

**The EU Foreign Ministry
and Union Embassies**

Laura Rayner

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Disclaimer

The views expressed in this paper are not necessarily those of the Foreign Policy Centre.

Laura Rayner is an information specialist in foreign affairs and defence currently on leave from the Information and Research Service, Parliamentary Library, Department of Parliamentary Services, Canberra, Australia. The views expressed in this article are the author's own and should not be attributed to the Information and Research Service.

About the European Constitution Project

This pamphlet is the third in the Foreign Policy Centre's European Constitution project which is built around seminars, lectures, publications, media contributions and larger conferences on the subject. The project has been set up in response to the decision by the 25 EU Member States to subject the draft Constitutional Treaty to a process of ratification either by national parliaments or by country-wide referenda.

Other pamphlets in the project published in this project:

THE REFERENDUM BATTLE

Mark Gill, Simon Atkinson and Roger Mortimore
September 2004

This, the first comprehensive study of British public opinion towards the EU constitution, found that a majority of Britons remain open to persuasion on whether the UK should sign up to the constitutional treaty, despite the headline figures showing a strong lead for the No camp.

FOREIGN MINISTER OF EUROPE

Sir Brian Crowe (with preface by Javier Solana)
January 2005

The creation of an EU Foreign Minister is one of the most innovative proposals of Europe's proposed new constitution; yet there is still very little understanding of what the position would entail and what challenges the new minister would face. In this paper, Sir Brian Crowe, former Director General for External and for Politico-Military Affairs in the EU Council of Ministers, argues that empowering a new EU Foreign Minister is crucial for putting flesh on the bones of the Common Foreign and Security Policy (CFSP). Fundamental changes are needed if the EU is to develop the capability for coordinated, effective, and rapid action.

About the Foreign Policy Centre

The Foreign Policy Centre is a leading European think tank launched under the patronage of the British Prime Minister Tony Blair to develop a vision of a fair and rule-based world order. We develop and disseminate innovative policy ideas which promote:

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Preface

With the French and Dutch referenda on the draft Constitutional Treaty each producing a resounding 'No', the proposal in the draft to set up a new European External Action Service (EEAS), or Foreign Ministry of Europe, may appear to some observers to be pretty much dead in the water. Nothing could be further from the truth. While the politics of European integration are going to get much hotter in the coming two years than at any time since 1993, the problems that caused the European Council to support the creation of new EEAS will not go away simply because the draft Constitutional Treaty is under threat. They were there before the talk of a Constitution emerged as strongly as it did three or four years ago, and they will be every bit as important in spite of the problems with ratification of the draft treaty.

The Foreign Policy Centre commissioned Laura Rayner to write this paper. Her brief, as a specialist in public policy from the Australian Parliamentary Library, was to examine the issues associated with the creation of a new European External Action Service from a first principles perspective. The FPC commissioned Ms Rayner because we were looking for a pamphlet that would not be prejudiced by entrenched views of the EU institutions. We wanted a fresh look at what was needed and how to get there without any heed to vested interests and without any influence from long-standing relationships with particular officials.

Over several months, Ms Rayner conducted her research and a number of interviews with specialists in European affairs. This pamphlet is the result of her original work, augmented by comment from specialists both inside and outside the FPC.

The draft has already elicited interest from a number of senior officials. While to insiders, much of the pamphlet may seem self-evident, Ms Rayner lays out the rather large number of issues involved, and the dilemmas, with considerable care. This pamphlet will not need to be read in its entirety by specialists, but officials involved in the process of establishing the new EEAS should note its conclusions. Their value lies not just in their logic but also in the unambiguous disinterest of the author in any pre-judged outcome of her research.

Another virtue of this analysis is that it addresses not just the headquarters issues, but also the questions around the necessary transformation of existing Community delegations into fully fledged embassies of the Union. As Ms Rayner suggests, this transformation dictates a deeper level of reform in the headquarters than many might have contemplated had they not taken the 'embassy' issue into account. Another strength of the analysis is that it looks at administrative issues, especially with regard to staffing and training, and again the result is to suggest a deeper level of reform than many may have contemplated.

Ultimately, Ms Rayner comes down in favour of a 'minimalist' HQ for the new EEAS, but the use of the term should not disguise the sea-change in organisational culture that will be involved, especially in the Commission and in the delegations. Part of this transformation will be a fairly profound restructuring of the relationship between the foreign ministries and embassies of member states on the one hand and, on the other, the EEAS HQ and embassies of the Union.

Greg Austin
Director of Research
Foreign Policy Centre

1 June 2005

Executive Summary

The European Union (EU) is creating a new foreign service, and associated embassy network, to support its ambitions to a global foreign and security policy. The work picked up momentum in connection with the evolution of the draft Treaty Establishing a Constitution for Europe, which provides for the new post of EU Foreign Minister. The ratification of the Treaty will be hotly contested in 2005 and possibly into 2006, but even if the treaty is not ratified, there are good reasons and enough of a legal basis for the EU to press ahead with some form of revamped foreign service and revitalised embassy network of the sort foreshadowed in the draft Treaty.

In establishing the new foreign service, unofficially called for now the European External Action Service (EEAS), there are three main issues to address: an imbalance of power and finance between the Secretariat of the European Council and the European Commission; a lack of coordination between member states' bilateral policies and those of EU institutions; and weak coordination among the three main EU institutions with a role in foreign policy (the Council, the Commission and the European Parliament). There is also a lack of accountability for some aspects of European foreign policy because of attenuated lines of authority (the Commission often implements Council decisions) and because of the relatively weak committee system in the European Parliament.

Regardless of the outcome of the ratification processes for the Constitutional Treaty, the EU should proceed with appointment of an EU 'foreign minister' by providing for the High Representative for CFSP to hold simultaneously the post of Vice President of the Commission and Commissioner for External Relations. This is the only way that a new EEAS can be effective. The EU must then give this 'Union Minister of Foreign Affairs' (UMFA) clear lines of administrative and budgetary authority for the EEAS.

The establishment of the new EEAS should be aimed at more than a clean up of current messy arrangements and its design should not be constrained by existing institutional structures or bureaucratic traditions where these hamper its ability to support decisive and effective EU action. But there is one big obstacle. The Commission

has a legal identity that distinguishes it from the Council and its subsidiary organs, like the proposed EEAS. Yet for many reasons, it is inconceivable that the EEAS can be formed without considerable intrusion of Commission structures, procedures and personnel. The marriage of the separate Council and Commission functions in one effective EEAS bureaucracy will therefore demand considerable political effort at the highest levels over a very long time. And it will be a marriage in which 'divorce' is inconceivable. The EEAS will need to progressively build its legitimacy within the EU institutions and with member states.

Headquarters

A number of different models for the EEAS structure have already been proposed. While the most likely choice for a structure in the first instance will probably be a version of a minimalist model, the initial EEAS structure and concept should have the flexibility to absorb progressively more functions and more layers of complexity. But even in the minimalist model, for the sake of coherence and consistency, it will be essential to establish a new EEAS headquarters which can bring together both policy development (residing primarily in the Council) and implementation capabilities (residing largely in the Commission). It will be impossible, both legally and logically, to manage the EEAS exclusively through the Commission. Decisions on the future staffing, training, budget and priorities will need to be made with the imprimatur of the Council to suit Council purposes and priorities.

The delegations

Since the formation of the EU in 1992 and the subsequent expansion of EU international identities into the security and police realms, the previously existing EC delegations have taken on, both *de jure* and *de facto*, a new legal personality as EU embassies. This emerging legal personality of the delegations as new EU 'embassies' has conferred progressively wider responsibilities ('powers') on the heads of mission than those nominally held by the heads of Commission delegations. Yet, without additional personnel and financial resources, the delegations will not be able to transform themselves ('graduate') to the 'embassy' status needed to implement core EU external functions not currently included in

Commission competences. There will need to be very clear lines of authority (legal and functional) between the EEAS headquarters and the embassies/delegations, the more so if a minimalist option is pursued and not all policy areas are devolved to posts.

The new status of EU 'embassies' will not make the bilateral embassies of Member States redundant, but there will be important questions of rationalisation and economies that present themselves to national governments. EU member states must take this opportunity to redirect scarce national foreign ministry resources to high priority national interests and transfer the common EU 'foreign policy' progressively to new EU embassies (as has already occurred with trade negotiations). On consular support, while some have argued for the new EEAS to operate in this area, such work would be an unnecessary distraction from the core business of EU 'embassies' and would be impractical from a domestic political standpoint.

Budget

The EEAS budget will have different conditions for its control depending on whether funds are for Council or Commission activities, but the UMFA would have authority over both because of his/her simultaneous appointment as Vice President of the Commission. Co-financing through an 'inter-institutional' budget would complicate both administration and oversight, but it should not lessen transparency in the budget, nor the role of the European Parliament in budget oversight.

Staffing

The EEAS should have a flexible staffing structure which should not be frozen into two different functional streams just because the UMFA wears two hats. An individual diplomat can simultaneously represent the Council and the Commission without any difficulty as readily as a 'Commission' employee. There should be no attempt to assign a fixed ratio between the three likely sources of personnel (Council, Commission, or Member State). Officials' ability to move easily between and within Council and Commission functions, between the headquarters and the 'embassies'/delegations, and between the EEAS and the Council and the Commission will be vital

for the development of an effective organisation. Staff mobility could help to build cohesion between the EEAS and Commission units involved in external policy. Encouragement should be given to Council staff and the diplomats of member countries to participate in job rotations to the EEAS headquarters and the 'embassies'/delegations.

Integrating the posting of diplomats from Member States to the EEAS, especially to delegations, into their career paths should also be encouraged. Officers from Member States should be seconded under similar terms as currently apply to national experts seconded to the Commission, especially with regard to not taking instruction from their national governments while on secondment. It is important that individual jobs do not have national flags attached to them and the merit principle should apply to the selection of Member States' diplomats and experts for positions in the EEAS.

Training

The EU needs to provide EEAS officers and seconded national diplomats and experts with training to create a common culture and an *esprit de corps*. Training could be at a new diplomatic academy but there are a number of courses provided by the Commission and at various academic institutions which might be adapted to the needs of the new service. Other levels of training should also be provided in-house, for instance distance education using the internet. Special emphasis will also have to be given to training 'embassy'/delegation staff to cover their wider responsibilities.

Review

The EU should make a commitment to institute an independent review of the new structure after it has been in operation for at least two years. This review, an audit of its performance, should examine all aspects of the EEAS, including its working relationships with EU institutions and other stakeholders. On the basis of the findings of the review the EU should decide whether the functions of the EEAS should be expanded. The process and results of the review should be public.

Next Steps for Brussels

How fast and how far should the EEAS develop? An ambitious structure and timetable might circumvent wasteful inter-institutional infighting or duplication but could have an unnecessarily negative impact on the politics associated with further 'constitutional' reform. Too cautious an approach risks not achieving the new levels of effectiveness demanded by EU ambitions and aspirations. Unfortunately but realistically, the EEAS is unlikely to spring to life fully formed at an appointed date, but rather, given the traditions of the EU, the new EEAS will evolve over time, gradually accumulating both recognition and power.

The very least that the EU should plan for in the first instance would be an EEAS which amalgamates the Directorate General External Relations and the Policy Unit from the Council with DG RELEX (and the current External Service) from the Commission, with the clear understanding that this structure is not set in concrete. There would need to be agreement that this initial EEAS should have the flexibility to absorb other external action functions from the Commission over time.

Next Steps for Britain and other Member States

The reforms mooted for the foreign affairs and security institutions of the EU in Brussels and in the field should not proceed without commensurate reform and re-shaping of national foreign and defence ministries. In an era of expanding responsibilities for foreign and defence ministries and shrinking or static resource allocations to them by national governments, the opportunity for economies and reprioritisation at home presented by reform of the EU's central institutions should not be passed up. Britain must shave away those staff posts and policy areas in London and in its own embassies that are adequately covered by Brussels or its delegations under CFSP.

Britain must use its Presidency of the EU to vigorously shape the reforms of the EU foreign and security policy apparatus in Brussels and abroad. Britain should look to publish a Green paper on reform of EU CFSP institutions to strengthen their legitimacy among a Euro-sceptic electorate.

CONTENTS

| | |
|--|----|
| INTRODUCTION | 1 |
| AN EEAS WITHOUT A RATIFIED CONSTITUTION? | 2 |
| WEAKNESSES IN CURRENT INSTITUTIONS | 4 |
| HOW THE EEAS SHOULD ADDRESS THESE PROBLEMS | 6 |
| THE HEADQUARTERS: EUROPE'S MFA | 8 |
| A MINIMALIST HQ | 9 |
| A MAXIMALIST HQ | 10 |
| TEAM RELEX | 11 |
| OTHER INTEGRATION MODELS | 12 |
| SOLANA/BARROSO PLAN | 13 |
| THE COUNCIL SECRETARIAT | 13 |
| INSTITUTIONAL POSITIONING OF THE HQ | 14 |
| REMNANTS OF THE PILLARS | 16 |
| RECOMMENDED: A NEW, MINIMALIST HQ | 16 |
| EU EMBASSIES | 17 |
| THE RELATIONSHIP BETWEEN EU EMBASSIES AND BRUSSELS | 20 |
| RELATIONSHIPS BETWEEN MEMBER STATE EMBASSIES AND EU EMBASSIES | 22 |
| CONSULAR FUNCTIONS | 25 |
| ADMINISTRATION OF THE EEAS | 27 |
| BUDGET | 27 |
| STAFFING | 28 |
| TRAINING | 30 |
| REVIEW AND EVALUATION OF THE EEAS | 31 |
| CONCLUSION | 31 |
| RECOMMENDATIONS | 33 |
| BIBLIOGRAPHY | 36 |

Introduction

Nothing destroys authority so much as the unequal and untimely interchange of power, pressed too far and relaxed too much.

Francis Bacon

The great secret of power is never to will to do more than you can accomplish.

Henrik Ibsen

With the entry into force in 1993 of the Maastricht Treaty, the Member States of the European Union (EU) committed themselves to establishing a common foreign and security policy (CFSP). A decade on, as part of the evolution of a CFSP, the EU member states agreed that this process would benefit from establishing a new post of EU foreign minister, to supplant the existing post of High Representative for CFSP.¹ This decision was included in the EU's Treaty Establishing a Constitution for Europe (the Constitution), signed in October 2004.² The draft provided for the office of Union Minister for Foreign Affairs (UMFA) and a European External Action Service (EEAS) to assist the UMFA. These provisions of the treaty can and should be implemented even if the processes of ratification in EU member states derail the entry into force of the Constitutional Treaty (see next section).

¹ The key accords in the area of EU foreign policy are the Treaty establishing the European Union (TEU), better known as the Treaty of Maastricht, of 1992, which provided for a Common Foreign and Security Policy (CFSP); and the Treaty of Amsterdam, October 1997, which amended the TEU and which gave much more concrete form to the CFSP. Subsequent official statements which have interpreted the treaties on CFSP include the Conclusions of the European Councils in Cologne, June 1999, in Helsinki, December 1999, in Feira, June 2000 and the Treaty of Nice, December 2000. The EU has regularly issued consolidated versions of the various treaties establishing the European Community and the TEU. All of these treaties remain in force regardless of the process of ratification of the draft Constitutional Treaty.

² Treaty establishing a Constitution for Europe, 2004. Article III-197 (3): 'In fulfilling his or her mandate, the Union Minister for Foreign Affairs shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States.'

A previous publication of the Foreign Policy Centre dealt with the role of the new Foreign Minister.³ The object of this pamphlet is to examine the impact of the proposed new arrangements for an EEAS on the EU's international policy, specifically to look at the role and structure of the new service. The paper will discuss possible options for the structure of the EEAS headquarters, as well as the role of European delegations. Relationships between the field and headquarters elements of the new EEAS, and between EU missions and the missions of Member States will also be discussed. Finally, staffing and budget matters will be examined. The Treaty deals only briefly with the structure and role of the EEAS. While some see this brevity as posing more questions than answers on the role and structure of the EEAS, it actually presents quite an opportunity to apply a first principles approach in developing the role and structure.⁴

An EEAS without a ratified Constitution?

On 29 May 2005, the French electorate rejected the draft Constitutional Treaty, with 55 per cent of voters saying no. The Netherlands followed on 1 June with 61.6% of voters rejecting the Treaty. This definitely represents a shock to the ratification process, but does not necessarily mean the end of it. By then, national ratification processes in 9 countries, representing 48.6 per cent of the EU population had said yes. The possibility of some countries saying no was foreshadowed in the draft Treaty itself, and the decision by the European Council on whether to continue the ratification process in the light of such votes was foreshadowed for October 2006.

The foundations of EU common foreign and security policy (CFSP) were laid down in earlier treaties, especially the 1992 Maastricht Treaty that created the EU. These numerous treaties, like the institutions created in their wake, such as the High Representative for CFSP or the EU Military Staff, will continue in existence even if the constitutional Treaty is never ratified.

³ Crowe, 2005.

⁴ The role of the UMFA has been described as 'somewhat confusing' and that of the EEAS as 'similarly opaque'. Duke, 2004, p5.

The Maastricht Treaty, amended by the Treaty of Nice, already calls upon the Commission and the Council 'to provide coherence in all the Union's external policy measures encompassed within its foreign, security, economic, and development policies' and 'to work together to that end'.⁵ For this reason, ratification of the Constitution would not be needed for the establishment of a joint body which merged Council and Commission representational assets (such as the Commission's delegations and the Council's two liaison offices at the UN in New York and Geneva). The European Council can establish an EEAS without the Constitutional Treaty being ratified. In light of the possibility of the ratification process failing, it has been argued that ratification of the EEAS element of the Treaty 'would probably not be needed, as an IIA [interinstitutional agreement] is likely to be sufficient to establish the EAS', although 'a shift of power to the EU would not be possible' if an IIA was the method used. Likewise an IIA could allow the High Representative to also be Vice President of the Commission as long as 'the existing power balance between the institutions is preserved'.⁶ Since Member States stipulated that preparatory work on the EEAS should begin when the Constitution was signed in 2004, prior to national ratification, they clearly see both virtue and necessity in it independently of the fate of the Constitutional Treaty.⁷

While 'No' votes in referenda on the Constitution could lead to doubts on the viability of the EEAS, the problems it is designed to address will not disappear (see next section).⁸ For the purpose of this paper it has been assumed that the establishment of the EEAS will occur regardless of the outcome of the national referenda.

The EU should set a deadline of the end of 2007 for final agreement on the establishment of an EEAS, regardless of the outcome of the Constitutional ratification processes. To act so decisively and immediately may be counter intuitive to the EU's preferred method of staggered evolution, and may appear to run against public opinion

⁵ European Parliament, 2005b, pp3-4.

⁶ Kurpas, 2005, pp.5-6

⁷ Conference of the Representatives of the Governments of the Member States, 2004. Kurpas, 2005, pp.5-6

⁸ For a detailed description of the current institutional arrangements see International Crisis Group, 2005, pp 12-21.

which rejected ratification of the draft Treaty, but the opportunity for a fresh start given by the debates about the Constitution is too good to be missed. Most importantly, if the ratification does fail, the promise of reform in the Brussels institutions would be one way to help rebuild public support for the EU. In its Presidency of the EU in the second half of 2005, the UK should take a robust line to this effect.

Weaknesses in current institutions?

There is weak foreign policy coordination between Member States and the EU, and within the EU between its three pillars.⁹

The EU and its Member States have not been able to translate their massive diplomatic resources into comparable international influence due to a lack of effective coordination between policy and action. Although some of this influence deficit can be attributed to the understandable attachment of Member States to 'national freedom of manoeuvre', the end result is that the EU and hence its members 'seriously under-perform' in the international arena.¹⁰ While the EU has been a strong actor in soft areas of policy (where there are few costs), such as declaring sanctions on Burma, it has experienced fragmentation of its policies toward Russia, China and the USA (the harder areas of policy). The visible exception to this general observation has been policy toward the Balkans, where the EU has shown remarkable effectiveness and a remarkable capacity to learn from mistakes and to adjust. Most importantly, in the past five years at least, the EU has shown itself to be an effective leader of international community policy in the Balkans.

The lines of authority among the many external relations actors in the EU are too attenuated. The EU's external relations are handled by a wide range of bodies, a fact that results in its public face 'sometimes being lost in a cacophony of voices'.¹¹ While EU

⁹ The EU and its Member States do not lack foreign policy resources. Backed by its economic clout, the EU has a wide range of foreign policy instruments at its disposal. For example, the EU and Member States provide 50 per cent of the world's official development assistance. Between them, they have huge resources of diplomatic staff and diplomatic missions, far outnumbering those of the US. See Council of the European Union, 2000, p2.

¹⁰ Everts, 2002, p26.

¹¹ Duke, 2003a, p20.

foreign affairs are 'functionally unified', EU foreign policies are also 'characterised by a remarkable institutional fragmentation'.¹² For example, within the Commission, there is no 'lead' commissioner for foreign relations. The Commissioner for External Relations is an equal with the Commissioners for Development, Trade and Enlargement. The Commissioners have legal competences that put them beyond the authority of the EU's High Representative for Foreign Policy and even beyond the authority of the European Council. There is arguably still no good come-back to Henry Kissinger's famous quip that there is no 'telephone number' for Europe.

The imbalances of power and of financial resources between the Council and the Commission can paralyse the EU's potential for external action. Externally, the EU has been 'doing' foreign policy for decades in the form of activities under the jurisdiction of the Commission, such as development cooperation, technical assistance, trade, environmental, visa and asylum policy. As a result, the bulk of the current resources used in EU external relations belong to the European Commission. At its most basic, this translates as the Commission having over 3,000 staff members working in external relations jobs, while the Council which deals with the CFSP has less than 200 in external affairs fields.¹³ Commission external policies are underpinned by a budget of about 100 billion euros annually while the Council has about 40 million euros to spend annually, mostly on crisis management in the Balkans.¹⁴ In the broader sense, this imbalance between the Council (without much of a budget to influence anything) and the Commission (with a budget directed overwhelmingly to long term programs), means that the EU's potential for more effective external reach in crisis situations is poor.¹⁵

There is not enough transparency or accountability in EU foreign policy. EU foreign policy has not lent itself to transparency. Although the European Parliament (EP) has an important role

¹² Stetter, 2004, pp726, 728.

¹³ Cameron, 2004.

¹⁴ Patten, 2003.

¹⁵ Grevi, Manca and Quille, 2004, p.13. The authors make the point that the Commission does have limited flexibility in its implementation instruments in the case of the small Rapid Reaction Mechanism and the potential of the much bigger Africa focussed African Peace facility.

relating to the Commission's activities (co-decision powers for the Community budget), it has limited powers regarding CFSP. The President of the Council is merely required to consult the parliament on CFSP and to ensure that its views are taken into account. The Council currently reports annually to the EP on the main aspects of CFSP (including financial), but the EP's Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy (AFET) has complained that the Council merely submits a descriptive list of CFSP activities already undertaken, and the Parliament does not consider itself adequately consulted as required under the Treaty on European Union.¹⁶

How the EEAS should address these problems

The establishment of the EEAS should do more than eliminate the 'overlapping, inefficiency, and wasteful use of resources in the area of the Union's external action'.¹⁷ Faced with its recent enlargement, the events in Iraq, the challenges from global terrorism and from US foreign policy, the EU needs to develop a robust and efficient diplomatic service, with international legitimacy either to support the new EU Foreign Minister or simply to advance evolving EU security and foreign policy interests. At this point, it is worth recalling that for some twelve years now, since the entry into force of the Maastricht Treaty, the EU has assumed a complex and demanding foreign and security mission. This was outlined in the 1992 Treaty as follows:

- ❑ to safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter;
- ❑ to strengthen the security of the Union in all ways;
- ❑ to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders;
- ❑ to promote international cooperation;

¹⁶ European Parliament, 2005a, p.5-6.

¹⁷ European Parliament, 2005b, p.5.

- to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.

To maximise the EU's potential influence and effectiveness, the EEAS will have to be structured so that it can continuously focus on maximising the coordination of its activities with those of the Member States while at the same time ensuring that all of the EU's external action programs are coordinated with the Union's foreign policy priorities.¹⁸

Likewise, and especially given current and future enlargements, the EEAS will have to accommodate the continuing need for the inwardly focussed functions of EU diplomacy, that is, the use to which EU foreign policy is put as an instrument of, framework for, and alternative to traditional bilateral relations between Member States.¹⁹ In this respect the function of the EEAS 'as a catalyst for different national positions, facilitating dialogue, and providing a platform for building consensus' is of vital importance.²⁰

The proposed EEAS should provide a focal point for the administration of the EU's external relations. This can only be achieved if the UMFA is given clear lines of administrative and budgetary authority for the EEAS, and if the EEAS has a viable structure independent of any alternate power structures (and a recognised and accepted legitimacy within the EU).

If the UMFA is to simultaneously hold the position of Vice-President of the Commission, in an attempt to unify 'in the same hand all the instruments of external action of the Union', there could easily be tension between him/her on the one hand and, on the other, either the President of the European Council, responsible for external representation of the Union, or the President of the Commission, who might 'feel frustrated at the loss of voice in external relations'.²¹ Such tensions could undermine the EU's ability to achieve coherence and consistency in its external relations. This seems to present 'a conflict between two perfectly contradictory wills'.²² But in

¹⁸ Everts, 2002, p.47.

¹⁹ Keukeleire, 2003, p.32

²⁰ Grevi and Cameron, 2005, p.18.

²¹ Maurer, 2003, p.19; Duke, 2003a, p.20.

²² Maurer, 2003, p.19.

practice, the degree to which the marriage of the two separate functions in one EEAS bureaucracy is achieved successfully will be limited only by a lack of political will on the part of the major actors to make it happen. The excellent record of cooperation between Javier Solana as High Representative for CFSP and Chris Patten as Commissioner for External Relations has set a standard in this regard.

In designing the new EEAS, the EU should avoid structures or bureaucratic traditions which might hamper the UMFA's ability to act decisively and effectively.

The EEAS should be accountable through the UMFA to the European Parliament (EP) and beyond to the European electors. The EEAS should be focussing on more than just efficiency and effectiveness. It must learn to communicate EU policy through effective public diplomacy, both abroad and at home. Public support for EU external action is one of the EU's 'good news stories' and such support should be repaid and encouraged through accountability and transparency in external action. This itself will pay dividends, as coherence and consistency can be fostered through accountability in an open forum such as the EP. Strengthening public accountability to the EP will assist other levels of accountability for EU external relations, namely accountability to national parliaments and to EU citizens generally.

The Headquarters: Europe's MFA

What shape should the headquarters of the EEAS take? For the sake of coherence and consistency, no matter which model is chosen for the EEAS, it is important that both policy development and implementation capabilities are brought together, and that the EEAS has the full range of necessary corporate facilities.²³ The draft Constitutional Treaty says the EEAS will comprise 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 (Article III-296). Thus, the draft Constitutional Treaty is seeking to break down the old barriers and imbalances between the Council and the Commission so that the

²³ Maurer and Reichel, 2004, p3.

new UMFA would have enough intellectual oversight and control of foreign policy to ensure coherence and consistency. This section of the report looks at various approaches to shaping the headquarters of the new EEAS.

A minimalist HQ

The least that could be done toward the establishment of the headquarters for the new EEAS (a minimalist approach) would be to amalgamate the Directorate-General (DG) External Relations from the Council Secretariat with DG RELEX from the Commission (including the current external service).²⁴ Since RELEX staff are not trained across the full functions of EU CFSP, particularly security policy, the amalgamation would probably need to be facilitated by secondment of a reasonable number of senior diplomats (up to 100) from Member States (and a reduction of generalist staff from RELEX). There would need to be a plan for the progressive introduction of senior ambassador-level staff from member states to replace those senior RELEX staff whose experience has been largely administrative or Brussels-based.

This approach would leave the Commission directorates-general for Trade, Enlargement and Development outside the EEAS, but would bring EuropeAid (now under the direct responsibility of the External Relations Commissioner) into the HQ.²⁵

In practice, it could be difficult for the UMFA, assisted by such a minimalist EEAS, to exercise enough influence to ensure consistency and coherence in the EU's external relations if substantial external action elements stayed outside his direct authority. There is also the question of the relationship between such groups and the EEAS. Having EuropeAid and the European Community Humanitarian Office (ECHO) on opposite sides of an EEAS fence could create unnecessary barriers between them to the detriment of their individual and mutual effectiveness.

The success of such a minimalist approach would depend on the ability of the UMFA (relying on the quality of the senior staff in the

²⁴ Duke, 2004, p5.

²⁵ International Crisis Group, 2005, p15. The question of whether the EU's delegations will form part of the EEAS is discussed later in the pamphlet.

new merged HQ) to coordinate its work with that of the other external relations bodies in the Commission. The UMFA would have to rely on the authority of his/her post as Vice President of the Commission to achieve the necessary coherence and consistency in EU external policy.

Any more minimalist approaches are not likely to be practicable. One variant, described as 'purely "input-oriented"', could centre on a simple transformation of the Council Secretariat's external relations directorate-general (DG) into the new HQ. This would consist of 'Solana's political staff enhanced by the analysis capabilities of the Commission', with the actual implementation of EU external action staying largely within the Commission.²⁶ This continued split between 'thinkers' and 'doers' would cause problems in an organisation as complex as the EU, especially in response to crisis management situations where reaction times would inevitably be delayed by the institutional barrier. It would also fail to recognise that EU foreign and security policies have already developed well beyond the legal and political remit of the Commission.

Another, even more minimalist variant could be a 'virtual EEAS', where no new body is created at all, leaving all external action bodies where they are now (that is, under their relevant Commissioners and within the Secretariat to the Council), but with their output being strongly coordinated by a small staff directly accountable to the UMFA. However, such a 'virtual EEAS' would suffer problems of influence and authority despite the UMFA having a tangible role in both the Council and the Commission.

A maximalist HQ

A more ambitious concept for the HQ would 'incorporate all of the policy units from the Council Secretariat, all of the external action DGs from the Community, the Union Delegations as well as EuropeAid and ECHO'.²⁷ There are examples of national foreign ministries which include trade and overseas development assistance functions within a broader ministerial umbrella, headed by separate

²⁶ Maurer and Reichel, 2004, p.3.

²⁷ Duke, 2004, p. 5.

ministers, albeit junior at least in status (if not actually answerable) to the foreign minister.

Such an arrangement involving the UMFA as Commissioner for External Relations would have to affect the role of other external action Commissioners (trade, enlargement, development, and humanitarian assistance). As all Commissioners are supposed to be equal, it is difficult to envisage them being subordinated to one of their peers, even if he/she is a Vice President, although one commentator has suggested that as a Vice President, the UMFA 'should be able to bang heads together' to ensure that trade, development and environmental policies and technical assistance efforts were not 'pursued in contradiction to overall EU goals'.²⁸

A maximalist EEAS HQ on this model would be inconceivable without 'junior ministers' since it would be a huge organisation, almost certainly too large and diverse for one person alone to manage.²⁹ It would certainly risk weakening the Commission, relegating what was left of it 'to the rank of an "internal market secretariat"'.³⁰ Although to put a positive spin on this variant, it could be argued that taking external relations out of the Commission would enable it to concentrate on internal matters.

Team Relex

An acceptable solution might be for Commissioners to be part of a 'Team RELEX' in which they remain in charge of the work of their Directorates General, (the staff of which could be part of the EEAS) but accept co-ordination from the UMFA. This is similar to the model which has been described as formalising the informal current concept of '*Famille RELEX*' to include: from the Commission, DGs for External Relations, Trade, Development and Enlargement, the EuropeAid Co-operation Office, and ECHO; and from the Council Secretariat, the Policy Unit, the Situation Centre and the External Relations Directorate of the Council Secretariat with staff to assist UMFA to chair the Foreign Affairs Council.³¹ Under this model the UMFA would be '*père de famille*' of the service with direct

²⁸ Cameron, 2004, p.4.

²⁹ Crowe, 2005, p.7

³⁰ European Parliament, 2005b p.9

³¹ European Commission, 2003

responsibility for those parts covering CFSP issues, while working with and helping to coordinate the work of his/her fellow Commissioners who would retain responsibility for current external actions and policies of the Community. However, the degree of coordination necessary to ensure coherence and consistency might be difficult to negotiate. The existing trade, development and enlargement Commissioners would doubtless consider that they have been functioning quite well without the benefit of such 'paternal' coordination.³²

Other integration models

There are other variants – 'middle ways' – which might be considered. One would be to integrate the geographic desks in all EU central bodies (except the Commission's DG Trade). This would merge the 'whole External Relations and Politico-Military Affairs DG, the Policy Unit and probably the Military Staff', the geographical divisions ('desks') of RELEX, the desks of DG Enlargement (Western Balkans, Turkey, Romania and Bulgarian desks) and DG Development's Africa desks.³³ This proposal raises a number of difficult questions. For example, should relations with accession countries or possible accession countries be treated as external relations, or should they enjoy a different, 'special' relationship with the EU? While it is not in the remit of this paper to debate the status of enlargement countries, other commentators have suggested that DG Enlargement should deal with countries actually entering the accession process, and that all others, including possible future candidate countries, should come under the EEAS.³⁴

A second variant might be to integrate DG Development into the EEAS but leave DG Enlargement and DG Trade untouched. As a large share of responsibility for development aid has devolved to the delegations which are to come under the authority of the UMFA, it would be logical for the relevant policy areas in both the Council and the Commission to move to the EEAS. But this is a 'Catch 22' situation, for while development aid is 'a major foreign policy tool' which the UMFA should have at his/her disposal,³⁵ so is trade.

³² Allen, 2005, p.4.

³³ Crowe, 2005, p.7

³⁴ Grevi and Cameron, 2005, p.14

³⁵ Grevi and Cameron, 2005, p.14

model could weaken the link between trade and development aid – the twin pillars of EU development policy. One way around this problem might be another form of integration – leaving the management of trade, development and enlargement out of the EEAS, but making the EEAS ‘directly responsible for conducting external ‘political’ relations with third countries’.³⁶ However, if this resulted in policy areas being split from implementation, it would not only threaten coherence and consistency, but could also hamper the EU’s goal of being able to make a timely and flexible response to fast moving events.

Solana/Barroso Plan

The High Representative and the President of the Commission are reportedly developing an ‘integrationist’ model which seeks to apply the principle of ‘no duplication of desks’ in either the Council or the Commission. The plan reportedly seeks to merge all CFSP and ESDP areas in both the Commission and the Council, including not just geographical desks but also thematic desks (human rights, non-proliferation, counter-terrorism). Under this Solana/Barroso model, the Commission would keep its discrete trade, development, enlargement and humanitarian assistance competencies in discrete DGs.³⁷

The Council Secretariat

The discussions above have concentrated mainly on the Commission and rather less on the Council Secretariat. The Constitution lists only two configurations of the Council of Ministers, the General Affairs Council and the Foreign Affairs Council with others to follow as decided by the European Council. It seems logical to assume that, with the UMFA being the chair of the Foreign Affairs Council, even if a minimalist approach is adopted, all of the parts of the current Council Secretariat dealing with the relevant external relations areas will go to the HQ of the EEAS. Those areas within Directorate General E of the Council Secretariat which cover enlargement, development and trade would become the UMFA’s instrument of coordination with the matching external action areas

³⁶ Grevi and Cameron, 2005, p.13

³⁷ Allen, 2005.

which stayed in the Commission. It must be assumed that the remainder of the current Secretariat would then form the core of the General Secretariat which the Constitution proposes will assist the European Council (Article III-344) and its President. But would this mean that the General Secretariat would not have a role in assisting the Council on any external action area, or would there be a need for some duplication of desks between the General Secretariat and the EEAS HQ?

Institutional positioning of the HQ

The other important matter regarding the headquarters of the EEAS relates to its institutional positioning. Should the EEAS be part of the Commission or the Council, or will it exist in both, or in neither (that is, outside both as a separate body)? There is no specific Constitutional provision for the existence of an independent body separate from both the Council and the Commission, but the Constitution is equally silent on the location of the EEAS within the existing arrangement although Article I-26 of the Constitution appears to assume that external relations responsibilities will remain within the Commission.³⁸

Some member states such as Britain view the UMFA and the new EEAS as instruments which will afford them greater control over the external actions of the Commission, and see the EEAS as 'working to the Council of Ministers primarily'.³⁹ Javier Solana's current aim seems to be to create an autonomous EEAS which is 'distinct from both the Council and the Commission'.⁴⁰ Recent legal advice from the Council to the Member States reportedly says that 'the EEAS cannot be created as a "normal service" inside one of the institutions. Although the EEAS could be totally autonomous of the Commission or the Council, in practice that would mean it duplicated tasks of support and administrative management'.⁴¹ However, to avoid duplication in an autonomous body it might be feasible for the EEAS to establish certain support services essential to its core

³⁸ Article I-26 says in part 'With the exception of common foreign and security policy, and other cases provided for in the Constitution, it [the Commission] shall ensure the Union's external representation'.

³⁹ Allen, 2005.

⁴⁰ Allen, 2005.

⁴¹ Cronin, 2005.

business (such as a media unit) within its structure and outsource others (such as human resource management) to the Commission under a service level agreement.

Fear that a separate body will become too independent is evident in a draft report of the European Parliament's Committee on Constitutional Affairs which suggests that the EEAS 'should be fully incorporated, especially for logistical, administrative, and budget purposes, within the Commission's staff structure so as to ensure that no organisationally independent body or agency is set up largely out of reach of political control'.⁴² Under this model, the EEAS would be placed under a legal obligation to implement decisions of each competent institution. However, it would be difficult if not impossible to incorporate military elements (i.e. the European Military Staff and possibly military personnel from the Situation Centre) into an EEAS which existed fully within the Commission.⁴³ If military staff were left out of the EEAS, they would still have to come under the UMFA who has the responsibility for co-ordinating the military and civilian aspects of tasks such as peacekeeping missions (Article III-309). The UMFA would have to ensure that any such separation did not place barriers between the civil and military crisis response elements.

As regards the power of the EP over external relations, the draft Constitution ostensibly increases the EP's influence over the entire budget by removing the distinction between compulsory and non-compulsory expenditure, although it has lost the right to have a final say regarding non-compulsory expenditure. The EP has also improved its position a little under the draft Constitution in that it will hold a debate on CFSP twice a year and thus it is likely that the EP will ask the Council to deliver two reports per annum instead of just one.⁴⁴ This will only be an improvement if the Council provides Parliament with sufficient information in time to allow it to discharge its duties, for instance, if the EP is given prospective input as well as retrospective oversight. The Solana/Barroso paper of early 2005 reportedly refers to a unit within the EEAS which would be

⁴² European Parliament, 2005b p.5.

⁴³ Mahony, 2005.

⁴⁴ Maurer, Kietz, and Volkel, 2005, p.11.

responsible for maintaining relations with the EP given its “growing importance” in external relations’.⁴⁵

Remnants of the pillars

Although the draft Constitutional Treaty has ostensibly discarded the pillar structure in foreign affairs, the text consistently reinforces the division between CFSP and non-CFSP external relations, assigning the UMFA and the Commission different roles in relation to them. (Each mention of the Commission in relation to external action specifically refers to the UMFA wearing his/her Vice President’s hat.) CFSP remains tied to the Council and non-CFSP external relations remain the province of the Commission. To ensure that the UMFA is effective in both roles, it could be argued that he/she should have the EEAS HQ and staff embedded in both the Council and in the Commission, rather than it standing outside either one or the other, or both, thus returning to the idea of the ‘virtual EEAS’ discussed above. But it is unlikely that the EEAS could become a coherent whole if it were split in this way.

With the CFSP related staff on the Council side numbering less than 200 and the Commission staff in the thousands, and with the first proposed UMFA being the former High Representative in the Council, it might seem natural that the UMFA would continue to be closer to former Council staff and functions than to any EEAS staff and functions coming from or staying inside the Commission. Even with the best intentions on the UMFA’s part, there would still be suspicions that this was so. As to the UMFA’s loyalties, the UK Minister for Europe has stated that the UK wants to have the UMFA sitting in the Commission ‘because we want that person to have some say over how the Commission’s budget is spent, but on policy decisions it must be clear there is only one master, as it were, and that is the Council of Ministers’.⁴⁶

Recommended: A New, Minimalist HQ

The EU should take the chance it has been given and start afresh with a new structure, separate from both the Commission and the

⁴⁵ Allen, 2005.

⁴⁶ United Kingdom, 2003.

Council. The most sensible choice in the first instance would probably be a version of the minimalist model, but really, that is the easy part of the exercise. The difficult question is deciding what should be the final aim – a maximalist structure, or if not, how to get independent minded Commissioners to accept coordination in a collegiate situation. Whatever the shape of the EEAS, a separate structure will be more amenable to change and growth as required.

EU Embassies

Since the entry into force of the Maastricht Treaty, the diplomatic missions of the European Community, called 'delegations' and managed by the Commission, and the staff of those missions have been undergoing legal, functional and political transitions that have been little remarked either within the EU or outside it.⁴⁷ While the draft Constitutional Treaty has been widely hailed as establishing for the first time an independent legal personality for the EU, this view is not sustainable. The Treaty of the European Union itself (the Maastricht Treaty) asserts such an identity, and the diplomatic recognition accorded the EU institutions since then by states is clear evidence that under international law the EU has a legal personality independent of the outcome of the ratification processes.

Thus, the delegations in third countries and at international organisations already represent the EU in a variety of formal and informal ways. Heads of delegations however are not yet the equivalent of the ambassadors of a sovereign state, such as France, in that as accredited representatives of the European Commission, they do not have plenipotentiary powers relating to the whole EU in the same way that accredited ambassadors do in relation to

⁴⁷ The Commission has over 120 delegations around the world. Since these have developed out of the Commission, they have traditionally played a much greater role in advancing Community interests (such as trade agreements) than wider EU interests (such as CFSP). A 'Reform of the Management of External Assistance' launched in 2000 to make radical improvements to the speed, quality and profile of EU external aid meant that the delegations received more authority and led to a transfer of personnel from EuropeAid to the delegations, which have increased from around 900 officials to over 3,000. The Commission has developed new recruitment mechanisms to bring in more diplomatic professionals. Since early 2001, heads of delegation have been expected to take a more active role in conflict prevention and crisis management. See International Crisis Group, 2005. Also see Spence, 2005a.

representing their state as a whole.⁴⁸ This evolution will come and heads of EU embassies will need to be empowered to speak for the EU as a whole, not just on Community issues, but also on CFSP and other matters. As heads of mission will represent the EU under the authority of the UMFA, they can be expected to supplant the role of country-specific special representatives of the High Representative for CFSP. There will be no need for country-specific special representatives where an EU delegation is present, as long as the head of mission and its staff are appropriately trained and competent in CFSP functions.

Coupled with the extra responsibilities now given to the delegations following devolution of greater control over external assistance to them, the task of representing the whole EU will increase the workload of heads of EU missions and their staff. Under the draft Constitution EU delegations have a role in contributing to the implementation of the rights of European citizens in third countries (Article III-306), and with greater international legitimacy this role could increase. Additionally, if the EU expects to increase its international role, especially in conflict prevention, the delegations will have to play an even greater part in helping to ensure decisions and actions are complied with and implemented. The draft Constitution tasks delegations with stepping up their cooperation with the missions of Member States in third countries and at international organisations in the exchange of information and the carrying out of joint assessments (Article III-306).

New responsibilities should be matched with extra resources.⁴⁹ In comparison with other large donors the Commission is now operating one of the most devolved external assistance systems, but it is still at the lower end of ratio of staff to amount of euros managed.⁵⁰ Even the staff increases resulting from devolution have been insufficient to cope with the additional demands of that new

⁴⁸ However, by 1990 most EC delegations were accredited as full diplomatic missions by their host countries and most heads of delegation were accredited at head of state rather than foreign minister level with the rank and courtesy title of ambassador. Spence, 2005a

⁴⁹ Even extra resourcing can bring its own problems - the transfer of staff from ECHO to the delegations increased staff numbers in the field causing at the very least accommodation problems. International Crisis Group 2005, p.13.

⁵⁰ Commission of the European Communities, 2004, p.17.

policy which is very human resource intensive.⁵¹ This indicates that without additional resources being given or transferred to the delegations, expectations for the role of delegations might be higher than can be met realistically, in the short to medium term at least; and if delegations were expected to meet higher performance expectations without appropriate resources their current core functions could suffer. It would seem sensible to consider a phased approach – not giving all heads of delegations plenipotentiary powers until resources that enable them to undertake the full range of activities are in place, in the style of the phased devolution process. In planning for increased staffing levels to cope with new CFSP roles, consideration will also have to be given to the appropriateness of engaging local staff in what could be increasingly sensitive work. This is just one area in which seconded national diplomats - good political officers with relevant experience - could be used appropriately and relatively quickly, after relevant EU training.

It has been suggested that the Council and the Member States might have a say in the appointment of heads of delegations and in the composition of delegations.⁵² As they will be representing the EU as a whole and given the position of UMFA *vis à vis* the Council, this would seem reasonable. There has also been a call for involvement by the European Parliament's committees in confirming heads of delegations, as well as for heads of delegations being accountable to them.⁵³ While a role for the EP in confirming appointments is feasible, heads of delegations will have to have a direct line of administrative accountability to the UMFA that involvement of the EP would unduly complicate. But to whom will heads of delegations report? Ostensibly they will report to the UMFA since the delegations come under his authority, but with plenipotentiary powers should their reporting be aimed further up the EU hierarchy, to the Foreign Affairs Council, to the European Council as a whole, or to the President of the Council, elected by the heads of state of the Member States and with responsibilities to represent the EU in foreign affairs? Or to both the Presidents of the Council and the Commission for whom the delegations do so much work? As this could undermine the UMFA's authority and role, and as the UMFA has been given authority over the delegations, the most sensible

⁵¹ Frederiksen, Jonal and Baser, Heather, 2004, p.8.

⁵² Duke, 2003b, pp.12-13.

⁵³ European Parliament 2005b, p.6.

approach would be to have heads of delegations report directly to the UMFA who, in the final analysis, is himself answerable at some level to each of the other institutions.

The relationship between EU Embassies and Brussels

The relationship between Brussels and the delegations is still developing after devolution of powers in the development area to the delegations. Both before and after ratification further uncertainty will affect the way the Union's external action functions. Headquarters functional units with responsibilities in external relations will at first concern themselves with whether they will be part of the EEAS, and then all those affected, inside and outside the EEAS will have to adapt themselves to the new status quo. A long, staged process of EEAS evolution will have the potential of drawing out this unsettling period. As the devolution process has demonstrated, the EEAS headquarters will have to act in a supporting role towards the delegations, providing training and guidelines in the new tasks. A lengthy period of uncertainty about their own future could undermine the ability of headquarters staff to provide the necessary support to delegations. The opposite will also have to occur, delegations will have to support visiting headquarters officials. While the Commission claims that delegations have played an important support role for the SG/HR, the British Foreign Minister has commented that the Commission sought to block cooperation with the SG/HR and that there was 'a lack of cooperation with him from Commission officials when he went abroad'.⁵⁴

While the Constitution places the delegations under the authority of the UMFA, it does not explicitly state that they should form part of the EEAS. However, a foreign service could not function without 'the fused roles of capitals and missions abroad', and a mere requirement to ensure coherence and consistency might not be enough to bridge the gap.⁵⁵ Indeed, it is difficult to see how the goal of greater coherence and consistency would be served by the delegations not being part of the EEAS.

⁵⁴ European Commission, 2004b, p.43; United Kingdom, 2005.

⁵⁵ Spence, 2005a.

Common sense says that the delegations should form a substantial part of the EEAS and logic says that they will be a central part of it, however, it is not clear where they will sit within it. The present position of the delegations within the External Services Directorate under DG RELEX will not reflect the whole-of-EU representation role they will have – a potential conflict if DG RELEX continues to be the responsibility of a Commissioner even though the main business of the delegations will still be on behalf of the Commission. Given the UMFA's authority over the EEAS, would it be feasible to have the delegations as part of the EEAS but remaining administratively within the Commission under a Commissioner? The suggestion that UMFA 'should have at least one Commission deputy (the obvious candidate being the present External Relations Commissioner) to take the management of his Commission empire off his shoulders', is a sensible one but may not entirely solve the problem and might be in conflict with the system of equality between Commissioners.⁵⁶ For the Commission this situation might be solved by trading some lessening of collegiate equality to keep the delegations administratively within the Commission. While a Commission deputy might help with the administrative load, could all new CFSP tasks/functions carried out by the delegations come under the authority of the Commission?

Unless there are clear lines of authority between headquarters and the delegations, the latter, now representing the whole EU, might find themselves answerable to a greater number of headquarters elements. Nor is it clear whether all delegation staff will come under the direct authority of the UMFA. For instance, if the minimalist option for the headquarters element is adopted and DG Development stays under its own Commissioner, those delegations with major responsibilities for development will have a large number of staff in a similar position to those non-foreign affairs officers (defence, immigration, law enforcement etc) posted to national embassies. They will operate under the authority of the head of the delegation, but will also be answerable to their 'home' departments. Delegations with a large staff from DG Development might therefore appear to sit uncomfortably within the EEAS. Alternatively, if all delegation staff come under the authority of the UMFA and belong to the EEAS, those dealing with areas which remain under separate

⁵⁶ Crowe, 2005, p.7.

Commissioners will presumably also be accountable to them. The balance of functions at different delegations could prove difficult to reconcile with both the institutional balance and the 'ownership' of the delegations. In fact, looked at from the point of view of the 'sharp end' of EU external action, i.e. the work of the delegations, the most obvious and sensible structure for the EEAS would incorporate all of the external relations directorates and functional units from the Commission and the Council.

If EU delegations receive full recognition at other international organisations, such as the UN, the delegations might have a greater role in co-ordinating the EU's position with those of Member States on a wider range of issues, although Member States on the UN Security Council are already obliged to defend the positions and interests of the Union, and Member States and the Commission already hold more than a thousand internal EU coordination meetings each year to prepare and finalise EU positions.⁵⁷ However, even if the role of the EU delegations is no greater it could be more delicate if the EU attempts to flex the muscles of its legal personality on CFSP matters to a greater extent than it previously has in international fora.

Aspects of the relationship between the EEAS headquarters and EEAS delegations related to staffing will be discussed below.

Relationships between Member State embassies and EU Embassies

Under the Constitution EU delegations are to act in close cooperation with the diplomatic and consular missions of Member States. As should be the practice at present, EU delegations will cooperate with the missions of Member States in the efficient provision of development assistance and aid, for instance, ensuring that there is minimal duplication of effort between Member States and with the EU. This cooperation and coordination will have to be in concert with the coordination activities of the EEAS headquarters and the Member States in Brussels. Member States might already agree on basic aims and priorities, and in theory they might have accepted the need for a coordinated European approach, but in

⁵⁷ European Commission, 2001.

reality the result often has been less effective than could have been achieved because of a lack of coordination. If it exists, coordination of aid programs 'is mostly on the technical level, while the political dimension is often ignored'.⁵⁸ EU delegations and the EEAS headquarters will have to continuously promote and emphasise coordination between the policies and actions of Member States and the EU's own actions in third countries and international fora. And, as stated above, EU missions would have an increased role in coordinating activities with Member States' missions in CFSP.

The impact of the new Constitution on the role of embassies has the potential to be greatest for embassies of small to medium sized Member States. With the UMFA conducting CFSP and the EU's delegations representing the whole EU, embassies of Member States will no longer have the responsibilities attached to the increased role that they had when their state held the rotating presidency of the Council. Small to medium Member States might find that losing this regular responsibility will cause them to rethink the resources they had previously put into representation in third countries. For instance, the Presidency of the Council and the responsibilities linked to European Political Cooperation (the forerunner to CFSP) were associated with the 'more than doubling' of the number of Irish missions overseas, 'from 20 in 1970 to 50 in 1997'.⁵⁹ However, even when not taking the lead as the embassy of the member state holding the Presidency of the Council, embassies of the smaller EU Member States saw their workload, and their prestige, increase. Portuguese embassies were 'seen not only as embassies of an isolated, small country but also as the representatives of an EU member, their work increased significantly, both in quantity...and in quality, dealing on a daily basis with issues that in a purely bi-lateral context would have been ignored or given little attention'.⁶⁰

⁵⁸ Everts, 2002, p.46.

⁵⁹ Tonra, 2002, pp.157-158.

⁶⁰ Correia, 2002, p.205.

The missions of larger states might be less likely to be affected.⁶¹ In the case of Britain, it is likely that a shift to 'a full blown European diplomatic service' will be 'stoutly resisted'. Britain has 'gone along with an increasing concentration of CFSP activity in Brussels', but it has previously wanted to keep control of CFSP in the Council of Ministers rather than in the Commission's external service.⁶² The Foreign and Commonwealth Office has also made it clear that commercial work, immigration control and some aspects of political work would have to remain under separate national control.⁶³ Although Britain does share embassy accommodation with Germany in Reykjavic, it keeps its own separate and secure areas. And while the Foreign and Commonwealth Office has suggested that in the future it might consider extending sharing to include sharing staff and functions in countries where the FCO's resources are limited, it is hard to imagine larger Member States, such as Britain, accepting wholesale, a proposal for one European 'house' in each third country which would house both the Union delegation and each of the bilateral missions of Member States represented.⁶⁴ Apart from the issue of national sovereignty and how this would play domestically, there is a great deal of national prestige involved in embassies, especially for former colonial powers who often have special relationships with their former colonies which they might consider would be damaged by such an approach. But while a negative view could see this as a question of saving resources versus saving face, the new status of EU 'embassies' should be treated as an opportunity by Member States to redirect scarce national foreign ministry resources to high priority national interests and transfer the common EU 'foreign policy' progressively to new EU embassies such as has already happened with trade negotiations. For instance,

⁶¹ However, the rotating presidency can have some impact on the workloads of even the larger states, for instance there are only four member states represented in Rangoon: France, Germany, Britain and Italy who are thus 'required to undertake an extensive coordination role even when not holding the Presidency.' Handing this coordination role over to an EU delegation 'would come as a considerable relief.' Hocking and Spence 2005, p.299

⁶² Allen, 2002, p.267.

⁶³ Allen, 2002, p.267.

⁶⁴ United Kingdom 2004, p.21. However, Britain does share accommodation with Germany in Quito, with the EU Commission, Germany and France in Dar es Salaam, with the France and Germany in Almaty and with Italy in Minsk; OECD, 2002, p.1-80. The proposal referred to the Commission delegations. An attempt to encourage Member States to establish a joint embassy in Abuja, Nigeria had only limited success. Spence, 2005a.

Britain could use the opportunity to shave away those staff posts and policy areas in London and in its own embassies that are adequately covered by Brussels or its delegations under CFSP.

While the new status of the EU delegations will shift at least some of the focus of CFSP activity away from the embassies of the smaller Member States especially, the EU will still need the co-operation and input of the embassies of Member States large and small. It cannot move ahead of or away from Member States especially in CFSP matters. Despite warnings of the possible demise of national embassies, the new status of EU delegations will not make European diplomacy or even CFSP a one horse race, nor will delegations make the bilateral embassies of Member States redundant.⁶⁵ In the case of representation at international bodies for which statehood is a requirement for membership, such as the UN, EU 'embassies' might inherit the full recognition already accorded the Commission's delegations, but since the EU is not a 'state party', its 'embassies' to those organisations will continue to rely heavily on Member States' cooperation to ensure the EU's voice is heard.

Consular functions

Consular work is the most visible and direct aspect of foreign policy work in the service of a country's people, and can thus have a high profile in domestic politics, especially when things go wrong for citizens abroad. The suggestion that the EU move towards the establishment of common consular and visa services will not be acceptable to all members, especially those Member States who have many citizens travelling or working abroad.⁶⁶ However, it is conceivable that in the future, as EU missions evolve into embassies, Member States might consider requesting that EU delegations assume consular and other roles for them and for their citizens in some countries where the Member States no longer want to retain separate national representations and no other Member State can fill the role. This would assume that EU delegations were recognised by the host country for this purpose and appropriately staffed and resourced. Ireland has already discussed the possibility of co-location with Commission delegations in third countries where

⁶⁵ Hannan, 2005.

⁶⁶ Cameron, 2004, p.4.

Ireland is without diplomatic representation, but the status of such co-located officials on the diplomatic list of host countries has proven to be 'a crucial difficulty'.⁶⁷

EU delegations would have to be staffed to perform consular and other duties which could include a range of responsibilities, some quite complex and made even more so by the number of languages potentially involved. If delegations were to undertake the consular functions of national embassies this could include: issuing replacements for lost or stolen passports; legalisation and certification of documents; repatriating EU nationals during political upheavals or natural disasters; assisting in medical emergencies; and in the case of arrest of EU citizens, supervising fair treatment, assisting in retaining legal counsel and visiting EU nationals held in detention.⁶⁸

The EU and Member States would have to come to an agreement regarding the level of service that the EU was to provide and a number of tough decisions would have to be made. While the level of service could differ for each location, would it be the same service for all EU citizens, or would it be acceptable for some Member States to be willing to pay for a higher level of service for their nationals, and would their nationals thus be given a higher priority for service? Agreements between the EU and Member States would have to include some method of cost recovery as the administrative costs involved could be substantial, and moneys owed by individuals for such things as emergency travel or repatriation of deceased remains would have to be recovered somehow, with predictably bad publicity for the EU.⁶⁹ The processing of visas for the Schengen states is one area which could benefit from a joint consular approach to discourage applicants from 'visa-hopping', seeking out the most lenient embassies in order to get entry into a Member State which

⁶⁷ Tonra, 2002, p.158.

⁶⁸ Consular work of this type is already provided for in Article 20 of the EC Treaty. European Parliament 2005b, p.6.

⁶⁹ As the UK experience shows, consular activities can be very extensive and resource intensive. In 1999/2000 the UK's Foreign and Commonwealth Office spent 740 staff years on consular work of which only 84 were in the UK. The cost of consular work in that period was around £49.1 million. Embassy staff provided consular assistance to over 45,000 British travellers; issued or amended 382,463 full British passports; issued 10,074 emergency passports; registered 6,650 births and 400 deaths; and made 6,938 prison visits. See United Kingdom, 2000, p.12.

has already rejected them.⁷⁰ However, this could be done by co-operation between the states, standardising interpretation of the visa rules, etc., rather than by creating an EU consular service. All in all, consular work would be an unnecessary distraction from what the EU's delegations should be focussing on - the core business of developing and maintaining relations with third countries in the areas of trade, development aid, humanitarian assistance, and the development of crisis response capabilities.

Administration of the EEAS

The analysis above on the evolution of the HQ and embassies of the new EEAS needs to be considered alongside a number of administrative issues. These were foreshadowed to some extent in earlier discussion, but are sufficiently influential to warrant further separate treatment under four headings: budget, staffing, training, and review.

Budget

There is, as yet, no link between plans for the EEAS and the 2007/13 budget. How the EEAS is to be financed will depend on its structure and whether it is phased in over time or fully established as soon as possible. It will also depend on the balance of power between the institutions because it is not just the structure which is to be funded, but also the programs and activities for which it is responsible. The UMFA needs to be given authority over the EEAS's budget without which his/her ability to conduct CFSP and ensure and be responsible for the coordination of external action especially for those areas which are transferred into the EEAS would be severely compromised. Currently it seems that, if the EEAS is to be staffed and funded from the EU budget, and not directly by Member States, funds will have to come from existing EU resources.⁷¹ Those funds will come with different conditions for their expenditure depending on whether they are for intergovernmental or Community functions. Such co-financing would create an inter-institutional budget complicating both administration and oversight, but it should

⁷⁰ Everts, 2002, p.57.

⁷¹ United Kingdom, 2005.

not lessen transparency in the budget, nor the role of the European Parliament in budget oversight.⁷²

Staffing

The new EEAS will have responsibilities under both the Council and the Commission and it will comprise officials from both, as well as from Member States, although in what ratio is not stated in the Constitution. The mix of staff will depend, like the budget, on the makeup of the EEAS. However, as there are less than 200 Council officers working in external affairs jobs, it is unlikely that an equal division between the three components will work. Nor should there be an arbitrary ratio imposed, as no matter where the EEAS is positioned, to ensure its success as an organisation its aim should be to make the differences in the origin of its staff mean as little as possible in the new structure. To achieve this it appears that it would be better if officials were transferred into the EEAS rather than detached from their parent institutions as legal advice reportedly provided to Member States by the legal service of the Council makes the point if staff are detached from their parent institutions rather than transferred to the new body, officials will keep 'their rights and obligations to their parent institutions (Council or the Commission)', whereas transferring staff to the EEAS would mean 'a uniform statute applicable to all officials'.⁷³

Although 'the distinction between common foreign and security policy and the other aspects of EU external action still determines the respective roles of the institutions and the procedures that apply', the UMFA's supporting organisation should not be frozen into two different functional streams just because he/she has two separate functions.⁷⁴ In fact, just as the UMFA is expected to 'wear two hats', as long as legal obligations are met there is no reason why individual EEAS officers could not perform both functions.

The staffing structure will need to be flexible to accommodate the development of the EEAS. Officials' ability to move easily between and within Council and Commission functions, between the

⁷² The European Court of Auditors was critical of the management of CFSP finance by both the Council and the Commission. European Court of Auditors, 2001.

⁷³ Cronin, 2005

⁷⁴ European Commission 2004a.

headquarters and the delegations, and between the EEAS and the Council and the Commission will be vital for the development of an effective organisation. This will be especially the case if the EEAS does not include all the external action directorates of the Commission, in which case staff mobility could bridge gaps between the EEAS and non-EEAS external action sections, helping to ensure cohesion and thus coherence in output. The introduction of new Staff Regulations on 1 May 2004 is a good foundation, but further encouragement should be given to staff to participate in job rotations.

While it appears unlikely that financial incentives for Brussels staff to move to delegations either would be forthcoming from the European Parliament and Member States, or would be enough to encourage staff to take up postings especially where living conditions are difficult, there are other incentives which could be considered. For instance, the current 'requirement' that Commission staff go on a posting abroad after a maximum of six years in Brussels can be avoided. This 'requirement' could be strengthened by insisting that officers gain field experience before promotion to management level.⁷⁵ Integrating the postings for diplomats from Member States to the EEAS, especially to delegations, into the career paths of Member States' diplomatic corps should also be encouraged.

The extent of the contribution by Member States of officers to staff the EEAS is unclear, as is whether this will be determined by size of population. The contribution from Member States should not just be diplomats from their foreign services, but should also include experts from other ministries, such as health, environment, etc. All officers from Member States should be seconded under the similar terms as currently apply to national experts seconded to the Commission as regards not taking instruction from national governments while on secondment. However, it would be preferable for national experts to be employed as temporary agents if that would ensure that they would be 'subject to uniform rules (on salary, benefits and immunities)' rather than as detached national experts with consequent disparities in remuneration between them and EU staff.⁷⁶

⁷⁵ Frederiksen, and Baser, 2004, p.9.

⁷⁶ Cronin, 2005.

Concern has been expressed that larger states which are not wholly in favour of the new institution might leave their allotted positions vacant to intentionally weaken the EEAS.⁷⁷ To discourage the possibility of this, strict limits will have to be set on the length of time positions can be held vacant before another Member State is invited to put forward applicants. No matter which method is used to determine the final number of diplomats from Member States, it is important that individual jobs do not have national flags attached to them. As is the case with the secondment of national experts by the Commission, geographic and gender balance and the principle of equal opportunity should be taken into account, but the merit principle should apply to the selection of Member States' diplomats and experts for positions in the EEAS.

Training

There have been suggestions that the EU needs a European diplomatic academy which could train both Union officials and officials from Member States.⁷⁸ Common training for EU officials and national diplomats should engender 'common diplomatic practice and culture' as well as creating cohorts of multi-state diplomats both within the EU and across the range of Member States and even including student diplomats from third countries.⁷⁹ This would be the foundation of a strong network throughout their careers. The participation of diplomats from Member States and from third countries is important in ensuring a global focus. In the case of diplomats and national experts seconded to the EEAS from Member States, acquiring a working knowledge of the EU and an appreciation of its diplomatic culture will be important in ensuring that they are effective in their new roles. Consolidating such training on one campus could provide economies of scale, as well as enhancing an EU *esprit de corps*. But there is also an argument for decentralised training, at a number of institutions of higher learning throughout the EU which exposes students to the benefits of a broader range of learning experiences, academics, and non-EU

⁷⁷ Maurer, and Reichel, 2004, p.6.

⁷⁸ European Parliament 2005b, p.6.

⁷⁹ Monar, 2000, p.2. The proposal for a diplomatic academy was downgraded to a European Diplomatic Programme five of which have been run for young diplomats from the foreign services for Member States the Commission and the Council Secretariat.

students (especially if taken outside the EU diplomat's own country), and which allows the institutions and academics involved to retain their independence.

There are other levels of diplomatic training, for instance courses currently provided by the Commission, which might be adapted to specifically target the needs of the new EEAS. Training should be available to EEAS staff, both in-house and externally, for example, distance education courses for delegation staff via the Internet. In-house EEAS training modules provided in residential accommodation should aim to engender an *esprit de corps* for all levels of staff minimising geographic and institutional divides. Special emphasis will have to be given to training for staff posted to or employed by delegations to cover their wider responsibilities. This is in addition to the 'continuing need for training' identified in the audit report on the devolution of aid management.⁸⁰

Review and Evaluation of the EEAS

The EU should make a commitment to institute an independent review of the new structure after it has been in operation for at least two years. This review, an audit of its performance, should examine all aspects of the EEAS, including its working relationships with other EU institutions such as the Commission and the EP. On the basis of the findings of the review the EU should decide when the functions of the EEAS should be expanded. The process and the results of the review should be public.

Conclusion

How fast and how far can or should the EEAS develop? On the one hand, there is an argument for the EU and Member States taking the opportunity that a ratified treaty will give them to start afresh, building an EEAS that is as extensive as the treaty allows, and putting a maximalist EEAS in place as quickly and decisively as is practical. This would have the advantage of getting the pain of reform over with quickly while circumventing some of the inevitable wasteful inter-institutional infighting and jockeying for position that a

⁸⁰ European Court of Auditors, 2005, p.5.

long drawn out process would encourage. On the negative side, media reporting of plans for the swift implementation of an extensive organisation might have a detrimental impact in the countries which are holding referenda on the ratification of the Constitution. There has already been negative comment in the media on pre-ratification planning being carried out at the behest of the Council, with claims that 'the EU is launching a fully fledged foreign service without any legal basis'.⁸¹ While any form of EEAS will be opposed by some, the announcement of plans for an extensive EU foreign service could be used by those opposing the Treaty to argue against its ratification. This is no reason for EU citizens not to be kept informed of pre-ratification planning, but it would be a shame if the plan which aims to give greater coherence and consistency to EU external action – an area which generally enjoys widespread public support – became a pawn in the wider constitutional debate.

On the other hand, there is an argument for change to be phased in over a number of years, taking until 2015 for the EEAS to reach a 'critical mass' and based on a master plan which commits all the actors to an agreed goal.⁸² Alternatively, the EEAS could be allowed to evolve not to a completely set plan, but through 'a gradual process based on mutual trust and a growing fund of expertise and shared experience'.⁸³ Both of these latter methods might have the advantage of preventing the EEAS from losing credibility during its early development phase due to unrealistic and unmet expectations but there is a danger in delaying the implementation of change. Old habits die hard, especially if they are allowed to linger, and a lengthy evolution which resulted in unseemly turf wars would weaken both the EU and its ability to undertake effective external action.⁸⁴

It would be a waste of the potential power of the EU could if the role and structure of a future EEAS were determined by the need to accommodate the current EU institutional and bureaucratic status quo. Neither should the effectiveness of a gradually evolving EEAS have to depend on the personality of the UMFA. It would put the whole concept of coherence in jeopardy if successful external

⁸¹ Hannan, 2005.

⁸² Maurer and Reichel, 2004, p.6.

⁸³ European Parliament, 2005b, p.5.

⁸⁴ EU turf wars are not unknown, especially between the Commission and the Council, see Spence, 2005b.

relations and actions depended on the superhuman efforts of a so-called 'Patana' figure to bridge the gap between the old pillars and bring the inconsistencies inherent in current EU arrangements under control.⁸⁵

Unfortunately, but realistically, the EEAS is unlikely to spring to life fully formed at an appointed date, but rather, given the traditions of the EU, the new EEAS will evolve over time, gradually accumulating both recognition and power. The very least that the EU should plan for in the first instance would be the minimalist option, i.e. beginning with an EEAS which consists of the Directorate General External Relations and the Policy Unit from the Council side with DG RELEX and the current External Service from the Commission including the delegations, with the clear understanding that this structure is not set in concrete. This option would combine policy and operations from both sides and its success would be a good foundation from which to eventually extend the responsibilities of the UMFA and the EEAS.

The positive aspect of a process of gradual development of the EEAS lies in the EU's own history. The EU's success as a body ensuring peace and prosperity within its own borders has been based on the incremental accumulation of trust and the equally gradual evolution of its institutions. The question is how long should the next evolution be allowed to take? Or more precisely, how long can the EU and the Member States afford to let it take?

Recommendations

1. Even if Member States fail to ratify the Constitutional Treaty, they should establish some form of external action service which combines Council and Commission functions and which is designed to address the EU's problems in foreign policy.
2. In designing the new EEAS the EU should not be constrained by current bureaucratic and administrative arrangements.

⁸⁵ Cameron, 2004. Cameron points out that, despite the High Representative for CFSP, Javier Solana and Commissioner Chris Patten arguing against it, 'the Convention came down in favour of a 'Patana' figure who it is hoped will embody both pillars in his persona'. Hope is not a strong foundation on which to build.

3. In structuring the EEAS the EU should aim to eliminate all duplication of external relations functions within its institutions.
4. The UMFA should be given clear lines of administrative and budgetary authority and responsibility for the EEAS.
5. The EEAS, through the UMFA, should be accountable to the European Parliament.
6. Initially the EEAS should consist of at least the Directorate General External Relations and the Policy Unit from the Council side with DG RELEX and the current External Service from the Commission, including the delegations, with the flexibility to absorb other external action functions from the Commission over time.
7. The EU should ensure that any expansion in the role of EU delegations should be matched with appropriate increases in staffing and resources.
8. As EU delegations will represent the EU as a whole, appointment of heads of EU delegations should be made by the UMFA in consultation with the Council, the Commission and the European Parliament.
9. Normal consular services should not be part of the role of delegations which should focus on relations with third countries and on the EU's core business – trade, development aid, humanitarian assistance and conflict/crisis response.
10. The European Parliament should be furnished with all necessary information to carry out oversight of the budget of all of the EU's external action.
11. There should not be an arbitrary institutional ratio imposed on the EEAS's staffing mix.
12. The EEAS should aim to have a flexible staffing structure to maximise the contributions of its staff.

13. Staff rotations within the EEAS including its delegations, and between it and the rest of the EU and Member States should be widely encouraged.
14. Consideration should be given to the establishment of an EU diplomatic academy to train EU staff, officers from Member States and from third countries.
15. Training opportunities for staff at all levels and in all locations should be pursued and resourced.
16. The EU should make a commitment to institute an independent review of the new structure after it has been in operation for at least two years.

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The EU plan, agreed in December 2004, to lift its only arms control regime targeted exclusively at China has provoked strong opposition from the USA, Japan and several European parliaments. The question now is whether the EU can defend its position and face down international pressure, especially the clear threat of retaliation from a hostile US Congress.

The 'strength of feeling' among critics of lifting the embargo arises from lack of familiarity with Chinese decision-making toward Taiwan or human rights, or deliberate mis-representation of the facts. The author argues for the launch of a more robust public diplomacy campaign to convince the US that lifting the ban is important for a number of positive strategic reasons as it is inconsequential in terms of possible changes to Chinese policy on Taiwan or human rights.

UK PARLIAMENTARY SCRUTINY OF EU LEGISLATION

Sir Digby Jones

April 2005

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Half of all UK legislation which imposes burdens on businesses originates from the European Union. This figure will continue to grow as new and different policy fields are drawn into the area of European competence. Yet, given the depth of involvement of the EU in the UK's regulatory regime, the British public are surprisingly ignorant about the EU, its policies and institutions – and many MPs do not follow events across the Channel. As a result, measures affecting millions of people and cost millions of pounds pass through UK formalities whilst barely causing a ripple. In this paper, Sir Digby Jones identifies four key principles for reform and argues that such reforms are needed to keep the British public informed on how the European Union really operates.

AN AFRICAN AL-JAZEERA?: MASS MEDIA AND THE AFRICAN RENAISSANCE

Philip Fiske de Gouveia

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A new momentum is building behind development efforts in Africa. The work of the UK Commission for Africa, for example, appears to be symptomatic of a renewed global interest in the world's poorest continent. But while debate continues about how best to assist progress in Africa, one potential factor in the 'African renaissance' receives less attention than most: the media. Historically, the media has played a fundamental role in democratisation and economic growth across the world, yet its significance is routinely downplayed by development strategists. Taking his lead from the success of trans-national media like Al-Jazeera, the author examines how the media might contribute to much needed change across the African continent. What role could the media play as part of political and economic advances in Africa? Can and should Africa shrug off its perceived information dependence on the West? Should the creation of an indigenous pan-African broadcaster be a development priority?

PUTIN AND THE PRESS: THE REVIVAL OF SOVIET-STYLE PROPAGANDA

Oleg Panfilov
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The re-emergence of the traditions of Soviet propaganda since 2000 represents a new era for the Russian media and domestic policy. This development has been facilitated by the dominance of Soviet-era journalists, trained to consider propaganda and counter-propaganda as important parts of state ideology. The widespread presence in government posts of Putin's former KGB and FSB colleagues has also fostered this revival of Soviet-style propaganda, perpetuating the belief that it remains essential for Russian society to be dependent on regular dosages of manipulated information for Russia, and the reign of President Putin, to endure.

This pamphlet, by one of the most courageous of post-Soviet journalists, is a stinging indictment of the passivity of the mass media in Russia in the face of the re-emergence of Soviet-style propaganda techniques and administrative direction.

BRITISH PUBLIC DIPLOMACY IN THE AGE OF 'SCHISMS'

Mark Leonard, Andrew Small with Martin Rose
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The war in Iraq has had a seismic impact on international perceptions of Britain and British foreign policy, yet there is a big contrast between the cacophony of debate in the United States on the political and diplomatic fall-out of Iraq for US grand strategy, and the relative lack of public and political debate about how UK public diplomacy needs to change to reflect these new realities. In this book, the authors argue that a major rethink is needed in the approach taken to public diplomacy to respond to these shifts. Neither a redeployment of old Cold War propaganda tools, nor the 1990s variant of Cool Britannia will do. Instead, there should be a new set of trust-building practices that address the gaps in worldview and significant public opinion challenges that exist in our relationships with key allies, major new powers and the rest of the developing world.

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