



**COUNCIL OF
THE EUROPEAN UNION**

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PUBLIC

NOTE

from : Presidency
to : Council/European Council

Subject : Presidency report to the European Council on the European External Action
 Service

Delegations will find attached a report from the Presidency to the European Council on the European External Action Service.

It is recalled that no decisions can be taken as long as the Treaty of Lisbon has not entered into force following ratification by all 27 Member States.

THE EUROPEAN EXTERNAL ACTION SERVICE

1. Article 27(3) TEU constitutes the legal basis for the Council decision on the organisation and functioning of the EEAS.

“In fulfilling his mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of the European External Action Service shall be established by a decision of the Council. The Council shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission.”

2. In the light of the above, the Presidency, the Member States, the Commission and the Council Secretariat undertook preparatory work on the EEAS. The present document sets out the results of this work as European Council guidelines for the High Representative in the preparation of the draft Council decision on the organisation and functioning of the EEAS¹.

SCOPE

3. The scope of the EEAS should allow the HR to fully carry out his/her mandate as defined in the Treaty. To ensure the consistency and better coordination of the Union's external action, the EEAS should also assist the President of the European Council and the President as well as the Members of the Commission in their respective functions in the area of external relations as well as closely cooperate with the Member States.

¹ It is without prejudice to decisions to be taken with regard to the internal organisation of the Commission and the overall coordination role of its President.

Single desks

4. The EEAS should be composed of single geographical (covering all regions and countries) and thematic desks which would continue to perform, under the authority of the HR, the tasks currently executed by the relevant parts of the Commission and the Council Secretariat.
5. While the EEAS will have geographical desks dealing with the candidate countries from the overall foreign policy perspective, enlargement will remain the responsibility of the Commission².
6. Trade and the development policy as defined by the Treaty, should remain the responsibility of relevant Commissioners and DGs of the Commission.

ESDP and crisis management structures

7. In order to enable the High Representative to conduct the European Security and Defence Policy (ESDP), the Crisis Management and Planning Directorate (CMPD), the Civilian Planning and Conduct Capability (CPCC) and the Military Staff (EUMS) should be part of the EEAS as defined in paragraph 16 while taking full account of the specificities of these structures and preserving their particular functions, procedures and staffing conditions. The Situation Centre (SitCen) should be part of the EEAS, while putting in place the necessary arrangements to continue to provide other relevant services to the European Council, Council and the Commission. These structures will form an entity placed under the direct authority and responsibility of the High Representative in his/her capacity of High Representative for Foreign Affairs and Security Policy. This arrangement will fully respect Declaration n° 14 annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon.

² The Commissioner responsible for enlargement will ensure the political lead as far as IPA is concerned.

8. To enable the HR to fulfil his/her tasks in the crisis management area, preparations of actions related to the CFSP budget and the Instrument for Stability (Exceptional Assistance Measures and Interim Response Programmes) should be handled by the EEAS. The decision-making process will remain as today, with decisions taken by the Council (CFSP) and the Commission (IfS). The technical implementation of these instruments should be managed by the Commission.

Programming and implementation of financial instruments

9. In order to enable the High Representative to assume his responsibility of ensuring the coordination and consistency as well as strategic direction of external policies of the EU, the EEAS (single geographic desks) should play a leading role in the strategic decision-making. The EEAS will thus be involved in the whole programming chain. The specific division of labour for programming the geographical and thematic instruments (the European Neighbourhood and Partnership Instrument, the Development Cooperation Instrument, the European Development Fund, the Instrument for Cooperation with Industrialised Countries, the European Instrument for Democracy and Human Rights, the Instrument for Nuclear Safety Cooperation and the Instrument for Stability) between the EEAS and the Commission services will be determined before the end of 2009 taking account of the nature of the instruments concerned.
10. Throughout the whole programming and implementation cycle, there should be very close cooperation and consultation between the High Representative and the EEAS and the relevant Commissioners and their services. The decisions concerning programming will be prepared jointly by the High Representative and the Commissioner responsible. The final proposals in this respect will continue to be adopted by the College of Commissioners.

11. Union delegations will play an enhanced role in the programming and the implementation of these instruments.

Support functions

12. The EEAS should include a limited number of core support functions such as in particular security, IT, management of human resources. The EEAS will need a small capacity for specific legal advice within its structure. The HR and the EEAS should also, for the purpose of cost-efficiency, be able to draw on other services within both the Commission and the General Secretariat of the Council in order to fulfil his/her mandate (such as legal services or translation services).

Other

13. Effective consultation procedures should be established between the EEAS and the services of the Commission with external responsibilities, including those in charge of internal policies with significant external dimensions.
14. The EUSRs or their tasks should be integrated into the EEAS.
15. Once in office, the High Representative should regularly consult the European Parliament on the main aspects and the basic choices of the CFSP/CSDP. Close contacts with the EP will take place at working level. The EEAS should therefore contain functions responsible for relations with the EP.

LEGAL STATUS

16. The EEAS should have an organisational status reflecting and supporting its unique role and functions in the EU system. The EEAS should be a service of a *sui generis* nature separate from the Commission and the Council Secretariat. It should have autonomy in terms of administrative budget and management of staff. The EEAS should be brought within the scope of Article 1 of the Financial Regulation. This would allow the HR to:
- propose a budget for the EEAS, which would be a separate section of the EU budget (under Heading V). The usual budgetary rules will apply.
 - perform the duties of authorising officer; implement the Service's administrative budget.
 - act as appointing authority for EEAS staff.
17. This will require adjustments to the Financial Regulation and the Commission Regulation on the implementing rules of the Financial Regulation as well as to the Staff Regulation.

STAFFING

18. EEAS staff will come from three sources: relevant departments of the General Secretariat of the Council and of the Commission as well as staff from Member States.
19. All three categories of personnel should be equally treated, including as concerns eligibility to assume all positions under equivalent conditions. Staff from Member States should therefore have the status of temporary agents which, on the basis of Conditions of employment for other servants ("CEOS")³, grants them the same opportunities, rights and obligations (including functions, responsibilities, promotion, pay, leave and social benefits) as those of staff coming from the two other sources of origin.

³ Conditions of employment for other servants ("CEOS") which is parallel to the Staff Regulation.

20. A balanced representation between the different categories must be ensured. When the EEAS has reached its full capacity, staff from Member States should represent at least one third of EEAS staff (AD level), including diplomatic staff in delegations. In addition, some supporting staff should also come from Member States. Staff from Member States should be present in the EEAS from the outset, including in senior positions in Brussels and EU delegations. Already during stage 1 (from the entry into force of the Treaty to the adoption of the Council decision on the organisation and functioning of the EEAS), appropriate presence of staff from Member States should be ensured.
21. The HR will be the appointing authority. Recruitment should be undertaken through a transparent procedure based on merit with the objective of securing the services of staff of the highest standard of ability, efficiency and integrity while ensuring adequate geographical balance, a need for a meaningful presence of nationals from all EU Member States in the EEAS and aiming towards gender balance⁴. A recruitment procedure would be established associating representatives of Member States, Commission and GSC.
22. Appropriate arrangements should be made to ensure staff mobility. The EEAS will need to implement a policy in this respect in order to ensure equal treatment between all members of the service. This policy would include:
- a rotation inside the service, i.e. between headquarters and delegations and between services at the headquarters.
 - a rotation between the EEAS and national diplomatic services.
 - and, to the extent possible, mobility between the EEAS and Commission and the GSC for staff coming from these institutions.
23. The Staff Regulation will have to be adapted accordingly.
24. Steps should be taken as regards providing EEAS staff with adequate common training.

⁴ The situation in this regard will be regularly monitored.

25. Although temporary increases in the combined establishment plans of the EEAS, the Commission and the GSC may be necessary, the number of posts of the combined establishment plans should not increase over time.
26. Staffing and transfer procedures in the establishment of the EEAS will fully respect the rights of all staff members affected.

FINANCING

27. The establishment of the EEAS should be guided by the principle of cost-efficiency aiming towards budget neutrality. To this end, transitional arrangements and gradual build-up of capacity will have to be used. Unnecessary duplication of tasks, functions and resources with other structures should be avoided. All opportunities for rationalisation should be used. In order to ensure appropriate presence of staff coming from Member States in the EEAS, in addition to existing posts coming from the Commission and the GSC, posts could be made available through the transformation of temporary posts in the Commission and the Council Secretariat as well as through filling of posts freed up through retirement and other means. In addition, a limited number of additional posts for Member States temporary agents will be necessary which have to be financed within the framework of the current financial perspectives.

EU DELEGATIONS

28. With the entry into force of the Lisbon Treaty, the Commission's delegations will become Union delegations under the authority of the HR, and be part of the EEAS structure.
29. Delegations will contain both regular EEAS staff (including Heads of Delegation) and staff from relevant Commission services. All staff should work under the authority of the Head of Delegation. Delegations should take instructions from and report to the HR/EEAS and the relevant Commission services as appropriate.

30. The Delegations should work in close cooperation with the diplomatic services of the Member States. In addition to the assistance they provide to the Commission and the Council, they should, wherever necessary, provide logistical and administrative support to the members of other institutions, including the European Parliament. The EEAS/EU Delegations and Member States should, on a mutual basis, share information.
31. The HR should, as a matter of priority, establish a road map and timeframe for the upgrading of EU delegations in close coordination with incoming presidencies. This will allow EU delegations to assume as soon as possible the role and functions currently performed by the rotating Presidency in terms of local coordination and representation of the Union. Special attention should be given to the early upgrading of delegations where the needs of coordination and efficiency in external action are of special importance, for political or operational reasons.
32. EU delegations should play a supporting role as regards diplomatic and consular protection of Union citizens in third countries.
33. Further work is needed on the modalities for the EU delegations accredited to international organisations on a case by case basis.

WAY FORWARD

34. There will be several stages before reaching the final shape of the EEAS. The Council will be fully involved throughout the whole process.

- A first stage from the entry into force of the Treaty to the adoption of the Council decision on the organisation and functioning of the EEAS. The HR should submit his/her proposal with a view to it being adopted at the latest by the end of April 2010. For that reason it is of key importance that preparatory work should continue at full speed within the current format in the run up to the entry into force of the Treaty. From the start, as well as having the immediate support of the external relations structures of the Commission and of the GSC, he/she will be supported by a small preparatory team which should be composed of representatives of Member States, Commission and GSC. In parallel to preparations for that decision, work must be carried out to make the relevant adaptations in existing rules, such as the Staff and Financial Regulations with a view to their adoption at the same time as the Council decision on the organisation and functioning of the EEAS. Close contacts with the European Parliament should be continued during this stage.
- A second stage for setting up the EEAS, from the adoption of the Council decision to full cruising speed. A first status report should be made in 2012.
- When the EEAS has been functioning for some time at full speed, there should be a review of the functioning and organisation of the EEAS followed, if necessary, by a revision of the decision. This review should also cover the scope of the EEAS, including delegations' role in consular affairs. Such a review should take place in 2014.