle provides the Commission with no authority on member states’ decisions on foreign policy issues. Parliaments – both European and national – are still the last link in the foreign policy transmission chain. Given these circumstances it is difficult to forecast what will be the actual influence of the HR – both institutional and personal – in the definition of EU foreign policy.

Since the Commission as well as the prime ministers (i.e. the members of the European Council) are subject to these dual constraints, the HR could facilitate or at least coordinate negotiations in the European Council and the Foreign Affairs Council. EU institutional engineering does not provide the HR with the powers that a democratic system needs to plan foreign policy, however, in the event of strong personal influence the HR would eventually be able to instigate the Commission’s proposals. The HR is a top-level bureaucrat and yet a decision maker. Even if the HR is Vice-President of the Commission, the role is tactical and not strategic since the position is held ex-officio. To some extent, the HR manages the means (i.e. the EEAS), yet completely lacks the authority to define the aims of EU foreign policy; an aspect to consider when making a realistic evaluation of its behaviour.

Finally and yet importantly, early in the implementation of the Lisbon Treaty the HR was also appointed Secretary General of the WEU, however NATO was identified as the institution devoted to defence of the European territory. Thus, the HR led (until July 2011) a military organization which did not serve as a military instrument and, even formally, was not the main coercive instrument of the EU. This problem is even more relevant as NATO is an alliance in which the European member States are junior partners of the US. Despite the external dimension (i.e. the EU’s inability to defend itself), this aspect is actually crucial in relations between the HR and the member states’ foreign and defence ministers. Considering that the WUE\(^2\) has been dissolved since July 2011, the HR lacks control – including formally – on coercive means, although it could be a formally higher institution than foreign ministers of member states. How could the HR be a successful negotiator with no means to enforce its policy other than persuasion? What happens if persuasion fails? The HR could ask the US for permission to use force (i.e. the last resort of a state) to pursue the EU’s objectives (i.e. those of another political entity). Therefore, even though the US and the EU have shown substantial accord regarding the use of NATO assets from 2003\(^3\), the sovereignty principle makes paralysis of EU foreign policy a realistic outcome in some circumstances.

---

2. The WEU was a defensive structure which, after the failure of the Pleven Plan and the European Defense Community (EDC), was considered “dormant” during its existence. It was closed at the end of June 2011. See: [http://www.weu.int/History.htm](http://www.weu.int/History.htm).
Implementing the EEAS vs. struggle for rank among EU member states

While fundamental, relations between the HR and different EU institutions are not exhaustive for grasping the advantages - as well as the difficulties - connected with implementation of the EEAS. It is also important to analyze how the EU delegations have been assigned to the member states, as well as some aspects of the competition and quarrels that have followed.

The EEAS is organised into five regional departments (Africa; Asia; Americas; Middle East and North Africa; Russia; Eastern Europe and Western Balkans) while a sixth is committed to global and multilateral affairs (human rights, peace, and international organizations). Although in different proportions, the EEAS staff comes from the Commission, the Council and the member states. Recruitment does not provide for national shares since EEAS personnel are appointed by the HR in person. Moreover, while overrepresentation of such countries persists in several European institutions, these features are more or less controversial.

Early in the implementation of the EU delegations, the interest of both politicians and the public was attracted by the question who takes what? Though relevant to understanding in the founding phases of the EEAS, this aspect is however subsidiary with respect to other aspects. Considering diplomatic service, it should not be forgotten that an EU Delegation is not a kingdom and hence cannot be held through dynastic succession. By contrast, even if some EU member states such as the countries identified as “New Europe” seem underrepresented or ignored, this fact can be considered a contingency for the moment, while how the EU political process will affect the evolution of the EEAS structure is indeed challenging. In particular the most important question to be answered in the next few years is whether the EU member states will be able to share operational procedures and a common diplomatic culture. The case of 27 states with a strong national path, which were part of opposite ideological and bureaucratic blocs until 1989, certainly makes this result unpredictable.

Even if the appointment of national diplomats such as the EU Head of Delegation is not complete, between September 2010 and August 2011 a number of Delegations were assigned. Some disagreement was predictable: a few new member states argued that the more influential members – for instance Germany, France, the UK, Spain and Belgium – are overrepresented as regards both their rank and number of appointments. The election of Markus Ederer as EU Ambassador in China seemed like a hit made by the German government, however Chinese perceptions are what really matter. If Beijing perceives the EU negotiator to be the legitimate representative of a coherent EU position, the speaker's nationality will not be as relevant. In this case, what matters will be the capability to promote EU interests. Yet do the Commission, the Council and the HR have the internal legitimacy to achieve a grand strategy? Does the EU have the diplomatic standing to replace national governments? If not, a government such as the Chinese one will negotiate bilaterally with member states and thus the German position will not be as profitable. Germany is a middle power in the international system. Accordingly, two German Embassy heads in Beijing will not be able to modify the asymmetric relation with the Asian “Godzilla”. The number of delegations influences a state's prestige (formal power) yet is not able to increase its substantive capabilities. By contrast, failure as an EU Delegate would become a stigma, negatively affecting the appointment of German personnel to crucial positions at the EEAS. This is a realistic hypothesis. Moreover, when neutrally evaluating the criteria the HR has followed in appointing EU Delegates, another relevant aspect to consider is the constraints originating from the national diplomatic structures. Considering the Italian case, some dissatisfaction followed the appointment of Ettore Sequi as Head of the EU Delegation in Albania, while it is not considered a prestigious seat. Diplomacy, however, is the ability to negotiate with problematic partners – i.e. Albania for the EU, for instance – to create political opportunities. From this perspective, second rank appointments represent a false problem as they demonstrate concretely the skill of Italian diplomats compared to others. By contrast, it is necessary to consider which internal factors influence Italian competitiveness with respect to other member states in the assignment of the Delegations. In this sense, Italian effectiveness in EU competition has been largely limited as the careers structures of the EEAS and the Italian Foreign Ministry do not match well. In particular, EU rules establish a much lower retirement age than that at which Italian diplomats are usually appointed first rank ambassadors. As a result, top-level Italian diplomats were not eligible to be short-listed by the HR.

4 The terms “Old Europe” (particularly France and Germany) and “New Europe” (the Eastern European countries) were used by the former US Defense Secretary Donald Rumsfeld. See more at: www.sam.gov.tr/perceptions/volume%20xii/DoesStrategic.pdf; www.bbc.co.uk/2/hi/europe/2687403.stm.
Even if the HR may be criticized for some bizarre appointments, it must be remembered that it takes time to synchronize different national diplomatic systems with the EEAS. Institutions, and bureaucracies in particular, are by definition rigid as they must produce stable (i.e., predictable) outcomes. In particular, the hybrid nature of the EU certainly makes the coexistence of both supranational and national institutions possible; however, some overlaps are unavoidable. Moreover, the majority of EU member states have different—and strong—diplomatic traditions. Therefore, finding a unifying criterion for selection is challenging and needs cooperation at both EU and national levels. At this stage both the national and the EU diplomatic systems are in transition, therefore any evaluation is premature if not in vain. Less than a year after the beginning of the EEAS activities, the points to be discussed are whether the transition from a national to a European diplomatic system will come to an end, how many years it would take, and what types of outcomes it would produce both in the EU and the international system.

Conclusions: duplicate or innovate

This paper has described the role of the HR and the EEAS structure, while attempting to underline the most original and problematic characteristics of these institutions.

The process is at its beginning, however, and the risk of overlaps is more than a mere hypothesis. In particular, despite the topics investigated in this paper, the most important challenge for both the EU and the HR is whether or not they will have the capability to innovate. The means have been provided, even if partially. The question still open, however, is whether the same situation can be affirmed for the goals. Since the internal consolidation of the EU is not complete—in particular, the EU still lacks a legitimate, coherent and effective political leadership—it is not unpredictable that the EEAS would become an empty box in the future, a gargantuan bureaucratic apparatus lacking a political objective. Under this scenario, the EU Delegations would be an even worse duplication of the member states’ diplomatic structure: a dual failure, both on the national and the European side, as the existence of the EEAS would disqualify and delegitimize the traditional diplomatic systems, yet without being able to shape an efficient European diplomatic pathway.

La ricerca ISPI analizza le dinamiche politiche, strategiche ed economiche del sistema internazionale con il duplice obiettivo di informare e di orientare le scelte di policy.

I risultati della ricerca vengono divulgati attraverso pubblicazioni ed eventi, focalizzati su tematiche di particolare interesse per l’Italia e le sue relazioni internazionali e articolati in:

✓ Programma Africa
✓ Programma Caucaso e Asia Centrale
✓ Programma Europa
✓ Programma Mediterraneo e Medio Oriente
✓ Programma Russia e Vicini Orientali
✓ Programma Sicurezza e Studi Strategici
✓ Progetto Argentina
✓ Progetto Asia Meridionale
✓ Progetto Cina e Asia Orientale
✓ Progetto Diritti Umani
✓ Progetto Disarmo
✓ Progetto Internazionalizzazione della Pubblica Amministrazione

Le pubblicazioni online dell’ISPI sono realizzate anche grazie al sostegno della Fondazione Cariplo.

ISPI
Palazzo Clerici
Via Clerici, 5
I - 20121 Milano
www.ispionline.it

© ISPI 2011