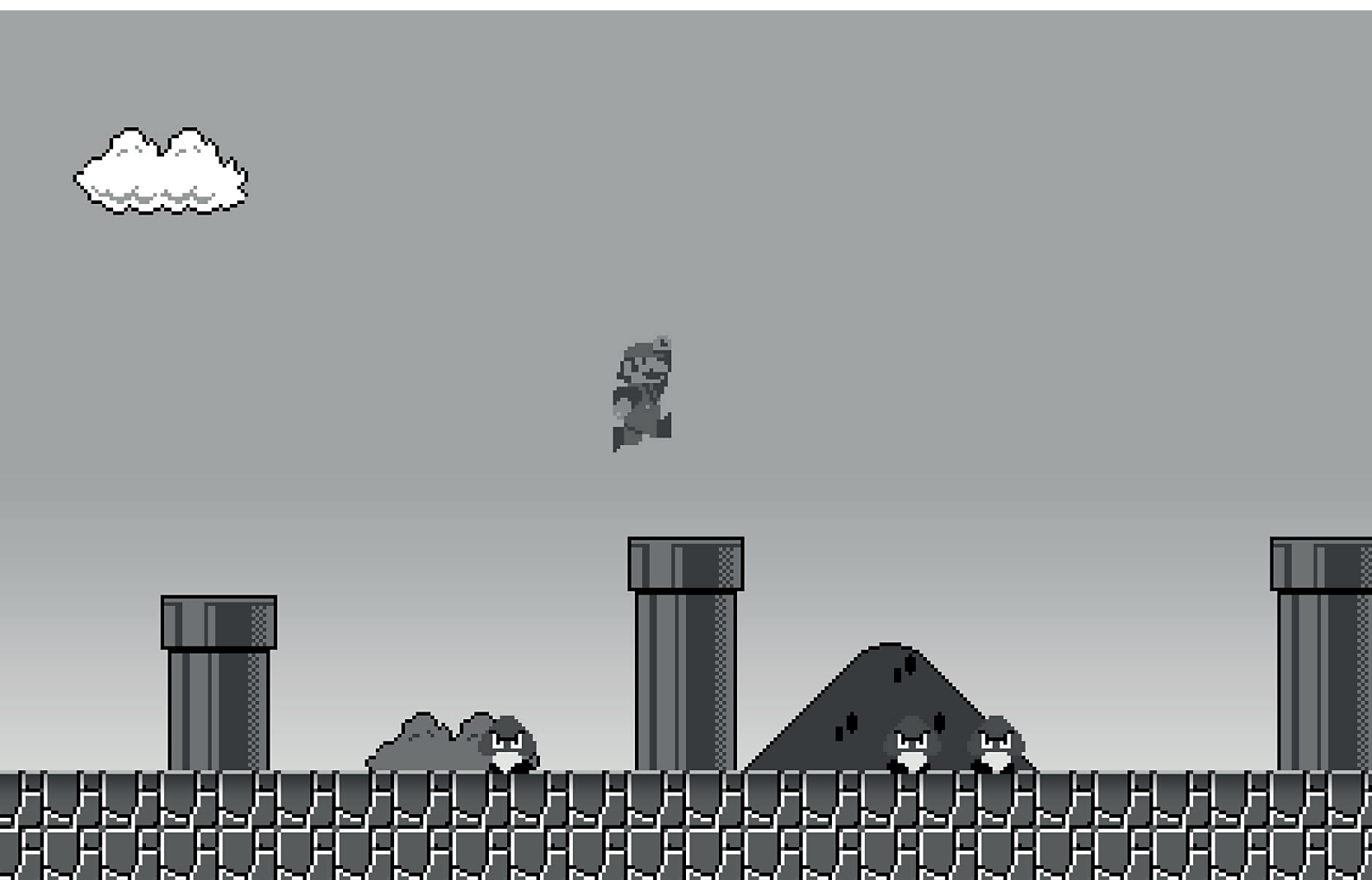


THE HIGH REPRESENTATIVE 3.0

TAKING EU FOREIGN POLICY TO THE NEXT LEVEL

Niklas Helwig

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- In autumn 2014, Catherine Ashton's successor is scheduled to start his term as High Representative of the Union. The 'High Representative 3.0' has the opportunity to realize the as yet untapped potentials of the office.
- As chair of the Foreign Affairs Council, it was challenging for the High Representative to set priorities. Foreign ministries and the High Representative can benefit from making a joint effort to formulate common priorities for the foreseeable future at the start of the term.
- The High Representative and the European Council President had an uncompetitive, but also reserved leadership style. The next duo might vie for primacy in CFSP matters. Instead, it is important that they bridge any divide between the Foreign Affairs Council and European Council and lead in tandem.
- The High Representative needs to activate his 'Commission hat'. A possible hierarchical organisation of Commissioners within thematic clusters would put the High Representative formally in charge of the Commission's external relations. When it comes to the European Neighbourhood Policy in particular, the EU's external relations could benefit from a clear hierarchical division of authority.
- Securing member states' 'ownership' of EU foreign policy and its institutions will be one of the key tasks for the incoming High Representative. His cabinet can fulfill a bridging function between the foreign policy chief, the EEAS leadership and member states.

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“We are just in the very beginning,” commented Catherine Ashton after a summary of her main achievements as the first High Representative of the Union at a conference in Brussels in March 2014. Indeed, the main task of her tenure as the EU’s foreign policy chief, which comes to an end this autumn, was laying the groundwork for her successors. While national foreign ministers can rely on their established administrations when entering office, Catherine Ashton had to firstly supervise the creation of her ‘ministry’, the new European External Action Service (EEAS). Her office – combining the post of Vice-President of the European Commission with the role of High Representative for the Common Foreign and Security Policy (CFSP) and the chair of the Foreign Affairs Council (FAC) – had no precedent. Procedures for working together with Commissioners as well as foreign ministers had to be established on the fly. The next High Representative will be able to benefit from the lessons learned during the first five years and take the potential of the office to the next level.¹

The developments over recent months in the EU’s Eastern Neighbourhood highlighted the challenging context for the EU foreign policy chief. The row with Russia over the future of Ukraine was another litmus test for Europe’s foreign policy project. Crisis diplomacy and coordination among member states could not hide the fact that the EU will always fall short of being as cohesive, united and efficient as a single state. As a consequence, the High Representative cannot be judged by the same standards as a national foreign minister, as the authority of the post is always contingent on the collective political will of the member states. However, the recent crisis also highlighted that it is a worthwhile exercise to re-examine the untapped potentials of the office.

The creation of the double-hatted ‘High Representative 2.0’ upset the balance of the EU’s institutional structure. What had been a clear division of labour between the High Representative for the CFSP, the rotating Presidency and the Commission had to be reorganized from scratch. The following analysis

presents key issues of the current, yet unstable, balance of the EU’s foreign policy architecture. How can the ‘High Representative 3.0’ realize the full potential of his² office?

Chairing the Council: neutrality or leadership?

Key features of the post were controversial right from the start. During the European Convention, the former High Representative for the CFSP, Javier Solana, argued for an upgrade of his post in the Council, proposing that he should be able to drive EU foreign policy forward by assuming the chair of the FAC and having the right of initiative in CFSP matters. Some member states, especially Finland and Ireland, had their doubts. It meant a departure from the well-attuned system in which the rotating Presidency in the chair refrains from pushing its own initiatives, and tries to serve as an ‘honest broker’. In the new system, the High Representative has an unusually high concentration of competences, while the Commission lost its right of initiative in CFSP matters. As a result, the overall balance between the institutions could be in danger.

Experiences from Ashton’s tenure mitigate some of these concerns. She chose to play the role of moderator between the conflicting interests, rather than pushing her own initiatives. In fact, very few proposals were officially tabled in her name. A rare example was the proposal for a CSDP mission in support of humanitarian assistance in Libya in 2011, which never received the necessary request of the UN Office for the Coordination of Humanitarian Affairs.

Ashton’s reserved approach was not just due to her personal characteristics. The introduction of a permanent chair of the FAC and most of its working groups led to the development of new patterns of cooperation between the member states and the High Representative.³ The agenda-setting power

1 Official analyses of the High Representative’s office and the EEAS include the ‘EEAS review’ from July 2013 as well as the ‘Council conclusions on the EEAS review’ and ‘The EU’s comprehensive approach to external conflict and crises’ from December 2013.

2 The briefing paper uses ‘he’/‘his’ to refer to the new High Representative for the sake of readability. It is, of course, not unlikely that the next High Representative will be a woman.

3 See also Rosa Balfour, Andrea Frontini and Kristi Raik (2013) (eds.): *The European External Action Service and National Diplomacies*, EPC Issue Paper, No. 73, available at http://epc.eu/pub_details.php?cat_id=2&pub_id=3385.



Herman van Rompuy (left) and Catherine Ashton in a conference on Somalia in September 2013. Photo: European External Action Service/Flickr.

of the chair diminished, as national administrations developed their own initiatives together with like-minded member states, and sent letters to the High Representative ahead of the foreign ministers meeting with concrete agenda points. It became increasingly difficult for the High Representative to balance between the legitimate concern of member states to see their priorities reflected at the EU level, and the need to concentrate on key topical issues of common interest and importance.

Meanwhile, the Commission's involvement in aspects of the CFSP diminished. Even in the old system, the Commission made very limited use of its formal right of initiative in CFSP matters. With the Lisbon Treaty, the right of initiative was given to the High Representative, and most officials of the Commission Directorate-General for external relations moved to the EEAS. As a result, the Commission's engagement in the CFSP decision-making process of the Council – where its representatives still sit in the working groups – is mainly reactive. While Commission representatives used to present ideas on how to use external Commission instruments, they now mostly contribute to the discussions if they see their work being affected. This reflects a problematic development, as the Council could also need the Commission's involvement in CFSP matters in order to allow a comprehensive evaluation of external policies.

The leadership style of the incoming High Representative is likely to influence the balance of power in the Council. If the European Council chooses an ambitious personality this summer, the foreign ministers might be confronted with a High Representative that uses his right of initiative and chairmanship of the FAC in order to advance his own agenda. A possible ensuing clash between the member states and the High Representative has to be avoided. Rather, foreign ministries and the High Representative can benefit from making a joint effort to formulate common priorities for the foreseeable future as early as possible. Such a roadmap can serve as a basis for the EU foreign policy chief to justify his agenda management of the foreign ministers meetings, while at the same time leaving some room for pressing initiatives either by the member states or himself.

European Council President: rival or partner?

Two trends have reinforced the significance of the European Council for the High Representative in the outgoing legislature. First, crisis-time decision-making has often shifted the spotlight to the heads of state or government sitting in the European Council, not just on economic issues, but also as part of the EU's response to the events in Libya and Ukraine. Second, foreign ministers ceased to sit

around the table together with the heads of state or government. The High Representative thus had the potential to be a valuable link between the FAC and the European Council, which was previously ensured by the fact that both were chaired by the rotating Presidency.

The potential has not been fully realized in recent years. Some member states, especially France, had a Council-leadership tandem of the European Council President and the High Representative in mind. Unfortunately, Herman van Rompuy and Ashton had few common initiatives. In the beginning, van Rompuy aimed at attracting the attention of the heads of state or government on foreign policy issues. The key initiative was a review of the EU's poorly defined strategic partnerships. However, the project that van Rompuy and Ashton started with gusto soon became a victim of the busy schedule of the heads of state or government during the financial crisis.

On the plus side, Ashton and van Rompuy did not interfere in each other's work. The division of representational tasks in CFSP matters was largely maintained as foreseen in the treaty. Van Rompuy met his counterparts at the heads of state or government level (for example at G20 meetings), while Ashton worked on the level of foreign ministers. The cabinet of the European Council President also received briefings and reports from the EEAS, and could duly work on the basis of the same information.

It remains to be seen whether the division of labour will remain functional in CFSP matters. The uncompetitive relationship was mainly due to the reserved leadership style of the two incumbents and van Rompuy's preoccupation with the 'euro crisis'. Yet, the current setup runs the risk of conflicts. While the European Council President is formally higher up in the hierarchy, the High Representative possesses more 'institutional power' as head of the EEAS and Vice-President of the Commission.⁴ It is conceivable that the next European Council President might seek a stronger foreign policy profile. As the European Council has gained more relevance

in external crisis decision-making, it is likely that the representational role of its President will also grow. Behind closed doors, heads of state or government have already expressed during the crisis in Ukraine that political dialogue with Russia and international partners should be raised to the level of the President.

A power struggle between the High Representative and the European Council is thus not an unrealistic scenario. The European Council President has the heads of state or government on his side. Nevertheless, having few staff and no power over the foreign policy instruments, he will also have to rely on the resources of the High Representative in CFSP matters. Tensions would also be a reflection of the sometimes difficult relationship between foreign ministries and the heads of state or government offices in the member states. Some diplomats from member states' foreign ministries watch with growing concern as the prime ministers and heads of state in the European Council sometimes take detailed foreign policy decisions without the prior consultation of their foreign ministry or the working groups in the Council. The trend is especially troublesome for member states with less political clout, as larger member states tend to have bigger influence on the agenda and results of the European Council meetings.

It thus remains important for the High Representative and the European Council to bridge any possible vertical divide and work in tandem. European Council conclusions, for example, are formulated by the President's cabinet, often at the last minute as member-state positions and actual developments shift ahead of and during meetings. Formal preparation by the General Affairs Council three to four days earlier is often outdated, especially on foreign policy issues. Close coordination of the cabinets of the new High Representative and the European Council President ahead of and during European Council meetings can foster consistent EU foreign policy communication and provide fertile ground for common initiatives.

EU Special Representatives

One of the open institutional questions concerns the future status of the EU Special Representatives (EUSR). EUSRs were introduced as one of the first

4 See also Stefan Lehne (2014): *A Window of Opportunity to Upgrade EU Foreign Policy*, Carnegie Europe, 2 May, available at <http://carnegieeurope.eu/2014/05/02/window-of-opportunity-to-upgrade-eu-foreign-policy/h9sj>.

diplomatic tools of the CFSP in the mid-1990s and – just like US Special Envoys – are employed on specific missions in key regions or on thematic issues. European envoys have partly lost their significance, as EU delegations also represent the Union in CFSP matters. Ashton thus called the EUSRs ‘an anomaly post-Lisbon’ and argued that their integration into the EEAS would allow for cost savings.

However, member states were reluctant to relinquish this diplomatic instrument. As EUSRs are formally appointed by the Council and work closely with the Political and Security Committee, they remained the last flexible CFSP instrument firmly in the hands of the member states. Member states doubt that EEAS heads of delegation have sufficient resources to take over the specific and political mandates. In addition, delegations lack the political clout wielded through the EU envoys, which are often perceived as the direct voice of the 28 member states.

The tensions between Ashton and the member states culminated at the end of 2013 when the High Representative cut off the budget of the EU Special Representative to the Middle East with almost immediate effect.⁵ The clash prompted member states to reiterate their support for the tool in the final decision of the EEAS review and during the assessment of the EUSRs’ guidelines in spring 2013.

The next High Representative would therefore be well advised to refrain from reopening the discussions with the member states on the EUSRs, and to concentrate instead on using the flexibility of the instrument to his own advantage. After all, the treaties give the High Representative authority over the EUSRs, and the power to propose new envoys. On a case-by-case basis, member states and the High Representative can jointly decide if a transfer of duties to the EEAS is a valid option. In any case, synergies between the EEAS and the EUSRs can be further improved, for example via a shared service centre, as proposed in the EEAS review.

5 Erwan Fouéré (2013): *The EU Special Representatives: A dying breed?*, CEPS Commentary, Centre for European Policy Studies, available at <http://www.ceps.be/book/eu-special-representatives-dying-breed>.

Getting to grips with the Commission

One of the biggest challenges for Ashton was putting her job as Vice-President of the Commission into practice. Ashton had entered a Commission structure with Commission President Barroso as the centre of gravity: *La Commission, c’est moi!* Barroso chaired most of the rare meetings of Commissioners with external relations profiles instead of Ashton, and undermined her task of coordinating the Commission’s external relations (Art. 18(4) TEU). Without regular discussions among Commissioners headed by Ashton, it was difficult to reach a shared assessment of the international political situation. However, the crisis in Ukraine has again shown that policies in the hands of the Commission, such as enlargement, trade or energy relations, have to be in line with the overall political and diplomatic strategy decided on in the European Council and by the foreign ministers.

The incoming High Representative will embark on his tenure as part of a new Commissioner team and under a new Commission President. The restart offers the possibility for the High Representative to activate his coordination function in the Commission. The Commission President candidates of the biggest political groups, Martin Schulz and Jean-Claude Juncker, announced that they would transfer more responsibility to ‘Commissioner clusters’ or ‘pools’ and enhance the role of the Vice-Presidents in line with the recommendations of the European Parliament.⁶

A decentralization of power that alters the President-centred organizational approach of Commission President Barroso can enhance the leverage of the High Representative as Commission Vice-President. A hierarchical relationship between the foreign policy chief and the Commissioners for development cooperation, the Neighbourhood Policy and possibly even trade policy would allow the new incumbent to steer the important external relations portfolios. A joint EEAS-Commission Secretariat, as proposed by Ashton, can provide the necessary administrative support for the coordination role

6 European Parliament Resolution of 13 March 2014 on the implementation of the Treaty of Lisbon with respect to the European Parliament, 13 March 2014, Strasbourg.

and could be implemented at the start of the new Commission term.

When it comes to the European Neighbourhood Policy in particular, the EU's external relations could benefit from a clear hierarchical division of authority. While this work-intensive portfolio can still be assigned to a separate Commissioner, the High Representative's overall political leadership over the neighbourhood policy instrument has to be clearly spelled out. The Ukraine crisis demonstrated that Europe's approach to its neighbours needs to be re-evaluated from a political perspective.

Mobilizing member states

Securing member states' 'ownership' of EU foreign policy and its institutions will be one of the key tasks for the incoming High Representative. The Lisbon Treaty further integrated the High Representative into Brussels' institutional structures. At the same time, some member states warned that the CFSP will continue to rely on national trust and commitments, not least because the CFSP remained an intergovernmental framework based on unanimity decisions with very limited EU-level resources.

In recent years, the relationship between the High Representative and the member states has sometimes been thrown off balance. Ashton's predecessor, Solana, had the contacts and expertise to convince member states to grant him mandates and resources. It is particularly important to get the 'big three', Germany, France, and the United Kingdom, on board, as well as Spain or Italy on occasion. 'Solana knew this and he spent a lot of time with them. He got on to them to get helicopters,' a close aide recalled.⁷

Ashton, on the other hand, was often perceived as detached from national motivations and concerns. This was especially the case in the beginning when the establishment of the EEAS was in danger of being taken over by the Commission, or when Ashton did not show up at the defence ministers meeting in Mallorca and instead took part at the inauguration of President Viktor Yanukovich in Kiev. In the second half of her tenure, relations with member states

greatly improved, as the EEAS gained traction and she scored policy successes on the Kosovo/Serbia and Iran files.

Yet, the incoming High Representative can only gain from working more closely with the member states. Cooperation should aim at realizing the synergistic effects of the work of the foreign ministers and the High Representative. This operates in two ways. First, member states can grant greater room for manoeuvre to the High Representative on priority portfolios. From the outset, this will naturally entail the continuation of the Iran nuclear talks that Ashton inherited from Solana. But over the course of his tenure, the new High Representative will also have the chance to identify new EU foreign policy opportunities and mobilize member states to take them up jointly through common activities.

Second, the High Representative has the possibility to make smart use of foreign ministers and their resources. This would have a multiplying effect on the efforts of the High Representative. The High Representative can actively use the expertise of member states or groups of member states in certain issues or in certain key regions, and involve the rotating Presidency to increase the visibility of the Union. Member state groups can also fulfill an important function as fora for the formulation of first priorities and compromises before engaging the complete administrative apparatus of all 28 member states and the Council.

The Ukraine crisis highlighted the fact that the use of foreign ministers as EU envoys is indispensable. Crisis diplomacy sometimes calls for national foreign ministers with the respective political clout on the ground to mediate or negotiate solutions. The engagement of the French, German and Polish foreign ministers during the escalation of the protests in Kiev in February 2014 did not sideline the High Representative, but complemented efforts to implement a common approach to the crisis.

Deputies and administrative support

The High Representative is faced with a heavy workload and the necessity to coordinate with member states and the Commission. However, initiatives to install a formal deputy to ease the High Representative's workload came up against opposition.

7 Interview conducted by the author.

Without a clear legal basis in the treaty, it was difficult to create a double-hatted deputy for the High Representative who could represent him in Commission competences as well as in CFSP matters. Instead, it is likely that the strict duality of the post will continue and the High Representative will be deputized by either a Commissioner in non-CFSP matters, or by a foreign minister in CFSP matters.⁸ This arrangement was developed on the fly in recent years and became accepted by all EU actors. Yet, its efficiency would benefit from making it more formal and by writing down the rules to which the High Representative and his stand-ins can refer.

The arrangement does not, however, fill the leadership vacuum in the administrative support structures below the High Representative. Hence, it will be important to have the right people in the cabinet of the High Representative. The cabinet can play an important role in the intra-EU mainstreaming of foreign policy. Personal representatives on specific themes ideally fulfill a bridging function between the foreign policy chief, the EEAS leadership and departments, Commissioner cabinets and engaged member states. Given an appropriate level of seniority, they can serve as valuable 'seismographs' for the High Representative to detect trends, and disagreement or policy opportunities in the EU's foreign policy system. Openness to the specific stakeholder will thus be key for the future team around the EU foreign policy chief.

Below the Cabinet, the EEAS obviously forms the decisive institutional backbone of the High Representative. Member states already agreed in the EEAS review to reorganize the leadership of the EEAS. The current 'corporate board' model was dysfunctional and will be replaced by a leadership structure with one Secretary-General and possibly two deputies. One of the deputies will be the Political Director (currently Helga Schmid). Even now, the post plays a central role in the coordination with member states and in the preparation of key diplomatic missions, such as the Iran nuclear talks. It should also be

assigned in the future to senior diplomats with good contacts to Europe's foreign policy administrations. The second deputy is currently focused on inter-institutional relations. One of his key tasks was to ensure good working relations with the European Parliament. Although the European Parliament's competences in CFSP matters have not increased with the Lisbon Treaty, it was still a crucial partner in improving the legitimacy of the service and the High Representative.

Who's next?

It remains to be seen what kind of personality the heads of state or government will choose after the European Parliament elections at the end of May. The negotiation dynamics favour a compromise candidate rather than a high-profile figure. The candidate has to be compatible with the overall package of EU leaders, which also includes the Presidents of the Commission and the European Council. Larger member states will probably try to secure Commission portfolios that give them political clout on economic issues, such as Economic and Monetary Affairs, the Internal Market or Energy.

Nevertheless, there is a possibility that the appointment will be influenced by the strategic concerns of the member states as well. Just like in the late 1990s, when Solana was chosen as High Representative for the CFSP, member states are aware that the appointment of a high-profile High Representative would repair the damaged profile of EU foreign policy. The heads of state or government could also calculate that a 'strong' High Representative will obtain greater leverage over Commission instruments and policies, which would eventually strengthen the CFSP and tilt the power balance in EU external relations towards the member states.

The High Representative 3.0 faces two main tasks when he takes up office in autumn 2014. First, he will have to define priority portfolios with the member states, in which he can raise the EU's visibility more assertively. Given the current events in the near abroad, it is conceivable that this will include a revamp of the European Neighbourhood Policy. But the trust of the member states in handing over the lead on certain policy portfolios will not be won overnight. The new High Representative will have to gradually earn his credibility through good

⁸ Alternatively, a permanent deputy on CFSP matters could possibly be appointed by the Council and the European Parliament. See Cathleen Berger and Nicolai von Ondarza (2013): *The Next High Representative and the EEAS*, SWP Comments, available at http://www.swp-berlin.org/fileadmin/contents/products/comments/2013C40_bee_orz.pdf.

work and new policy initiatives. Second, he has to readjust the administrative structure in order to establish a close network of EU foreign policy elites. To this end, he will have to take over the leadership of the Commission's external relations and restore the 'ownership' of the member states by increasing the coordination with the national administration.

The post of High Representative 3.0 calls for an experienced and well-connected candidate. If EU heads of state or government choose a high-profile High Representative this summer, they will not lose their individual voices, but they will enable a strong European voice in the world.

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