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The European External Action Service: Implications for the coherence and effectiveness of the European Union's Foreign Policy

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Abstract

The Lisbon Treaty was mainly created to improve the European Union's foreign policy in a way more coherent and effective. To bring that aim about the European External Action Service (EEAS) was established and will be up and running soon. Article 27(3) TEU outlines the functions and competences of that diplomatic corps very vaguely. Consequently it is not certain if the EEAS has, indeed, capabilities of bringing about the envisaged aim of a more coherent and effective foreign policy of the EU. This is what this paper will shed light on.

1. Introduction

1.1. Where the EU's external relations come from

When the European Union was created in the 1950's, it was not supposed to fulfil more than economic functions.¹ With the European Political Cooperation (EPC), 20 years later, the EU started discussions on political cooperation on an informal basis. Even though the cooperation was created outside of the former European Cooperation (EC), the Single European Act of 1986 integrated and formalized it into EU structures.² As article 30(3)(a) puts it: "The Ministers for Foreign Affairs and a member of the Commission shall meet at least four times a year within the framework of European Political Cooperation. They may also discuss foreign policy matters within the framework of Political Cooperation on the occasion of meetings of the Council of the European Communities (...)"³. This formalization of informal structures can be seen as an initiation point of further political cooperation as part of the European Cooperation, as this is the first time that the EU assumed some external political competences.

Only six years after the Single European Act the European Cooperation was able to achieve a milestone in its history. With the adoption and ratification (1993) of the Maastricht Treaty, the then called European Union extended the foreign policy sphere of the EU. This was made possible by the "pillarization" of the EU.

The first pillar assumed all the competences regarding foreign economic relations as for instance the Common Commercial Policy (Title IX TEC).

The second pillar "Common Foreign and Security Policy" was designed to focus on the political aspects of foreign policy. This concerned, according to article 11 of the TEU, the "safeguard (of) the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter" as well as the strengthening of the security of the Union in all ways, the preservation of peace and the reinforcement of international security in accordance with the principles laid down in the Charter of the United Nations and the principles of the Helsinki Final Act and the objectives

¹ By having a brief look at the founding treaties, namely the Treaty establishing the European Coal and Steel Community and the European Economic Community it gets obvious that all external and foreign relations merely refer to economic activities.

² Crowe, B. (2008), p. 11

³ Article 30 (3) SEA

of the Paris Charter. Further the article lays down that the EU should promote international cooperation, and strengthen democracy, the rule of law and the respect for human rights and fundamental freedoms.⁴ It is clear from the article that the EU deems it necessary and pursues consequently political cooperation on an international basis, also outside the EU (in the UN e.g.). Further it is interesting to note that where the SEA has loosely tried to bring European foreign policy closer together (member states ‘shall endeavour jointly to formulate and implement a common foreign and security policy’⁵ the Maastricht Treaty was way more clear on that matter (the EU and its member states ‘shall define and implement a common foreign and security policy’⁶).

The third pillar was initially called “Justice and Home Affairs” and is designed to pursue mainly cooperation on criminal matters, which involves also police activities.

At this stage it gets visible that within about 20 years the EU has started political cooperation and extended it to formalized structures and also external political cooperation on sensitive issues. Even though these formerly strictly national first order competences were only assumable at EU stage through unanimous voting⁷ so far, second order joint-actions could be implemented by Qualified Majority voting.⁸

The first EU amendment Treaty’s, negotiated in Amsterdam in 1997 and ratified in 1999, most striking innovation in field of foreign policy, was the creation of the post of the High Representative of CFSP, eventually assumed by Javier Solana. His main tasks were to assist the Council, ‘and especially the Council Presidency, in all CFSP matters, including external representation’⁹. In this respect he could be seen as the EU’s top diplomat.¹⁰ Another change brought about through Amsterdam was the shrinking and renaming of the third pillar from “Justice and Home Affairs” to Police and “Judicial Cooperation on Criminal Matters” (PJCC).¹¹

The Treaty of Nice (signed in 2001, entered into force in 2003) did not change much in the field of foreign policy. The only thing that should at least be mentioned here would be the extension of QMV in the field of CFSP, but these were largely concentrated on enhanced cooperation procedures, which bear not enough weight, for the sake of this thesis, to be further elaborated on.¹²

1.2. Where is it now?

In 2004 the Constitutional Treaty was signed, but was eventually rejected. It envisioned the enhancement of the EU’s foreign policy in a similar fashion as the Treaty of Lisbon does. The latter’s ratification was pushed through five years later. It changes the framework of the

⁴ Article 11 TEU

⁵ Nugent, N. (2006), p. 89

⁶ Nugent, N. (2006), p. 89

⁷ Article 23 TEU

⁸ Nugent, N. (2006), p. 90

⁹ Nugent N. (2006), p. 99

¹⁰ EU Observer (2009)

¹¹ Nugent, N. (2006), p. 97

¹² House of Commons (2004), p. 15/16

European Union quite significantly. The three pillar structure designed by the Treaty of Maastricht has been abandoned partly. Instead of three there are so-to-speak only two pillars left.¹³ The “first pillar” can be found in the “Treaty of the Functioning of the European Union”, which is the reformed European Community (EC) Treaty. It assumes every policy area (also Police and Judicial Cooperation on Criminal Matters) except for the Common Foreign and Security Policy.¹⁴ The latter will receive once more a separate status through a separate treaty: The new TEU.¹⁵ Blockmans and Wessel call that a “missed opportunity”¹⁶. Regarding the voting rules in the TEU, there is still vastly unanimity required to adopt decisions, except for CFSP provisions the European Council can introduce unanimously qualified majority voting.¹⁷ As far as the Treaty provisions are concerned only some second-order issues can be directly decided by QMV.¹⁸

A striking innovation regarding foreign policy was the strengthening of the post of the High Representative (HR) of CFSP, now renamed to High Representative of the European Union Foreign Affairs and Security Policy. The HR is also a Vice President (VP) of the Commission and acquires the role of the External Relations Commissioner. A further competence is the chairing function of the Foreign Affairs Council.¹⁹ Hence the HR/VP assumes a threefold occupation in order to ensure proper coordination in the foreign affairs of the EU (more on that in the following chapters). Catherine Ashton was elected for the post.

Another major breakthrough of the Lisbon Treaty constitutes the “European External Action Service” (EEAS)²⁰, which is crucial for the success of the HR/VP in her various functions²¹. This body’s tasks are defined by the same article quite vaguely:

*“In fulfilling his mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and 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.”*²²

¹³ Raube, K. (2008), p. 12

¹⁴ Title V TEU

¹⁵ Blockmans & Wessel (2008), p. 10; See: Verola, N. (2010) for a concise but sophisticated discussion in line with Blockmans & Wessel’s reasoning

¹⁶ Blockmans & Wessel, p. 45

¹⁷ Verola, N. (2010), p. 46; Even though one might see in such a provision some innovation to overcome the cumbersome situation in the CFSP, it is imaginable how difficult it will be to achieve unanimity amongst 27 Member States especially in the sensitive field of foreign and security policy. See also: *ibid*, p. 42, which outlines the eagerness of the Member States before the adoption of the Lisbon Treaty to guard their prerogatives and privileges in the foreign policy sphere. See: Article 48, para. 7 TEU to realize that the ESDP is explicitly excluded from such QMV possibilities, which underlines the restrictions and limitations in the EU’s foreign activities and the MS willingness to retain it as intergovernmental as possible. Such a distinction between matters of CFSP and ESDP get also obvious by regarding the Revised Draft for the proposal for a Council Decision establishing the organization and functioning of the EEAS, Article 3

¹⁸ Commission (2007), p. 1/2/3

¹⁹ Dougan, M. (2008), p. 636/637

²⁰ Article 27 (3) TEU

²¹ Verola, N. (2010), p. 45

²² Verola, N. (2010), p. 45

As already outlined before, the European foreign policy is very much hampered by the Member States eagerness' to maintain the veto-power in this field. The "constructive abstention" provision as introduced by the Amsterdam Treaty²³, did not solve the problem of a very cumbersome foreign policy.

The Lisbon Treaty is supposed to provide help to this problematic field, especially by introducing the foreign policy bodies High Representative/Vice President and the European External Action Service.

The latter one will be the main focus of this bachelor assignment. It will address the question: **To which extent can the new EU External Action Service contribute to a more coherent and effective EU foreign policy?**

In order to answer that question some semantic clarifications are necessary in order to be able to determine what constitutes coherence and effectiveness with respect to EU foreign policy.

1.3. Coherence

When the EU formally started to cooperate politically on an external basis, the SEA introduced the first article addressing the possible danger of ineffective measures. Article 30 (2)(d) SEA states:

"The High Contracting Parties shall endeavour to avoid any action or position which impairs their effectiveness as a cohesive force in international relations or within international organizations."²⁴ One can find the terms cohesion and effectiveness closely together. The political leaders are certain that effectiveness can only be reached by acting as a cohesive force and therefore together in synergy. Further it gets clear that the formalized EPC framework inside the EC was very much treated in separate manner as the same article in paragraph five puts forward the necessity that activities in the EC and in the EPC must be consistent.²⁵ We find the term of effectiveness closely linked to the term consistency. Henceforth one might argue that consistency between the measures is one of the prerequisites for effectiveness. The term consistency returns in the Treaty of Maastricht, which is a much more complex construct when it comes to external competences and their delimitations. The three-pillar structure, in which every pillar includes some aspects of external policy, is prone to conflicting actions. Obviously, senior politicians were aware of such a danger and addressed these issues in several treaty articles. The term consistency for example, can be found under articles 1, 3 and 13(3) TEU. The Commission publication "Europe in the World – Some practical proposals for greater Coherence, Effectiveness and Visibility" shows that this issue is of concern in the daily business in Brussels.²⁶ In the Treaty of Maastricht the principle of consistency is actually introduced. In his article "The Inside Looking Out: Consistency and Delimitations in EU External Relations", Wessel states that the principle of consistency is

²³ Europa - Glossary. Abstention, constructive (positive abstention)

²⁴ Article 30 (2)(d) SEA

²⁵ Article 30 (5) SEA

²⁶ Commission (2006)

only mentioned in the English treaty versions, while other languages use the term coherence.²⁷ This is seemingly quite odd, because both terms describe not entirely the same things. Christophe Hillion, arguable one of the most important experts when it comes to the functioning of the EU's external sphere, points out that consistency is a necessary but insufficient condition for coherence.²⁸ This emphasises the differentiation between both concepts. According to Wessel, consistency describes the "absence of contradictions"²⁹ and to the founder of "Europe's External Policy Advisers" (EEPA) Mirjam van Reisen, it implies that "all of the EU's various external policies should not contradict one another."³⁰ Coherence on the other hand "refers to positive connections" and "is a matter of degree".³¹ There are no clear ECJ rulings to be expected due to its lack of influence over the EU's foreign policy pillar. Still by deriving conclusions from two rulings of the Court one can see it that "suggests that the two notions cannot be used interchangeably and that they should instead be understood as distinct concepts (...)"³². Thus Hillion defines coherence "beyond the assurance that the different policies do not legally contradict each other, [as] a quest for synergy and added value in the different components of EU policies"³³. Academics commonly agree, whereas it is possible to say that there is a certain level of coherence, consistency cannot be levelled.³⁴ It is there or not.³⁵

For the purpose of this research I am going to focus on the concept of coherence, because my goal is to determine a certain level of improvement provided by the EEAS. This does obviously not work by using the term consistency. On top of that, it is according to Raube and Portela, widely agreed among scholars that consistency has in fact the meaning of coherence.³⁶ For the sake of this research I conceptualize the term coherence by combining the definitions of Wessel and Hillion: achieving the highest degree of synergy between policies so that foreign policy functions as smooth unit.³⁷

1.4. Effectiveness

The term effectiveness in the foreign policy sphere can, as with coherence, first be found in the Single European Act. Article 30 (2)(a) states: "The High Contracting Parties undertake to,

²⁷ Wessel, R. (2000), p. 1150; see also: Hillion, C. (2008), p. 13

²⁸ Hillion, C. (2008); According to the causal terminology this would mean that when consistency is absent coherence cannot be present and that having consistency achieved does not imply that coherence must be as well.

²⁹ Wessel, R. (2000), p. 1150

³⁰ Van Reisen, M. (2007), p. 3

³¹ Wessel, R. (2000), p. 1150

³² Hillion, C. (2008), p. 13; see also the following ECJ case-law: Case C-266/03 Commission v Luxembourg [2005] ECR I-4805; C-433/03 Commission v Germany [2005] ECR I-6985

³³ Hillion, C. (2008), p. 17

³⁴ See above cited authors, but for other elaborations on the concepts see also: Cremona, M. (2008); Portela, C. & Raube, K. (2009); Stahl, B. (2008); Nuttal, S. (2005); Missiroli, A. (2001)

³⁵ For a more elaborate discussion of consistency and coherence and their interactions, differentiations and dimensions see: Hillion, C. (2008); Krenzler, H. G. & Schneider, H. C. (1997)

³⁶ Portela, C. & Raube, K. (2009), p. 4

³⁷ On coherence and consistency see also: Wessel, R. (2004); Cremona, M. (2008)

inform and consult each other on any foreign policy matters of general interest so as to ensure that their combined influence is exercised as effectively as possible through coordination (...)”³⁸. The already outlined subparagraph (e) of the same article highlights the importance of the common foreign policy to be conducted cohesively and therefore in a united fashion. This is seen as an effective policy. The article is related to activities in international relations and within international organizations.³⁹

The concept of effectiveness was given attention in the Treaty of Maastricht. Article 30 (2)(e) SEA can again be found in the EU Treaty under Title V Article 11 (2). Further, article 13 brings the terms effectiveness and consistency (coherence) together. Article 14 (7) is concerned with the measures under the CFSP. These shall not mutually “impair” their effectiveness.

As already mentioned in the preceding subparagraph and as it also gets visible in article 13 TEU, coherence and effectiveness are often regarded as being closely connected. This holds true for both the foreign policy in the EU and in the single Member States. It is widely regarded by policy officials that coherence has significant influence on the effectiveness of the issue area in question.⁴⁰ For instance Missiroli explains: “by acting unitarily and with a common purpose, the EU...becomes also, *ipso facto*, more efficient and effective”⁴¹. Raube adds amongst EU officials, it was believed that the lack of effectiveness could be achieved by finding remedies to the (in-)coherence problem.⁴²

Now, one can imagine the linkage of coherence with effectiveness. But the question remains: When is something effective? According to the “Oxford Advanced Learners Dictionary” the term ‘effective’ means “producing the result that is wanted or intended”.⁴³ Going from this explanation to the EU foreign policy the next step is to look for the results intended in that sphere. The Lisbon Treaty sheds light on that question.

Article 21 (2) TEU we can find a general list of aims set out for the foreign policy of the EU.⁴⁴ But the EEAS will not take decisions in this field solitarily. It will rather help taking decisions by providing information and assisting the relevant players. Therefore it is more important, for this thesis, to call the EU foreign policy more effective when it produces more valuable and precise measures according to article 25 TEU. Therefore effectiveness in this sense means that the EEAS can add positively to the realization of the goals set out in Article 25 TEU.

In what has been presented so far I introduced and outlined the most important developments in the field of foreign policy⁴⁵ in the EU up to the present.

This leads us to the methodological choices I made for answering the general research question. I will subdivide it into two subquestions which will be brought together for the analysis at the very end of the paper.

³⁸ SEA Article 30 (2)(a)

³⁹ SEA Article 30 (2)(d)

⁴⁰ Portela, C. & Raube, K. (2008), p. 2

⁴¹ Missiroli, A. (2001), p. 14

⁴² Raube, K. (2008), p. 12

⁴³ Oxford Advanced Learner’s Dictionary, p. 402

⁴⁴ Article 22 (1) TEU

⁴⁵ For the sake of this paper

The first question concentrates on why the effectiveness and coherence in the EU can even be questioned. To answer this question an array of academic literature will be reviewed. The next subquestion will then focus on the EEAS regarding its envisioned competences and tasks as well as its inherent structure. Only by knowing what the External Action Service is about to look like, how and where it will function one can realize whether it is appropriate to solve the coherence and effectiveness problems in the EU's foreign sphere.

2. Subquestions

2.1. Can the coherence and effectiveness of the EU's foreign policy be questioned?

Since the European Political Cooperation of the 1970's the European States have been cooperating in foreign matters. As explained in the introduction, when it was formalized into EC structures, EU leaders simultaneously made clear that such policies must be coherent and effective. This notion repeated itself throughout the evolution of the different treaties amending or restructuring the European Union. Still, scholars and academics agree that especially the provisions on coherence and effectiveness are at least not entirely met in practice in the EU.⁴⁶ Simon Duke for instance argues that the Common Foreign and Security Policy as well as the European Security and Defence Policy have contributed to the role of the EU in the international scene but also "complicated coordination by throwing up complex issues of competences between the three pillars in the EU's external relations"⁴⁷. Wessel and Blockmans have a similar line of reasoning. Both claim that the pillar structure of the EU bears an 'inherent risk of inconsistency by dividing the Union's external relations over two different legal treaty regimes.'⁴⁸

Just a couple of months ago when the Lisbon Treaty has not been adopted yet, the situation in the EU's external affairs putting the coherence and effectiveness at risk was very visible by recognizing that all three pillars of the Union (European Community (EC), Common Foreign and Security Policy (CFSP), Police and Judicial Cooperation on Criminal Matters (PJCC)) have a legal external competence and their issue-areas sometimes overlap⁴⁹.

Preserving the general consistency in the Union's external action is difficult to attain because different measures of implementation and decision-making in all three pillars are making the legal situation even more complicated.⁵⁰ Article 3 of the TEU obliged the EU to conduct its general policies and especially the foreign policy coherently, but the given structure with no clear hierarchy of measures let this obligation look like a subterfuge.⁵¹ This runs counter to the actual aim of cooperation, coherence and effectiveness.

⁴⁶ See following citations, but also: Smith, M. (2001), p. 21, Vanhoonacker, S. & Reslow, N. (2010), p. 8

⁴⁷ Duke, S. (2009), p. 2

⁴⁸ Blockmans, S. & Wessel, R. A. (2009). p. 38

⁴⁹ Wessel, R. A. (2000). p. 1159

⁵⁰ Wessel, R. A. (2000). p. 1145/1146

⁵¹ Eeckhout, P. (2004), p. 152

It was the first pillar, however, that was often seen as primary to the other two pillars, but not always.⁵²

Ott and Wessel nicely summarize the problems in the EU's external with only a few sentences and also give some advice on how to solve the shortcomings:

*External relations have been the main representative of incoherence in the current structure of the European Union/Communities, with legal personalities assigned to the different European Communities, the European Union (implicitly) and even some of the sub-organisations of the Community and the Union.¹⁵¹ The different legal characteristics of the three pillars, as well as their diverging instruments and decision-making procedures, add immensely to the complexity of the Union's external relations. In that respect, the abolishment of the pillar structure and the merger of the Communities and the current European Union could only be welcomed (...).*⁵³

These voices were not only raised by academics, but also by EU bodies and officials themselves. In the Laeken Declaration this situation has been addressed by claiming that policy measures and institutions had to be pulled together in a coherent manner in order to increase effectiveness.⁵⁴

In 2002, the German "Friedrich-Ebert Stiftung", which is a largely governmentally sponsored but still autonomous body, presented the origins and solutions for the foreign policy dilemma in the EU. It criticizes amongst many, the discontinuity in the Council (rotating presidency), the incoherence in the policy implementation and the decision-making by unanimity.⁵⁵ The short time series of presidency in the Council and European Council have often led to an abrupt shift in the agenda and thus to inconsistent policy strategies.⁵⁶

Consequently the degree of coherence and effectiveness as forwarded in the treaty has not been reached and the EU's foreign policy is rather cumbersome and incoherent instead of coherent and effective. This is the reason for criticism from different angles. As presented in this part of the paper, the critics have been voiced not only inside the EU, but also by academics and national entities from Member States. This even led to voices being raised questioning the whole European foreign policy and its mere existence.⁵⁷

⁵² Case C-91/05 (ECOWAS); See: Eckhoud, P. (2004), p. 153 points out a case where the CFSP through the Council asserted their common position over the contesting Commission, which tried to maintain the EC superiority. It is naturally visible here that consistency or coherence is very hard to achieve respectively to improve under such conditions on a permanent basis. See also: Cameron, F. (1999), p. 83-94, who outlined a practical approach giving a lot of examples how the foreign relations of the EU have been covered by all three pillars and found that whenever coherence was lacking, the Union's approach have consequently been weakened. For the latter notion see also: Bindi, F. & Shapiro, J. (2010), p. 345

⁵³ Ott, A. & Wessel, R. (2006), p. 33

⁵⁴ Declaration of Laeken (2001)

⁵⁵ Friedrich Ebert Stiftung (2002), p. 3; for a more academic critique of the same issues see also: Bindi, F. & Shapiro, J. (2010), p. 343; Dougan, M. (2008), p. 625

⁵⁶ Bindi, F. & Shapiro, J. (2010), p. 343; Dougan, M. (2008), p. 627

⁵⁷ See: Bindi, F. & Shapiro, J. (2010), p. 339. The authors determine at least three types of views concerning the EU's foreign policy. The first type is sure that there is no such thing as a European Foreign Policy, never have been, never will. The second type believes that EU's foreign policy does not matter so far, but will if the

With the Lisbon Treaty the EU was restructured to also enhance the foreign policy machinery. The introduction pointed out that the pillarization has been reduced from three to two. Unfortunately, leaders were not able to “communitarize” the Common Foreign and Security Policy, leaving it outside in a separate treaty.⁵⁸ This could result in incoherence and ineffectiveness because two systems working in a parallel manner in fields which deal with different aspects of the same policy field and having separate status in EU law⁵⁹ are more problematic than one concise system assuming all the aspects.⁶⁰ By having a deeper look into the treaty, one can see that the CFSP still has a special status. In article 24 (1) TEU it is stated that the CFSP was “subject to specific rules and procedures”⁶¹. This highlights the separate status from the merged European Community and the Police and Judicial Cooperation on Criminal Matters.

Regarding the legal acts adopted in the European Union framework, the measures have been harmonized. Hence there are no longer different measures to be used when legislating in different or overlapping policy fields.⁶² But Dougan and Kurpas agree about the factual differences between the “decisions” adopted in the framework of the TFEU and the CFSP in the TEU. Kurpas explains: “There will thus be ‘decisions’ in the area of CFSP, but the term will still not *mean* the same as in other policy areas.”⁶³ Dougan comes to the conclusion that even though the measure itself is the same “it is arguable that any decisions adopted specifically pursuant to the CFSP will remain distinct, as regards their potential effects within the national legal systems, from decisions adopted in any other field of Union activity.”⁶⁴ Therefore the CFSP clearly remains differently treated than the other two former pillars. This notion is underlined by declaration 14 annexed to the treaty which states that the provisions on the former second pillar were not subject to Commission initiation (as opposed to the TFEU in most instances) and does not change the powers of the EP in this policy field.⁶⁵ The special and separate status is highlighted once more by article 24 TEU, which further outlines that the provisions of the CFSP were not subject to European Court of Justice scrutiny⁶⁶, except for matters related to the EU’s areas of exclusive competence such as trade or enlargement policy.⁶⁷

Another point which separates the CFSP from other policy fields is again brought forward by Kurpas, who states that the CFSP is through the Lisbon Treaty strictly excluded from the flexibility clause.⁶⁸ For all these reasons it seems safe to claim that the complete de-pillarization is more in the heads than on paper. Thus, from a Common Foreign and Security

Member States want to realize a foreign policy aim. The last type is of the opinion that it exists, but leaders resist using the term because of fearing that it could frighten the public or reduce their influence.

⁵⁸ Blockmans, S. & Wessel, R. (2009), p 45

⁵⁹ Blockmans, S. & Wessel, R. (2009), p 5; Kurpas, S. (2007)

⁶⁰ Case C-91/05 (ECOWAS)

⁶¹ Article 24 (1) TEU

⁶² Dougan, M. (2008), p. 625

⁶³ Kurpas, S. (2007)

⁶⁴ Dougan, M. (2008), p. 625

⁶⁵ Treaty of Lisbon, Declaration 14

⁶⁶ Article 24 TEU

⁶⁷ Euractiv (2010)

⁶⁸ Kurpas, S. (2007)

perspective the system could still exhibit incoherence and ineffectiveness in the external action of the EU.

But it would, however, rather be cynical to neglect to positive sites of the Lisbon Treaty amendments that indeed could very much contribute to the increase of coherence and effectiveness of external action.

The merger of the EC and the PJCC (Police and Judicial Cooperation on Criminal Matters) into the EU is expected to add to the coherence of the EU⁶⁹ because it now constitutes a concise and single system. The fact that there are only two “pillars” left can be regarded as an increase of the level of coherence and effectiveness because conflicting measures will most likely no longer arise between three but only two policy areas. This of course implies that the conflicts between the EC and the PJCC will vanish, which is arguably an optimistic expectation. But still, within the framework of the TFEU the measures and instruments are of the same character and meaning (to put it in Kurpas’ words). Coupled with the case law of the ECJ, it can be assumed that coherence and effectiveness between the former EC and the PJCC could exhibit a very high level (time will show).

An innovation that is commonly agreed on to improve the coherence and effectiveness of the EU’s foreign policy is the creation of the High Representative of Foreign Affairs and Security Policy (post acquired by Catherine Ashton)⁷⁰. This position merges the posts of the High Representative for CFSP and the external relations Commissioner.⁷¹ In her Commissioner role, Ashton will also be one of the vice presidents. As member of the Council and most important person focussing only on external relations, she is going to chair the meetings of the Foreign Relations Council, which has major decision-making power in the CFSP.⁷² Consequently, the Council Presidency will lose this chairing position. Finally, the High Representative will be the head of the European External Action Service, which will in return assist the HR in its activities.⁷³ There is a huge coordination potential for the EU’s foreign policies, since the HR/VP has a senior post in two pivotal institutions. With the proper ability of social skills and competence it will be possible for the HR/VP to make sure that foreign policies of the UE run more smoothly so that competence conflict is prevented, which in turn would result in increased coherence and effectiveness.⁷⁴

In theory this sounds promising, but in practice there is still room for discussion when it comes to specific policies. There is, for instance, a big discussion about the proposed structures of the EEAS by Ashton as it includes competences of development cooperation. Maria van Reisen⁷⁵ and the British law-firm White & Case and several NGO’s claim that the EEAS is legally not supposed to have competences in the field of development cooperation.⁷⁶

⁶⁹ Blockmans, S. & Wessel, R. (2009), p. 4

⁷⁰ See for instance: Crowe, B. (2008); Raube, K. (2008); Kurpas, S. (2007); Duke, S. (2009), Grevi, G. & Cameron, F. (2005)

⁷¹ Dougan, M. (2008), p. 636

⁷² Duke, S. & Blockmans, S. (2010), p. 12

⁷³ Article 27 (2) TEU

⁷⁴ Friedrich-Ebert-Stiftung (2002), p. 6

⁷⁵ Van Reisen, M. (2010)

⁷⁶ Duke, S. & Blockmans, S. (2010), p. 2

This claim is through pure logic of the Lisbon Treaty as well as sophisticated argumentation tentatively rejected by a CLEER Legal Brief written by Duke and Blockmans.⁷⁷

Even though one might say that the coherence and effectiveness of the EU's foreign policy have been enhanced through different developments and amendments to the former EU Treaty, there is still room and possibilities for tensions and therefore incoherence and ineffectiveness under the new structures.

What has so far not been discussed is another innovation introduced by the Lisbon Treaty that might help conducting a more coherent and effective foreign policy in the EU: the European External Action Service. This body's objectives and competences will be discussed below.

2.2. What are the objectives and competences of the EEAS?

The European External Action Service was first directly proposed in debates concentrating on the possibilities to improve the coherence and effectiveness in the EU in the Convention on the Future of Europe in the very beginning of the new millennium.⁷⁸ But the actual ideas for such a body even date back to the negotiations preceding the Maastricht Treaty.⁷⁹ On the academic level, ideas containing a diplomatic service of the EU which represents the Union abroad, can be found since 1999.⁸⁰ Hence, it gets obvious that the raw ideas for such a service are not really very new, but still the formal negotiations and the adoption to get the EEAS up and running are expected to be finished by the end of 2010, which is a time span of 10 to 20 years respectively.⁸¹ Even though the EEAS exists this far only on paper, politicians have still set the framework for the expected tasks in the Lisbon Treaty⁸² and other political publications and academics and scholars have elaborated on these in a sophisticated manner⁸³ so that one can directly derive the objectives and competences of the European External Action Service. This will be discussed below.

The EEAS firstly found a legal base in a primary source of EU jurisdiction in the Constitutional Treaty in 2004.⁸⁴ There the diplomatic service is described as follows:

“In fulfilling his or her mandate, the Union Minister for Foreign Affairs shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and 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. The organisation and functioning of the European External Action Service shall be established by a European decision of the Council.

⁷⁷ Duke, S. & Blockmans, S. (2010), p.13

⁷⁸ Raube, K. (2008), p. 11

⁷⁹ Nuttal, S. (2000)

⁸⁰ Spence, D. (1999), Duke, S. (2004), Bruter, M. (2004)

⁸¹ EU Observer (2010)

⁸² Article 27 (3) TEU

⁸³ Vanhoonacker, S. & Reslow, N. (2010); Duke, S. (2009); Raube, K. (2008); Crowe, B. (2008); Duke, S. & Blockmans, S. (2010); Dougan, M. (2008)

⁸⁴ Article III – 296 (3) CT

The Council shall act on a proposal from the Union Minister for Foreign Affairs after consulting the European Parliament and after obtaining the consent of the Commission.”⁸⁵

From the pure reading of that article it gets clear that everything that exhibits any sort of specificity was left out and needs to be referred to the Council decision (no notion of location, no notion of institutional structure, no notion of accountability, no specification about the staff size, no budgetary provisions, no notion of how the service shall assist the Foreign Minister/what its competences are in detail etc.), which is arguably wise because it is likely that the service will need flexibility and possible adjustments in the future as no one can claim to be experienced in dealing with such an innovation.⁸⁶

The debates on the objectives and competences of the European External Action Service have unfortunately very early come to a sudden end when the Constitutional Treaty was rejected due to the Dutch and French “no”-vote in referenda in 2005.⁸⁷

The EEAS had to be dealt with a second time in context of the Treaty of Lisbon. During the original debates about the content of the treaty, the EEAS has not really been a source of conflict. The negotiations and arguments about the new diplomatic body occurred rather because of the Irish no-vote in their referendum, as Vanhoonacker and Reslow point out.⁸⁸ But now that the Lisbon Treaty is officially in force one can see that nothing much has changed about the foreseen EEAS, at least regarding the treaty. The article was more-or-less renamed to article 27(3) TEU and uses the exact same wording as the Constitutional Treaty (CT). The only difference is due to overall changes from the CT to the Lisbon Treaty. The Foreign Minister of the EU is under the Lisbon the High Representative of Foreign and Security Policy and the legal instrument “European Law” was not reintroduced in Lisbon. That is why article 27(3) talks about a “decision”. This of course means that the lack of clarity remains.

Even though the legal base for the EEAS does obviously not provide an elaboration on the objectives and tasks of it, other entities do so. Before the HR/VP issued her proposal for a Council Decision, in October 2009, the Presidency of the European Council published a paper concentrating in ten pages on the structure and competences as well as objectives of the European External Action Service.⁸⁹ Besides the assistance functions, the Presidency claims the EEAS to assume an array of EU entities all involved in EU’s external relations, but work on different aspects. In paragraph 7 of the conclusions it is proposed to include the Civilian Planning and Conduct Capability (CPCC) and the Military Staff (EUMS) as well as the Joint Situation Centre (SitCen), the Crisis Management and Planning Directorate (CMPD) and the EU Special Representatives in the EEAS.⁹⁰ The Presidency wants the EEAS to be involved in the entire policy programming chain as well as to play an important role in the strategic direction of the external policies and strategic decision-making to ensure coordination and

⁸⁵ Article III – 296 (3) CT

⁸⁶ Avery, G. (2008), p.33

⁸⁷ Raube (2008), p. 2

⁸⁸ Vanhoonacker, S. & Reslow, N. (2010), p. 4

⁸⁹ European Council (2009)

⁹⁰ European Council (2009), point 7, 14

coherence. In that regard preparations of the CFSP budgets are also foreseen.⁹¹ Additionally, the Presidency turns to the Union Delegations (former Commission Delegations and then part of the EEAS). These should play an important role in programming and implementing policies in the foreign policy sphere⁹², be a supporter concerning the diplomatic and consular protection of EU citizens in third countries⁹³ and remain in frequent contact with national delegations when it comes to mutual information sharing.⁹⁴ Finally it is to note that the Presidency imagines a European External Action Service that is sui generis in nature and enjoys autonomy over their administrative budget and management staff so that the HR/VP has the power to propose the budget and appoint the staff.⁹⁵

The last point is one that raises opposition by the European Parliament. The EP envisages the EEAS to be incorporated in the Commissions administration and budget⁹⁶ and thereby aiming for a gain of control over the new body.⁹⁷ Otherwise it is rather in line with the Presidency, but highlights several times the importance of being consulted regularly and tries to gain influence of the diplomatic body as it wants a less autonomous body being independent but also integrated in the Commission which is accountable to the EP.⁹⁸ The Commission is also mostly in line with the Presidency, but highlights and guards their prerogatives in the fields of development, trade and enlargement.⁹⁹ Especially the development policy seems to be a source of tensions between the Commission and the Member States. Also among academics this policy field is a source of argument (see above).¹⁰⁰ The origin of the “turf war” between institutions and the Member States is the proposal for a Council decision by the HR/VP Catherine Ashton, issued earlier than expected, in the end of March 2010. In this document she assigns preparatory competences in that policy field to the EEAS and then suggests that the HR should jointly with the Development Commissioner propose the act to the Council.¹⁰¹ Since the development fund in the EU is worth 30 billion Euros over six years it is naturally not hard to understand the conflicts over controlling the policy. Development used to be administered by the Commission with the Council taking the final decisions.¹⁰²

All in all one can say that Ashton’s proposal is very much in line with the reasoning of the Presidency (except for the development policy which the Presidency sees in the hands of the Commission). Even though there is much agreement between Ashton and the Presidency it is still important to note that the proposal underlines several times the importance of

⁹¹ European Council (2009), point 8/9

⁹² European Council (2009), point 11

⁹³ European Council (2009), point 32

⁹⁴ European Council (2009), point 30

⁹⁵ European Council (2009), point 16

⁹⁶ European Parliament (2009), point 7 (f)

⁹⁷ Avey, G. (2008), p. 35

⁹⁸ European Parliament (2009)

⁹⁹ European Council (2009), point 6/7

¹⁰⁰ EUObserver (2009)

¹⁰¹ Revised Draft of the Proposal for a Council Decision (2010). Article 8 (4)

¹⁰² EUObserver (2010)

cooperation between the relevant institutions, since that is a prerequisite for coherent action and avoids duplication of undertakings.¹⁰³

Despite the fact that there is no watertight source outlining the eventual objectives and competences (the negotiations of the moment of speaking are waiting for a vote in the EP plenary later this month (June 2010)), it has already been declared by officials that the final shape of the EEAS will not much deviate from what has been outlined by Catherine Ashton's proposal in March 2010. According to EU Observer, an EU diplomat, whose identity has not been revealed, pointed out "the text which we have on the table today is not substantially very different to the text we set out within our proposal at the end of March proposal."¹⁰⁴ Still some changes have been made and for the sake of precision in expectation I will use the blueprint that the European Parliament has tabled for the decision, even though it has not yet been published in the official journal.

The latter exactly states the departments to be transferred to the EEAS in the Annex, which are very much in line with the department transfer proposal by the European Council.¹⁰⁵ The EEAS will include a multitude of bodies formerly under the authority of the Commission and the Council Secretariat, all involved in external relations.¹⁰⁶ The structures foreseen in the amended Draft on the EEAS mirror a mixture of a "minimalist" and "maximalist" version of the EEAS.¹⁰⁷ Thus the EEAS will comprise bodies from different angles on external relations. It includes military, civilian and early warning units, the DG E (comprising liaison offices in Geneva and New York facilitating police cooperation)¹⁰⁸ as well as a widely spread worldwide system of former Commission delegations, now under the authority of the EEAS and renamed Union Delegations. The latter's tasks are, given that they do not change as Union Delegations, "presenting, explaining and implementing EU policy; analyzing and reporting on the policies and developments of the countries to which they are accredited; and conducting negotiations in accordance with a given mandate."¹⁰⁹ As a result, the EEAS has competences in an umbrella of external capabilities and intelligence units as well as external presence around the world to gather information and physically provide services in the external sphere. Assuming that the European Union Special Representatives (EUSR) of which there are currently eleven¹¹⁰, are also transferred under the umbrella of the

¹⁰³ Revised Draft of the Proposal for a Council Decision (2010)

¹⁰⁴ EU Observer (2010)

¹⁰⁵ Revised Draft of the Proposal for a Council Decision (2010), Annex (Departments and functions to be transferred to the EEAS)

¹⁰⁶ See: Annex of the Revised Draft of the Proposal for a Council Decision; The bodies and entities that will come under EEAS authority are listed on pages 23-25

¹⁰⁷ See: Duke, S. (2008), p. 218; and: Vanhoonacker, S. & Reslow, N. (2010), p. 12; all authors agree that a compromise between the two versions is most likely, which will mirror the eventual design of the EEAS according to the amended version at hand. It should be highlighted here that the EEAS will clearly tend in the direction of a maximalist version because of its autonomous position, the presence of the Lisbon Treaty and the bodies it will assume (see: Duke's description of a maximalist version). The minimalist ingredients in the EEAS are included in its equal staffing numbers from the Member States, Council Secretariat and Commission (see Article 6 of the amended proposal for a Council Decision) This distribution does however not reflect the relative proportions in the to be assumed departments (Vanhoonacker S. & Reslow, N. (2010), p. 10)

¹⁰⁸ Revised Draft of the Proposal for a Council Decision, Annex

¹⁰⁹ European Commission (2004), p. 6

¹¹⁰ European Council, EU Special Representatives

EEAS, the latter gains even more presence and capabilities in delicate regions. Further competences of the EEAS will include the very much contested development policy. Here the proposed EEAS includes also the DG Development, and the Development Fund. In paragraph 3(a) of the document it says that the EEAS is designated to promote the fulfilment of the objectives of the development policy of the Union.¹¹¹ This closes the open question whether that policy should be touched by the EEAS or not with an outcome that reflects the principles of the EU overcoming a situation that is a “recipe”¹¹² for incoherence. The bodies that the EEAS will comprise¹¹³ are very much in line with what the Presidency of the European Council envisioned in its conclusions. The European Parliament and the Commission might still have their doubts, as the EEAS is outside the COM’s structure and obtained more bodies than previously demanded by these institutions.¹¹⁴ So, to conclude the first part of this subquestion, the objectives and competences of the EEAS will include the functions of the bodies it will comprise.

Avery argues:”The big challenge for the new organization (EEAS) will be to make “double-hatting” work in practice (...) (bracket added). “¹¹⁵ With that he recalls the double function of the HR/VP, but misses the fact that Ashton’s job is of a threefold character¹¹⁶, making it even more difficult for the EEAS to help the HR/VP succeed in conducting the Common Foreign and Security Policy.¹¹⁷ It is also the HR/VP responsibility to obtain the views of the EP on a regular basis. Here the EEAS is supposed to ensure this works properly.¹¹⁸ In the sphere of external relations the diplomatic corps shall also assist the President of the European Council as well as the President of the Commission and the College of Commissioners.¹¹⁹ Another task of the External Action Service is to “work in cooperation with the diplomatic services of the Member States as well as with the General Secretariat of the Council and the services of the Commission (...)”.¹²⁰ The EEAS with its extensive array of entities will undoubtedly be a source of important information and support, which is of use for other bodies as well. Consequently the service *should* provide the European Defence Agency, the European Union Satellite Centre, the European Union Institute for Security Studies and the European Security and Defence College with the necessary support to enable them to fulfil their objectives (emphasis added).¹²¹ Whereas the EEAS should provide the latter bodies with necessary support it is, however, more obliged to support the European Office for the Fight against Fraud (OLAF) through the word “shall”.¹²²

¹¹¹ Revised Draft of the Proposal for a Council Decision, point 3(a) and Article 8

¹¹² Duke, S. & Blockmans, S. (2010), p. 6

¹¹³ For a deeper look at all the single entities that will be part of the EEAS have a look at the Annex of the Revised Draft for a Proposal for a Council Decision

¹¹⁴ European Parliament (2009); EU Observer (2010) ; given that the EP does not object and pushes through changes

¹¹⁵ Avery, G. (2008), p. 36

¹¹⁶ To recall: foreign policy chief as High Representative, Commissioner of External Relations and chair of the external relations Council

¹¹⁷ Revised Draft Proposal for a Council Decision, Article 2

¹¹⁸ Revised Draft Proposal for a Council Decision, point 5

¹¹⁹ Revised Draft Proposal for a Council Decision, Article 2, para. 2

¹²⁰ Revised Draft Proposal for a Council Decision, Article 3, para. 1

¹²¹ Revised Draft Proposal for a Council Decision, Point 6

¹²² Revised Draft Proposal for a Council Decision, Article 3, para. 4

Even though the document foresees the necessity that the EEAS provides support for all the bodies outlined the degree of being obliged to provide the service is biggest regarding the fight against fraud. That argument is underlined by the same article. The External Action Service will be involved in the “consistency of audit policy” through the cooperation of the EEAS internal auditor with the internal auditor of the Commission.¹²³ Naturally, to secure a consistent audit policy anti-fraud is indispensable. Furthermore the service is responsible for contributing to the programming and management cycle of the following instruments: “the European Development Cooperation Instrument, the European Development Fund, the European Instrument for Democracy and Human Rights, the European Neighbourhood and Partnership Instrument, the Instrument for Cooperation with Industrialized Countries, the Instrument for Nuclear Safety Cooperation and the Instrument for Stability, regarding the assistance foreseen in article 4 of Regulation (EC) n 1717/2006 of 15 November 2006.”¹²⁴ Another important competence of the EEAS is its ability to enter service-level arrangements with relevant services from the Commission, the General Secretariat of the Council and other offices or interinstitutional bodies of the EU.¹²⁵

From the above one can see that the European External Action Service is going to be a huge body in Brussels and throughout the world¹²⁶ assuming a quite large number of pre-existing bodies from the Council Secretariat and the Commission. Therefore, the External Action Service, when finally set up, will arguably be a very helpful body for the EU’s foreign policy that is involved in almost all CFSP concerns and the most pivotal institutions of external relations.¹²⁷

It is important to mention here that throughout the revised proposal for Council Decision establishing the organisation and functioning of the European External Action Service an emphasis is put on the need for the body to ensure consistency in the relevant external relations and in the interplay between the relevant institutions and bodies involved in external relations.¹²⁸ An emphasis is also put on the effectiveness of external action.¹²⁹ As outlined in the description of the term “coherence”, it is mostly merely the English version that refers to consistency, it is safe to continue dealing with coherence even though the terms are not to be used interchangeably.

So the question remains if the EEAS can indeed provide the improvements of coherence and effectiveness as called for several times in the Revised Draft Proposal for a Council Decision, but also as a major promise of the Lisbon Treaty¹³⁰. This is what will be the subject of the following and last chapter of the thesis, which brings together the former two subquestions to answer the main research question.

¹²³ Revised Draft Proposal for a Council Decision, Article 3, para. 4

¹²⁴ Revised Draft Proposal for a Council Decision, Article 8, para. 2

¹²⁵ Revised Draft Proposal for a Council Decision, Article 3, para. 3

¹²⁶ Revised Draft Proposal for a Council Decision, Article 1, para. 2; Commission (2004), p. 6

¹²⁷ An exception is for instance the European Security and Defence Policy

¹²⁸ Revised Draft Proposal for a Council Decision, Point 2, 3, 11 and Article 2 (1), Article 3 (1) and 4, Article 8 (2)

¹²⁹ Revised Draft Proposal for a Council Decision, Article 8 (2)

¹³⁰ Ashton, C. (2010). Speech, 25 March 2010

3. Conclusion: To which extend will the EEAS be able to improve the coherence and effectiveness in EU external relations?

When the High Representative of the EU's Foreign and Security Policy, Catherine Ashton, presented her proposal for the establishment of the European External Action Service on March 25th, 2010, she put it quite confidently that this new body "(...) is a huge opportunity to deliver on the promise of the Lisbon Treaty: to strengthen the coherence and effectiveness of EU's global role."¹³¹ Typically for a political speech, she left out what exactly to expect and what coherence and effectiveness mean to her and how it can do that. This is what this thesis will now shed light on.

Before going more into detail how the EEAS could improve the coherence and effectiveness of the EU's external relations it should first of all made clear that highly trained staff is a prerequisite for success.¹³² Without skilled staff the EEAS cannot practically produce the results theoretically expected. Unfortunately, the discussion about the training of the staff of the EEAS is beyond scope of this paper. See the footnotes before for obtaining further information on that topic. For the sake of this report I simply state that the ability of the EEAS to increase coherence and effectiveness depends highly on the skill level of the staff.¹³³

In the first subquestion the principal coherence and effectiveness problems of the EU's foreign policy have been explained. These included: cross-pillar issues and the connected overlapping of competences in different legal regimes; different measures over the pillars, which frankly through Lisbon have been solved on paper, but as pointed out before, the separate and different status of the CFSP inside the TEU is undeniable, which is why the instruments look the same but are not; the related problem of Member States unwilling to let go of their foreign policy competences and their incapability to set-up a common foreign policy aim¹³⁴; and the discontinuity in the Council Presidency. The question here is can the EEAS provide help tackling the latter issues so that policy coherence and effectiveness can be increased?

First of all, the discontinuity argument is taken care of through the Lisbon Treaty as such extending the duration and changing the setting of the Council Presidency and creating the post of the President of the European Council. But the mere improvement of the continuity of the Council Presidency does not ensure improved coherence and effectiveness in the external relations of the EU. At this stage, the EEAS can very well provide help to overcome coherence and effectiveness issues. Through its assistance functions which stem from the involvement in the external relations Council headed by the HR/VP, but also through their legal obligation to also assist the President of the European Council.¹³⁵ Since the nature of the assistance is not determined it will depend on the assisted persons to determine their job

¹³¹ Ashton, C. (2010). Speech, 25 March 2010; see also: Duke, S. (2008), p. 3. Duke even goes a step further than that claiming the Lisbon Treaty's success to be highly dependent on the EEAS

¹³² See: Crowe, B. (2008), p. 8; Duke, S. (2002) devotes a whole article on the training of diplomats and its importance

¹³³ This paper takes a highly trained staff as given and bases its argumentation accordingly

¹³⁴ See: Bindi, F. & Shapiro, J. (2010), pp. 341-343. The authors outline the fact that EU has so far mostly been reacting to situations, but were unable to set common aims

¹³⁵ Revised Draft of the Proposal for a Council Decision, Article 2 (2)

more precisely. This leaves open the possibility that the EEAS can take over facilitation and coordinating functions, which can increase coherence and effectiveness because it knows what is planned or generally going on in other institutions. So there is potential to make it more coherent and effective if they are allowed to. For example the EEAS could obtain advisory functions telling the President of the European Council, van Rompuy, which actions conflict with actions of the Commission or the HR/VP or the other way around. In that sense the EEAS can be a direct influence towards increasing coherence and effectiveness, because activities are in improved synergy. Further the new service is a standing body and hence can be relied on anytime. If a new President of the European Council is elected, the continuity can as well be improved because the EEAS could help streamlining the agenda in a way that does not conflict with the former.

What often was criticised and highlighted, also in this thesis, strongly relates to the pre-Lisbon era where three pillars, all involved in external relations did not work as coherence and effective as obligated by the Treaties. Now, post-Lisbon, the pillarization is abandoned, with only the Common Foreign and Security Policy having a separate status.¹³⁶ But the separate status of the CFSP is still a risk for incoherence and ineffectiveness through overlapping competences and thus conflicts over policy issues, especially regarding the fact that the CFSP is put on an equal footing with the other policy areas.¹³⁷ Hence, there is no clear hierarchy in measures and when it comes to conflicts and overlaps of competences the EU lacks measures for resolving internal disputes.¹³⁸ This argument is underlined by the fact that the policy instruments and measures seem to be the same, but obviously do not mean the same thing.¹³⁹ Here again the EEAS can be the facilitator between the policy fields through their involvement in all major institutions and entities which take part in external relations of the EU.¹⁴⁰ It is mentioned before how important the HR will be for overcoming these overlaps and disputes, but one should not forget that the success of the HR is highly dependent on the EEAS.¹⁴¹ Dependent on the nature of the “assistance” functions, the diplomatic corps could give valuable policy advice preventing incoherent and ineffective measures conflicting and overlapping each other. Therefore, in this regard, the EEAS can indeed increase the coherence and effectiveness of the EU. Through their large staff and included bodies and interinstitutional involvement, which is needed to inform actors about possible improvements but also propose action or alert them when measures will result in conflict, it should have the capacities necessary to help the EU to assert itself on world stage and function internally. In that sense it creates a direct connection between the institutions in which it functions as some kind of a broker. This way it could make sure that issues between the CFSP and the EC and PJCC (which officially now fall all under the name of “the Union”¹⁴², but their separate status has been explained) are dealt with even before they result in conflict. It is then dependent on

¹³⁶ See: Article 11 (1) TEU

¹³⁷ Article 1 TEU ; Article 40 TEU ; Duke, S. & Blockmans, S. (2010), p. 8

¹³⁸ Bindi, F. & Shapiro, J. (2010), p. 346

¹³⁹ See above and Kurpas, S. (2007)

¹⁴⁰ Missiroli, A. (2007), p. 23

¹⁴¹ See for instance: Verola, N. (2010), p. 45; Duke, S. (2008), p. 3

¹⁴² Article 1 TEU

the major player willingness to make concessions. So there could be great potential to enhance coherence and effectiveness here.

As just mentioned, the amount of information is of course a necessity to make sure the coherence and effectiveness of the EU is increased. Here, the Union Delegations play a special role. So far “policy coordination within the Council Secretariat has been accompanied by the lack of an external counterpart abroad (...)” so that it could “hardly rely on an information basis of its very own abroad.”¹⁴³ Now with the EEAS includes all the delegations and serves and cooperates with the Commission, the Council, the Council Secretariat and (even though more limited) the EP as well as the national diplomatic services, the European Union has an external body serving the internal institutions and entities. Consequently the EU can respond more directly and unitarily since it is the same information that is spread. The shift away from Commission Delegations is hereby quite important. The difference between the two types of delegations is that Union delegations collect and distribute information that is not channelled by the Commission, but rather delivers the same data to all the relevant players. That makes the information more trustworthy, which is of great importance regarding the adoption of policy measures. When one feels that information is reliable one is rather inclined to change something if the situation so requires. This in turn enhances the EU’s ability to know what happens outside their boundaries and make an impact, which increases the coherence and effectiveness of the EU. It will also be interesting to observe how the national diplomatic service and the EEAS will cooperate. If this works smoothly the EU has a direct link to all the 27 national services and another source of information in order to find the best fit approach to all the relevant issues coming up, through the EEAS.¹⁴⁴

All of the above is, however, dependent on the willingness between the different actors to cooperate with the EEAS. Fraser Cameron pointed out in 1999, in his book “The Foreign and Security Policy of the European Union” that cooperation between the involved bodies is necessary to conduct the EU’s foreign relations more coherent and effectively.¹⁴⁵ It is true that it used to be the Commission and the Council which often clashed over competences while the EP claimed more influence (see discussion above). Whenever the Union has worked together coherently it was also effective and successful in terms of their missions abroad. Not only in third countries, but also internally, the relevant actors for foreign relations need to cooperate in order to ensure that their action is coherent and then more likely effective. Especially with regard to the Member States who have been eager to maintain their influence over the foreign relations by conducting their own external relations and missions (mostly bigger Member States as Britain, France and Germany) or by safeguarding their veto-power in the intergovernmental foreign EU relations.¹⁴⁶ This might seem quite paradox facing the fact that “governments as well as popular opinion in all Member States accept the need for

¹⁴³ Raube, K. (2008), p. 9

¹⁴⁴ For an elaboration the cooperation between the External Action Service and the national diplomatic services see : Rijks, D. & Whitman, R. (2007)

¹⁴⁵ Cameron, F. (1999), p. 101

¹⁴⁶ See: Cameron, F. (1999), p. 95 ff.; Crowe, B. (2008), p. 9/10; both authors agree that there is a clash between national versus European interests. Especially Cameron elaborates on the latter argument. Crowe goes one step further than that and claims the Member States need a paradigm shift so that they see their interests better asserted through the European level which has more political weight.

foreign policy at the European level and want it to be more effective”¹⁴⁷. Interestingly, due to the diversity of opinion the EU as a collective does not know what its foreign policy goals are.¹⁴⁸ This, however, underlines the problematic situation in EU foreign relations and how the most important actors (the Member States) are on the one hand in favour of a better and more effective European foreign policy and on the other still anxious to delegate competences in this issue area to Brussels.¹⁴⁹ That is why cooperation can be seen as one key for improving the coherence and effectiveness in the EU’s external relations.¹⁵⁰ In this respect the EEAS can be pivotal. As it includes personnel from the Commission, the Council Secretariat and the national diplomatic services, people might be rather inclined to work together because it includes “people of their own”. This would then increase the coherence and effectiveness.

In the end it can be undoubtedly concluded that the EEAS has the capacity to increase the level of coherence and effectiveness of the EU’s foreign policy significantly. It can be broker, facilitator and advisor. It presents the EU abroad and not just the Commission. In this regard, the EU has for the first time a consolidated representation outside their boundaries through a service that has a permanent standing inside and is involved in the most important institutions responsible for the EU’s external representation and policy. It will be one of the, if not the most important advising bodies inside the EU because it comprises a large array of bodies involved in external relations from different angles. Consequently it theoretically looks as if there was great potential to increase the coherence and effectiveness of the EU’s role in the world quite significantly. On the dark side however there are a lot of uncertainties. Will cooperation work between the EEAS and the bodies it is supposed to work with? Will the conflicts over competences between the CFSP and the other main policy areas vanish and can the EEAS be resilient and powerful enough to facilitate if conflicts occur or prevent these? Will the staff be skilled enough to use the information obtained properly and to make sure that the EEAS is trustworthy?

If all these questions are in a couple of years to be answered “yes” there is no doubt that the EU’s foreign policy has become more coherent and effective and consequently a more important player in the world. But if not, the coherence and effectiveness may not improve that much.

The potential and the structures are there to increase the coherence and effectiveness of the EU’s foreign policy to a large extent, but the past has shown us that what is desired for the EU’s foreign policy usually falls short of its potential. Therefore I think the EEAS will definitely increase the coherence and effectiveness of the EU’s foreign policy and foreign presence, but because of these uncertainties not as much as it would be possible. The future will show.

¹⁴⁷ Crowe, B. (2008), p. 9; Duke, S. (2008), p. 1

¹⁴⁸ Bindi, F. & Shapiro, J. (2010), p. 341

¹⁴⁹ Very interesting in this regard is the ongoing process of “Brusselization” in the area of CFSP which was brought about through different entities. To mention here are at least: the Committee of Permanent Representatives, the High Representative of CFSP respectively Foreign and Security Policy (since Amsterdam resp. Lisbon) as well as bodies as the Policy Unit, DG – E, SitCen etc. One might reach the conclusion that the Common Foreign and Security Policy is only on paper intergovernmental whereas in reality it is “no longer appropriate to call the Second Pillar simply ‘intergovernmental’. See: Wessel, R.A. (2009), p. 123/124

¹⁵⁰ Howorth, J. & Le Gloannec, A.M. (2007), p. 34

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