

EEAS reloaded: Recommendations for the 2013 review

Steven Blockmans

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Article 13(3) of Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (EEAS) calls upon the High Representative (HR) to provide a review of the EEAS by mid-2013. The review will cover, “inter alia”, the implementation of Article 6(6), (8) and (11), so as to ensure an adequate geographical and gender balance and a meaningful presence of nationals from all member states in the EEAS. “[I]f necessary”, the review will be accompanied by appropriate proposals for the revision of the 2010 Council Decision (e.g. suggestions for additional specific measures to correct possible imbalances of staffing). “In that case”, the Council will, in accordance with Article 27(3) TEU, revise the Decision in the light of the review by the beginning of 2014.

As such, the 2013 review will offer an important first formal opportunity to assess the strengths and weaknesses of the EEAS, to address some of its current weaknesses and to give a new impetus to its further development. Whereas Article 13(3) of the 2010 Council Decision specifically mentions organisational matters as subjects of the review, the formulation of the provision is sufficiently open-ended to give the reviewers room to address more than just (short-term) organisational issues. Indeed, it would be a shame not to use the review process prescribed by the 2010 Council Decision as an opportunity to also look into the Service’s overall contribution to attaining the objectives of the EU’s foreign policy (cf. Article 21 TEU), and into its cooperation with the member states’ diplomatic services, the services of the European Commission, the Council General Secretariat and the European Parliament. While successes have been achieved on all of these counts and can thus serve to show the value added of the EEAS,¹ there is still room for important improvements to be made to the organisation and functioning of the Service.

¹ See e.g. S. Blockmans, “The European External Action Service one year on: First Signs of Strengths and Weaknesses”, CLEER Working Paper No. 2012/2, Centre for the Law of EU External Relations (www.cleer.eu).

Steven Blockmans is Head of the EU Foreign Policy research programme at CEPS and Professor of EU External Relations Law and Governance, University of Amsterdam. This paper was written for the inquiry into the European External Action Service of the EU Sub-Committee C (External Relations) of the House of Lords, and reproduced for publication by CEPS.

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There are obvious limits, however, to what can be achieved in the 2013 review process, as some organisational changes would require not just a revision of the 2010 Council Decision but of the underlying treaties, and/or the composition of the institutions in the wake of the next elections for the European Parliament in 2014.

“If it ain’t broke, don’t fix it.” This is the mind-set of a group of scholars gathered under the banner of “EEAS 2.0” who, with an eye to the forthcoming review, are about to publish a legal commentary to the 2010 Council Decision,² in search of the interpretative room to accommodate necessary changes to the organisation and functioning of the EEAS “à droit constant” (on the basis of established law).

In practice, like in any bureaucracy, changes to the organisation and functioning of the EEAS continue to be made on a daily basis, without the need of opening what in some member states is seen as a Pandora’s box of negotiations on the 2010 Council Decision. The fear of endless negotiations arises from the risk that talks may extend into the areas covered by the flanking Staff and Financial Regulations and thus require co-decision by the European Parliament.

Although the lead clearly lies with the High Representative, the 2013 review process should systematically involve all member states, Commission services, the Council General Secretariat, the European Parliament, think tanks, NGOs and civil society organisations. A roadmap should be adopted by the High Representative and communicated by the EEAS. A ‘listening’ period should be organised so as to collect ideas and opinions for the member states to consider during the first Gymnich (informal meeting of EU foreign ministers) of 2013. The High Representative should then present her report by the end of June 2013, with an aim to take on the short-term priorities before the end of 2013, while leaving more ambitious proposals to amend the organisation and functioning of the EEAS for the next legislative cycle and/or the next round of treaty revision.

On the basis of the foregoing and earlier³ analyses of both the strengths and shortcomings of the EEAS, action should be taken to reinforce the Service under at least four headings, as outlined below.⁴

1. The role of the EEAS in promoting the coherence of external action

- A joint communication on the comprehensive approach to foreign policy-making should be urgently adopted by the Commission and the High Representative and implemented by all members of the EU external action family. The comprehensive approach should make full use of the hybrid role of the HR/VP, mobilise the different

² The legal commentary will become available in January 2013 on the websites of a number of participating think tanks and academic centres of excellence, including that of CEPS (www.ceps.eu), SIEPS (www.sieps.se), and the EUI (www.eui.eu/DepartmentsAndCentres/Law/Publications/PublishedWorkingPapers.aspx).

³ See e.g. S. Blockmans, “Fit for Purpose? The European External Action Service One Year On”, OXFAM Briefing Paper No. 159, Oxfam, 23 January 2012 (www.oxfam.org); and L. Erkelens and S. Blockmans, “Setting Up the European External Action Service: An Act of Institutional Balance”, *European Constitutional Law Review*, No. 2, Vol. 8, June 2012, pp. 246-279.

⁴ More points can be made and have been made. See e.g. E. Burke, “Europe’s External Action Service: Ten Steps Towards a Credible EU Foreign Policy”, CER Policy Brief, Centre for European Reform, London, 4 July 2012; F. Krätke and A. Sherriff, “Gearing Up for the 2013 EEAS Review: Opportunities, Challenges, and Possible Approaches”, ECDPM Briefing Note No. 44, European Centre for Development Policy Management, Maastricht, November 2012 and S. Lehne, “The Review of the European External Action Service in 2013”, Carnegie Europe, Brussels, 15 November 2012.

tools at the EU's disposal, in close interaction with the member states and in close cooperation with other international actors, and make optimal use of scarce resources.

- In order to facilitate cross-cutting coordination in EU external action, the EEAS should develop the necessary expertise with regard to those internal EU policies that have an important external dimension, such as transport, energy, climate, migration, and monetary affairs.
- The EEAS should be more closely tied with the Commission's DG DEVCO, both at the headquarters level and in EU Delegations. With this aim in mind, the 'Working Arrangements' concluded between the Commission and the EEAS on 13 January 2012 should be revised.⁵

2. The VP persona of the High Representative's mandate

- The VP should chair monthly meetings of the previously called 'RELEX group', composed of Commissioners in charge of the various aspects of external action – including trade, enlargement and European Neighbourhood Policy (ENP), development cooperation, humanitarian aid and civil protection, economic and monetary affairs – so as to actively coordinate external policies within the Commission. Under the first Barroso Commission (2005-09), this group used to meet on a monthly basis; under Barroso II (2010-14), it has met only a handful of times.
- To alleviate some of the stress on an over-burdened HR/VP position, a deputy should be appointed to replace the HR as (first) Vice-President in the Commission, e.g. when s/he is unable to attend the meetings of the college. The hybrid position currently embodied by the Commissioner for the ENP provides a good source of inspiration for this type of deputation: all of his staff within the previous DG RELEX has been moved to the EEAS on 1 January 2011, but together with his cabinet, he plays an active role within the structures of the Commission. Incidentally, detaching the responsibility for the ENP from the portfolio of EU enlargement may send a clearer signal to neighbouring countries (especially those on the southern borders of the Mediterranean) what not to expect from the EU and its institutions, i.e. a membership perspective.
- In line with the argumentation presented at the outset of the previous point, a political deputy (possibly from a member state – rotating Presidency) should be appointed to replace the High Representative for his/her responsibilities under the Common Foreign and Security Policy (CFSP).

3. The structure of the EEAS

- The division of labour between the members of the Corporate Board of the EEAS must be clarified and clear reporting lines should be established with the lower echelons.
- The security policy and Common Security and Defence Policy structures should be simplified and properly integrated into the EEAS. A rebalancing should take place between the military elements and the weaker civilian crisis-management capacities.
- The Commission's Service for Foreign Policy Instruments should be fully integrated into the structures of the EEAS. The EEAS should have the responsibility for the

⁵ SEC(2012) 48, Ref. Ares(2012) 41133.

management of the CFSP budget and should be given the right of operational expenditure.

- The split between EEAS and Commission staff in EU delegations should be overcome by strengthening the authority of the Heads of Delegations and allowing them to delegate more responsibilities. Reporting lines should be simplified and the current separation of financial circuits ended. To these points too, the 'Working Arrangements' concluded between the Commission and the EEAS on 13 January 2012 should be revised.

4. Cooperation with member states' diplomacies

- In the interest of cost-saving and in a drive for increased efficiency, information exchange should be further regularised and procedures harmonised at headquarters, but also in representations to multilateral institutions and in bilateral postings. The potential of co-location of member states' embassies with EU delegations should be examined. A good example is provided by the recent Memorandum of Understanding signed by the EEAS and Spain to establish a Spanish Embassy on the premises of the EU Delegation to Yemen.⁶ In this context, the arrangements entered into by the UK with Commonwealth countries like Canada could be replicated in the framework of the EEAS.⁷

⁶ Press release A 568/12, Brussels, 10 December 2012.

⁷ See S. Blockmans and S. Carrera, "The UK-Canada Agreement on Mutual Support of Missions Abroad: Loyalty Compromised?", CEPS Commentary, CEPS, Brussels, 18 October 2012.