

# The quest for European foreign policy consistency and the Treaty of Lisbon

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## Abstract

The decision taken at the 2001 Laeken European Council to convene a Convention on the Future of Europe was accompanied by hopes that significant advancements would be made in the long-standing quest for a greater consistency in European foreign policy. Eight years later, the Treaty of Lisbon has become the benchmark for measuring whether these hopes have been met. Consequently, the aim of this article is to provide a detailed analysis of the effects that the Treaty of Lisbon will have on the future coherence of EU foreign policy and the corresponding ability of the Union to strengthen its profile as a credible actor in international affairs. For this purpose, the first part of this article deals with the implications that are likely to result from the Treaty of Lisbon's introduction of three major institutional innovations, namely the High Representative of the Union for Foreign Affairs and Security Policy, the President of the European Council, and the European External Action Service. The second part subsequently examines the main modifications of the intergovernmental and *communautaire* aspects of EU foreign policy.

## 1. Introduction

European foreign policy<sup>1</sup> consistency<sup>2</sup> has been the subject of extensive academic debate and a source of concern among European and national policy-makers for almost four decades (Nuttall, 2001; 2005). Accordingly, the decision taken at the 2001 Laeken European Council to convene a Convention on the Future of Europe was not only driven by endeavours to reform the European Union (EU) with regard to such challenges as further enlargements and the Union's democratic

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<sup>1</sup> For the purpose of this article, the term "European foreign policy" will be used as a synonym for the intergovernmental and *communautaire* aspects of EU foreign policy as well as the national foreign policies of the 27 EU Member States.

<sup>2</sup> Following the argument proposed by Nuttall (2005, p. 93) that "attempts to distinguish between them risk ending up in linguistic pedantry" this article will use the terms "consistency" and "coherence" interchangeably.

deficit, but also by hopes that significant advancements would be made in the long-standing quest for a greater consistency in European foreign policy (Cameron, 2003; Missiroli, 2001). After all, EU Heads of State and Government had tasked the European Convention with providing the cornerstones for a new legal foundation of the Union, which would enable Europe “to shoulder its responsibilities in the governance of globalisation” and to punch at its weight in international affairs as “a power able both to play a stabilising role worldwide and to point the way ahead for many countries and peoples” (European Council, 2001). Indeed, this call to strengthen the Union’s profile as a credible international actor conveyed the existence of a new political determination across European capitals to finally take the necessary steps, after half-hearted attempts made in Amsterdam and Nice (Gauttier, 2004; Missiroli, 2001; Schmalz, 1998), to overcome the inconsistencies associated with the intergovernmental-*communitaire* dualism of EU foreign policy<sup>3</sup> and the persistence of distinct and often rather divergent national foreign policies.

After eight years, the introduction of a Draft Treaty establishing a Constitution for Europe, a *non* in France and a *nee* in the Netherlands, the Treaty of Lisbon,<sup>4</sup> which is envisaged to enter into force on 1 January 2009,<sup>5</sup> has become the benchmark for measuring whether the hopes that were raised in Laeken have been met.<sup>6</sup> Consequently, the aim of this article is to provide a detailed analysis of the effects that the Treaty of Lisbon will have on the future coherence of EU foreign policy and the corresponding ability of the Union to strengthen its profile as a credible actor in international affairs. For this purpose, attention will be paid to the four principal dimensions of European foreign policy consistency that have been identified in the relevant literature, namely horizontal, institutional, vertical and

<sup>3</sup> This article neither discusses past attempts to strengthen EU foreign policy consistency nor the current state of affairs. For a comprehensive assessment of both, see Nuttall (2000; 2001; 2005) and Gauttier (2004). Likewise, this article will not engage in an extensive debate about the need for a coherent European foreign policy, which is simply assumed as given. Indeed, in this respect, one might just point to the European fall-out over the second Gulf War, which has been widely regarded as sufficient evidence for the considerable negative externalities that a lack of European foreign policy coherence entails for both the EU and the individual Member States (see, for example, Biscop, 2008; Menon, 2004).

<sup>4</sup> All references made in this article to the Treaty of Lisbon and individual articles will refer to the consolidated versions of the Treaty on European Union (TEU) and the Treaty on the functioning of the European Union (TFEU), as signed on 13 December 2007 in Lisbon and published by the Council of the European Union on 30 April 2008 (6655/1/08, REV 1).

<sup>5</sup> At the time of writing, 12 Member States have already ratified the Lisbon Treaty. However, various ratification obstacles in different Member States could significantly delay the entry into force of the Lisbon Treaty (Hagemann, 2007).

<sup>6</sup> For a comparison of the Constitutional Treaty and the Treaty of Lisbon, which is not the purpose of this article, see Kurpas (2007).

interstate consistency (Gauttier, 2004, pp. 24–6; Keukeleire and MacNaughtan, 2008, pp. 121–3; Nuttall, 2001; 2005, pp. 96–8). Horizontal consistency refers to the coherence between the intergovernmental and *communautaire* aspects of EU foreign policy and the consistency of the individual policies formulated within these two dimensions. Institutional consistency, which is often depicted as a sub-category of horizontal consistency, denotes the coherence of the policy-making approaches of the Council and the Commission and of the different sub-structures within these two institutions (e.g. different Directorate Generals) towards the same issue. Vertical consistency describes the coherence between EU foreign policy and national foreign policies, while interstate consistency simply refers to the coherence between Member States' foreign policies.

The remainder of this article is divided into two main parts. The first part deals with the implications for the four dimensions of European foreign policy coherence that are likely to result from the Treaty of Lisbon's introduction of three major institutional innovations, namely the High Representative of the Union for Foreign Affairs and Security Policy, the President of the European Council, and the European External Action Service. The second part examines the modifications of the intergovernmental and main *communautaire* aspects of EU foreign policy, namely the Common Foreign and Security Policy, the Common Security and Defence Policy as well as the Common Commercial Policy, development cooperation and humanitarian aid, with regard to their potential impact on the future consistency of EU foreign policy and the coherence between the latter and the national foreign policies of the Member States. In this context, a particular emphasis will also be placed on the potential effects of a new set of overarching EU foreign policy principles and objectives.

## 2. The institutional innovations

With regard to the future conduct of EU foreign policy, the Treaty of Lisbon will introduce three major institutional innovations, namely the High Representative of the Union for Foreign Affairs and Security Policy, the President of the European Council, and the European External Action Service. The next three sub-sections will elaborate on the possible role and functions of each of these three institutions and describe how they could contribute to strengthening the consistency of European foreign policy and defragmenting the Union's external representation. At the same time, the interplay of these institutions and particularly the relationship between the High Representative and the President of the Council will also be discussed in light of some new European foreign policy inconsistencies to which they could give rise. Notably, the European External Action Service will

be highlighted as the potentially most important institutional actor in the future in terms of creating a more coherent European foreign policy and fostering the Union's profile as a credible international actor.

### **2.1. The High Representative of the Union for Foreign Affairs and Security Policy**

In the pursuit of increasing the coherence of EU foreign policy, the creation of the post of "Union Minister for Foreign Affairs" (UMFA) has been widely regarded as the most important institutional innovation proposed by the drafters of the Constitutional Treaty (Crowe, 2005, p. 3; Duke, 2003a, p. 16; Lieb and Maurer, 2007a, p. 3; Witte, 2004, p. 102).<sup>7</sup> Accordingly, the 2007 German EU Presidency has been commended by many for having succeeded in preserving the legal basis for the establishment of an institution that is largely similar to that of UMFA within the Treaty of Lisbon. In fact, apart from the replacement of the title of "Foreign Minister" by that of "High Representative of the Union for Foreign Affairs and Security Policy" (HRFASP) – a concession that was primarily made to the United Kingdom (Blitz, June 22, 2007) – the wording of those provisions that define the powers and responsibilities of the HRFASP within the Treaty of Lisbon is practically identical to that of the corresponding provisions concerning the UMFA as could be found in the Constitutional Treaty (Avery, 2007, p. 17; Kurpas, 2007, p. 5; Keukeleire and MacNaughtan, 2008, p. 64).

Being appointed by the European Council with the agreement of the Commission President (Art. 18 TEU) and the consent of the European Parliament (EP) (Art. 17.7 TEU),<sup>8</sup> the High Representative will be responsible for conducting the Union's foreign and security policy (Art. 18.2 TEU). To this end, he<sup>9</sup> will enjoy the right to submit and to implement – upon approval of the Council – proposals regarding the development of the Common Foreign and Security Policy (CFSP) and the successor of ESDP, the Common Security and Defence Policy (CSDP).

<sup>7</sup> However, the creation of such a post has also met some criticism. Most notably, during a meeting of the European Convention's Working Group on External Action, the High Representative for CFSP, Javier Solana, and the then Commissioner for External Relations, Chris Patten, expressed concerns that a merger of their posts would give rise to several problems and not necessarily lead to a greater coherence in EU foreign policy-making (Cameron, 2003, p. 15).

<sup>8</sup> The precise role of the EP in the appointment of the High Representative is somewhat unclear, as the Treaty of Lisbon merely grants the Parliament the right to approve the HRFASP in his capacity as Vice President of the Commission and Commissioner for External Relations, while it has no say in his appointment as HRFASP.

<sup>9</sup> For the sake of convenience, the terms "he", "him" and "his" will be used throughout this article as shorthand references for both genders.

In addition, the HRFASP will preside over the newly established Foreign Affairs Council (Art. 18.3 TEU).<sup>10</sup> The competencies conferred upon the HRFASP in the intergovernmental dimension of EU foreign policy-making are complemented by the functions that he will assume in his role as Vice-President of the Commission and Commissioner for External Relations. Thus, the High Representative will also be in charge of conducting all responsibilities incumbent on the Commission in external relations and ensuring their consistency with other, i.e. intergovernmental, components of EU foreign policy (Art. 18.4 TEU). While this rather broad mandate has been interpreted by some as giving the HRFASP sole control over the four external relations portfolios of the Commission,<sup>11</sup> thus severely constraining the power of some Commissioners, it might be better understood as providing the HRFASP with an overarching coordinating role, which aims at increasing the coherence of all policies conducted by the Commission that have an external relations dimension (Avery, 2007, p. 20). Nevertheless, given that under the Lisbon Treaty the Commission will lose its right to submit proposals concerning the development of CFSP to the Council, the High Representative will become the principal channel for Commission participation in EU external relations (Dagand, 2008, p. 6). Moreover, having the capacity to entertain political dialogues with third parties and to express EU positions in international organisations and at international conferences (Art. 27 TEU), the HRFASP will also assume a pre-eminent role in the representation of the Union in international affairs.

*Prima facie*, the Treaty of Lisbon's introduction of a "double hatted" HRFASP<sup>12</sup> seems to constitute a forceful response to those who have criticised the Union and its Member States in the past for failing to address the inefficiencies and inconsistency that have become associated with the *communautaire*-intergovernmental dualism of EU foreign policy and the rather fragmented representation of the Union in international affairs (see, for example, Everts, 2002). Indeed, at least on paper, the High Representative disposes of the necessary competencies within

<sup>10</sup> Under the Lisbon Treaty, the currently existing General Affairs and External Relations Council, which is chaired by the EU Presidency-in-Office, will be divided into a General Affairs and a Foreign Affairs Council. While the latter will in the future be presided over by the HRFASP, the former will continue to be chaired by the Presidency-in-Office.

<sup>11</sup> These are "Development and Humanitarian Aid", "External Relations and European Neighbourhood Policy", "Enlargement" and "Trade".

<sup>12</sup> Avery *et al.* (2007, p. 130) of course rightly emphasise that one might rather talk about a "three hatted" HRFAP, "if one considers the implications of chairing the Foreign Affairs Council". However, this article adheres to the commonly used notion of a double hatted High Representative, as it best describes the dual role of the HRFASP in the intergovernmental and the *communautaire* dimension of EU foreign policy-making.

both the Commission and the Council to make a significant contribution towards increasing the horizontal and institutional coherence of EU foreign policy formulation and implementation. At the same time, the HRFASP's role as chair of the Foreign Affairs Council also enables him to further advance the interstate harmonisation of Member States' foreign policies and to strengthen the vertical coherence between national foreign policies and the external relations activities of the EU. In addition, once the Lisbon Treaty enters into force, the High Representative will be predestined to play a key role in ensuring a more unitary representation of the Union in international affairs. As Avery *et al.* (2007, p. 129) point out, "at least in principle: there will no longer be two or even three distinct EU representatives at international meetings – from the Middle East 'Quartet' (thus often turned into a 'Sextet') to other diplomatic occasions – and there will no longer be a new personality representing the EU on the world stage every six months either."

While the new competencies of the HRFASP might contribute to a greater consistency of European foreign policy, they could also give rise to new intra- and inter-institutional tensions at the EU level and negatively affect the adherence of smaller Member States to EU foreign policy strategies and initiatives. Thus, the special status of the HRFASP within the Commission, which results from his appointment by the European Council and his role as an overarching coordinator of Commission policies with an external relations dimension, could easily become a source of tension between the HRFASP and the Commission President as well as individual Commissioners. The HRFASP will almost inevitably pose a challenge to the Commission President's traditional role as *primus inter pares* within the college of Commissioners (Avery, 2007, p. 19). Particularly the fact that without having obtained the prior consent of the European Council the Commission President will no longer be able to request the Commissioner for External Relations to resign (Art. 17 TEU) severely puts into question the Commission President's authority over the HRFASP and thus his superior power status within the college of Commissioners (Crowe, 2005, p. 5).

The tensions, which might result from this changing balance of power within the Commission, could be further exacerbated by the Commission President's responsibility to ensure the overall consistency of the various policies pursued under the different Commission portfolios. Thus, the Treaty of Lisbon clearly stipulates that the Commission President has an obligation to ensure that the Commission acts "consistently, efficiently and as a collegiate body" (Art. 17.6 TEU). In view of the considerable number of Commission policies with an external affairs dimension it does therefore seem rather unlikely that the Commission President will leave the coordination of the external relations activities of the Commission entirely to the HRFASP, which provides for some conflict potential (Avery, 2007,

p. 20). Ultimately, however, the quality of relations between the Commission President and the HRFASP will also reflect such aspects as the personality of the two incumbents and their mutual sympathy.

In terms of the relations of the HRFASP with individual Commissioners, the long established principle that all Commissioners are equal, which has been jealously protected by national governments in order to hinder any Member State from gaining a disproportionate amount of power within the Council,<sup>13</sup> might clash with the powers of the HRFASP, providing another source of potential tension (Avery, 2007, p. 19). Thus, the HRFASP will be clearly set apart from the other Commissioners who cannot, for example, rely on the potential support of the European Council when faced with a resignation request from the Commission President. The previously mentioned coordinating role of the HRFASP will further reinforce the superiority of the HRFASP compared to other Commissioners.

In addition to the possible tensions that the status of the HRFASP might create within the Commission, it is also conceivable that due to a necessity to prioritise his various tasks, the High Representative will not be able to make the expected contribution towards reducing inconsistencies between the intergovernmental and *communautaire* aspects of EU foreign policy. Indeed, in view of the considerable number of tasks that the double hatted HRFASP will have to perform, he will either have to be a “superhuman gymnast” (Avery, 2007, p. 20) or he will have to set clear priorities, and there are at least three arguments that suggest that these priorities will evolve around the intergovernmental dimension of EU foreign policy-making.

First of all, as has been pointed out earlier, the HRFASP will clearly be accountable to the European Council, while his accountability to the Commission and its President as well as the EP remains rather ambiguous. In his own interest, therefore, the HRFASP must be primarily concerned with accommodating the interests of the Member States in the formulation and implementation of EU foreign policy. As Crowe (2005, p. 9) rightly points out in this respect, “no matter how time and attention-consuming this is, the main source of [the HRFASP’s] authority will be the confidence he commands among the member state foreign Ministers: no amount of authority over Commission-controlled instruments will make up for the loss of this.” At the same time, the HRFASP’s credibility as an actor in international affairs – and by extension that of the Union as a whole – will be crucially dependent on the extent to which he commands the support of the Member States.

<sup>13</sup> This principle was in the past of course often undermined by the fact that certain Member States had two Commissioners, while other Member States had only one, and by the diverging degrees of competence that holding different Commission portfolios naturally entails.

Secondly, it seems very likely that at least the first incumbent of the post of HRFSP will have a personal bias in favour of promoting the foreign policy interests of the Council and the Member States instead of being an honest broker between the Council and the Commission. Already during the June 2004 European Council, the EU Heads of State and Government agreed that Javier Solana should become the first UMFA and it is almost certain that this decision will also apply with regard to the appointment of the first HRFASP. It is perceivable that at least in the beginning Solana's long-standing role as High Representative for CFSP and his corresponding close affiliation to the Council Secretariat and the Member States will make him a more active proponent of Council positions when it comes to the formulation and implementation of EU foreign policy.<sup>14</sup> However, being member of the Commission is likely to have a socialising effect, which could in the medium- to long-term significantly reduce this bias.

Finally, despite the ever-growing merger of intergovernmental and *communautaire* aspects in the development of an EU foreign and security policy doctrine (Biscop, 2008), at least Solana might be likely to prioritise the "high-politics" of CFSP/CSDP over the "low-politics" of the Common Commercial Policy (CCP) or humanitarian aid. Indeed, Solana has already indicated that he has been worried about the fact that in view of the considerable extension of his tasks as HRFASP, "he would be unable to do what he had been doing best during [his tenure as High Representative of CFSP,] namely acting as a 'roving' ambassador and trouble-shooter for the EU, cultivating personal contacts throughout the world, and limiting red tape" (Kurpas *et al.*, 2007, p. 126).

While the introduction of the HRFASP by the Treaty of Lisbon and his agenda-setting powers within the Foreign Affairs Council have already been discussed in terms of the positive impact they might have on the vertical and interstate consistency of European foreign policy, they must also be seen as a potential future impediment to the political influence of smaller EU Member States in EU foreign policy decision-making. For smaller Member States in particular, holding the EU Presidency has become an important tool to shape the EU policy agenda according to their policy preferences (Grieco, 1996; Metcalfe, 1998; Tallberg, 2003; 2004; Thomson, 2008).<sup>15</sup> Clearly, in the future, the role of the HRFASP as chair of the Foreign Affairs Council will significantly constrain Member States' ability to use this tool in order to shape the Union's foreign policy agenda. Moreover, while he

<sup>14</sup> This is not to suggest that the views and interests of the Council and the Commission on matters of EU foreign policy are always diverging or even clashing, necessitating the HRFASP to take one side.

<sup>15</sup> In addition, the EU Presidency serves as a popular tool for national Foreign Ministers to raise their political profile among domestic constituencies (Crowe, 2005, p. 4).

should ideally be commanding the support of all Member States, the High Representative will have to be particularly concerned with accommodating the foreign policy preferences of the politically and militarily most influential Member States in the formulation and implementation of a common European foreign and security policy (Crowe, 2005, p. 12). This could lead to a further subordination of the foreign policy preferences of the smaller Member States and ultimately give rise to a sense among smaller Member States that their foreign policy preferences are continuously “ignored” by the HRFASP, which might impede on European foreign policy unity.

As has already been argued, the Treaty of Lisbon not only confers far-reaching competencies on the HRFASP with regard to shaping the Union’s foreign policy agenda, but it also envisages the High Representative as the highest-ranking European diplomat and chief negotiator of the Union in international fora. The HRFASP is therefore predestined to play a key role in the future consolidation of the Union’s profile as a unitary and credible actor in international affairs. However, to what extent the High Representative will be able to fulfil this role will strongly depend on his personality. Indeed, if anything, the replacement of the title of “Union Minister for Foreign Affairs” by that of “High Representative of the Union for Foreign Affairs and Security Policy” in the Treaty of Lisbon has further reinforced the importance of the HRFASP’s personality and skills. Thus, while the title of “Union Minister for Foreign Affairs” would have carried considerable symbolic value, sending out a clear signal to governments around the world about the HRFASP’s standing in the foreign policy-making hierarchy of the EU, the title of “High Representative of the Union for Foreign Affairs and Security Policy” continues to convey the image, which has often been associated with the High Representative for CFSP, of a diplomat who is acting on behalf – instead of being part – of the highest echelons of EU foreign policy-making. Correspondingly, past confusions among partners of the Union about the actual role and powers of the High Representative for CFSP as compared to those of other EU and national actors (Cameron, 2005, pp. 11–12), might also in the future persist in many capitals with regard to the HRFASP. In essence, the argument proposed here is that language matters much more than many EU Heads of State and Government were willing to concede when they agreed to discard the title of “Union Minister”.

Nevertheless, in his capacity as High Representative for CFSP, Solana has already proven that the future HRFASP can make significant inroads in international politics, thereby increasing the credibility of the Union as an international actor. Thus, in the past, Solana has launched a number of rather successful foreign policy initiatives and played a crucial part in various international

negotiations, ranging from the settlement of the 2002 peace agreement between Serbia and Montenegro (Keane, 2004) to talks with Iran about its nuclear ambitions (Gowan, 2008, pp. 55–7). The influence of the HRFASP in the international arena will strongly depend on such nebulous, but crucial criteria as prior career and networking skills, the ability to launch convincing foreign policy initiatives at the right time, an adequate infrastructure and not least the support of a significant portion of the Member States (Crowe, 2005, p. 2). These criteria will become even more important for the establishment of the HRFASP as an influential and successful European chief negotiator in the face of the introduction of a powerful competitor regarding the formulation of EU foreign policy and the representation of the Union in international affairs, namely the President of the European Council.

## 2.2. The president of the European Council

Despite the fact that the European Council has never officially acquired the status of an EU institution,<sup>16</sup> over the last 30 years, it has played an increasingly important role in voicing and framing European foreign policy (Edwards, 2005, p. 57; Keukeleire and MacNaughtan, 2008, pp. 68–9). European Council declarations on major foreign policy challenges, such as the siege of Sarajevo, the use of force in Yugoslavia or the fight against terrorism after 9/11, as well as top level meetings with the political leaders of third countries have considerably shaped the Union's profile as an international actor. Moreover, they have served as important reference points for EU institutions and Member States in the formulation and implementation of EU and national foreign policies (Schoutheete and Wallace, 2002, p. 12). Hence, at least with regard to a number of foreign policy objectives that were deemed to be essential by all EU Heads of State and Government, the European Council has fostered a greater consistency in the policies pursued by the different actors in European foreign policy (Nuttall, 2005, p. 104).

The Treaty of Lisbon is arguably the first legal document that fully accounts for the European Council's influential role in the formulation of European foreign policy. Thus, it not only formally introduces the European Council as one of the constituent institutions of the EU (Art. 13.1 TEU), but it also stipulates the European Council's right to identify the strategic interests and objectives of the Union in relation "to the common foreign and security policy and to other areas of the external action of the Union", i.e. across all intergovernmental and *commu-*

<sup>16</sup> For a detailed discussion of the complex and shifting institutional status of the European Council in the process of European integration over the last 40 years, see Dinan (1999, pp. 237–66), Hix (2005, pp. 35–8) and Schoutheete and Wallace (2002).

*nautaire* aspects of EU foreign policy, and the means to be made available by the EU and the Member States in order to pursue these interests and objectives (Art. 22.1 TEU). Most commentators have rightly emphasized that this stipulation of the right to define strategic guidelines for both intergovernmental and *communautaire* aspects of EU foreign policy merely codifies existing practice (Keukeleire and MacNaughtan, 2008, pp. 68–9). However, it is still worth pointing out that in legal terms this means a significant extension of the competencies of the European Council, which has so far enjoyed the right to formulate strategic guidelines with regard to CFSP, but not with regard to the *communautaire* aspects of EU foreign policy (Witte, 2004, p. 103).

The *de jure* elevation of the European Council's status in the formulation of EU foreign policy is accompanied by the introduction of a President of the European Council, who shall "at his or her level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy" (Art. 15.6 TEU). Moreover, the President of the European Council will be responsible for preparing the work of the European Council and for ensuring its continuity. Notably, to this end, he is supposed to cooperate with the Commission President. Last but not least, the European Council President will also be in charge of chairing meetings of the European Council and driving forward its work by, *inter alia*, facilitating "cohesion and consensus" (Art. 15.6 TEU).

On the basis of these provisions, two main conclusions can be drawn regarding the possible impact of the European Council President on the consistency of European foreign policy. Firstly, the European Council President could actively facilitate an increase in the consistency and complementarity of *communautaire* aspects of EU foreign policy, such as development aid and corresponding national foreign policy initiatives. The Treaty of Lisbon's emphasis on the importance of cooperation between the European Council President and the Commission President in order to ensure the continuity of the European Council's work will be of particular importance in this respect. Secondly, as chair of the meetings of the European Council, the European Council President is likely to dispose of a considerable agenda-setting power. This power could on the one hand be used in order to keep the foreign policy agenda of individual Member States in tune with the foreign policy objectives of the Union and particularly the *communautaire* activities of the Commission. On the other hand, the European Council President could also utilise his agenda-setting power to reconcile diverging national foreign policy interests and thus to contribute to an increase of interstate foreign policy coherence.

The European Council President will also occupy an elevated position in the future representation of the Union on the international plane, as the Treaty of Lisbon clearly envisages a representative function for the European Council President with regard to the intergovernmental aspects of EU foreign policy. Indeed, this representative function might arguably be the most attractive feature of the post of European Council President (Nuttall, 2005, p. 109). However, as Dagand (2008, p. 5) rightly points out, to what extent the European Council President will eventually be able to present himself as a major international actor will depend “on the personality of the incumbent and the degree to which the Member States permit him or her to take the initiative.” It will be a particularly important question in this respect whether the EU Heads of State and Government can agree on the appointment of a prominent, senior political figure to the post of European Council President, as only a European Council President who possesses a significant amount of political authority and international standing will be able to make the necessary inroads in international affairs in order to strengthen the Union’s profile as a credible international actor.<sup>17</sup>

However, an examination of the responsibilities and powers of the European Council President does not only reveal potentially positive implications for EU foreign policy consistency and a more unitary representation of the Union in the world, but also their insufficient delimitation from the responsibilities and powers of the HRFASP. Thus, the European Council President’s mandate to ensure the external representation of the Union on issues concerning CFSP as well as his role with regard to shaping and following-up on the foreign policy agenda of the European Council will inevitably mean that he will also be involved in the formulation and implementation of the intergovernmental and at times even the *communautaire* aspects of EU foreign policy. Such a function would of course strongly interfere with the competencies and responsibilities of the HRFASP, which could give rise to severe inter-institutional tensions and thus an environment that nourishes EU foreign policy-making inconsistencies. As a solution to this dilemma, some commentators have suggested a division of labour that would make the President of the European Council responsible for the intergovernmental aspects of EU foreign policy, while the HRFASP would primarily focus on his duties as Commissioner for External Relations and Vice-President

<sup>17</sup> Several potential candidates, including the former British Prime Minister, Tony Blair, and the current Prime Minister of Luxemburg, Jean-Claude Juncker, have already been named (Parker, Thornhill and Blitz, June 15, 2007; Ricard, April 24, 2007). At the time of writing this article, the Danish Prime Minister Anders Fogh Rasmussen, whose international standing is certainly debatable, has become the most likely candidate for the post of European Council President (Charter, May 6, 2008; Taylor, April 24, 2008).

of the Commission. However, it seems to be rather unlikely that the HRFASP and the Commission will regard such a division of labour as an acceptable *modus vivendi*. Eventually, therefore, the European Council President and the HRFASP will have to liaise very intensely in order to make EU foreign policy work without giving rise to any new inconsistencies (Kurpas *et al.*, 2007, p. 129).

The missing delimitation of the tasks of the President of the European Council and the HRFASP also becomes obvious with regard to the external representation of the Union. Indeed, the Treaty of Lisbon almost inevitably provokes an inter-institutional dispute about who will take the lead in representing the Union externally. *Prima facie*, the institutional affiliation and title of the European Council President seems to put him in a more opportune position to become the “Union’s face” in international affairs. In contrast to the HRFASP, who is burdened with the need to juggle a multitude of tasks, the European Council President will also have more time to travel abroad. However, the HRFASP enjoys the approval of the Member States and despite some of the possible frictions within the Commission that were mentioned earlier he is also likely to have the support of the Commission at his command. Moreover, the above-mentioned Article 15.6 of the TEU seems to suggest that ultimately the European Council President’s competencies to represent the Union externally are subordinated to those of the HRFASP. In the end, much will depend on such factors as the personality of the two incumbents, a possible agreement on a division of labour between the two, the support of the Member States, and perhaps even the role of the Commission with regard to backing the HRFASP and his foreign policy initiatives. In any case, the impact of the simultaneous introduction of the HRFASP and the European Council President on the coherence of EU foreign policy and the Union’s external representation should be closely monitored and further institutional adjustments should be made, if the need arises.

Eventually, the distribution of tasks between the HRFASP and the President of the European Council will also strongly determine the relationship of the later with the European External Action Service (EEAS). While the EEAS has a clear mandate to assist the HRFASP, its role *vis-à-vis* the President of the European Council has still not been sufficiently defined. Assuming that the President of the European Council will have some form of representative function on the international plane, the need for a supporting institutional infrastructure abroad will inevitably arise and it seems difficult to conceive that in such a case the EEAS will not also support the work of the European Council President. An alternative would otherwise have to be provided by the Member States and their diplomatic representations, which is certainly not the preferred option of the Member States.

However, the relationship between the President of the Council and the EEAS will also largely depend on the institutional structure of the EEAS.

### 2.3. The European External Action Service

The third and final major institutional innovation introduced by the Treaty of Lisbon with regard to EU foreign policy is the establishment of the EEAS. The idea, initially proposed by the European Convent, to set up this joint European diplomatic service met with almost unanimous praise from policy-makers and analysts, and also during the negotiations on the replacement of the Constitutional Treaty it was never seriously contested (Avery and Missiroli, 2007, p. 6). However, the widespread support for the establishment of a European diplomatic service can hardly conceal the fact that the precise nature of the EEAS remains somewhat nebulous. Indeed, the Lisbon Treaty contains only one rather vague article on the EEAS, which defines its functions and composition as follows:

In fulfilling his or her 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. (Art. 27.3 TEU)

Apart from that, the article merely adds that any definite decision on the functioning and responsibilities of the EEAS will be taken at a later stage by the Council, after having consulted the EP and obtained the consent of the Commission (Art. 27 TEU).<sup>18</sup> The postponement of this crucial decision by the Lisbon Intergovernmental Conference (IGC) reflects the difficulties that EU and national officials encountered in their attempts to reconcile conflicting national visions of the concrete shape and scope of common diplomatic action (Lieb and Maurer, 2007a; 2007b).<sup>19</sup> Indeed, to date, no conclusive solution to this problem of diverging national attitudes *vis-à-vis* the purpose and goal of the establishment of the EEAS has been offered by the Member States. Nevertheless, the current state of debate allows for the formulation of a few assumptions regarding the possible role and functioning of the EEAS and the impact that it might have on the coherence

<sup>18</sup> This provision has been further specified by Declaration No. 15 on Article 27, which states that “as soon as the Treaty of Lisbon is signed, the Secretary-General of the Council, High Representative for the common foreign and security policy, the Commission and the Member States should begin preparatory work on the European External Action Service.

<sup>19</sup> In addition, most of the pressure to reach a compromise on the EEAS was taken away from the Member States after the Dutch and French referenda on the Constitutional Treaty and only re-emerged during the negotiations of the Lisbon Treaty (Kurpas *et al.*, 2007, p. 126; Lieb and Maurer, 2007b, p. 65).

of EU foreign policy and the Union's international representation in the future.

Initial deliberations about the shape of the EEAS were primarily concerned with the question whether the Service's "headquarters" in Brussels should be built around the RELEX family, making the EEAS a part of the Commission administration, or whether it should be located within the Council Secretariat, drawing on already existing capacities there, such as the Policy Unit, the Situation Centre, and the DG-E on external relations. More recent debates among the Member States and the European institutions suggest that the EEAS will neither be located within the Commission nor within the Council (Kurpas *et al.*, 2007, p. 133; Lieb and Maurer, 2007a, p. 10; Missiroli, 2007, p. 24). Instead, the Service will most likely become a *sui generis* body in its own right, which is founded by a Council decision, financed by EU funds and staffed with secondees from the Commission, the Council Secretariat and the Member States (Council of the European Union, 2005a). Such a solution will not only involve the EP and its budgetary powers, pre-empting some of the potential criticisms that might arise with regard to the accountability and transparency of the working methods of the EEAS,<sup>20</sup> but also avoid opening the Pandora's Box of inventing a new status for the Service's staff (Missiroli, 2007, p. 23).

Despite the fact that the Lisbon Treaty defines assisting the HRFASP as the principal activity of the EEAS, arguably leaving little leeway for the Service to take the initiative with regard to shaping EU foreign policy, for at least two reasons it could nevertheless play a vital role in the promotion of a more consistent European foreign policy.<sup>21</sup> Thus, by virtue of its composition, the EEAS is predestined to become "a sort of functional interface between all the main institutional actors of European foreign policy" (Kurpas *et al.*, 2007, p. 133), which could significantly strengthen the coordination of EU and national foreign policies. In the future, the EEAS will almost certainly become the first port of call for EU and national officials in order to exchange the latest information on political developments outside the Union and the status of foreign policy planning within the EU institutions and the national foreign ministries. This exchange of information could lead to a greater mutual complementation and harmonisation of the foreign policy activities conducted by individual European foreign policy actors, increasing the horizontal, vertical and interstate consistency of European foreign policy.

<sup>20</sup> Indeed, senior members of the EP have already announced that they will withhold funds for the EEAS if their demands on Parliamentary scrutiny and the independence of the Service are not met (Taylor, May 8, 2008).

<sup>21</sup> It is worthwhile pointing out in this context that in the initial debates on the Constitutional Treaty one of the options discussed with regard to the mandate of the EEAS was to make it responsible for strengthening the coherence and efficiency of the Union's external action (Duke, 2003b, p. 7).

Moreover, the EEAS could capitalise on its position as the institutional “hub” in a newly emerging and widely ramified network between the different European foreign policy actors and actively shape foreign policy debates within the EU institutions and the national foreign ministries. Indeed, enabled by superior information access that the seconded Council, Commission and national diplomatic staff as well as an extensive network of Union Delegations in third countries provide, the Service is not only likely to be capable of undertaking a more comprehensive and rapid analysis of external developments than most of the individual European foreign policy actors, but it will also find itself in a strong position to formulate authoritative recommendations for a holistic European response to such developments. Particularly in situations that necessitate an immediate response by the Union and its Member States, such recommendations could make a valuable contribution towards increasing European foreign policy consistency. However, whether the EEAS will be able to make such recommendations will eventually depend on the HRFASP and the question whether he perceives such a role of the EEAS as to bolster his standing within the institutional architecture of European foreign policy.

In addition to strengthening the consistency of European foreign policy, the EEAS could also promote a more coherent representation of the Union in international affairs. As the Treaty of Lisbon furnishes the Union with a single institutional framework (Art. 13 TEU) and legal personality (Art. 47 TEU), in the future, the EEAS will take over the responsibility from the Commission Delegations and the national diplomatic representations of the Presidency-in-Office to represent the Union in third countries. In light of this, most commentators have suggested that the Commission Delegations will simply evolve into representations of the EEAS. Indeed, this seems to be the only viable institutional basis for the establishment of the new Union Delegations, as Member States will at least in the foreseeable future dismiss any suggestions to replace their diplomatic representations in third states with common European embassies.

However, Member States’ commitment under the Treaty of Lisbon to grant protection to all EU citizens, regardless of their nationality, within the territory of a third state (Art. 20.2 TFEU) has prompted several analysts to suggest that at least some of the Union Delegations could evolve into “European consulates” (Kurpas *et al.*, 2007, p. 135; Missiroli, 2007, p. 25). In fact, as Member States increasingly pool their embassies in third states, the existence of quasi-European consulates is already a reality in some countries (Bátora, 2005). The establishment of genuine European consulates is therefore no longer simply an intellectual game played by national diplomats who regard the pooling of Member States embassies as a means to increase their security in a hostile environment (Bale, 2002). How-

ever, even the establishment of a growing number of European consulates will not necessarily induce the decline of the traditional national diplomatic representations, which are conserved by the persistence of national interests and issues of national prestige. Rather, the creation of European consulates could give rise to new forms of hybrid diplomatic representations with Union Delegations and the diplomatic staff of Member States working closely together under one roof (Lieb and Maurer, 2007a, p. 12; Rijks and Whitman, 2007). In any case, by putting an end to the dual representation of the Union in third countries, the Union Delegations entail the potential to position the Union as a more unitary and thus influential actor abroad. To what extent this potential can be tapped, however, will not only depend on the support of the Member States, but also on the acceptance that the Union Delegations will enjoy as legitimate political actors in third states.

Finally, the new Union Delegations will raise interesting questions concerning the future coordination of Member States in international organisations (Kuropas *et al.*, 2007, p. 136). Thus, it has become common practice that coordination meetings of Member States within the framework of international organisations are chaired by the Presidency-in-Office. However, given that in the future the HRFASP will preside over the Foreign Affairs Council, it has been argued that the heads of Union Delegations at international organisation who will be accountable to the High Representative should enjoy corresponding competencies and chair EU coordination meetings (Missiroli, 2007, p. 26). This would provide a particular interesting development with regard to EU Member States' representation in international organisations like the Organisation for Security and Co-operation in Europe (OSCE) where a common European position is usually adopted by Member States and subsequently presented to the other OSCE members by the head of the EU coordination meeting (Luif and Radeva, 2007).<sup>22</sup> Thus, in the future it might no longer be the Presidency-in-Office who speaks within the OSCE on behalf of the Union, but an EU diplomat, which would further underline the Union's weight as an international actor in its own right.

### **3. Intergovernmental and communautaire aspects of European Union foreign policy**

While it should have become evident from the foregoing discussion of institutional innovations, it is nonetheless worth pointing out explicitly that the Lisbon Treaty abolishes the old pillar structure only in presentational terms (Crowe,

<sup>22</sup> This does not mean that the representatives from individual EU Member States refrain from taking the floor within the OSCE to either support the position presented by the Presidency-in-Office, or to address an issue that is of specific national concern.

2005, p. 5). Accordingly, the intergovernmental and *communautaire* aspects of EU foreign policy, namely CFSP and CSDP as well as CCP, development cooperation, technical cooperation and humanitarian aid, can be found for the first time under a single heading with the title “Union External Action”, but they continue to be distinct in terms of the decision-making procedures that govern them and the varying degrees of influence of the different EU institutions and the Member States (Dagand, 2008, pp. 6–7; Keukeleire and MacNaughtan, 2008, p. 64). Nevertheless, by introducing a new set of overarching EU foreign policy principles and objectives as well as several modifications to the different aspects of EU foreign policy, the Treaty of Lisbon is likely to have a visible impact on the coherence of European foreign policy and the Union’s representation in international affairs.

### 3.1. The principles and objectives of European Union foreign policy

One of the potentially most influential innovations in terms of increasing the horizontal and institutional consistency of EU foreign policy, introduced by the Treaty of Lisbon, is the stipulation of a common set of overarching principles and objectives, which will bind the European institutions and Member States – at least within the framework of the Union – when formulating and implementing intergovernmental and *communautaire* aspects of EU foreign policy. These principles and objectives are defined in the following terms:

In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter. (Art. 3.5 TEU)

The “Chapter on the General Provisions on the Union’s External Action” further adds that the Union shall “safeguard its values, fundamental interests, security, independence and integrity” and “promote an international system based on stronger multilateral cooperation and good global governance” (Art. 21.2 TEU). Significantly, all of these principles and objectives outlined in the Treaty of Lisbon need to be taken into consideration by all relevant actors in the formulation and implementation of the full scope of intergovernmental and *communautaire* aspects of EU foreign policy (Art. 21.3 TEU). Particularly this last aspect once again reaffirms the endeavour inherent in the Treaty of Lisbon to overcome the

intergovernmental-*communautaire* dualism of EU foreign policy, which has been the main reason in the past for horizontal and institutional inconsistencies.

Of course, none of the foreign policy principles and objectives that are defined in the Treaty of Lisbon constitutes a novelty.<sup>23</sup> However, the fact that they are for the first time bundled in one single, legally binding document, which determines that they are to be applied with regard to the pursuance of all aspects of EU foreign policy, might give them a particular magnitude. Indeed, as the following sections will argue, at least the coherence of the *communautaire* aspects of EU foreign policy and their consistency with CFSP could be positively affected by the new EU foreign policy principles and objectives.

### 3.2. The common foreign and security policy

The adoption of two Declarations on CFSP by the Lisbon IGC has largely abated the expectations initially raised by the Constitutional Treaty concerning the possibilities for an improvement of the vertical coherence of EU foreign policy. Indeed, one of the guiding motives for the European Convent with regard to overhauling the legal foundation of CFSP had been to discourage Member States from the continued pursuance of starkly diverging national foreign policies and thus to increase interstate and vertical consistency of European foreign policy (Cameron, 2003, pp. 32–3). The Treaty of Lisbon's provisions on CFSP, which are largely similar to those that could be found in the Constitutional Treaty, still reflect this intention. Thus, it is stipulated that “the Union shall conduct, define and implement a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and *the achievement of an ever-increasing degree of convergence of Member States' actions*” (Art. 24.2 TEU, emphasis added). Moreover, Member States are under an explicit obligation to comply unreservedly with all decisions taken within the CFSP framework (Art. 24.3 TEU). Yet, these provisions have become somewhat contested in the light of Declaration 13 on CFSP, which states:

The Conference underlines that the provisions in the Treaty on European Union covering the Common Foreign and Security Policy, including the creation of the office of High Representative of the Union for Foreign Affairs and Security Policy and the establishment of an External Action Service, *do not affect the responsibilities of the Member States, as they*

<sup>23</sup> Indeed, most of these foreign policy principles and objectives are already defined in the Nice Treaty's chapters on CFSP, CCP, development cooperation policy and environmental policy, or constitute a codification of principles and objectives developed in the context of other policy documents, like the European Security Strategy, or the implementation of political conditionality in development cooperation, the neighbourhood policy and enlargement.

*currently exist, for the formulation and conduct of their foreign policy nor of their national representation in third countries and international organisations [emphasis added].*

Indeed, it is debatable to what extent an ever-growing convergence of Member States' foreign policy actions and their compliance with CFSP decisions can be established if none of the CFSP provisions stipulated in the Lisbon Treaty affect the responsibility of the Member States to formulate and conduct their own national foreign policies.

The Treaty of Lisbon also contains a provision, which determines that “[w]hen the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the High Representative be asked to present the Union’s position” (Art. 34.2 TEU). In light of the ongoing debates about the need for a stronger European profile within the United Nations (UN) and persistent debates about the advantages and disadvantages of creating a single EU seat within the UN Security Council (Drieskens, Marchesi and Kerremans 2007) this provision seems to suggest that the Union should be furnished with the possibility of a more consistent and thus more influential representation within the UN. However, Declaration 14 on CFSP, which is more or less a reiteration of the above-quoted Declaration 13, states:

[T]he provisions covering the Common Foreign and Security Policy including in relation to the High Representative of the Union for Foreign Affairs and Security Policy and the External Action Service will not affect the existing legal basis, responsibilities, and powers of each Member State in relation to the formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and *participation in international organisations, including a Member State’s membership of the Security Council of the UN* [emphasis added].

Against the background of this Declaration, it is hardly conceivable that the HRFASP and thus the Union will be able to further extend their influence within the UN Security Council, not to mention the diminished likelihood of the establishment of a permanent EU seat. Indeed, the Foreign Affairs Committee of the British House of Commons has already established that there is no reason to be concerned about a loss of British influence in the UN Security Council after the Lisbon Treaty has entered into force, as the current practice of occasionally inviting the High Representative to present the Union’s position, without this being a firm obligation imposed on the EU Security Council members, will not be altered (Foreign Affairs Committee, 2008, p. 56). In sum, therefore, the Lisbon IGC has clearly undermined some of the efforts, which can be found in the Lis-

bon Treaty, to adapt CFSP in a way as to strengthen the coherence of European foreign policy.

### 3.3. The common security and defence policy

Like the provisions governing the other external policies of the Union, also the provisions on CSDP are to be found under the heading of “Union External Action” within the Lisbon Treaty, which can be seen as an expression of the fact that Member States no longer necessarily regard security and defence issues as national *domaines réservés* (Smith, 2000, pp. 616–17). However, like ESDP within the Nice Treaty, CSDP enjoys a special status within the Treaty of Lisbon, which is underlined by distinct political procedures, funding arrangements, and voting rules. This special status reaffirms the diverging attitudes that continue to inform Member States’ stances towards the role the Union should play in the field of security and defence (Howorth, 2007). Thus, on the one hand, the Treaty of Lisbon can be interpreted as a pro-integrationist move to bring CSDP more in line with the other external policies of the Union, thereby increasing the horizontal coherence of EU foreign policy, and to bolster the Union’s capacity as a security and defence actor by encouraging Member States to further integrate their defence capabilities. On the other hand, however, taking into account the specific defence identities of certain Member States and the strong trans-Atlantic ties of others, the Treaty of Lisbon also provides for the continued existence of a considerable degree of national autonomy in the area of security and defence, which markedly reduces the potential for a greater coherence of European foreign policy and impedes on attempts to establish the Union as a more credible military actor.

The endeavour of the pro-integrationist Member States, and most notably France (Howorth, 2000; 2003; 2007, pp. 154–60), to establish the Union as a major international security and defence actor is probably best illustrated by the adoption of a slightly more optimistic tone in the Treaty of Lisbon’s provision on the establishment of a common European defence as compared to the language used in the Nice Treaty. Thus, the relevant provision within the Nice Treaty, which of course dates back to the Maastricht Treaty, suggests somewhat vaguely that the progressive framing of a common defence policy *might* eventually lead to a common defence, while the Treaty of Lisbon makes the much firmer statement that the progressive framing of a common defence “*will* lead to a common defence, when the European Council, acting unanimously, so decides” (Art. 42.2 TEU, emphasis added). While this minor and yet significant change in wording should by no means be understood as creating a legally binding obligation for the Member States, it nevertheless indicates that, despite persistent differences among Member

States on the issue, at least the possibility of establishing a common European defence has slightly increased (Osica, 2007, p. 2).

The political will of Member States to give the Union more credibility as a military actor and to strengthen the horizontal coherence of EU foreign policy by increasing the linkages between CSDP and the other external policies of the Union is arguably most clearly reflected in the formulation of a new scope of CSDP activities. These will in the future consist of “joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peacemaking and post-conflict stabilization” (Art. 43.1 TEU). In many ways, this expansion of the Petersberg tasks can be regarded as merely an adjustment of the Union’s legal basis to what has already been practiced on the ground for some time, as exemplified by Operation Concordia in the Former Yugoslav Republic of Macedonia, or Operation Artemis in the Democratic Republic of the Congo (Mace, 2004; Nowak, 2006; Ulriksen, Gourlay and Mace, 2004). However, it also represents the codification of a distinct European strategic culture, which is based on the merger of military and civilian measures in the conduct of EU foreign policy towards regions in crisis (Cornish and Edwards, 2001). Accordingly, the intergovernmental Petersberg tasks and the *communautaire* civilian aspects of EU crisis management are no longer artificially divided when deployed in the field.<sup>24</sup> This development also implies that in the future there might be much greater potential for more coherent foreign policy-making by the Council and Commission with regard to CFSP missions and an extension of the Commission’s influence in this field. Clearly, the dual role of the HRFASP as a member of the Council and the Commission will be of crucial importance in this respect.

Two other innovations in the Treaty of Lisbon might also, although probably less significantly, strengthen the consistency of Member States activities within the security and defence realm and bolster the Union’s military actor profile in the arguably rather unlikely case of outside aggression (Osica, 2007, pp. 8–9). Thus, the introduction of a mutual defence clause and a solidarity clause symbolises Member States’ willingness jointly to respond to any act of external aggression or any other situation that might adversely affect the security of one or several Member States. More precisely, the mutual defence clause obliges Member States in case of armed aggression against another Member State to provide “aid and assistance by all the means in their power” (Art. 42.7 TEU). The solidarity clause commits Member States to make all resources, including military resources, available

<sup>24</sup> In terms of decision-making procedures, the Petersberg tasks as part of the intergovernmental CSDP of course remain neatly separated from the *communautaire* aspects of EU foreign policy.

that could help to address the security threats posed to one or several Member States by a terrorist attack, or any other natural or man-made disaster (Art. 222 TFEU).

While all of the aforementioned provisions could make a significant contribution towards strengthening the coherence between CSDP and the other EU external policies and the Union's profile as a credible security and defence actor, another novelty introduced by the Treaty of Lisbon, namely "structured cooperation", might give rise to converse effects. With regard to defining the essence of structured cooperation and setting it apart from enhanced cooperation, the Treaty of Lisbon states that "[t]hose Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework" (Art. 42.6 TEU). Structured cooperation can thus probably be best understood as a flexible form of enhanced cooperation, which allows a group of Member States that are united in their willingness and dispose of the necessary military capacities, to pursue CSDP missions without any participation by the remaining Member States (Bribosia, 2007, p. 31). The military capacities necessary to participate in structured cooperation are stipulated in Protocol No. 10 of the Lisbon Treaty and leave considerable leeway for interpretation. Indeed, it seems that eventually not necessarily the capacity, but rather political determination will define which states will participate in structured cooperation.

While the concept of structured cooperation should be regarded with some favour, as it introduces some urgently needed flexibility to European security and defence policy, it also poses severe challenges to both the coherence of EU foreign policy and the unity of the Union in international affairs. Thus, the establishment of structured cooperation could divide the EU into two camps with those that push for a more visible role of the Union in the area of security and defence on one side and those that prefer the persistence of national autonomy and/or a superior role for the North Atlantic Treaty Organisation (NATO) on the other side. Indeed, particularly those Member States that have traditionally pursued a neutral stance in the context of security and defence seem to be almost automatically excluded from structured cooperation. Likewise, the more Atlanticist members of the EU might have difficulties to engage in structured cooperation, as they want to avoid diminishing the importance of NATO and adversely affecting their good relations with the United States.<sup>25</sup>

<sup>25</sup> While in terms of rhetoric Washington has traditionally presented itself as a strong supporter of the creation of an integrated European defence arrangement, US concerns about the actual creation of an autonomous European defence capability have been remarkably stable over the last dec-

Moreover, it appears to be deeply problematic to deploy a mission of a group of Member States under the banner of the EU, while the non-participating Member States remain at the sidelines without having any say. Clearly, such a situation must inevitably erode European unity, as those Member States that will not be participating in structured cooperation will develop their own policies towards the issues at stake (Dagand, 2008, p. 8). However, the eventual impact of structured cooperation on European security and defence integration remains difficult to assess for the time being. Indeed, given that the introduction of enhanced cooperation has hitherto met with rather limited success, it remains to be seen whether Member States will make use of structured cooperation at all, or whether they will continue to pool their military capacities on an *ad hoc* basis whenever the need arises.

### **3.4. Common commercial policy, development cooperation and humanitarian aid**

The introduction of a set of overarching EU foreign policy principles and objectives will arguably produce the most visible and immediate consistency increase with regard to the main *communautaire* aspects of EU foreign policy, namely CCP, development cooperation and humanitarian aid. While the Lisbon Treaty does not make any major changes to the objectives of the CPP as laid down in the Nice Treaty, in the future, they will have to be “conducted in the context of the principles and objectives of the Union’s external action” (Art. 207.1 TFEU). Similarly, the capacity to negotiate and conclude agreements with third states on commercial aspects of intellectual property and foreign direct investment (Art. 207.4 TFEU) – a power that the Union gains for the first time under the Lisbon Treaty – has to be exercised in accordance with the principles and objectives of EU foreign policy.

If these provisions were accepted at face value, the traditional aim of CCP to promote international trade liberalisation, which has often been little more than a vehicle for the achievement of unilateral EU economic and political interests (Meunir and Nicolaidis, 2005), would gradually give way to a more normative EU trade agenda. The Union’s status as a global economic and trade power would be deployed for the purpose of promoting human rights and fundamental freedoms, sustainable development and environmental protection. While such an impact of the Lisbon Treaty on the future conduct of EU trade policy is closer to utopia

ades and across the different administrations (Giegerich, 2007; Howorth, 2007; Kelleher, 2008). Consequently, further moves towards an autonomous European defence might revive and exacerbate some of the tensions that have determined US-European relations for most of this decade (Zaborowski, 2006).

than reality, the Treaty might at least bring the formulation and implementation of CCP more in line with EU development policies, leading to an increase in the horizontal consistency of EU foreign policy. EU trade practices and particularly the protectionism associated with the Common Agricultural Policy, which have repeatedly undermined the achievement of EU development aid objectives in the past (Keukeleire and MacNaughtan, 2008, p. 200–2), might thus become increasingly adapted to what has been identified as a much stronger demand imposed on EU actors by the Treaty of Lisbon to ensure consistency between EU commercial interests and the Union's international development agenda (Koebe, 2008, p. 4).

However, the foregoing argument should not nourish the false assumption that the new EU foreign policy principles and objectives will promote a one-sided elevation of the importance of development aid objectives in the formulation of EU foreign policy. Rather, the conduct of EU development cooperation will also have to resonate with the Union's security interests, as primarily defined within the context of CFSP. Accordingly, the Lisbon Treaty has already been branded as another major step in the securitisation of EU development aid (Koebe, 2008, p. 7). Indeed, in line with general trends in development aid (Duffield, 2001), an ever-growing securitisation of the provision of EU development assistance could be observed in recent years. Thus, the Union has increasingly used development aid as a political tool to promote specific foreign and security policy goals, such as democratisation, conflict prevention and the promotion of the rule of law and human rights (Arts and Dickson, 2004; Hadfield, 2007; Holland, 2002).

In addition to fostering the coherence between development cooperation and CFSP, the Lisbon Treaty also entails new provisions, which will strengthen the vertical coherence of EU and national aid activities and further bolster the Union's status as a major international donor and partner of developing countries. Thus, the exclusive responsibility of the Community for ensuring the coherence between EU development aid and Member States' development aid activities will be abolished. Instead, the Lisbon Treaty stipulates that “[i]n order to promote the complementarity and efficiency of their action, the Union and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes” (Art. 210 TFEU). This imposition of an obligation on Member States to more closely coordinate their development assistance with the activities of the Union constitutes an important step towards increase the vertical coherence of European development aid policy (Koebe, 2008, p. 6).

The Treaty of Lisbon also marks the codification of a significant shift in EU development aid priorities in recent years. In line with the 2005 European Consensus for Development, it defines the eradication of poverty as the primary aim of EU development cooperation (Art. 208.1 TFEU). The adoption of this rather

narrow policy focus was seen in 2005 *inter alia* to support endeavours of the EU and the Member States to increase the horizontal and vertical coherence of European development cooperation and to further sharpen the Union's profile as a major international development aid provider (Council of the European Union, 2005b, p. 13).

The inclusion of a chapter on the Union's activities in the area of humanitarian aid (Art. 214 TFEU) constitutes another novelty introduced by the Lisbon Treaty. This new chapter defines the purpose of EU operations in the field of humanitarian aid as "to provide *ad hoc* assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations" (Article 214.1 TFEU). Like all other *communautaire* aspects of EU foreign policy, humanitarian aid activities are to be pursued in conformity with the principles and objectives of EU foreign policy. However, contrary to EU development aid, for example, humanitarian aid activities also need to be "in compliance with the principles of international law and with the principles of impartiality, neutrality and non-discrimination" (Article 214.2 TFEU). This suggests that the EU will adhere to its current practice to provide humanitarian assistance in countries that are subject to international sanctions or in breach of their commitments under a regime of EU political conditionality (Hazelzet, 2005; Mbangi 2005). The EU will therefore continue to be present in countries where other international donors might refrain from giving aid, which will further raise the Union's profile as a major aid provider on the ground. However, the continued delivery of emergency relief in countries whose governments violate democratic and human rights norms and the rule of law also entails the risk of undermining the goals of other aspects of EU foreign policy, such as CFSP and development cooperation, and thus to negatively affect the horizontal coherence of EU foreign policy. Yet, this threatening inconsistency of EU foreign policy merely illustrates a more widespread dilemma that most policy-makers face when attempting to balance security concerns with the moral imperative to deliver aid in humanitarian emergencies, which is not easily resolved (Duffield, 2001; Edkins, 1996).

#### 4. Conclusion

The findings of this article suggest that some notable advancement has been made in the quest for a greater consistency of European foreign policy. However, they also reveal that this quest has by no means come to an end. Accordingly, while the three major institutional innovations introduced by the Treaty of Lisbon are likely to positively affect European foreign policy consistency in several respects, they

might also give rise to new inconsistencies. Thus, the HRFASP disposes of the necessary competencies within both the Council and the Commission to make a significant contribution towards increasing the horizontal and institutional coherence of EU foreign policy. Likewise, he could further strengthen the vertical coherence between EU foreign policy and Member States' foreign policies. However, the far-reaching competencies of the HRFASP with regard to formulating EU foreign policy might also give rise to new tensions within the Commission and negatively affect the adherence of smaller EU Member States to EU foreign policy strategies and initiatives. Moreover, the HRFASP might not be able to make the expected contribution towards reducing inconsistencies between the intergovernmental and *communautaire* aspects of EU foreign policy, as he will have to prioritise certain responsibilities to the detriment of others. A mixed picture must also be drawn with regard to the HRFASP's ability to defragment the external representation of the Union, as much will depend on the personality of the incumbent and the interplay with the European Council President.

The European Council President is likely to dispose of considerable agenda-setting powers within the European Council, which could on the one hand serve as a tool to bring Member States' foreign policies more in line with the foreign policy objectives of the Union and particularly the *communautaire* aspects of EU foreign policy and on the other hand foster the interstate coherence of Member States' foreign policies. Furthermore, the European Council President could give the Union "a face" externally. Yet, the role of the European Council President with regard to the formulation of intergovernmental and *communautaire* aspects of EU foreign policy as well as his elevated role in the external representation of the Union also risk provoking tensions with the HRFASP. Therefore, the HRFASP and the European Council President will have to liaise very intensely in order to avoid creating an institutional environment that nourishes new inconsistencies in EU foreign policy.

Despite the fact that the EEAS is still ill-defined, it seems likely that by acting as an institutional interface for the exchange of information among European foreign policy actors and by shaping the European foreign policy discourse with policy recommendations, the Service will make a vital contribution towards increasing the horizontal, vertical and interstate coherence of European foreign policy. Likewise, the new Union Delegations could significantly enhance the unitary appearance of the Union in third states and further strengthen its influence in negotiations within international organisations. The EEAS might thus emerge as the most important institutional innovation in terms of increasing the coherence of EU foreign policy and defragmenting the Union's representation on the international plane.

The modifications introduced by the Lisbon Treaty with regard to the intergovernmental and *communautaire* aspects of EU foreign policy are likely to have a predominately positive impact on European foreign policy coherence. One of the most influential innovations in this respect is the stipulation of a common set of overarching EU foreign policy principles and objectives, which will bind the European institutions and Member States when formulating and implementing intergovernmental and *communautaire* aspects of EU foreign policy. Due to two Declarations adopted at the Lisbon IGC in October 2007, two modifications of CFSP, which could have enhanced the vertical coherence of European foreign policy and the Union's representation as a unitary actor within the UN, have become contested and it remains to be seen whether they will have any major effect in the years to come.

The Treaty of Lisbon's provisions on CSDP clearly reflect the persistence of diverging national attitudes towards the role the Union should play in the field of security and defence. Several provisions in the Treaty of Lisbon underline the endeavour of certain Member States to establish the Union as a more unitary and thus credible international security and defence actor. This is probably best illustrated by the adoption of a slightly more optimistic tone in the Treaty of Lisbon on the possible establishment of a common European defence. Another element underpinning such a claim constitutes the codification of a more far-reaching scope of CSDP activities, which also underlines the ever-growing merger of military and civilian measures in the conduct of EU foreign policy towards regions in crisis. However, the Treaty of Lisbon's provisions on structured cooperation also reveal the fact that not all Member States are whole-heartedly in favour of an ever-closer Union in the realm of security and defence. Moreover, the introduction of structured cooperation risks putting the non-participating Member States at the sidelines of security and defence integration, which would ultimately undermine the unity of the Union.

Arguably, the Lisbon Treaty will facilitate the greatest consistency increase with regard to the *communautaire* aspects of EU foreign policy. Thus, the introduction of a set of overarching EU foreign policy principles and objectives will most likely bring the Union's trade practice more in line with its development policies. At the same time, however, the Treaty of Lisbon also emphasizes the need for EU development aid to resonate with the Union's security interests and policies, as primarily defined in the context of CFSP, which has been seen as a further move towards the securitisation of EU development cooperation. In contrast, the humanitarian aid activities of the Union seem to be at least partly exempted from the application of the EU foreign policy principles and objectives, which could pose severe problems to horizontal coherence.

In sum, the Treaty of Lisbon is doubtless a step in the right direction, but it is not the great leap forward in terms of creating a more coherent European foreign policy and defragmenting the Union's external representation that many had hoped for eight years ago. Horizontal, institutional, vertical and interstate inconsistencies in European foreign policy will persist. Likewise, the representation of the Union in international affairs will not necessarily become more unitary after the entry into force of the Treaty of Lisbon and thus the credibility of the Union as an international actor will not automatically increase. However, this persistence of inconsistencies in the formulation and external representation of European foreign policy does not make it any different from most national foreign policies, where inconsistencies in formulation and implementation and at times even external representation continue to be the norm rather than the exception.

### **Postscript**

In a referendum held on 12 June 2008 – and hence about a month after the completion of this article – the Irish electorate voted against the ratification of the Treaty of Lisbon, prompting several national and EU officials to declare the Treaty dead (see, for example, Lichfield and Mock, June 14, 2008; Treneman, June 19, 2008). However, expressions of sympathy might be somewhat premature. In contrast to the rather disheartened statements made in most European capitals after the negative outcomes of the French and Dutch referendums on the Constitutional Treaty in 2005, the last months have seen the vast majority of EU Heads of State and Government asserting their firm intention to hold on to the compromise reached at the Lisbon IGC. Accordingly, requests for a renegotiation of the Lisbon Treaty's provisions have met with almost unanimous disapproval across Europe. Instead, EU political elites have called on Dublin to point the way out of the "ratification crisis" and the Irish Taoiseach, Brian Cowen, has already announced that he intends to come to the Brussels European Council in December 2008 with proposals for a common approach towards resolving the predicament (O'Brennan 2008).

In the meantime, several EU policy experts have outlined a number of strategies for further action, if the Irish government fails to provide the negotiation basis for a compromise that is acceptable to all EU Member States, and the entry into force of the Lisbon Treaty is further deferred or even entirely abandoned (Boudewijn and Emmanoulidis, 2008; Grant 2008; Gros and Kurpas, 2008; Hierlemann; 2008). While a thorough discussion of all of the potential options for further action proposed is clearly beyond the scope of this postscript, two of them and their implications for the future of European foreign policy coherence

deserve a brief mentioning. First, it has been suggested that a number of Member States might opt for closer cooperation within the enhanced cooperation framework provided by the Treaty of Nice. Such closer cooperation could also extend to the domain of foreign and security policy, potentially providing for the creation of additional foreign policy coordination arrangements and a reinforced pooling of national military capacities. However, as has been pointed out earlier with regard to the Lisbon Treaty's provisions on structured cooperation under the heading of CSDP, a differentiated pace of European foreign and security policy integration will almost inevitably come at the price of even greater incoherence. Accordingly, in terms of establishing the Union as a more unitary and thus decisive actor in international affairs, moves towards enhanced cooperation among a limited number of Member States must be regarded with considerable scepticism.

A second and arguably more likely option that has been proposed for dealing with a further deferral of the Lisbon Treaty's adoption or its complete abandonment is to continue pursuing EU business on the basis of the Nice Treaty and at the same time to implement as many of the innovations agreed upon at the Lisbon ICG as possible via inter-institutional agreements, future accession treaties or amendments to the current rules of procedure. With regard to EU foreign and security policy, such an approach would, *inter alia*, allow for the creation of the EEAS, the appointment of a European Council President and arguably even for the merger of the post of the High Representative for CFSP with that of the Commissioner for External Relations.

The latter option in particular underlines that even if the European Council should fail to agree on a common strategy on how to cope with the Irish "no" at its Brussels meeting in December, some possibilities for strengthening European foreign policy coherence in the ways foreseen by the Lisbon Treaty still remain. For the time being, however, one might be carefully optimistic that a compromise can be reached and the Treaty of Lisbon will enter into force in the foreseeable future, allowing for a further important step to be made on the way towards creating a more consistent European foreign policy.

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