

The Negotiation of the European External Action Service:  
Theoretical and Policy Implications

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**Abstract**

Supranationalist and intergovernmentalist scholars have long debated the driving forces behind European integration. The creation of the European External Action Service (EEAS) forces an examination of this debate in a different way. Many of those countries pushing for the EEAS foresaw it as an intergovernmentalist institution during the Lisbon Treaty Negotiations. Indeed, its provisions upon implementation look strikingly intergovernmental. Despite its current form, the negotiating process between the European Commission and European Parliament during 2010 was sweepingly supranational in nature, as the EP asserted its influence as a democratically elected, pan-European body to demand changes to the final form of the EEAS as well as a greater oversight role. Though the present form of the EEAS is intergovernmental, the negotiating process has indicated that a more assertive Parliament may result in greater long-term, supranational developments.

## Introduction

The foreign policy initiatives of the central institutions of the European Union (EU) have been generally portrayed in the mainstream media as impotent at best, outright incompetent at worst. The EU dithered through violent civil war in its geographic neighborhood in the 1990s, most notably in the Balkans. European inaction in the Bosnian conflict in the early part of the decade led to tens of thousands of deaths; fear of similar inaction led to the American-led campaign in Kosovo in 1999.

One might have thought that it would be different with the Lisbon Treaty. As a whole, the Lisbon Treaty streamlined and reorganized the powers of the central bodies and appeared to centralize the power necessary for the EU act cohesively in matters of foreign policy. However, at first glance, the actions of Baroness Ashton – the first post-Lisbon High Representative for Common Foreign and Security Policy – have anything but indicated European unity in response to foreign policy crises. Ashton struggled to organize national leaders in the face of the Middle Eastern revolutions, leading Italian Prime Minister Silvio Berlusconi to decline to “disturb” his friend in Libya<sup>1</sup> as French President Nicolas Sarkozy sought Colonel Muammar Gaddafi’s ouster, recognized the opposition government, and planned a military intervention.<sup>2</sup> Ashton simply called for “restraint and calm” and hoped for “full cooperation by the authorities in protecting EU citizens,” avoiding taking any side at all.<sup>3</sup> Meanwhile, in an op-ed for *The New York*

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<sup>1</sup> Deepa Babington, “Berlusconi under fire for not ‘disturbing’ Gaddafi,” *Reuters*, February 20, 2011. <http://uk.reuters.com/article/2011/02/20/uk-italy-libya-berlusconi-idUKTRE71J2CI20110220>

<sup>2</sup> “France breaks ranks on Libya, dwarfs EU’s Ashton,” *EurActiv*, March 15, 2011, <http://www.euractiv.com/en/global-europe/france-breaks-ranks-libya-dwarfs-eus-ashton-news-503003>

<sup>3</sup> “Declaration by the High Representative, Catherine Ashton, on behalf of the European Union on events in Libya,” European Union Press Office, February 20, 2011.

*Times*, Ashton proposed isolating Libya as the best tactic.<sup>4</sup> The crisis prompted a media outcry of European weakness.<sup>5678</sup> It quickly became clear that the member-states were still running European foreign policy initiatives.

Despite the apparent ineffectiveness of EU Common Foreign and Security Policy (CFSP), an undercurrent in the negotiation process between the European Parliament (EP) and other central institutions has opened a backdoor to potentially strengthening the EU's centralized foreign policy initiatives. The European Parliament took advantage of the creation process for the European External Action Service (EEAS) to ensure that its opinions were incorporated into the final proposal for the EEAS despite the Lisbon Treaty's indications that the Parliament should be solely consultative on the matter. The EP's use of its newly acquired budget powers<sup>9</sup> to force a confrontation over the EEAS creation process indicates that in spite of the visible failures of current EU foreign policy, there have been movements to strengthen supranationalism of CFSP beneath the surface that could result in future, stronger cooperation on foreign policy.

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<sup>4</sup> Baroness Catherine Ashton, "Listening to the Revolution," *The New York Times*, February 25, 2011, <http://www.nytimes.com/2011/02/26/opinion/26iht-edashton26.html>

<sup>5</sup> Nile Gardiner, "The EU is weak and clueless on Libya," *The Telegraph*, February 23, 2011, <http://blogs.telegraph.co.uk/news/nilegardiner/100077436/the-eu-is-weak-and-clueless-on-libya/>

<sup>6</sup> Elina Viilup, "EU's weak and slow reaction to Arab spring has no excuses," Barcelona Centre for International Affairs, March 8, 2011, [http://www.cidob.org/en/publications/opinion/europa/eu\\_s\\_weak\\_and\\_slow\\_reaction\\_to\\_arab\\_spring\\_has\\_no\\_excuses](http://www.cidob.org/en/publications/opinion/europa/eu_s_weak_and_slow_reaction_to_arab_spring_has_no_excuses)

<sup>7</sup> Fraser Nelson, "One new trick, same old cuts," *News of the World*, March 19, 2011. [http://www.newsoftheworld.co.uk/notw/\\_news/nolnews\\_opinion/nolopinion\\_fraser/1247682/Chancellor-wanted-to-hog-spotlight-with-next-weeks-Budget-Now-hersquoll-compete-with-Libya.html](http://www.newsoftheworld.co.uk/notw/_news/nolnews_opinion/nolopinion_fraser/1247682/Chancellor-wanted-to-hog-spotlight-with-next-weeks-Budget-Now-hersquoll-compete-with-Libya.html)

<sup>8</sup> George Grant, "Put Down the Mad Dog," *Wall Street Journal*, February 22, 2011. <http://online.wsj.com/article/SB10001424052748704476604576158303315291900.html>

<sup>9</sup> The EP gained codecision in budget matters with the Lisbon Treaty reforms.

## The European Union

The European Union is a supranational union with twenty-seven European members that span the continent from Portugal to Estonia. The EU shares varying degrees of power in different issue areas with its member-states; the central institutions have the most influence on economic issues and less influence on other areas of policy, including foreign policy. Decision making in the European Union is conducted by three main bodies: the Commission, the Council, and the Parliament. The Commission serves a cabinet-style executive role, while the Council and Parliament serve essentially as a bicameral legislature. The Council has more power on some issue areas, whereas on others the EP has equal powers of codecision. Of these, the Parliament is the only body democratically elected. The Council is comprised of the national ministers of member-states appropriate to the topic on which legislation is being discussed; that is, on matters of foreign policy, the Foreign Affairs Council will meet and be chaired by High Representative Catherine Ashton.<sup>10</sup>

As CFSP has not been centralized to the degree that policies in other areas have been, the Council – as the institution directly comprised of the member-states – has the greatest influence. While the Lisbon Treaty reforms have altered the balance, and on any given issue the exact nature of deliberations and relative power between the three main institutions is difficult to determine, foreign policy decision-making has been primarily an intergovernmental exercise throughout the history of the European Union.<sup>11</sup>

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<sup>10</sup> For further overview of European institutions and their interactions, please see Desmond Dinan, *Ever Closer Union: An Introduction to European Integration*, 4<sup>th</sup> Edition, (Boulder: Lynne Rienner, 2010). Please see Appendix A for an organizational chart.

<sup>11</sup> For further information on European foreign policy, see Stephan Keukeleire and Jennifer MacNaughtan, *The Foreign Policy of the European Union*, (New York: Palgrave MacMillan, 2008).

## Theoretical Background

Foreign policy has been considered to be one of the most intergovernmental areas of European policy, with member-states guarding their sovereignty in global diplomacy. Theorists have analyzed this behavior, hoping to explain how foreign policy relates to the larger project of European integration. Theoretical perspectives on European integration can be broadly divided into several main schools, two of which are intergovernmentalism and supranationalism.<sup>12</sup> Each posits a theory explaining the motives and continued evolution of the ongoing process of European integration. Intergovernmental theorists see European integration as being driven by self-interested member-state governments, who coordinate on those issues where they stand to reap mutual benefits. Contrarily, supranationalist theorists see integration as having developed its own momentum. Centralized institutions will drive further integration by seeking further power, resources, and responsibilities.

Supranationalism was the philosophy of one of the European Union's founders and first major theorist, Jean Monnet. Monnet, together with French Foreign Minister Robert Schuman, envisioned the then-European Coal and Steel Community as a place where member-states would delegate authority to a supranational organization to overcome the parochial interests of its member-states.<sup>13</sup> Monnet believed in the "spill-over effect": the first stages of integration would create momentum for further integration

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<sup>12</sup> Other philosophies on European integration are proposed by scholars, and there can be great nuance within the intergovernmentalist and supranationalist camps, but those differences are beyond the scope of this paper. Intergovernmentalism is also called co-operationalism, while supranationalism can also be generally considered analogous to neofunctionalism. For the purposes of this paper, these conceptions can be thought to be synonymous. Other conceptions of European integration, including constructivism, federalism, and new institutionalism, are not considered here.

<sup>13</sup> Simon Hix, *The Political System of the European Union*, (New York: Palgrave MacMillan, 2005), 32.

across more areas.<sup>14</sup> Supranationalists largely follow Monnet's vision of the EU as progressively expanding integration, evolving further powers and responsibilities to centralized institutions.

Among the first scholars to attempt to construct a cohesive theory around Monnet's spillover thesis was Ernst Haas. Haas sought to define and bound the project of European integration, constructing the framework that much subsequent debate has rested upon. Haas saw the importance of new institutions that "possess or demand jurisdiction over pre-existing national states."<sup>15</sup> Haas characterized Monnet's spillover as "disjointed incrementalism," which necessitated flexibility among "turbulence" to stimulate further cooperation between members of the then-European Community.<sup>16</sup> That spillover would start in one sector with easy cooperation and progress into other sectors, allowing for progress from low to high politics.<sup>17</sup>

Contemporary scholars like Malcolm Ross continue to support and further theorize the supranational view of the European Union. Ross sees European solidarity as self-reinforcing;<sup>18</sup> if the EU is to be perceived as involved in reinforcing processes, central institutions would naturally seek further accrual of powers to the European level. Ross describes solidarity as a virtuous circle of three components: creation, expression,

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<sup>14</sup> George W. Ball, Douglas Brinkley, and Clifford Hackett, *Jean Monnet: The Path to European Unity*, (New York: Palgrave MacMillan, 1992), 172.

<sup>15</sup> Ben Rosamond, *Theories of European Integration*, (New York: Palgrave MacMillan, 2000), 12.

<sup>16</sup> *Ibid*, 92.

<sup>17</sup> *Ibid*, 60.

<sup>18</sup> Yuri Borgmann-Prebil and Malcolm Ross, "Promoting European Solidarity: Between Rhetoric and Reality," in *Promoting Solidarity in the European Union*, eds. Yuri Borgmann-Prebil and Malcolm Ross, (New York: Oxford University Press, 2010), 3.

and sustainability.<sup>19</sup> This is an update and refinement to the Monnet spill-over thesis, allowing for the greater agency shown by European institutions since Monnet's death.

Supranationalist scholars often focus on the role of the European institutions as policy entrepreneurs with regard to CFSP. Kenneth Armstrong and Simon Bulmer emphasize the initiative taken by the Parliament to push for the passage of the Single European Act, the first major initiative on CFSP in the European Union; Wayne Sandholtz and John Zysman similarly focus on the entrepreneurship of the Commission in SEA negotiations.<sup>20</sup> Eric Stein and others view the European Court of Justice as a political actor that "has promoted European integration at every opportunity."<sup>21</sup> That EU institutions were able to drive the negotiations demonstrates that the Union was not the product of only its member-states, but also that Monnet's spillover effects had indeed progressed to the point where the centralized bodies could push for more cooperation in new areas, including foreign policy. Further supranationalism in foreign policy could be demonstrated by more mandatory cooperation and obligations. This cooperation would have been driven by successful economic policy integration that necessitated further cooperation on matters of foreign policy as a result of the common market, demonstrating the low-to-high politics hypothesis.

Intergovernmentalist scholars shy away from the idea of spillover effects motivating integration, and intergovernmentalism arose as a critique of those supranationalist viewpoints espoused by the initial integration theorists.

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<sup>19</sup> Malcolm Ross, "Solidarity – A New Constitutional Paradigm for the EU?" in *Promoting Solidarity in the European Union*, eds. Yuri Borgmann-Prebil and Malcolm Ross, (New York: Oxford University Press, 2010), 35.

<sup>20</sup> Teodor Lucian Moga, "The Contribution of the Neofunctionalist and Intergovernmentalist Theories to the Evolution of the European Integration Process," *Journal of Alternative Perspectives in the Social Sciences* 1:3 (2009), 801.

<sup>21</sup> Hix, *The Political System*, 136.



Intergovernmentalism was first theorized by Stanley Hoffmann; Hoffmann argues that competing national interests would ultimately prevent spillovers and rejects the notion of any power evolution from low-to-high politics, especially in areas like foreign policy that were essential to maintaining the national interest.<sup>22</sup> Andrew Moravcsik, an important later intergovernmental theorist, writes that the major European Union powers agreed upon the degree of sovereignty to be transferred in order to prevent the European Commission from gaining too much power for central institutions.<sup>23</sup> The role of institutions is that of “facilitators of positive sum bargaining”;<sup>24</sup> that is, any benefits that the institutions might gain would be equaled by benefits for the member-states, proving that cooperation would be in those member-states’ interests.

Intergovernmentalist theorists have an easy explanation for the lack of centralization of European foreign policy prerogatives in EU institutions: such centralization is not in the interests of the member-states and, as such, is not pursued by them. That said, the mere existence of CFSP in any formal structure involved member-states ceding some degree of control to the central EU institutions, meaning that a pure intergovernmental definition even in foreign policy would be inaccurate.<sup>25</sup> Hoffman cites diverging interests between member-states that undermined the GATT Uruguay Round negotiations in the early 1990s as evidence that – even in the era of common foreign and security policy – national interests prevail over “European” ones.<sup>26</sup> The difficulty in progress on CFSP is a strong indication that member-states do maintain sometimes-

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<sup>22</sup> Moga, 800.

<sup>23</sup> Ibid, 802.

<sup>24</sup> Rosamond, 143.

<sup>25</sup> Ibid, 79.

<sup>26</sup> Stanley Hoffman, “Europe’s Identity Crisis Revealed,” in *The European Sisyphus: Essays on Europe, 1964-1994*, ed. Stanley Hoffmann, (Boulder: Westview Press, 1995), 55.

conflicting foreign policy goals.<sup>27</sup> While the successful passage of the Lisbon Treaty illustrates that a stronger commitment to CFSP has been agreed upon, the negotiating process reveals divisions among those member-states guarding their own foreign policy prerogatives.

Each theoretical school would have a clear prediction for the form that the EEAS would take. Intergovernmentalists would predict a relatively weak bureaucratic organization without significant bureaucratic powers or diplomatic capacity and a negotiating process driven by member-states. Supranationalists would predict that the Lisbon Treaty reforms would result in a professional, fundamentally European diplomatic corps that could represent the EU cohesively and with the same capacities as its constituent member-states.

### **Pre-Lisbon Foreign Policy**

As the European Union has developed a centralized foreign policy, developments have largely followed the patterns predicted by intergovernmentalist scholars. Brussels was not significantly involved in foreign policy prerogatives until after the implementation of the Maastricht Treaty. The Single European Act in 1986 created a formal structure for intergovernmental cooperation in matters of foreign policy for the first time.<sup>28</sup> With Maastricht's implementation in 1993, foreign policy was no longer an exclusively intergovernmental domain.

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<sup>27</sup> Rosamond, 121.

<sup>28</sup> Federiga Bindi, "European Union Foreign Policy: A Historical Overview," in *The Foreign Policy of the European Union: Assessing Europe's Role in the World* ed. Federiga Bindi, (Washington DC: Brookings Institution Press, 2010), 24-25.

The Maastricht Treaty brought about the formalization of common foreign and security policy in response to changes brought about by the end of the Cold War.<sup>29</sup> This was presented to the public as a real European policy, creating high expectations. CFSP was officially made European policy, part of the “second pillar,” requiring unanimous, consensus based decision-making and minimizing the roles of the Parliament and Commission.<sup>30</sup> Though the Maastricht Treaty ostensibly opened the doors for greater cooperation, isolating CFSP into a separate, highly restricted pillar minimized any supranational advances. Ultimately, the combination of European inaction, the crisis in the Balkans, and the lack of tools provided in the treaty to strengthen common foreign policy resulted in public disillusionment.<sup>31</sup>

CFSP was strengthened by the Treaty of Amsterdam in 1997. The most important foreign policy provision in Amsterdam was the creation of the High Representative for Common Foreign and Security Policy, giving the EU central institutions a permanent foreign policy figure.<sup>32</sup> The High Representative, along with the Commissioner of External Relations and the Foreign Minister of the rotating Council presidency, formed the troika responsible for foreign affairs; the members of the troika held primary roles in European external relations until the implementation of the Lisbon Treaty.

The European Commission was not entirely without diplomatic representation pre-Lisbon Treaty. The Commission maintained 123 delegations worldwide under the

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<sup>29</sup> Keukeleire and MacNaughtan, 48.

<sup>30</sup> John Van Oudenaren, “The European Union as a Foreign Policy Actor,” in *European Foreign Policies: Does Europe Still Matter*, Ronald Tiersky and John Van Oudenaren, eds. (Lanham, MD: Rowan and Littlefield, 2010), 23.

<sup>31</sup> Keukeleire and MacNaughtan, 51.

<sup>32</sup> *Ibid*, 54.

banner of the Director-General for External Relations (RELEX).<sup>33</sup> The RELEX delegations were limited in scope and only represented the Commission itself, as opposed to the European Union as a whole. The missions lacked significant diplomatic clout – with High Representative Javier Solana (organizationally located in the Council) being the primary face of EU central foreign policy – and were used primarily for purposes of disseminating information.

Despite the *de jure* progress beginning with the Single European Act, foreign policy remained predominately the domain of the member-states. Nowhere was this more evident than in the public splits between states over the Iraq War in 2003. The illusion of a “common” policy was shattered when the United Kingdom and several new member-states supported the American intervention, while France and Germany led the opposition to the operation. Neither Javier Solana nor the Commissioner for External Relations Chris Patten had a prominent role in the foreign policy debate.

### **Negotiation Background**

The process of creating a constitutional treaty for the European Union was kickstarted by German Foreign Minister Joschka Fisher in 2000. This was followed by a declaration on the 2001 Treaty of Nice calling for new debate and discussions about the future of the European Union.<sup>34</sup> The subsequent Laeken Declaration in 2001 stipulated

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<sup>33</sup> Dominic Coppens, Bart de Meester, and Jan Wouters, “The European Union’s External Relations after the Lisbon Treaty,” in *The Lisbon Treaty: EU Constitutionalism without a Constitutional Treaty?*, eds. Stefan Griller and Jacques Ziller, (Vienna: Springer, 2008), 157.

<sup>34</sup> Stephen C. Sieberson, *Dividing Lines Between the European Union and Its Member States: The Impact of the Treaty of Lisbon*, (The Hague: T.M.C. Asser Press, 2008), 21.

that former French President Valéry Giscard d'Estaing would lead a Convention on the Future of Europe to convene in March 2002.<sup>35</sup>

The Convention text was considered the “starting point” for negotiations with member-states regarding the contents of the Constitution and, ultimately, the Lisbon Treaty.<sup>36</sup> Giscard d'Estaing hoped to push the delegates into acting not in a purely intergovernmental capacity (upon instructions from their home governments) but in a personal capacity.<sup>37</sup> If Giscard d'Estaing were to be successful in this goal, a greater flexibility in the final outcome would be evident. The electoral make-up of the convention indicated that there would be potential for supranational advancement: one representative from the government of each member-state (and three candidates: Bulgaria, Romania, and Turkey), two representatives from the national legislature of each member-state, sixteen MEPs, and two Commission delegates.<sup>38</sup> The Commission delegates and MEPs had advantages in negotiations based on their familiarity with both the setting and the material.<sup>39</sup> Of the 66 delegates, a significant majority were affiliated with the center-right European People's Party (24) or European Socialist Party (23).<sup>40</sup>

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<sup>35</sup> European Union. “Laeken Declaration on the Future of the European Union,” Section III, December 15, 2001, <http://european-convention.eu.int/pdf/lknen.pdf>

<sup>36</sup> Guy Milton and Jacques Keller-Noëllet, *The European Constitution: Its Origins, Negotiation and Meaning*, (London: John Harper Publishing, 2005), 103. Milton and Keller-Noëllet both worked in the European Council at the time of writing, and it is possible that their characterizations of both the Commission delegation and Giscard d'Estaing's treatment of delegations from member-states and MEPs are influenced by institutional rivalry. Dimitrakopoulos and Kassim do corroborate the lack of influence of the Commission on the final product coming from the Convention.

<sup>37</sup> *Ibid.*, 31.

<sup>38</sup> *Ibid.* 32.

<sup>39</sup> *Ibid.*, 33-34.

<sup>40</sup> Michael O'Neill, *The Struggle for the European Constitution: A Past and Future History*, (New York: Routledge, 2009), 87.

While the Convention was ongoing, the Romano Prodi<sup>41</sup>-led Commission was drafting its own constitution in secret, codenamed Penelope. Among the most controversial provisions in the text itself was the idea that those member-states that failed to ratify the European Constitution should be expelled from the Union.<sup>42</sup> Penelope also envisioned external relations being governed by a new position called the Secretary of the EU, who would also serve as External Relations Commissioner, head of the Foreign Affairs Council, and Vice-President of the Commission.<sup>43</sup> More important than the contents was the process behind it: the document was leaked to the press just as the agreed upon Convention text was presented, “undermin[ing] the Commission’s credibility.”<sup>44</sup> Prodi’s attempts to push through reforms in favor of the Commission – which were ultimately more supranational reforms – were stifled.

The primary consequence of the Penelope fiasco was the complete ineffectiveness of the Commission delegates at the Convention. Ultimately, their influence on the final product was minimized despite their obvious institutional advantages. Giscard d’Estaing as leader of the Convention had a significant personal role in the final outcome by directing the debate. His treatment of both the Commission delegates post-Penelope and the member-states due to their continued disagreements led to greater influence for the Parliamentarians.<sup>45</sup> The greater influence of national parliaments, more likely to

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<sup>41</sup> Prodi, previously the Italian Prime Minister, succeeded Jacques Santer as President of the European Commission following Santer’s resignation.

<sup>42</sup> Charlemagne, “The Perils of Penelope,” *The Economist*, December 12, 2002, <http://www.economist.com/node/1491763>

<sup>43</sup> Dionyssi G. Dimitrakopoulos and Hussein Kassim, “Inside the European Commission: Preference Formation and the Convention on the Future of Europe,” *Comparative European Politics* 3:2 (July 2005), 194.

<sup>44</sup> *Ibid*, 197.

<sup>45</sup> Milton and Keller-Noëllet, 35-36.

jealously guard member-state prerogatives, strengthened the position of those hoping for an ultimately intergovernmental document.

The final proposals of the Convention with regard to common foreign and security policy were modest. The Constitutional draft proposed combining the existing High Representative of Foreign Affairs role of Javier Solana with the current Commissioner for External Relations under the title of Union Minister of Foreign Affairs, which had been named in the 1986 Single European Act.<sup>46</sup> The Union Minister position would be dual-hatted, serving roles in both the Council and Commission. The creation of a European External Action Service in support of the new Union Minister was also proposed. Notably, qualified majority voting (QMV) was also made more broadly possible on CFSP decisions put forth by the Union Minister or with the agreement of all member-states to pursue QMV on a matter under the *passerelle* provision.<sup>47</sup> Member-states can also “constructively abstain,” allowing unanimity to proceed when one is opposed.<sup>48</sup> Finally, member-states committed to common defense in the event of an attack.<sup>49</sup>

The Convention text was debated and altered by the IGC following the Convention, a debate in which member-states had direct input. Germany supported several of the supranational innovations put forth by the Council, having the goal of the implementation of QMV in foreign policy matters.<sup>50</sup> France similarly supported the

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<sup>46</sup> Jacques Ziller, *The European Constitution*, (The Hague: Kluwer Law International, 2005), 119.

<sup>47</sup> Sophie Dagand, “The Impact of the Lisbon Treaty on CFSP and ESDP,” *European Security Review* 37 (March 2008), 3.

<sup>48</sup> *Ibid.*, 3-4.

<sup>49</sup> Nicola Verola, “The New EU Foreign Policy under the Treaty of Lisbon,” in *The Foreign Policy of the European Union: Assessing Europe’s Role in the World* ed. Federiga Bindi, (Washington DC: Brookings Institution Press, 2010), 48.

<sup>50</sup> Maurizio Carbone, *National Politics and European Integration: From the Constitution to the Lisbon Treaty*, (Northampton, MA: Edward Elgar, 2010), 60.

expansion of QMV and joined with the German delegation to propose a transition to more widespread use of majority voting.<sup>51</sup> That France and Germany – often referred to as the “engines” of European integration – agreed on a foreign policy initiative would suggest to many scholars that more supranational progress in CFSP was likely;<sup>52</sup> however, intergovernmental consensus did not form around the Franco-German position.

Italy pushed perhaps the most ambitious supranationalist agenda with respect to CFSP. Italy proposed instituting true QMV for all proposals put forth by the EU Foreign Minister.<sup>53</sup> This was a tactical decision by which the Italian delegation hoped to create momentum for more realistic proposals for greater supranationalism in CFSP; however, those member-states hostile to the idea of reducing unanimity ignored the proposal.<sup>54</sup> Ireland was hostile to the idea of QMV in foreign affairs and removed it from the draft text when it held the rotating presidency.<sup>55</sup> Moreover, Austria, Ireland, and the United Kingdom argued that QMV in CFSP might be incompatible with their legal systems.<sup>56</sup> In these cases, member-states were allowed to refer the issue to the European Council.<sup>57</sup> The failure of the Italian proposal ended the best chance of the High Representative having a substantive impact on domestic European foreign policy debates.

Spain and Poland were among the most vociferous intergovernmentalists in the early stages of debate on the Constitution. Spain under the Partido Popular (PP) government (1996-2004) actively pursued an intergovernmentalist agenda during the

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<sup>51</sup> Nicole Alecu de Flers, “The Provisions on CFSP and CSDP in the Lisbon Reform Treaty: Stumbling Blocks or Milestones?” *Hebrew University of Jerusalem International Law Forum* 08-08, September 2008, 13-14.

<sup>52</sup> Douglas Webber, “Introduction,” in *The Franco-German Relationship in the European Union*, ed. Douglas Webber, (New York: Routledge, 1999), 3-4.

<sup>53</sup> Milton and Keller-Noëllet, 103.

<sup>54</sup> *Ibid*, 103-104.

<sup>55</sup> Carbone, 130.

<sup>56</sup> Milton and Keller-Noëllet, 104.

<sup>57</sup> *Ibid*, 104.



Constitutional negotiation process.<sup>58</sup> The PP's "overt defense of national interests" was in contrast to the typical, more supranational Spanish negotiating position vis-à-vis the European Union.<sup>59</sup> Spanish Prime Minister José Maria Aznar allied himself with the British and Polish administrations as high-population member-states opposed to the more supranational German and French agenda.<sup>60</sup> Spain took particular issue with the increased power of the High Representative as outlined by the proposed constitution, wary of this increasing supranationalism in external relations.<sup>61</sup> However, the unexpected 2004 election victory by the Socialists brought José Luis Rodríguez Zapatero to power as Prime Minister; Zapatero was more open to strengthening the central institutions of the European Union. Without continued Spanish opposition, "Poland was left without an ally and its original opposition to the constitution was replaced by a more conciliatory tone."<sup>62</sup> In fact, Zapatero shifted Spanish priorities on supranationalism to the point that later scholars assess the Spanish position as favorable to more common foreign policy and strengthening the European Union's international presence.<sup>63</sup> The case of Spain underscores the dangers of looking at institutional and national actors as monolithic and static and illustrates that initiative can easily shift positions on European CFSP over time.

Britain, like Aznar-era Spain and Poland, was wary of supranationalism advancing too far in CFSP during the Constitutional and Treaty negotiations. Symbolically, the United Kingdom – along with other intergovernmentalist leaning states

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<sup>58</sup> Mary Farrell, "Spain in the New European Union: In Search of a New Role and Identity," in *The Politics of Contemporary Spain*, ed. Sebastian Balfour, (New York: Routledge, 2005), 218.

<sup>59</sup> Carlos Closa and Paul M. Heywood, *Spain and the European Union*, (New York: Palgrave MacMillan, 2004), 122.

<sup>60</sup> Farrell, 221.

<sup>61</sup> Ibid, 224.

<sup>62</sup> Ibid, 229.

<sup>63</sup> Carbone, 168.

– feared that the terminology of “Union Minister for Foreign Affairs” evoked the idea that EU was becoming a state itself.<sup>64</sup> Due to this fear, the title “Union Minister” was replaced with “High Representative of the Union for Common Foreign and Security Policy,” a title directly descending from the existing position held by Javier Solana. The United Kingdom saw this as an important concession.<sup>65</sup> The United Kingdom formed an alliance with Ireland and several smaller member-states to block ambitious foreign policy proposals.<sup>66</sup> The change in terminology did not affect the dual-hatted nature of the position or result in a reduction in the responsibilities or power of the position; however, it represented a symbolic victory by reducing the appearance of any transfer of sovereignty to Brussels. The United Kingdom was “resigned” to the implementation of QMV in some form,<sup>67</sup> but the opportunity to refer legally problematic matters to the Council provided a mechanism for the United Kingdom to slow the process down.

Following the failure to ratify the European Constitution in referenda in France and the Netherlands, the contents were refashioned in the form of the Lisbon Treaty. This shift modified existing European treaties rather than replaced them outright, allowing governments to move past many of the public wariness about having a “constitution” for the EU. Changes from the Constitution to the Lisbon Treaty were largely insubstantial; however, one key change with regard to foreign policy was included. In the European Constitution, there was a possible legal argument for primacy at the European level in CFSP matters. That ambiguity has been removed from the text

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<sup>64</sup> Jean-Claude Piris, *The Lisbon Treaty: A Legal and Political Analysis*, (New York: Cambridge University Press, 2010), 34.

<sup>65</sup> Carbone, 84.

<sup>66</sup> *Ibid*, 130.

<sup>67</sup> *Ibid*, 81.

of the Lisbon Treaty, which emphasizes CFSP's "specific rules and procedures."<sup>68</sup> Stefan Griller argues that this shift in phrasing makes CFSP under Lisbon more intergovernmental than the Constitution would have been.<sup>69</sup> The United Kingdom again intervened in the negotiating process, hoping to weaken what supranational progress in foreign affairs had been made. The United Kingdom argued that too much supranationalism in CFSP could challenge its permanent seat on the United Nations Security Council.<sup>70</sup> British Foreign Secretary Margaret Beckett sought to rhetorically undermine the status of the new High Representative and the EEAS at a meeting of foreign ministers.<sup>71</sup> Though Beckett's grandstanding did not result in any notable alterations to the text,<sup>72</sup> the shifts that were made – coupled with the initial post-Convention Constitutional negotiating process – solidified the Lisbon Treaty as a victory for the intergovernmentalists, at least with respect to CFSP.

### **Treaty Components for CFSP**

The Lisbon Treaty addresses foreign policy in limited but important areas. Common Foreign and Security Policy is differentiated from the rest of European external policy as a prerequisite of British ratification.<sup>73</sup> That said, the Lisbon Treaty also indicates there is no legal difference between the two.<sup>74</sup> Among the foreign policy prerogatives put forward with the ratification of the Lisbon Treaty was the creation of the

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<sup>68</sup> Stefan Griller, "Is this a Constitution? Remarks on a Contested Concept," in *The Lisbon Treaty: EU Constitutionalism without a Constitutional Treaty?*, eds. Stefan Griller and Jacques Ziller, (Vienna: Springer, 2008), 48.

<sup>69</sup> *Ibid*, 48.

<sup>70</sup> *Ibid*, 80.

<sup>71</sup> *Ibid*, 81.

<sup>72</sup> A declaration was added to the text that reiterated that CFSP would not infringe upon national foreign policy prerogatives.

<sup>73</sup> Coppens, de Meester, and Wouters, 146.

<sup>74</sup> *Ibid*, 147.

position of the High Representative of the European Union for Foreign Affairs and Security Policy and the European External Action Service, to serve as the bureaucratic and diplomatic corps assisting the High Representative. The High Representative became the *de facto* Foreign Minister of the European Union – though that official title remained negotiated from the text by London.

The High Representative was designed to combine existing positions on the Council and Commission for the purpose of greater centralization of European external action initiatives.<sup>75</sup> The High Representative, in addition to his or her responsibilities as a Commissioner, facilitates meetings of the Foreign Affairs Council as a non-voting member, allowing direct influence into the procedural outcomes of two of the three central institutions.<sup>76</sup> The fact that the High Representative is directly associated with the European Council serves as a safeguard to intergovernmentalists, as the Council is staunchly opposed to “communitarisation” – or a more supranational conception – of foreign policy.<sup>77</sup> Some scholars have suggested that the effectiveness of the position could be curtailed by subjecting the High Representative to the “inevitable conflict of interests” that would arise out of her role as a leader in both the Council and Commission.<sup>78</sup> Declaration 15 on Article 13a of the Treaty stipulates that the new High Representative should begin work with the Secretary-General of the Council,

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<sup>75</sup> Ibid 151.

<sup>76</sup> Ibid, 152.

<sup>77</sup> Ibid, 155.

<sup>78</sup> Per M. Norheim-Martinsen, “Who Speaks for Europe While We Wait for the EU Foreign Minister?” in *The Rise and Fall of the EU’s Constitutional Treaty*, ed. Finn Laursen, (Boston: Martinus Nijhoff, 2008), 107.

Commission, and member-states to prepare for the creation of the EEAS.<sup>79</sup> The Parliament is notably absent from this list of participants.

The exact responsibilities of the EEAS were less clear. Several declarations amended to the end of the Lisbon Treaty addressed restrictions to the EEAS when its form was devised without ever explicitly enumerating its powers. The Lisbon Treaty was clear in indicating in Declaration 14 that

the High Representative of the Union for Foreign Affairs and Security Policy and the External Action Service will not affect the existing legal basis, responsibilities, and powers of each Member State in relation to the formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and participation in international organizations...<sup>80</sup>

With no responsibilities shifted to the EEAS from the member-states, the Treaty indicates that the Service would be responsible for coordinating those external policies already concentrated in Brussels but would not accrue new policy prerogatives.

Given that the Lisbon Treaty never outlines its responsibilities and only delineates which capabilities and responsibilities it explicitly lacks, the Treaty is highly ambiguous as to the ultimate form of the External Action Service itself. All that is officially stipulated in the Lisbon Treaty is that the EEAS “shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of Member States.”<sup>81</sup> The exact composition of diplomatic staff from the central European institutions *vis-à-vis* national governments is not stipulated by the Treaty. Similarly, neither ratios of participation of

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<sup>79</sup> Treaty on European Union and the Treaty on the Functioning of the European Union as amended by the Treaty of Lisbon, “Decl. 15, Art. 27,” December 13, 2007 [hereinafter Treaty of Lisbon].

<sup>80</sup> Ibid, “Decl. 14.”

<sup>81</sup> Ibid, “Art. 27.3.”

diplomats from member-states in relation to one another nor the Council in relation to the Commission are codified. The European Council – the institution in which member-states had the most direct influence – was given final decision-making authority over the final form of the EEAS. Article 13a indicates that, “The Council shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission.”<sup>82</sup>

As a result, prior to the implementation process, there was wide speculation as to the exact form that the EEAS would take. Dominic Coppens, Bart de Meester, and Jan Wouters at the Leuven Centre speculated that the EEAS would take a “minimalist model”; that model would create separate EU delegations at member-states to replace the RELEX delegations, but would have difficulty in coordinating with EU Commissions and Directors-General outside of the EEAS.<sup>83</sup>

Coppens, de Meester, and Wouters serve as a median of scholarly perspectives on predicting the ultimate form of the Service. Simon Duke hypothesized potential roles for the EEAS ranging from merely co-opting part of the existing RELEX missions to incorporating all foreign policy positions and missions from the range of Director Generals within the Commission.<sup>84</sup> He also proposed seconding staff beyond national members of respective diplomatic corps to include trade, development, and aid officials.<sup>85</sup> Laura Rayner envisioned a model beyond what Coppens, de Meester, and Wouters define as minimalist. Among her hypotheses for the ultimate form of the EEAS was what she terms “virtual” organization, which would have minimal staff (and influence) and

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<sup>82</sup> Ibid, “Art. 27.3”

<sup>83</sup> Coppens, de Meester, and Wouters, 157.

<sup>84</sup> Simon Duke, “The European External Action Service: A Diplomatic Service in the Making?” *CFSP Forum* 2:4 (July 2004), 5.

<sup>85</sup> Ibid, 6.

coordinate existing roles and organizations.<sup>86</sup> Additionally, Rayner proposed a “maximalist” option, in which the EEAS would incorporate a wide array of foreign policy prerogatives that would ultimately require a significant shift of power to the new body and completely refocusing the now-weakened Commission itself on exclusively internal issues.<sup>87</sup> Along the lines of a maximalist model, Claudia Dunlea suggested that smaller member-states could shut down some embassies and transfer their diplomatic representation to EU embassies, avoiding resource duplication.<sup>88</sup>

Some scholars adopted less speculative positions and more actively sought to set the agenda for EEAS deliberations. Sophie Vanhoonacker and Natasja Reslow focus on the five areas of institutional creation outlined by Barbara Koremenos, Charles Lipson, and Duncan Snidal in their work on rational design in international institutions: membership, scope, centralization, control, and flexibility.<sup>89</sup> Vanhoonacker and Reslow argue that any acceptable form for the EEAS must include staff from all EU member-states and have a provision for revisiting the institutional structure after the EEAS has been incorporated to allow for gradual evolution; they conclude that the EEAS will likely be a compromise between minimalist and maximalist models.<sup>90</sup> They refrain from definitive statements on the scope and level of centralization beyond suggesting that there

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<sup>86</sup> Laura Rayner, “The EU Foreign Ministry and Union Embassies,” (London: Foreign Policy Centre, June 2005), 10.

<sup>87</sup> Ibid, 11.

<sup>88</sup> Claudia Dunlea, “The Future Union Embassies: The Beginning of the End of National Diplomacy?” in *The European Union: Multidisciplinary Views*, Giuseppe Ammendola, ed., (Stony Brook, NY: Forum Italicum, 2008), 87-103.

<sup>89</sup> Barbara Koremenos, Charles Lipson, and Duncan Snidal, “The Rational Design of International Institutions,” *International Organization* 55:4 (Autumn 2001), 761-799.

<sup>90</sup> Sophie Vanhoonacker and Natasja Reslow, “The European External Action Service: Living Forwards by Understanding Backwards,” *European Foreign Affairs Review* 15:1 (2010), 1-18.

will be significant disagreement among member-states on the degree of powers in both areas to cede to Brussels.<sup>91</sup>

Jozef Bátora analyzed three potential models for the EEAS that would guarantee sufficient democratic accountability. These models fit at various points on the continuum of minimalist vs. maximalist devised by previous scholars. First, Bátora speculates on a highly intergovernmental EEAS that would serve in support of existing national level foreign ministries and that would be accountable to national parliaments.<sup>92</sup> His second conception is of a supranational body with direct accountability to the European Parliament that would largely replace existing national-level foreign diplomatic missions.<sup>93</sup> Finally, Bátora suggests a model first proposed by Mary Martin that emphasizes “human security principles,” eschewing elite diplomacy in favor of large external contacts across the full range of civil society.<sup>94</sup> Bátora’s analysis of the potential forms of the EEAS is significant because, by focusing on democratic accountability as his dependent variable, he underscores a further diversity in potential EEAS outcomes that might not otherwise be considered.

This diversity of opinions throughout the middle and latter parts of the 2000s indicates that the final outcome of the negotiation process to determine the form of the European External Action Service was indeed as nebulous as the Lisbon Treaty provisions imply. The final outcome – would it be intergovernmental or supranational in nature – was not a result of a predetermined consensus and would arise from the

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<sup>91</sup> Ibid.

<sup>92</sup> Jozef Bátora, “A Democratically Accountable European External Action Service: Three Scenarios,” *European Integration Online Papers* 14:13 (2010), <http://eiop.or.at/eiop/texte/2010-013a.htm>, 9.

<sup>93</sup> Ibid, 10.

<sup>94</sup> Ibid, 11.



negotiations between the High Representative and the European Council, Commission, and Parliament after ratification.

### **Implementation of the High Representative**

With the passage of the Lisbon Treaty, scholars emphasized the potential personal power aligned with the new title of High Representative of the Union for Foreign Affairs and Security Policy. Nicola Verola notes that “The crucial factor that will determine the success or failure of the ‘new CFSP’ will be the capacity of the High Representative to create a common European political will on the main international issues.”<sup>95</sup> She goes on to indicate that the implementation of the High Representative “should make it possible to exert de facto leadership of all external actions by the Union.”<sup>96</sup> Moreover, Stephen Sieberson comments that the High Representative “poses a challenge to the prominence, if not actual power, of the national foreign ministers.”<sup>97</sup> These analyses beg the question: Would member-states put a weak choice for High Representative forward to ensure that intergovernmentalism was not challenged by a dynamic EU foreign policy chief?

Ashton’s strength has been questioned since her name was first put forward. Her work experience did not make her an obvious choice, having never been an elected official or a government minister.<sup>98</sup> Several more high-profile candidates were speculated upon, including then-British Foreign Secretary David Milliband, Finnish Commissioner Olli Rehn, former Austrian Foreign Minister Ursula Plassnik, former

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<sup>95</sup> Verola, 49.

<sup>96</sup> Ibid, 45.

<sup>97</sup> Sieberson, 63.

<sup>98</sup> Jurriaan Middelhoff and Christ’l De Landtsheer, “Profiling the Giants of the European Union: Exploring the Personalities of Van Rompuy, Barroso, and Ashton,” presented at the Conference of the International Society of Political Psychology, San Francisco, July 6-9, 2010, 13.

Greek Foreign Minister Dora Bakoyannis,<sup>99</sup> former Italian Prime Minister Massimo D'Alema,<sup>100</sup> former NATO Secretary General Jaap de Hoop Scheffer, British Business Secretary Peter Mandelson, and Swedish Foreign Minister Carl Bildt, among many others.<sup>101</sup> Ashton's selection was described largely as the result of political bargaining that necessitated the appointment of a center-left female candidate.<sup>102</sup> Eric Schüler, former advisor to a Vice President in the European Parliament, agrees with this conception, suggesting Ashton was appointed because "she fulfilled certain criteria: a woman and a [Party of European Socialists] candidate."<sup>103</sup> The British Parliament's research service said of Ashton: "[She was] allegedly seen as a potential compromise for HR [High Representative] instead of David Milliband."<sup>104</sup> She was mentioned near the end of the document and not given the attention of what the House of Commons Library considered to be the more serious candidates.

Mainstream media across the globe reacted to the Ashton appointment with surprise and skepticism. An *Economist* editorial alleged that Ashton was at best the third or fourth choice of Gordon Brown – and that was after it was decided that the position should be filled by a British candidate.<sup>105</sup> Former editor of *The Times* Baron Rees-Mogg

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<sup>99</sup> Ian Traynor, "David Milliband tipped as EU foreign minister," *The Guardian*, October 22, 2009, <http://www.guardian.co.uk/politics/2009/oct/22/david-miliband-europe-foreign-minister>

<sup>100</sup> Stephen Castle, "European Union Struggles to Select New Leaders," *The New York Times*, November 10, 2009, <http://www.nytimes.com/2009/11/11/world/europe/11europe.html>

<sup>101</sup> Vaughne Miller, "The Lisbon Treaty: Choosing a High Representative of the Union for Foreign Affairs and Security Policy," *The Library of the House of Commons*, November 18, 2009, 11-15.

<sup>102</sup> Simon O'Connor, "The Accidental Diplomat," *E! Sharp* (January-February 2010), <http://www.esharp.eu/issue/2010-1/The-accidental-diplomat>

<sup>103</sup> Eric Schüler, e-mail to author, May 2, 2011. Schüler is currently a senior lecturer in European integration at Albert-Ludwigs-Universität Freiburg.

<sup>104</sup> Miller, 15.

<sup>105</sup> "Behold, Two Mediocre Mice," *Economist* 393:8659 (November 28, 2009), 12. Judging by the speculation from the House of Commons Library, Foreign Secretary Milliband and Business Secretary Mandelson were likely two of those candidates suggested by the editorial.

called the Ashton appointment “a gross insult to the people of Europe” and a “failure.”<sup>106</sup> *Le Monde* was more generous, starting their editorial by referring to Ashton and van Rompuy as “*Deux inconnus à la tête de l'Europe*” (two unknowns at the head of Europe).<sup>107</sup> *El País* led with the headline “*Baronesa sorpresa*” (Baroness surprise),<sup>108</sup> while *Página 12* emphasized the widespread nature of disbelief, noting that “*su nominación fue ampliamente criticada*” (her nomination was widely criticized) and that Ashton was “*acosada por periodistas que cuestionaban sus credenciales*” (accosted by journalists questioning her credentials).<sup>109</sup> Media representatives of many Eastern European countries were livid, arguing that Ashton has in the past been affiliated with an organization associated with Soviet subversion.<sup>110</sup> EurActiv reported that German diplomats described themselves as “*stocksauer*” (pissed).<sup>111</sup> Even outside of the EU, reactions were at best muted. The *Wall Street Journal* editorial on the appointment said that the Ashton appointment “lack[ed] any semblance of democratic legitimacy,”<sup>112</sup> while the *Moscow Times* described Ashton and van Rompuy as “low-profile.”<sup>113</sup>

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<sup>106</sup> William Rees-Mogg, “A gross insult to the people of Europe,” *The Times*, November 23, 2009, [http://www.timesonline.co.uk/tol/comment/columnists/william\\_rees\\_mogg/article6927582.ece](http://www.timesonline.co.uk/tol/comment/columnists/william_rees_mogg/article6927582.ece)

<sup>107</sup> Marion Van Renterghem, Arnaud Leparmentier, and Philippe Ricard, “Les nouveaux représentants de l’Europe vont devoir s’imposer,” *Le Monde*, November 21, 2009, [http://www.lemonde.fr/cgi-bin/ACHATS/acheter.cgi?offre=ARCHIVES&type\\_item=ART\\_ARCH\\_30J&objet\\_id=1106970&clef=AR C-TRK-D\\_01](http://www.lemonde.fr/cgi-bin/ACHATS/acheter.cgi?offre=ARCHIVES&type_item=ART_ARCH_30J&objet_id=1106970&clef=AR C-TRK-D_01)

<sup>108</sup> José Ignacio Torr, “Baronesa sorpresa,” *El País*, November 23, 2009, [http://www.elpais.com/articulo/internacional/Baronesa/sorpresa/elpepiint/20091123elpepiint\\_9/Tes?print=1](http://www.elpais.com/articulo/internacional/Baronesa/sorpresa/elpepiint/20091123elpepiint_9/Tes?print=1)

<sup>109</sup> Nicolás Nagle, “Carrera por puestos centrales en la UE,” *Página 12*, November 22, 2009, <http://www.pagina12.com.ar/diario/elmundo/4-135716-2009-11-22.html>

<sup>110</sup> Stephen Castle, “Leftist Past Clouds E.U.’s Choice for the Foreign Affairs Portfolio,” November 26, 2009, <http://query.nytimes.com/gst/fullpage.html?res=9C03E4DE163CF935A15752C1A96F9C8B63&ref=catherineashton>

<sup>111</sup> Ewald König, “Berlin ‘stocksauer,’” *EurActiv*, November 20, 2009, <http://www.euractiv.de/wahlen-und-macht/artikel/berlin-stocksauer-002408>

<sup>112</sup> “Europe’s Gray Mice,” *The Wall Street Journal*, November 23, 2009, <http://online.wsj.com/article/SB10001424052748704779704574551633245643074.html>

<sup>113</sup> “Top EU Posts Go to Low-Profile Leaders,” *The Moscow Times*, November 23, 2009, <http://www.themoscowtimes.com/news/article/top-eu-posts-go-to-low-profile-leaders/390127.html>

John Van Oudenaren argues that “the appointment of two relatively unknown politicians, van Rompuy and Ashton...[is] an indication that the member-states intended to continue asserting their natural prerogatives at the expense of EU units.”<sup>114</sup> He goes on to note that the agenda of the Spanish presidency – the first to begin after the implementation of the Lisbon Treaty – had “an ambitious policy agenda for the EU that some saw as in competition with the prerogatives of van Rompuy and Ashton.”<sup>115</sup> His co-editor, Ronald Tiersky, states “choosing less prominent personalities for potentially important international positions meant reasserting the primacy of national governments as the center of gravity in EU relations with the rest of the world.”<sup>116</sup> If integration is a “self-limiting exercise,” then for the major EU member-states “for some time to come there seems to be enough Europe in terms of foreign policy.”<sup>117</sup> These arguments see an intentionality in the decision to pursue a weak High Representative to undermine the CFSP reforms present in the Lisbon Treaty. The media reaction to the Ashton appointment indicated that the member-states would have, in fact, succeeded.

Having a weak High Representative has advantages for member-states. Most importantly, it would minimize the likelihood of undercutting their influence in the eyes of the public. In a study of mainstream print, internet, and broadcast media sources in six different Asian media markets,<sup>118</sup> Natalia Chaban and Martin Holland found “that in all regions the dominant political face of the EU was Javier Solana, the High Representative

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<sup>114</sup> Van Oudenaren, 40.

<sup>115</sup> Ibid, 40.

<sup>116</sup> Ronald Tiersky, “Introduction: Europe and the Geopolitical Order,” in *European Foreign Policies: Does Europe Still Matter*, Ronald Tiersky and John Van Oudenaren, eds. (Lanham, MD: Rowan and Littlefield, 2010), 11.

<sup>117</sup> Ibid, 11.

<sup>118</sup> China, Hong Kong, Japan, South Korea, Singapore, and Thailand.

for CFSP.”<sup>119</sup> This study was conducted before the Lisbon Treaty reforms to strengthen the role of the High Representative. Ashton presumably will be given a still higher profile in media coverage, as she will have less competition given that the new High Representative role combines multiple previous CFSP roles into one. Chaban and Holland cite the significant number of foreign policy actors involved pre-Lisbon as the primary reason for the EU’s CFSP messaging to be “often disjointed and not coordinated.”<sup>120</sup> Given the media attention already afforded to the role, a well-known High Representative who could use the new Lisbon Treaty powers could have a high profile in foreign affairs, undercutting initiatives of member-states. Political psychologists Jurriaan Middelhoff and Christ’l de Landtsheer suggest in their profile of Ashton’s personality that Baroness Ashton does not share some of the characteristics and traits associated with especially ambitious politicians.<sup>121</sup> If their assessment were accurate, Ashton would likely not seek to accrue as much power in the role of High Representative as other nominees might have.

The European Council’s decision to select the low-profile Ashton minimized the risks to the member-states. Daniel Carpenter, in his study of the U.S. FDA, emphasizes the importance of organizational image and its relation to effectiveness. If, as he argues, “reputation upholds a government agency’s power,”<sup>122</sup> a weakly perceived centralized European foreign policy apparatus would lack the reputation necessary to have the power to challenge member-state foreign policy initiatives. Carpenter goes on to note

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<sup>119</sup> Natalia Chaban and Martin Holland, “Perceptions of EU Foreign Policy outside Europe,” in *The Foreign Policy of the European Union: Assessing Europe’s Role in the World* ed. Federiga Bindi, (Washington DC: Brookings Institution Press, 2010), 326.

<sup>120</sup> Ibid, 332-333.

<sup>121</sup> Middlehoff and de Landtsheer, 16.

<sup>122</sup> Daniel Carpenter, *Reputation and Power: Organizational Image and Pharmaceutical Regulation at the FDA*, (Princeton: Princeton University Press, 2010), 19.

“reputations...usually attach themselves not to rules or systems of rules, but rather to collective entities known by proper nouns.”<sup>123</sup> Given that the “proper noun” to be associated with Ashton is the EEAS, her lack of a media presence or even ineffectiveness could associate the EEAS with a weak reputation for the foreseeable future. Such a reputation would necessitate that EU diplomatic efforts continue to be organized and conducted by its member-states.

Even if Ashton was not a deliberately weak choice, her curtailed constitutional authority certainly weakens her position. There are no institutionalized consequences for failure to follow decisions regarding common foreign and security policy. The European Court of Justice has no jurisdiction over CFSP; if member-states were to directly challenge Baroness Ashton’s policies on an issue in a way to completely undermine her position or even directly interfere with her ongoing negotiations or operations, there would not be legal consequences.<sup>124</sup> All of the factors surrounding the appointment of Ashton as the High Representative demonstrate the continued intergovernmental nature of CFSP post-Lisbon Treaty. Ashton was given no enforcement mechanism and was nominated by the member-states as a figurehead who would not provide a substantive threat to individual national foreign policies.

### **Implementation of the European External Action Service**

The creation of the External Action Service provided an opportunity for the European Union to develop a more coherent foreign policy. Indeed, Nicola Verola

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<sup>123</sup> Ibid, 45.

<sup>124</sup> Christopher Hill, “The big three and the High Representative: Dilemmas of leadership inside and outside the EU,” in *The EU Presence in International Organizations*, ed. Spyros Blavoukos and Dimitris Bourantonis, (New York: Routledge, 2011), 89.

argues that the “characteristics of the European External Action Service will be vital for the success of the High Representative’s mission.”<sup>125</sup> With that in mind, the negotiations over the final form of the EEAS – especially considering the flexibility accorded to that final form in the Treaty itself – were of great importance.

Moreover, there was widespread agreement among scholars that the exact form that the EEAS would follow would dictate its effectiveness; such sentiments were not just put forth by Nicola Verola. Maurizio Carbone argued that the final form taken by the EEAS would demonstrate if it “ultimately strengthen[s] the supranational or intergovernmental dynamic of the Union...depend[ing] on the way which the provisions are put into practice.”<sup>126</sup> Wouters, Coppens, and de Meester suggest “much of [the High Representative]’s leverage will depend on the creation of the EEAS,” while also noting that the secrecy of initial EEAS negotiations belied its importance.<sup>127</sup> Brian Hocking and David Spence argue that the EEAS’ lacking a European Diplomatic Academy “could have a major impact on the success of any arrangements associated with the EEAS.”<sup>128</sup> Stephan Keukeleire and Jennifer MacNaughtan discuss the possibility of turf wars arising between various foreign policy actors pulling Ashton in different directions;<sup>129</sup> the EEAS has the potential either to be pulled along with Ashton or to serve as another bureaucracy to compete for Ashton’s ear. With such an open-ended mandate for the EEAS, the crucial nature of the negotiations could not be overemphasized.

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<sup>125</sup> Verola, 45.

<sup>126</sup> Carbone, 28.

<sup>127</sup> Wouters, Coppens, and de Meester, 197.

<sup>128</sup> Brian Hocking and David Spence, “Afterword: Towards a European Diplomatic System?” in *Foreign Ministries in the European Union*, Brian Hocking and David Spence, eds., (New York: Palgrave MacMillan, 2005), 298.

<sup>129</sup> Keukeleire and MacNaughtan, 80-81.

Ashton, in her new dual-hatted role on both the Commission and Council, served as the primary negotiator between the Commission, Council, and member-states. The outcome of this negotiation was expected to be the proposal that would go forward for implementation as the European External Action Service. While the member-states may have selected Ashton as High Representative to ensure that the EEAS would not create a significant challenge to national level diplomatic prerogatives and may have dominated the early negotiations on the body, Ashton was forced to engage to a limited degree with the European Parliament. Ashton's weakness had been a great benefit to member-states in defending their own interests in preliminary negotiations, but when an outside agent like the EP was involved, that strength (her weakness) became a liability for member-states.

Notably, Ashton directly took on initial efforts of the European Parliament to pursue some degree of oversight to the EEAS even before she officially took office. At her confirmation hearings for her role as High Representative, Ashton was combative toward the MEPs who were conducting her own hearing. Ashton stated her opposition to an MEP request for confirmation hearings of appointed Special Representatives, Ambassadors, and Heads of Delegations, in a process similar to that conducted in the U.S. Senate.<sup>130</sup> In questions pertaining to other topics, like the UN Security Council, Ashton admitted she had not yet thought about the topic and sarcastically congratulated the MEPs for stumping her.<sup>131</sup> Though Ashton was ultimately confirmed by the EP, the showdown foreshadowed the tenor of the debate on the form of the EEAS would be later that summer.

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<sup>130</sup> Batora, 7.

<sup>131</sup> Tony Barber, "Ashton under fire at EU confirmation hearing," *Financial Times*, January 11, 2010, <http://www.ft.com/cms/s/0/3f05759c-fede-11de-a677-00144feab49a.html>



Baroness Ashton's proposal was put forth in vague terms in March – echoing the ambiguity in the Lisbon Treaty itself – providing her with leeway to negotiate details with member-states before the April 30, 2010 deadline. British Foreign Minister David Milliband and Swedish Foreign Minister Carl Bildt – two candidates strongly rumored for Ashton's position prior to her appointment – circulated an open letter diplomatically underscoring their “concern” about “inter-institutional struggles evident in...current negotiations.”<sup>132</sup> Notably, Milliband and Bildt specify the “European Commission, the Member States, and the Council Secretariat” as the inter-institutional actors.<sup>133</sup> The European Parliament is not referred to once in their letter.

Though some Euroskeptics like Roland Vaubel have suggested that the Council is significantly more supranational than member-states due to a willingness to transfer legislative power to the European level (but not executive power),<sup>134</sup> the European Council still directly represents the national governments of EU members. As such, Ashton's negotiating process between the Commission, Council, and member-states was significantly skewed toward those with intergovernmental interests to preserve national prerogatives. The Lisbon Treaty structure, leaving out the Parliament from the negotiating process, helped to ensure that an intergovernmental outcome would be most likely by isolating the Commission as the only participating institution with supranational preferences.

The Ashton proposal begins with a statement clearly directed at appeasing potential critics in the EP: “The European Parliament will fully play its role in the

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<sup>132</sup> Letter from Carl Bildt and David Milliband to Baroness Catherine Ashton, May 3, 2010, 2.

<sup>133</sup> Ibid, 2.

<sup>134</sup> Roland Vaubel, *The European Institutions as an Interest Group: The Dynamics of Ever-Closer Union*, (London: Institute of Economic Affairs, 2009), 53.

external action of the Union.”<sup>135</sup> Ashton came out against any national quotas, minimizing the role of seconded national staff and focusing on staff already in place at the Council and Commission.<sup>136</sup> Much of this staff would have worked under Solana as High Representative and would already have experience working under intergovernmental CFSP structures that predated the EEAS, possibly minimizing its ability to leverage new resources. Ashton pursued a variation of the maximalist perspective, pushing all existing EU diplomatic activities into the new diplomatic corps, moving “the relevant departments and functions in the General Secretariat of the Council and in the Commission” into the new EEAS.<sup>137</sup> The executives of this body, led by a Secretary-General, with deputies and several directors-general responsible for specific policy areas, would wield considerable power.<sup>138</sup> This proposal was released to the public at the end of March 2010.

The Treaty of Lisbon did not enumerate significant new powers to the Parliament with regard to European CFSP. While the text of the Treaty of Lisbon increased the capabilities of the EP in external relations generally, this was only in areas outside of CFSP.<sup>139</sup> The High Representative has the responsibility to “keep the European Parliament...regularly informed regarding developments in enhanced cooperation.”<sup>140</sup> The position of High Representative is subject to Parliamentary approval and censure.<sup>141</sup> Beyond these responsibilities, Parliament gained little explicit power. In fact,

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<sup>135</sup> European Union, “Proposal for a Council Decision establishing the organization and functioning of the European External Action Service,” March 25, 2010, 2.

<sup>136</sup> *Ibid.*, 7.

<sup>137</sup> *Ibid.*, 7.

<sup>138</sup> *Ibid.*, 5.

<sup>139</sup> Rafael Leal-Arcas, “The EU Constitutional Treaty and International Trade,” in *The Rise and Fall of the EU’s Constitutional Treaty*, ed. Finn Laursen, (Boston: Martinus Nijhoff, 2008), 35.

<sup>140</sup> Treaty of Lisbon, “Art. 328.2.”

<sup>141</sup> *Ibid.*, “Art. 17.8.”

Parliamentary censure of the High Representative is weakened; if the Commission is censured by Parliament forcing a reappointment of positions, the High Representative will continue to serve in his role on the Council, which is not subject to Parliamentary oversight.<sup>142</sup> Regarding the creation of the External Action Service, though the Parliament was to be “consulted”<sup>143</sup> according to Declaration 15, the decision to amend the Lisbon Treaty with Declaration 15 excluded the EP from the list of participants in the negotiating process.

After negotiations between the member-states, Council, and Commission were concluded, those parties expected that the agreement would have been reached. Interestingly, the European Parliament largely put aside its internal partisan political divisions to come out united against the Ashton proposal, presenting its own plan for the EEAS with agreement from the center-right, center-left, and liberal European political parties.<sup>144</sup> British Labour MEP Richard Howitt said that, “The parliament [sic] will push for as much transparency as possible” in EEAS negotiations and recruitment and appointment processes.<sup>145</sup>

Parliamentary criticisms of the Ashton EEAS concept were outlined in a series of press releases and public denunciations of the Council proposal. The heads of the ALDE (liberals), EPP (center-right), S&D (center-left), and Greens/EFA (Greens) released a joint press statement responding to Ashton on March 25, 2010. They criticized Ashton’s proposal on three main counts: lack of accountability to the EP, an artificial

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<sup>142</sup> Coppens, de Meester, and Wouters, 151.

<sup>143</sup> Consultation being the interaction between the Council and Parliament with least Parliamentary authority; cooperation requires that the EP’s views be incorporated unless a unanimous vote in the Council overrules, while codecision makes the Council and Parliament equal partners.

<sup>144</sup> “Spanish Presidency seals EEAS deal,” *EurActiv*, July 7, 2010, <http://www.euractiv.com/en/future-eu/spanish-presidency-seals-eeas-deal-news-495455>

<sup>145</sup> Laurence Peter, “Lady Ashton takes flak in EU diplomatic battle,” *BBC*, March 3, 2010, <http://news.bbc.co.uk/2/hi/8546108.stm>

division between the EEAS and the Commission, and the “omnipotent secretary general,” which would lack political accountability and increase the democratic deficit.<sup>146</sup> These stances pushed forward by the Parliament would all significantly increase supranationalism in CFSP beyond the Ashton proposal. Ashton attempted to minimize obstacles from the Parliament by proactively agreeing to some phrasing changes between the initial proposal in March and the final Council proposal on April 26, 2010. The compromise emphasized transparency and geographic diversity in staffing procedures.<sup>147</sup> The Parliament, however, was displeased with the final proposal submitted by the Council and utilized its new budget codecision powers to hold up the EEAS budget and staff regulations, which required EP approval and without which the Service could not go forward.<sup>148</sup>

Whether or not it can be attributed to weakness or simply misreading the situation, Ashton’s combative relationship with the European Parliament clearly galvanized their opposition to the Council and Commission-approved EEAS proposal. It is conceivable that with a High Representative that the media and MEPs perceived as being stronger, the Parliament would not have come out so aggressively against the proposal negotiated by Baroness Ashton. UKIP MEP Nigel Farage blamed the impasse in the EEAS negotiations on Ashton’s “weakness and lack of political skills,” also noting

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<sup>146</sup> Guy Verhofstadt, “EEAS proposal unacceptable to the European Parliament,” March 25, 2010, <http://www.alde.eu/nc/key-priorities/green-economy-climate-change/single-news/article/eeas-proposal-unacceptable-to-the-european-parliament-22793/>

<sup>147</sup> European Parliament, “Achievements of the European Parliament on binding provisions concerning geographical balance in the EEAS, reached in negotiations with Lady Ashton, Council and the Commission,” October 18, 2010, 1.

<sup>148</sup> Tony Barber, “Brussels set to back diplomatic corp plan,” *Financial Times*, April 27, 2010, 3.

that, “[Ashton] doesn’t command respect.”<sup>149</sup> While the UKIP is a professed anti-EU party, Farage was not alone in his sentiments. Conservative MEP Martin Callanan called Ashton “a pushover.”<sup>150</sup> Thus, the decision by member-states to put forth a weaker High Representative to ensure maximal intergovernmentalism in CFSP might have created an opportunity that the EP could capitalize upon to put supranationalist advances on the agenda. MEPs held up the agreement long enough to force further concessions from Ashton before agreeing to allow the EEAS to go forward.

Though the agreement brokered by the Spanish Presidency on the EEAS preserves the intergovernmental character to CFSP as envisioned in the Lisbon Treaty, the Parliament gained several concessions at the expense of the proposal negotiated between Ashton and the member-states. The EP will be informed of major strategic and policy decisions before they are undertaken, ensuring that MEPs will not be blindsided by any actions undertaken by the EEAS.<sup>151</sup> Ashton retained three secretaries-general from her proposal, but rotating deputies were assigned to the foreign minister of the rotating presidency.<sup>152</sup> The EP also obtained the oversight that it had initially requested in Ashton’s confirmation hearings: senior EEAS officials and ambassadors will be subject to a series of hearings in the EP similar in structure to the Foreign Relations Committee hearings in the U.S. Senate.<sup>153</sup> The agreement also ensured that the EP would have significant budget oversight over the EEAS itself.<sup>154</sup> Italian MEP Roberto Gualtieri

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<sup>149</sup> Martin Banks, “Baroness Ashton blamed for political ‘weakness’ delay to EU diplomatic corps,” *The Telegraph*, March 15, 2010, <http://www.telegraph.co.uk/news/worldnews/europe/eu/7442994/Baroness-Ashton-blamed-for-political-weakness-delay-to-EU-diplomatic-corps.html>

<sup>150</sup> *Ibid.*

<sup>151</sup> “Spanish Presidency seals EEAS deal.”

<sup>152</sup> *Ibid.*

<sup>153</sup> *Ibid.*

<sup>154</sup> “La Presidencia española logra la creación del SAEA,” *EurActiv* June 22, 2010, <http://www.euractiv.es/noticias/noticia.php?noticia=945>

characterized the agreement as a victory for the EP, stating, “Parliament’s requests have been fulfilled.”<sup>155</sup> The Parliament, in addition to previously stipulated biannual updates, received an agreement for a special report commissioned for 2013 with detailed analysis of how the stipulations provided by the EP for geographic and gender diversity were met.<sup>156</sup> A press release from the European Parliament went through detailed wording and content concessions from Ashton to the Parliament, seeking to capitalize on media attention to bolster their status as an active player in CFSP matters.<sup>157</sup>

Belgian MEP and former Prime Minister Guy Verhofstadt said that the oversight over staffing and budget provided to the EP by the Lisbon Treaty allowed for the Parliament to “create pressure.”<sup>158</sup> A French lobbyist suggested, “Catherine Ashton looks very weak and to me the whole thing [the EEAS] looks like a disaster.”<sup>159</sup> These statements provide further evidence that the Parliament capitalized on the perceived public weakness of High Representative Ashton, using the opportunity to acquire stronger oversight over and policy concessions regarding CFSP through the negotiations deciding the ultimate organizational structure of the EEAS.

### **Theoretical Implications**

The creation process of the External Action Service is part of a trend of the European Parliament successfully leveraging its positions in debates, treaty negotiations, and other avenues in order to acquire more power and control over a variety of issues.

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<sup>155</sup> “Spanish Presidency seals EEAS deal.”

<sup>156</sup> European Parliament, “Achievements of the European Parliament,” 4.

<sup>157</sup> Ibid.

<sup>158</sup> “Spanish Presidency seals EEAS deal.”

<sup>159</sup> Nick Meo, “Baroness Ashton’s new European Union diplomatic service faces £45m cost overrun,” *The Telegraph*, July 18, 2010, <http://www.telegraph.co.uk/news/worldnews/europe/eu/7896402/Baroness-Ashtons-new-European-Union-diplomatic-service-faces-45m-cost-overrun.html>

The EP had minimal input prior to the Luxembourg Treaties in 1970 and 1975, when it gained the power to modify the Council's proposed budget; however, once MEP direct elections were instituted in 1979, the EP began to gain greater legislative authority. The 1986 Single European Act brought in cooperation powers, while the 1992 Maastricht Treaty incorporated codecision. The EP role in codecision was expanded with the 1997 Amsterdam Treaty.<sup>160</sup> MEPs gained full equality with the European Council in matters of codecision with the Nice Treaty in 2001.<sup>161</sup> The Lisbon Treaty further enhanced Parliament's power by removing the three pillar system to give the EP codecision in a wide range of areas, including full and equal status in the budget.<sup>162</sup>

The European Parliament has one advantage for accruing power: it is the only central institution of the European Union that is democratic. As such, ceding power to the EP is a popular way for member-states and the Commission and Council to counter those who criticize the EU for having a democratic deficit.<sup>163</sup> That said, Mark Pollack argues that while combating the democratic deficit has been the primary motivation for some member-states to pursue greater powers for the Parliament, member-states have "demonstrate[d] a deliberate effort by member governments to calculate the likely consequences of delegation to the EP and to calibrate their institutional choices to avoid negative consequences."<sup>164</sup> Thus, though states sought to publicly support the EP to

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<sup>160</sup> Mark A. Pollack, *The Engines of European Integration: Delegation, Agency, and Agenda Setting in the EU*, (New York: Oxford University Press, 2003), 206-207.

<sup>161</sup> Piris, 9.

<sup>162</sup> Ibid, 65-70, 296-300.

<sup>163</sup> There is a wide literature on the democratic deficit in the European Union; see Christophe Crombez, "The Democratic Deficit in the European Union: Much Ado About Nothing?" *European Union Politics* 4:1 (March 2003), 101-120; Andrew Moravcsik, "Reassessing Legitimacy in the European Union," *Journal of Common Market Studies* 40:4 (November 2002), 603-624; Frank Decker, "Governance beyond the nation-state: Reflections on the democratic deficit of the European Union," *Journal of European Public Policy* 9:2 (2002), 256-272, among others.

<sup>164</sup> Pollack, 204.

increase the democratic reputation of EU activities, states' interests were vigorously defended regarding which powers were allotted to the EU. This fear of negative consequences is one possible explanation for why the European Parliament has not gained any significant powers pertaining to external relations or foreign policy more generally in the series of post-Maastricht treaty revisions.

Historically, even beyond the numerous Treaty reforms, the European Parliament has sought to increase its own power in some areas. The most famous instance of this policy entrepreneurship was regarding the resignation of the Commission led by Jacques Santer.<sup>165</sup> Following significant allegations of corruption and fraud in financial management against multiple commissioners, the European Parliament initiated proceedings to censure the Commission, which were ultimately not adopted. The EP did institute a Committee of Independent Experts to conduct an investigation that found individual commissioners guilty of wrongdoing; Jacques Santer announced the resignation of all commissioners that same night.<sup>166</sup> Andrei Muntean argues that the resignation of the European Commission at the Parliament's behest gave "the EP a legitimate basis" for its expanding oversight over the Commission.<sup>167</sup> The result, according to Muntean, was that "the powers of the European Parliament increased not only in the legislative domain, but also in the area of exercising effective control."<sup>168</sup> The policy entrepreneurship pursued by the Parliament to force the Santer Commission's

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<sup>165</sup> For a full discussion of the events and actions of individual commissioners leading to the resignation of the Santer Commission, see Andrew MacMullen, "Political Responsibility for the Administration of Europe: The Commission's Resignation March 1999," *Parliamentary Affairs* 52:4 (October 1999), 703-718 or Nils Ringe, "Government-opposition dynamics in the European Union: The Santer Commission resignation crisis," *European Journal of Political Research* 44 (2005), 671-696.

<sup>166</sup> Ringe, 677.

<sup>167</sup> Andrei Muntean, "The European Parliament's Political Legitimacy and the Commission's 'Misleading Management': Towards a 'Parliamentarian' European Union?" *European Integration Online Papers* 4:5 (2000), <http://eiop.or.at/eiop/texte/2000-005a.htm>, 12

<sup>168</sup> *Ibid*, 13.



resignation resulted in a permanent increase of its policy domain, powers, and prerogatives. Such efforts at seeking greater oversight power were conscious and deliberate decisions by MEPs, including Pat Cox, then head of the European Liberals, who said “Let Parliament empower itself to call on individual Commissioners to consider their position *even if no formal legal base exists*” (emphasis added).<sup>169</sup> While Cox’s proposal was not pursued, his rhetoric demonstrates the conscious entrepreneurship showed within the EP. This increase in powers was possible without any corresponding amendments to any of the treaty documents governing the EU, demonstrating that the EP is capable of enhancing its powers without a corresponding treaty negotiation. More importantly, it is a direct precedent for the type of legislative oversight that the Parliament sought regarding the EEAS.

David Judge and David Earnshaw and others have challenged the notion that the forced resignation of the Santer Commission expanded Parliamentary powers as it only allowed the Parliament to use those powers it was already allotted and arose as a product of particular circumstances within the Commission that might not be replicable.<sup>170</sup> That said, Judge and Earnshaw also concede that most scholars predicted that the Parliament would never use its powers of censure to check the Commission given that both often agreed on the pursuit of supranational policies.<sup>171</sup> The Parliament established the precedent of using its oversight in a way that most observers had not considered it would and ultimately exercised control over the Commission as a whole. While their efforts to pursue control over individual commissioners did not go as far as the Cox proposal, the

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<sup>169</sup> David Judge and David Earnshaw, “The European Parliament and the Commission Crisis: A New Assertiveness?” *Governance* 15:3 (July 2002), 351.

<sup>170</sup> *Ibid.*, 369.

<sup>171</sup> *Ibid.*, 347-348.

EP received verbal assent from all prospective Commissioners at their confirmation hearings that they would resign at the behest of the President of the Commission, ensuring that a mechanism for individual accountability was incorporated.<sup>172</sup>

Frank Häge notes the implications of this activism in saying “EP empowerment means that the Parliament’s views have to be taken into account by the other actors in the legislative decision-making process.”<sup>173</sup> The logical conclusion of policy entrepreneurship by the European Parliament is that the Commission and, more specifically, the Council (with which it shares most of its legislative functions) will have to alter policy proposals to ensure that they are palatable to a majority of MEPs. Such a shift in importance to the EP is evident in analysis of the EU legislative process on internal issues (not including CFSP), which indicates that involvement in the Council on the Ministerial level has declined since the early 1990s.<sup>174</sup> This period coincides with the gradual increase in authority transferred to Strasbourg. While research has not been conclusive as to the direct effect of increase EP powers on Council behavior,<sup>175</sup> there is a correlation between those issues in which the Parliament has more power (codecision rather than cooperation or consultation) and the amount of attention given to the issue on the European Council by Ministers.<sup>176</sup> This is a preliminary indication that where the EP has successfully acquired more responsibilities, the Council – though pursuing a more *laissez faire* agenda on many issues – has been forced to respond to a more aggressive Parliament at the Ministerial level. This higher involvement of ministers demonstrates

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<sup>172</sup> Ibid, 357.

<sup>173</sup> Frank M. Häge, “Politicizing Council decision-making: The effect of EP empowerment,” unpublished manuscript, April 2009, 8.

<sup>174</sup> Magnus Nilsson, “The many faces of the Council of the European Union: A study of decision making in the Council,” Masters Thesis, Gothenburg University, 2010, 20.

<sup>175</sup> Ibid, 58.

<sup>176</sup> Häge, 19.

that national governments consider those proposals from the EP to be substantive enough that they require attention from the appropriate high-ranking national officials. While the reduced level of overall involvement could appear to contradict this argument, it also could indicate that the Council has become more proactive in incorporating the expected opinion of MEPs before consulting, cooperating, or codeciding with the European Parliament.

The parliamentary initiative in this area arose because the EP leveraged its newly acquired budgetary codecision powers. As Häge argued, the actions of the MEPs during the negotiations forced the views of the Parliament to be considered, and the legislation ultimately altered. This progress is in line with a historical trend of continued maneuvering by the EP to acquire greater responsibilities. Though those MEPs may have neither made significant reforms to the EEAS nor gained explicit new powers regarding foreign policy, the willingness to use the procedural budget veto on a major CFSP issue suggests that the views of the European Parliament will be considered more strongly under the Lisbon Treaty than they had been previously. The EP has successfully used similar procedural power to expand its policy role in the past, and MEPs' public statements indicate that they are undertaking a conscious effort to maximize their influence regarding European foreign policy.

### **Policy Implications**

The most common joke made by journalists and bloggers with the implementation of the Lisbon Treaty was that it finally answered the question famously attributed to Henry Kissinger: "Who do I call if I want to speak to Europe?" However, the foreign

policy implications of the Lisbon Treaty go beyond centralizing authority in a crisis situation. Implications exist for security policy, bilateral and multilateral relations of the European Union itself, the foreign policies of individual member-states, and internal European CFSP negotiation.

The actions undertaken by Baroness Ashton in response to the Middle East revolutions indicate that NATO is still the preferred forum for European cooperation in security and diplomatic crisis response despite all of those remarks about Kissinger's question. While greater cooperation between the European Union and NATO has been evident in recent years and such cooperation may indeed be negotiated using the EEAS, the EU cannot have a formal role in NATO functions.<sup>177</sup> CFSP does not cover the significant defense and military agreements that involvement in NATO entails for its members; as such, this negotiation will not have a significant impact on either Transatlantic coalition building or internal European defense matters. The majority of EU members are also in NATO, and those in both will pursue any significant operational agreements through the NATO framework.

However, the EEAS could end up playing a significant role in other international institutions. The European Union already negotiates as a collective body at the World Trade Organization, a responsibility held previously by the Commissioner for External Relations.<sup>178</sup> The EEAS and High Representative Ashton will take on this responsibility now that no Commissioner serves this function. Given the progress of the Common

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<sup>177</sup> Hill, 88.

<sup>178</sup> Bart Kerremans, "The European Commission in the WTO's DDA negotiations: A tale of an agent, a single undertaking, and twenty-seven nervous principals," in *The EU Presence in International Organizations*, ed. Spyros Blavoukos and Dimitris Bourantonis, (New York: Routledge, 2011), 139.

Market, the EEAS will strengthen the EU's ability to negotiate free trade agreements and other similar external agreements with significant economic foci.

Though the British government named it as a concern during the Lisbon Treaty negotiations, the creation of the EEAS will have no impact on the British or French permanent seats on the United Nations Security Council. Germany is actively pursuing its own permanent seat in spite of the advances of the Lisbon Treaty,<sup>179</sup> indicating that the German government does not consider the EEAS a possible complication for its own activities at the United Nations.

The highly intergovernmental structure of the existing EEAS means that the agency will not represent a significant challenge to the diplomatic prerogatives of the European Union member-states. The foreign policy crises that have arisen since the negotiation of the EEAS bear this out, as Baroness Ashton was unable to use her bureaucratic authority to create a coherent EU foreign policy in the face of the revolutions in the Middle East. Bilateral relationships between the EU as a centralized actor and other independent countries across the world should be considerably strengthened. With Ashton having a dual-hatted role, and with the authority of the Parliament still curtailed even with the expansion of its oversight during the negotiations, the EEAS will be able to act more proactively and with greater understanding of the institutional mindset and barriers within the Council and the Commission.

One area in which member-states could be directly affected by the EEAS is with its personnel. A significant percentage of the EEAS will be staffed by seconded national diplomats who would be working at the EU level rather than for their respective member-

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<sup>179</sup> German Foreign Federal Office, "Questions and answers on reform of the Security Council," <http://www.auswaertiges-amt.de/diplo/en/Aussenpolitik/InternatOrgane/VereinteNationen/ReformVN/ReformSR-Fragen.html#t7>

states. Working in such an environment has the potential to build new relationships and loyalties that would not otherwise be formed by diplomats working outside of this new intergovernmental mechanism. Over the long term, it is possible that such shared experiences for European foreign service personnel may form a more cohesive European identity among the diplomatic corps. This could happen in two main ways. The first could be that diplomats begin to agitate for more powers to be assigned to the EEAS from the national level. The second is that as personnel advance in their careers at the national level with EEAS experience, they might find the European level more effective for diplomatic endeavors even without further centralization of responsibility in Brussels. Some scholars have suggested that states may scale down their own diplomatic delegations in response to the EEAS creation;<sup>180</sup> however, this does not appear to be an immediate concern given member-states' efforts to reduce the scope of the new EU diplomatic efforts.

Perhaps the most significant policy implication of the EEAS creation process is that the European Parliament has begun to assert influence in CFSP matters on a greater scale. There are several possible avenues this could take. Most obviously, Baroness Ashton must keep the views of the EP in mind when appointing ambassadors and other high officials within the EEAS. Similarly, treaties and other diplomatic initiatives must concretely take account for the views of the Parliament lest they have votes of retribution subsequently in the approval process, inhibiting the EEAS' ability to function smoothly.

MEPs might also begin to become more involved in diplomatic efforts on an individual basis, resulting in greater involvement in joint parliamentary committees, parliamentary delegation visits for information purposes, and greater use of new or

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<sup>180</sup> Hocking and Spence, 298.

existing joint assemblies, such as the Euro-Mediterranean Parliamentary Assembly. EU-U.S. relations could be affected by this greater diplomatic role of MEPs with the established Transatlantic Legislators' Dialogue (TLD) between the EP and the U.S. House of Representatives. The TLD was first established in 1999 after decades of bilateral contact, formalizing a diplomatic program.<sup>181</sup> Evidence of the increased importance of such bilateral parliamentary initiatives would be greater legislative participation and participation of more high profile members. The current leader of the U.S. delegation, Representative Shelley Berkley (D-NV), is running for the U.S. Senate in 2012 and will no longer lead the American delegation; the caliber and profile of her replacement will indicate if Congress views the EP inroads in CFSP as serious or fleeting. The TLD is taken quite seriously in the EP already, with the TLD Steering Committee being comprised of 12 EP Committee Chairs and two Vice-Chairs of the Delegation for relations with the United States.<sup>182</sup> Increased output from their biannual meetings would indicate that the EP is taking a more aggressive negotiating position on foreign policy matters.

## **Conclusion**

European Union member-states entered the negotiations for the European Constitution and, subsequently, the Treaty of Lisbon largely in agreement to avoid ceding too much power in foreign relations to supranational institutions. After negotiations were concluded, they appointed Baroness Catherine Ashton to the position of High

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<sup>181</sup> European Parliament, "The history of EU-US parliamentary contacts," Transatlantic Legislators' Dialogue, [http://www.europarl.europa.eu/intcoop/tld/what\\_is/history\\_en.htm](http://www.europarl.europa.eu/intcoop/tld/what_is/history_en.htm)

<sup>182</sup> European Parliament, "TLD Steering Committee," Transatlantic Legislators' Dialogue, [http://www.europarl.europa.eu/intcoop/tld/steering\\_committee/members/tld\\_members.pdf](http://www.europarl.europa.eu/intcoop/tld/steering_committee/members/tld_members.pdf)

Representative of the Union for Foreign Affairs and Security Policy, a role in charge of the external actions of the European Union. Among her responsibilities was leading the negotiations for the creation of the European External Action Service, the new diplomatic corps of the European Union. Ashton was portrayed as a surprising choice in both reporting and scholarly analysis and was commonly thought not to be substantial enough for the portfolio. Widespread reporting on Ashton's weakness emboldened the European Parliament to capitalize on the opportunity presented by the EEAS negotiations in order to pursue a more supranational agenda by holding up the approval of the Service until policy concessions were made. Though those individual concessions do not drastically change the intergovernmental character of the EEAS put forth by Baroness Ashton, the entrepreneurship shown during the negotiations has opened the door to a more assertive Parliament acting in CFSP, which could result in greater supranationalism in external relations in all areas of European foreign policy going forward.



**Appendix A: Organizational Chart**

