

DISCUSSION PAPERS IN DIPLOMACY

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But where's the Ministry?***

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***A FOREIGN MINISTER FOR THE EU:
BUT WHERE'S THE MINISTRY?***

Simon Duke

Of all of the innovations arising from the Convention on the Future of Europe, now being discussed in the Intergovernmental Conference, the appointment of a Union Minister for Foreign Affairs appears to enjoy relatively wide support. Although there may not be unanimous support for the nomenclature of the position, the need for a central coordinating figure spanning the Commission's and Council's interests in external relations has been evident for a while. Indeed, the evolution of the Common Foreign and Security Policy (CFSP) has been accompanied by frequent concerns about the consistency or coherence of EU external relations as a whole.¹ It was therefore of little surprise when one of the earliest debates in the 2002-3 Convention on the Future of Europe was the 'centre of gravity' debate in external relations – sparked by Romano Prodi and subsequently shaped by the Member States. Inevitably, the debate soon focussed on the possibility of merging two positions – the High Representative for CFSP with that of the Commissioner for External Relations – into a new EU Foreign Minister's position.

Under the Draft Treaty Establishing a Constitution for Europe (hereafter Draft Constitution), the creation of a Union Minister for Foreign Affairs is envisaged.² The Minister will conduct the Union's CFSP and shall also be one of the Vice-President's of the Commission and shall handle the external relations and coordinate other aspects of the Union's external action. The potential role of the Minister has already elicited comment, especially regarding the ability of one figure to combine both the interests of the Council with the collegial nature of the Commission. Relevant questions have also

1 See, for instance, ***Coherence of the External Action of the European Union under the First (Community) and Second (CFSP) Pillars***, European Parliament, Intergovernmental Conference Briefing No. 24, 30 January 1996, which concluded that the issue of coherence of external action was being 'approached with considerable caution and indecision', at http://www.europarl.eu.int/igc1996/fiches/fiche24_en.htm.

2 ***Draft Treaty Establishing a Constitution for Europe***, CONV 850/03, 18 July 2003, Art. 27.

arisen regarding the extent of 'external relations' and thus the mandate of the Minister (does it, for instance, incorporate development or enlargement?). The purpose of this article is not however to dwell upon these questions, as interesting as they may be, but to pose a narrower but nevertheless important question – who assists the Minister?

A Minister in need of a Ministry

The term 'Union Minister for Foreign Affairs' carries with it the implication that a minister naturally should, naturally, have a 'ministry' to assist him (or her). In a classical Foreign Ministry the minister will preside over not only a ministry but also a Diplomatic Service (the embassies, consulates or representations overseas). In many EU Member States, including those of the accession countries, the Foreign Ministry will also act as a broader point to coordinate external relations, often through the secondment of officials from other ministries such as development, trade or even defence. In the EU context the role of the Minister (and thus the 'Ministry') is altogether more ambiguous since it is not clear how extensive the minister's remit would be in external relations; could it, for instance, include development or even trade issues? The response to this issue will be subject to political debate and, hopefully, agreement in the Intergovernmental Conference. Whatever the response, it will have profound implications for the type of support the minister will require.

The question of support for the Union Minister for Foreign Affairs first appeared in earlier versions of the draft constitution where reference is made to the establishment of a Joint European External Action Service which 'will be addressed' in a subsequent declaration.³ The declaration that was eventually appended to the latest draft of the Constitution refers to an European External Action Service (presumably the adage 'Joint' was seen as superfluous) which will 'assist the future Union Minister for Foreign Affairs'.⁴ The Convention agreed on the need for the Council of Ministers and the Commission to agree, without prejudice to the rights of the European Parliament, to establish under the Minister's authority one joint service (European External Action Service) composed of officials from the relevant departments of the General Secretariat of the Council of Ministers and of the

3 For example, see CONV 797/1/03 REV 1, 12 June 2003, Article 1-27 (footnote).

4 'Declaration on the Creation of a European External Action Service', CONV 850/03, 18 July 2003, p. 239.

Commission and staff seconded from the national diplomatic services'.⁵ The 'staff of the Union's delegations ... shall be provided from this joint service'. Finally, the Convention urged that all the necessary arrangements should be made within the first year after entry into force of the Treaty establishing a Constitution for Europe'.⁶

This brief formulation raises more questions than it answers. In particular it begs the questions of the function of the European External Action Service, its mandate (and where it comes from), as well as the issue of how the existing Commission delegations and the Member States are meant to relate to the Service. Are we to believe that, in the words of the Commission, these are questions 'essentially of an administrative nature ...'?⁷ Or, as one prominent academic commentator put it, does 'All of this amount[s] to a pretty cool understatement of a series of formidable problems'?⁸ The issues discussed below strongly suggest that to dismiss the design, function and role of the Service as an 'administrative' problem underestimates the challenges ahead. Before embarking upon an examination of the potential role of the European External Action Service, it is worth briefly recapping some of the background to the current External Action Service since its history suggests that there will be an appreciable amount of resistance in the Commission to any sweeping changes.

5 Interestingly the Final Report of the Working Group on External Action supported the creation of an EU External Action Service but then recommended the creation of an EU Diplomatic Academy and an EU Diplomatic Service. The relationship between the External Action Service and the 'Diplomatic Service' was not therefore clear, except that both would work under the European External Representative (the preferred title for what became the Union Minister for Foreign Affairs). **See Final Report of Working Group VII on External Action**, CONV 459/02, 16 Dec. 2002, pp 6-7.

6 It is worth noting that the time stipulation was removed in suggested modifications to the draft by the IGC Secretariat. See, **IGC 2003, Editorial and legal comments on the draft Treaty establishing a Constitution for Europe - Basic document**, to the Working Party of IGC Legal Experts, 6 October 2003, CIG 4/1/03 REV 1, p. 550.

7 **A Constitution for the Union**, Communication from the Commission, Brussels, 17 Sept. 2003, COM(2003)548, Para. 19.

8 Christopher Hill, 'A Foreign Minister without a Foreign Ministry - or with too many?', FORNET, **CFSP Forum**, Vol 1 (1), July 2003, p. 2.

External Relations and the External Service

The external relations of the Commission and, to an extent the Council, have been traditionally organised along geographical lines. Hence, until the restructuring of the Commission Directorate-Generals DGI had responsibility for China, Japan, South Korea, Taiwan and the United States; DGIA for Central and Eastern Europe and cooperation with non-EU European countries; DGIB for Asia, the Far East, Latin America, the Mediterranean and the Middle East; and DGVIII managed relations with the African-Pacific-Caribbean (ACP) countries. Naturally, with such an organisation it was very difficult to deal with horizontal issues, such as social or environmental concerns, that crept into the agenda.

The problems in the various external relations DG's were compounded by chronic staff shortages and a heavy reliance upon outsourcing. By the end of the 1990s the Commission had political and financial responsibility for more than 10% of Overseas Development Assistance (ODA) world-wide — thus doubling the Commission's share since 1985! Naturally, this situation led to serious inefficiencies and complaints, especially in the area of aid management. One commentator noted that:

The growing importance of the EU's role in external assistance has not, however, been matched by appropriate adjustments in human resources, structures, and management capabilities. Hence its external assistance programs have acquired a reputation for slow and unresponsive delivery services, poor quality, and excessively centralized and rigid procedures.⁹

The Commission itself readily admitted that the growth of external assistance in particular had outstripped the pace of administrative change. In response to this situation a Common Service for External Relations (SCR) was established in 1998 with the mandate of clarifying, simplifying, increasing efficiency and the visibility of the Union's work overseas. However, the lack of clarity over the responsibilities of the SCR and the geographically-based DGs compromised efficiency, although there were some modest signs of improvement. At the same time the old cluster of external relations DGs (DG1, DG 1A, DG 1B and DG VIII) became the ***Service Commun Relex*** (hereafter RELEX). However, a number of difficulties remained, especially

9 Claus Schiltze, ***The EU's Reform of External Aid***, at <http://www.worldbank.org/transitionnewsletter/marapr02/pgs33-34.htm>

with regard to coordination between DG Development and the new Joint Service.

With the reorganisation of the Commission's external relations the RELEX Commissioner, Chris Patten, was placed in charge of the management of external relations, including the Joint Service. He was also mandated to continue the restructuring and development of external relations. The Commissioner for Development Aid, Poul Nielson, was placed in charge of policy development – thus creating an area of grey between Patten and Nielson over where management and policy development start and stop.

One of the prime areas for reform, according to a May 2000 Commission communication, was the Management of External Assistance.¹⁰ One of the keys to the reform process was the creation of the EuropeAid Cooperation Office (AidCo) which formally started its operations in January 2001. From that date on AidCo was responsible for the 'full project cycle' while the Commissioner for Development Aid and the DG elaborate the strategic framework within which AidCo works. Aside from humanitarian assistance (which falls under Community's Humanitarian Aid Office, or ECHO) and pre-accession aid, most other external aid is managed by AidCo. It should be pointed out that, especially in this area of EU external relations, the success of any reforms within the Commission will be influenced by the extent to which the Member States review and amend their own practices since, by treaty, the Member States should coordinate their development and assistance policies with those of the Community.

A second important strand to the reform process was the devolution and decentralisation of the Commission's delegations which involved giving more autonomy to the delegations (anything that can be better managed and decided on the spot, close to what is happening on the ground, should not be managed or decided in Brussels). As a result of the twin reforms the delegations have more responsibility for allocating and managing funds for local needs. This has also imposed more responsibilities upon the Heads of Delegations and demanded additional management skills from the delegation staff.

Quite aside from the problems within the Commission, the role of the Council Secretariat and that of the High Representative for CFSP, who was

10 ***Communication to the Commission on the Reform of the Management of External Assistance***
Commission of the European Communities, 16 May 2000 Rev. 8.

appointed in October 1999, were growing apace. The assumption by the EU of the 'Petersberg tasks' (originally developed by the Western European Union) as an integral part of the Amsterdam Treaty and the appointment of a Policy Unit, marked the launch of more serious thinking about the security and defence aspects of CFSP, aided and abetted by a number of setbacks in the western Balkans. After an Anglo-French political initiative the first of a number of interim structures were established to address the political and physical demands of the new tasks assumed by the Union. These bodies included the Political and Security Committee (formerly the Political Committee), the EU Military Committee, the EU Military Staff and a Policy Unit. The bodies became permanent in spring 2001 and scarcely two years after that a police mission was launched in Bosnia Herzegovina, a follow-on military mission in the Former Yugoslav Republic of Macedonia and two month operation in the Democratic Republic of the Congo.

In spite of the Treaty on European's Union insistence on the 'consistency and the continuity' of the Union's activities, the rapid growth of the more political elements of external relations (i.e. CFSP) raised questions of competence, responsibility and cooperation in Union external relations.¹¹ The traditional divide between *communautaire* aspects of external relations and those falling under the intergovernmental second pillar, was fast disappearing. In part this was as a result of the growth of CFSP but also due to external pressures, which led to more demands to identify 'European' positions on a vast range of topics. The application of conditionality to a wide range of Community development and assistance programmes also moved the political elements to the fore.

The growing dissatisfaction with the awkward and bifurcated way in which EU external relations operated led to predictable demands for increased coherence in EU external relations and, in the context of the Convention, discussion soon focussed on merging the roles of the Commissioner for External Relations and the High Representative for CFSP. However the specific debate over the role of what became the Union Minister for Foreign Affairs in the draft constitution was symptomatic of a wider issue – the tension between the rapidly growing 'foreign policy' elements of external relations which, for the most part focussed on short term issues and concerns, and the older, more developed aspects of the Community's external relations, such as development cooperation or trade. The creation of the position of

11 Treaty on European Union, Article 3 (see also Article 13 which mentions 'unity, consistency and effectiveness' with regard to CFSP).

Union Minister for Foreign Affairs provides a notional bridge between the intergovernmental and *communautaire* aspects of external relations, but many of the delicate issues regarding working methods, competence and resultant personnel developments, remain open. Any designs for the function and scope of the proposed European External Action Service will have to grapple with these questions.

The Function and Scope of the European External Action Service

What is the function of the European External Action Service? According to the draft Constitution the main function of the European External Action Service is to 'assist the Union Minister for Foreign Affairs' and not, as was urged in an option to the declaration, 'to strengthen the coherence and efficiency of the Union's action in the world'.¹² The two ideas are not necessarily opposed, but the differences in emphasis are of interest. In the case of the draft Constitution the emphasis is very much upon building support structures around the Minister, whereas the option appears to place more onus on the coordinating function of the Minister in external relations. To generalise somewhat, the former suggests a leadership and shaping role for the Minister and his Service, while the latter hints at a less ambitious coordinating role for the Minister and his support structures.

The question of the Service's function will also be determined by the scope of the Service in institutional terms. Here again, the draft constitution is unclear, offering little guidance. It does however mention that the joint service (European External Action Service) should be composed of 'officials from relevant departments of the General Secretariat of the Council of Ministers and of the Commission and staff seconded from national diplomatic services'. The key here is obviously to establish what is 'relevant'. The declaration, as it stands, is ambiguous about whether the Service should be an extension of the existing RELEX (External Relations Directorate-General), or a super-RELEX incorporating elements of the *famille RELEX* (which could include

¹² Option 2, Declaration on the Creation of A European External Action Service, by Mr. Giuliano Amato, Mr. Elmar Brock and Mr. Andrew Duff, at <http://european-convention.eu.int/Docs/Treaty/pdf/873/Art%20III%20225a%20Amato%20EN.pdf>

Development, Trade, Enlargement and conceivably other aspects, such as EuropeAid).¹³

There is evidence to suggest support for both options; one the one hand a rather modest Service and, on the other, something altogether more extensive. On the former, the option to the declaration, mentioned above, suggests that the European External Action Service should be established as an 'integral part of the Commission administration'.¹⁴ Although this does not necessarily prohibit a reasonably extensive service from emerging, it is difficult to see how it would vary significantly from the current External Service. In its official opinion on the (draft) Constitution for the Union, the Commission clearly envisages only a modest extension of the current External Service whereby the European External Action Service 'will embrace the Union's delegations in third countries and to international organisations'.¹⁵

By way of contrast, the idea of a fundamentally more extensive and ambitious Service was developed by Michel Barnier and Antonio Vitorino who suggested formalising the idea of the 'famille RELEX' (which would include DG External Relations, DG Trade, DG Development, DG Enlargement, the EuropeAid Cooperation Office, ECHO, and even some aspects of DG Economic and Financial Affairs). On the Council side it was recommended that the Service could incorporate those services working for the High Representative (such as the Policy Unit and the Situation Centre), as well as the External-Relations Directorate of the Council Secretariat (DG E). Barnier and Vitorino were adamant that the Service should be composed of not only 'some of the services of the Commission and of the Council General Secretariat,' but that it 'will **also** contain the delegations of the Union'.¹⁶

The Commission's minimalist view of the European External Action Service also appears to be at odds with the Council General Secretariat's view of the need for an extensive and coherent external service for the Union. No where is this more clearly and forcefully enunciated than in Javier Solana's

13 The draft Constitution does little to clarify this issue elsewhere. See, for instance, Article III-218 which states that, 'The Union policy in the sphere of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action'.

14 Ibid. Loc cit.

15 COM(2003)548, Para. 19.

16 **Joint External Action Service**, Contribution by Mr. Barnier and Mr. Vitorino to the European Commission, 24 June 2003, CONV 839/03, p.3 (emphasis added).

presentation of his view of Europe's global role at the Thessaloniki summit:

... Over recent years we have created a number of different instruments, each of which has its own structure and rationale. The challenge now is to bring together the different instruments and capabilities: European assistance programmes, military and civilian capabilities from Member States and other instruments such as the European Development Fund. All of these can have an impact on our security and on that of third countries. Security is the first condition for development. Our objective should be to create synergy through a more coherent and comprehensive approach. Diplomatic efforts, development, trade and environmental policies, should follow the same agenda.¹⁷

Solana's vision of the Union's role in the world, which will be elaborated upon in a Strategy Paper for EU external relations, clearly leads to a more extensive vision of the European External Action Service in terms of composition and function.

There is a more practical reason for doubting the Commission's view of the emerging European External Action Service. As mentioned, the Service shall assist the Union Minister for Foreign Affairs (Article III-197), but this includes the Minister's chairing of the Foreign Affairs Council which, in itself, will be a fairly arduous task. In addition, the Minister would retain the current CFSP/ESDP related responsibilities, as well as those towards the 'famille RELEX' in his (or her) capacity as Vice-President of the Commission. The collection of issues falling under the Foreign Affairs Council is likely to be extensive and it seems only logical to suppose that the supporting Service should reflect these areas of competence.

The Minister's role on the Commission side is more difficult to predict, especially since the precise delineation of the Minister's responsibilities vis-à-vis the Commission have yet to emerge in final form, as indeed has the final shape of the Commission itself. If, as seems to be the trend, the Commission may be more extensive than outlined in the draft Constitution, the need for a sufficient number of portfolios (which may be as high as 31) to go around may lead to the distribution of a number of external affairs portfolios to a greater number of Commissioners than at present. Although the eventual structure of the Commission and the number of portfolios should ideally not

17 Javier Solana, *A Secure Europe in a Better World*, presented at the European Council, Thessaloniki, 20 June 2003, S0138/03, p. 13.

be linked, they may well be in practice. If the portfolios are apportioned on the basis of one per Commissioner, the inevitable tendency will be to view a cluster of portfolios as of greater influence and importance than others, thus creating unhelpful divisions not only within the Commission but also, potentially, in external relations. For instance, the more political aspects of external relations (RELEX) would presumably be regarded as a core portfolio, while issues pertaining to development could be relegated to a 'secondary' portfolio. Naturally, such shifts would have a serious negative impact on staff morale, especially at a time when progress in reforming the Community's external services appears to be bearing fruit.

The future shape of the Commission may also have a bearing on the European External Action Service since it will have to assist the Union Minister for Foreign Affairs which may introduce two more complications. The first revolves around the responsibilities of the Service vis-à-vis the DG's in external relations. If their role is primarily one of coordinating, what powers should they have to enable them to meet the mandate? The second issue is one of composition. Will the personnel addressing the coordination role in the Commission be drawn exclusively from Commission staff (in which case the question of powers and responsibilities may be awkward) or, will any coordinating role also involve Council officials (which may also give rise to tensions)?

The Mandate of the European External Action Service

The lack of any clear institutional design for the European External Action Service leads to an obvious follow up question – who gives the Service a mandate? The draft clearly states that the Service shall be under the Minister's authority who, in turn, shall chair the Council of Ministers for Foreign Affairs. The Minister will contribute proposals to the development of the CFSP, which he or she shall carry out 'as mandated by the Council'.¹⁸ For matters pertaining to CFSP it is clear that the Union shall be represented by the Union Minister for Foreign Affairs, who shall also conduct political dialogue on behalf of the Union and express the Union's position in international organisations and conferences. It is in this context that the role of the Service is explicitly mentioned in helping the Minister achieve his or her mandate, in cooperation with the diplomatic services of the Member

18 Article I-27 (2).

States.¹⁹

On the Commission side the Minister, who shall also be a Vice-President of the Commission, shall be 'responsible there for handling external relations and for coordinating other aspects of the Union's external action'. In exercising these responsibilities, and only these, the Union Minister for Foreign Affairs is to be bound by Commission procedures.

On the CFSP side the Minister's competences (and thus those of the Service) are fairly well elaborated (see Articles III-193-4). The responsibilities envisaged for the Minister build upon those of the High Representative but also include new, and important, powers such as those of initiative. It is furthermore clear that the provisions covering CFSP remain distinct from those aspects of external relations falling to the Commission. In this sense the role of the Minister is autonomous regarding CFSP. When we turn to the Commission though, the picture is significantly more confused.

The Minister, in his role as Vice-President of the Commission, has a set of vague responsibilities for handling and coordinating (as opposed to 'conducting' CFSP issues) EU external relations. Other aspects of the Minister's role are similarly vague – for instance, what are the Minister's voting rights; is the Minister subject to the same rules of censure as other Commissioners; and, who represents the Commission in the Foreign Affairs Council, given that the Minister chairs the Council?²⁰ The question of how the Foreign Minister's post, as well as that of the European External Action Service, is financed is also left in the air.

These may be, as the Commission noted, problems of an 'administrative nature' and thus not for the IGC, but they pose rather significant knock-on problems for the design and functioning of the Service. The obvious danger is that the Council would be in a relatively good position to develop an agile and pro-active contribution role in the Service and, given their essentially political role, they might expect to assume much of the responsibility for policy innovation and more general strategic thinking. The Commission meanwhile may be reduced to more technical issues of coordination and management of external relations. The tendency of the Union Minister for Foreign Affairs, as well as the Service, to be pulled one way or the other between the Commission and the Council will be difficult to prevent. The degree to which

19 Article III-197.

20 *IGC 2003 – Preparation of the IGC ministerial meeting on 14 October 2003*, questionnaires, CIG 6/03.

the pull is one way or the other will depend very much upon the skill of the Foreign Minister himself/herself as well as upon the respective institutions to allow the Foreign Minister the latitude to find a balance. On paper, at least, the idea of enhancing the coherence of EU external action through the granting of legal identity to the Union, as well as the creation of the double-hatted Union Minister for Foreign Affairs, is laudable. It is less certain that these benefits will translate into practice.

European External Action Service, its delegations and the Member States

The final question relates to the Union delegations, which shall be provided from the Service and operate 'under the authority of the Union Minister for Foreign Affairs and in close cooperation with the Member States' diplomatic missions'.²¹ It is worth noting in passing that specific mention is made of 'Union' delegations, since Article 6 of the draft constitution states that the Union shall have legal identity. Currently the delegations technically represent the Community, since the Community and not the Union has legal standing, even if the perception is often that the delegations are in fact those of the Union, complete with 'EU Ambassadors'.

The shift from the current delegations to genuine EU delegations poses a number of practical issues. Under the authority of the Union Minister for Foreign Affairs the delegations will play an important role in coordinating common positions amongst the Member States as well as the Union institutions. The first question is whether the decentralised and deconcentrated delegations will be an effective coordination mechanism under the Minister?²² It seems clear that the delegations will be better adapted to their new role under the Union Foreign Minister than they were three or four years ago, but the challenge will lie in incorporating greater involvement of the Council (not just in the delegations but in the appointment procedures) as well perhaps as greater numbers of seconded national diplomats.²³ It seems

21 Article III-230 (2).

22 The process of deconcentration and decentralisation of the Commission delegations started in 2000 and will be completed in 2004, by which time all of the Commission's 128 delegations will have substantially more autonomy than they previously enjoyed.

23 The Commission's delegations amounted to 4,751 (or which 954 are fonctionnaires) and 26 are seconded National Experts. In addition, a number are locally employed or expert agents from Europe. Information in Barnier and Vitorino, p. 7.

reasonable to suppose that the Council and the Member States would not only have a say in the composition of the delegations, but also in the appointment of Heads of Delegations. That said, the main role will still lie with the Commission since it is likely to represent the main fields of activity between the Union and third parties (such as development, humanitarian assistance, trade, or environmental policy). Thus for administrative reasons, it would make sense to retain the management of the delegations within the Commission, under the Union Minister for Foreign Affairs.

Quite aside from the need to respond institutionally to the legal changes introduced by the draft constitution, it is evident that the delegations were subject to change anyway since the traditional 'Community' areas of their competence were being outgrown. In part, this reflects a change in the nature of diplomacy itself, but also increasing demands from within the Community for the delegations to address a broad range of topics ranging from conflict indicators to, more recently, the promotion of a 'European diplomacy on environment and sustainable development'.²⁴ The incorporation of an array of more political issues into the delegation's daily work naturally paves the way for greater involvement of the Council Secretariat and the Member States although, in the case of the former, much work remains to be done on how service in a Union delegations fits into the current career structures of the Council Secretariat. This might mean that the assumptions that currently apply to A-grade officials in RELEX will have to be applied to the Council Secretariat. This may then give rise to the issue of how extensive the Council Secretariat involvement should be (might there, for instance, be military attachés to the new EU delegations?).

In practical and legal terms it remains to be seen how the delegations will balance the intergovernmental from the *communautaire* aspects of their work. The possibility of a Commission official, who may feel primary allegiance to his/her DG in Brussels and not the Union Minister for Foreign Affairs, cannot be ruled out. Similarly, the way in which national diplomats will be integrated into areas where there are strong national and Community interests, such as development, may also be difficult. These difficulties will only be exacerbated if further changes are introduced hot on the heels of the already sweeping deconcentration and decentralisation process in the delegations.

The future shape and structure of the delegations may well differ from region to region, or even country to country. For instance, it is logical to

24 *Presidency Conclusions*, Thessaloniki European Council, 19-20 June 2003, p. 22.

expect that development issues may well head the list in the ACP countries, while in North America the problems are likely to address trade and political issues. This will have implications for the design of the External Action Service where there will have to be some flexibility in terms of *fonctionnaire* staffing for the delegations. This, in turn, could imply that the European External Action Service could consist of a *cadre* of professional (European) diplomats and an intricate and adaptable network of seconded officials (from the Commission, Council and the Member States) who would offer specialist and technical expertise. In many ways this would mirror many of the national diplomatic services of the Member States who routinely accommodate personnel from other ministries. The potential flaw in this suggestion is the risk that a bifurcated Service may emerge with ‘professional’ diplomats and then those who are seconded (quite apart from any locally engaged staff).

A further issue that warrants more attention occurs in relation to the delegation’s current extensive set of obligations related to the Presidency of the Council. Under the Treaty on European Union the ‘diplomatic and consular missions of the Member States and the Commission Delegations in third countries and international conferences, their representations to international organisations, shall cooperate in ensuring that the common positions and joint actions adopted by the Council are complied with and implemented’ (Article 20). In CFSP matters it also falls to the country holding the Presidency or, if not represented in a third party, to the next country represented in the Presidency rotation order, to conduct *démarches* as well as to host visiting officials (such as the Troika or European Parliamentary delegations) and to generally assist in representing the interests of the Union.²⁵

Under the draft constitution the Foreign Affairs Council comes under the Union Minister for Foreign Affairs and is thus exempt from the rotating Presidency system.²⁶ This leads to the difficult issue of whether the Union Minister, the Foreign Affairs Council and the European External Action Service, will deal with *all* matters pertaining to external relations – thus leaving the Presidency with no appreciable role in external relations. If this is the case, it implies a dramatically curtailed Presidency and an extremely influential external relations apparatus for the Union whose oversight and accountability mechanisms may not be as transparent as some (like the European Parliament) may desire.

25 Heads of Delegation regularly participate in Troikas.

26 It remains unclear how the Presidency will rotate, although it is recommended that rotation period should be a minimum of one year.

The delegations also play an important role in the coordination of local level EU strategy, especially related to development and assistance programmes. Development and assistance may be channelled through the Community itself or, in the case of non-humanitarian assistance (which is dealt with by ECHO) through the EuropeAid Co-operation Office. The latter's mission is to implement the external aid instruments of the European Commission which are funded by the European Community budget and the European Development Fund.²⁷ The draft constitution is silent on the matter of whether the EuropeAid Co-operation Office should come under the Union Minister for Foreign Affairs and the European External Action Service. EuropeAid represents a sizeable budget and is currently managed by a Supervisory Board consisting of Chris Patten, Poul Nielsen, Günther Verheugen, Pascal Lamy and Pedro Solbes Mira.²⁸ EuropeAid not only prepares and manages the ongoing devolution of management to the Delegations of the Commission but it also implements the external aid instruments of the Commission (funded through the Community budget and the European Development Fund) and is responsible for all phases of the project cycle.

The question of whether the Foreign Minister will assume direct responsibility for EuropeAid remains open; much depends upon the number of Commissioners and the responsibilities the Minister has as 'père de famille' (RELEX). However as (potential) Chair of EuropeAid and the 'Minister' in direct charge of the delegations, the Union Minister for Foreign Affairs could yield not only enormous political influence but sizeable economic clout as well. The logic of combining the political facets of the current High Representative's position with those of the Commissioner for External Relations in order to ensure coherence appealed to the Convention, but the implications of the combination may be more extensive than envisaged, especially if appreciable elements of DG Development and EuropeAid are to be placed directly under the Minister.

27 It does not deal with pre-accession aid programmes (Phare, Ispa and Sapard), humanitarian activities, macro-financial assistance, the Common Foreign and Security Policy (CFSP) or the Rapid Reaction Facility.

28 Respectively the Commissioners for External Relations, Development, Enlargement, Trade and Economic and Monetary Affairs.

Some practical points

The absence of any budgetary stipulations regarding the Union Minister for Foreign Affairs and the European External Action Service has already been touched upon. The importance of this aspect should not be underestimated since it will impact upon existing Community budget resources and, in the event of significant contributions from the Member States, may colour their approach and attitude towards the Service. There is though a further aspect (again with budgetary implications) that urgently needs consideration – training.

Prior to the Convention a number of suggestions were made to establish a European diplomatic academy or, as some preferred, a programme.²⁹ Although the notion was supported by the Working Group on External Action, any subsequent mention of the Academy/Programme did not appear in the draft Constitution; this does not however mean that it will not be established at some point in the future. The Academy or Programme could usefully build upon and expand the European Diplomatic Programme, which started in November 1999. It is nevertheless clear that the number of officials who have benefited from the training is modest and that any systematic training would have to be far more expansive, both in terms of content and numbers provided for. The aim would be to provide for not only EU officials entering the European External Action Service or relevant parts of the Council or Commission, but also Member State diplomats. In the case of the latter any training would clearly have to be to provide European-level training and thus not duplicate the work of national academies.

The nature of diplomatic training is sensitive and subject to a good deal of national pride. Nevertheless, the creation of a ***corps diplomatique*** in the Union will require a more consistent and comprehensive approach to training issues (not only for junior officials but for mid-term and senior officials as well). The enlargement of the Union, regular rotation of national diplomats, introduction of Council officials and the possible extension of the ***famille RELEX***, may all have profound implications for training. In terms of the European External Action Service, who provide the staff for the delegations, it has already been argued that there may be quite profound differences in the nature and concentration of the delegations from area to area; again, this should be reflected in the training design. For this reason, a modular

²⁹ For an overview see Simon W. Duke, Preparing for European Diplomacy?, ***Journal of Common Market Studies***, No.5, Dec. 2002, pp. 849-70.

approach to training is perhaps preferable. The question of whether the training is channelled through an academy or a programme is highly political, but second to the need to start thinking through the training requirements for the near future and beyond.

Conclusions

The organisation and role of the European External Action Service is not only an administrative matter. Nor is it a matter on which relaxed reflection can take place since the Service, based on the current draft Constitution, is supposed to be in place within a year of the entry into force of the constitutional treaty. All of the issues examined above have the potential to reopen traditional intergovernmental and ***communautaire*** tensions and, at the human level, to introduce a good deal of uncertainty and anxiety. The question of the political orientation of the Minister and the Service cannot be avoided by the construction of a quasi or completely autonomous 'Foreign Service' – at least not without profound institutional upheaval and budgetary revolution.

The heavy international economic clout of the EU could, to some, suggest that the emphasis should be upon developing the Minister's role in international economic relations. Similarly, as the largest international donor of aid and assistance the Union and the Member States could also amplify the effect of this tool through a dedicated and focussed Minister for External Relations. These are the less controversial aspects of the Minister's (and Service's) potential role (although there will be predictable internal turf battles). The more difficult part will be in the political realm where the Minister, and his support Service, will have to balance the interests of the Member States but also to help shape and define the common European interest. This will be no easy task for the Minister and his support Service. It will however require a fundamentally different approach from the Member States who risk causing far more damage to the Union in Iraq-type scenarios when the interests of the Union Minister for Foreign Affairs and the External Action Service of the Union are trampled upon.

The Commission may be right that the mandate, function and role of the European External Action Service need not be a matter for the Intergovernmental Conference, who are primarily concerned with treaty (or constitution) revision and amendment. Nevertheless, the debate about the Union Minister for Foreign Affairs has already opened a number of

contentious issues and it remains difficult to see how the questions surrounding the Minister's role can be settled without addressing the issues raised above. Some issues, such as training or budgetary provisions, may well be of an administrative nature, but this does not make them any less urgent or significant.