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PROGRESS REPORT

to : European Council

Subject : European External Action Service

Delegations will find attached a joint progress report by the Secretary-General/High Representative and the Commission on the European External Action Service.

EUROPEAN EXTERNAL ACTION SERVICE

**JOINT PROGRESS REPORT TO THE EUROPEAN COUNCIL
BY THE SECRETARY-GENERAL/HIGH REPRESENTATIVE
AND THE COMMISSION**

1. The European Council at its meeting on 16-17 December 2004 invited the Secretary-General/High Representative and the Commission to prepare a joint progress report on preparatory work on the European External Action Service for its meeting in June 2005 at the latest.

INTRODUCTION

2. Following the signature of the Constitutional Treaty in October 2004, preparatory work on the European External Action Service (EEAS) was undertaken by the Secretary-General/High Representative and the Commission as well as the Member States. The High Representative and the President of the Commission circulated a joint issues paper which served as the basis for a first round of discussions with Member States in COREPER on 10 March 2005. A copy of this paper is attached to this report.
3. The Presidency, together with the Council Secretariat and Commission, then carried out bilateral meetings with all Member States between 27 and 29 April, and also subsequently with Romania and Bulgaria. A collective stocktaking of these bilateral meetings took place in COREPER on 12 May. This report has been drawn up on the basis of the joint issues paper and these discussions.
4. In parallel, discussions have begun among Member States on a number of technical aspects: the legal status of the EEAS, personnel issues, budgetary questions, administrative functions and the management of Union Delegations. Six meetings have taken place on the basis of a number of papers drawn up by the Council Legal Service and the Commission services. Some preliminary orientations have emerged as a result of these discussions, as reflected in paragraphs 14 and 15.
5. The European Parliament also had a debate on the EEAS in plenary session on 11 May, after preparation in the relevant Committees, and subsequently adopted a resolution on this subject on 26 May.

THE FORM AND FUNCTIONS OF THE EEAS

6. The joint issues paper from the High Representative and the President of the Commission indicated that the EEAS should be a service of a "*sui generis*" nature. There is broad consensus among Member States in support of this approach, which would mean that the EEAS would not be a new "institution", but a service under the authority of the Foreign Minister, with close links to both the Council and the Commission. For a large number of Member States, the EEAS could use support functions carried out by the General Secretariat of the Council and/or the Commission. Indeed some see this as an important factor in minimising duplication and saving costs.
7. All Member States underlined that the purpose of the service was to assist the Minister in his various functions, including that of Vice-President of the Commission. He must have the means to shape the agenda, to make proposals, and to ensure overall coherence and consistency, subject to the relevant treaty provisions. At the same time, he must be in a position to conduct the CFSP/CSDP and to fulfil his representational duties.
8. On the issue of the organisation of the EEAS, the joint issues paper highlighted the need to ensure that the double-hatted Minister is equipped to fulfil all his responsibilities effectively. It suggested that the EEAS should comprise services currently dealing with CFSP (including CSDP), together with geographical desks covering all regions of the world and thematic desks dealing with issues such as human rights, counter-terrorism, non-proliferation and relations with the UN. A small number of Member States consider that the EEAS should be restricted to covering CFSP/ESDP, whilst a few would instead prefer it to have a broad remit including areas such as enlargement, neighbourhood and development policy (there is a consensus that trade policy should not be included). The view of the majority of Member States lies somewhere between these two positions, with most as a result drawing the conclusion that the EEAS should consist of at least the relevant parts of the Council Secretariat (DGE and Policy Unit) and of the Commission (DG External Relations). A large body of opinion tended to view the military staff as part of the service, but some doubts were also expressed in this respect. Views differed over whether Sitcen from the Council Secretariat should be included.

9. Member States agreed that the duplication of functions should be avoided as far as possible. In this respect, there was broad agreement that the geographical and thematic desks within the service should not be duplicated either in the General Secretariat of the Council or the Commission, even though this will not prevent the Commission from organising its Directorate-Generals in other fields such as trade, development or enlargement so as to allow them to fulfil their tasks.

COUNCIL PREPARATORY BODIES

10. Many Member States would prefer the Council's preparatory bodies in the area of external relations and dealing with what are now first pillar matters to continue to be chaired by the rotating Presidency. Concerning pure CFSP groups or groups working closely with the PSC, a majority said they could accept, or were open to, chairmanship by a member of the EEAS, in line with the approach advanced in the joint issues paper. As to groups with mixed competences, the feeling was that the decision should be taken on an ad hoc basis.

DELEGATIONS

11. There is broad consensus that the existing network of Commission delegations should become the future Union Delegations, and that as a consequence of the provision of the Constitutional treaty which places them under the authority of the Foreign Minister, they should be an integral part of the EEAS. Moreover, these arrangements will have to respect the treaty provisions covering the institutional responsibilities for external representation of the Union. For most Member States this does not necessarily imply that all staff working in the Delegations would need to be members of the EEAS (those covering specific policies such as trade and management of financial assistance would continue to come from the services of the Commission). Many Member States cited the example of their own embassies or permanent representations to the EU (composed of staff from different home ministries, yet all collectively under the authority of the head of mission) as a model for the future functioning of Union Delegations.

12. The joint issues paper also raised the idea that Union Delegations might take on additional tasks such as consular protection and visas. A majority of Member States supported this, although it was recognised that this was a complex issue which would require some detailed examination. Some suggested that Union Delegations should provide logistical and technical support for high-level visits from Member States. It was also proposed that certain categories of reports from Union Delegations should be shared with Member States.

PERSONNEL AND BUDGETARY ISSUES

13. The joint issues paper highlighted a number of administrative and organisational questions that require further analysis. In this context, few delegations expressed a view on the overall size of the service, considering that it should be defined by its scope and functions. As its staff will be drawn from three sources (Council Secretariat, Commission and Member States), Member States underlined the importance for them of having a sufficient number of national diplomats in the EEAS and in a range of positions at all levels. Nearly all considered that personnel from the Member States should be temporary agents rather than seconded national experts to ensure that all staff in the EEAS had the same status and conditions of employment.
14. There was broad agreement on the need for nomination of staff to the EEAS to be based on merit, with appropriate selection procedures. These should imply a central role for the Minister, including his agreement on final decisions. Almost all delegations underlined the importance of guaranteeing adequate geographical balance, whilst avoiding the introduction of quotas.
15. Delegations agreed that the implications of financing the EEAS for the budget of the Union, the role of the Minister in relation to the function of authorising officer of the EEAS as well as the related issue of its administrative status, and other personnel and budgetary issues required further examination, building on the discussions which have taken place to date.

ISSUES PAPER ON THE EUROPEAN EXTERNAL ACTION SERVICE**INTRODUCTION**

1. The Constitutional Treaty (the treaty) introduces important institutional innovations in the field of foreign affairs. It foresees the creation of the post of a Union Minister for Foreign Affairs who shall at the same time be Vice-President of the Commission (the Minister). The treaty also provides for the setting up of a European External Action Service (EEAS). Heads of State or government have decided that following its signature on 29 October, the SG/HR, the Commission and the Member States shall begin preparatory work on the EEAS. Once the Constitution enters into force, the Minister will put forward a proposal for a European Decision establishing the EEAS. The Council shall act on this proposal after consulting the European Parliament and after obtaining the consent of the Commission.
2. This paper, which is presented jointly by the High Representative and the President of the Commission, sets out some issues relating to the tasks and structure of the EEAS. It is intended to serve as the basis for first discussions with Member States in the context of the preparation of a joint progress report from the HR and the Commission for the European Council in June 2005, as requested by the European Council in December 2004.

THE ROLES OF THE MINISTER

3. Article 28 of the treaty gives the Minister a number of tasks:
 - Conducting the Union's Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP);
 - Presiding over the Foreign Affairs Council;
 - Ensuring the consistency of the Union's external action;
 - Being responsible within the Commission for responsibilities incumbent on it in external relations;
 - Coordinating other aspects of the Union's external action within the Commission.

4. The Minister will thus have important responsibilities in terms of initiative and proposition, coordination and representation. In terms of decision-making and execution, the treaty makes clear that the various instruments retain their own specificity. This is true for national means – which are in fact far larger than EU means –, and also for CFSP and other instruments of external action at EU level. It is important to ensure that once adopted, a policy is backed up by coherent use of the resources of the EU as well as by national instruments, subject to their respective decision-making processes.

5. Giving the chair of the Foreign Affairs Council to the Minister is a major innovation. The replacement of the rotating Presidency in the external field implies fundamental changes elsewhere in the organisation. A draft Decision contained in a Declaration of the IGC concerning article 24 of the treaty stipulates that the PSC, whose role in terms of CFSP and CSDP is defined under article 307 of the treaty, will be chaired by a representative of the Minister. The text of the draft applies the same logic to the working groups dealing with issues going to the Foreign Affairs Council: *"The chair of the preparatory bodies of the various Council configurations, with the exception of the Foreign Affairs configuration, shall fall to the member of the group chairing the relevant configuration..."*.

CONSISTENCY AND COHERENCE IN EXTERNAL ACTIONS

6. It is important to ensure consistency between the different areas of EU external action. The creation of the post of Minister is meant to contribute to that objective, as described in paragraph 3. It should be noted that the Foreign Affairs Council will be in charge not only of CFSP matters, but *"shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent"*, as stated in Article 24-3. More generally, in accordance with Article 292-3, the Council and the Commission, assisted by the Minister, have to ensure consistency between the different areas of the Union's external action and between these and its other policies.

7. For the Minister to be able to fulfil his mandate, he must have the means to shape the agenda, to make proposals, and to ensure overall coherence and consistency, subject to the relevant treaty provisions. At the same time, he must be in a position to conduct the CFSP/CSDP and to fulfil his representational role in these areas, including the replacement of the Troika.
8. It is not the task of the Minister to manage all the various external action instruments at the disposal of the Union, but to ensure coherence with the political orientations of the Union which he will help to shape.

PRINCIPLES

9. Against this background, a number of principles should be respected:
 - Strict compliance with the provisions of the treaty, including in particular the application of the procedures and the extent of the powers of the institutions laid down by the treaty (see Article 308);
 - Avoidance of duplication of responsibilities and establishment of a clear division of tasks;
 - Coherence and consistency of external action.

THE EEAS

10. The EEAS will assist the Minister in fulfilling his mandate. This does not preclude him from drawing on other services within the Council General Secretariat (CGS) and the Commission. The EEAS will work in cooperation with the diplomatic services of the Member States and will comprise officials from the relevant departments of the CGS and of the Commission as well as staff seconded from national diplomatic services of the Member States. The insertion of a specific legal base within the treaty confirms the political will of the authors of the treaty to foresee an innovative *sui generis* solution, i.e. the creation of a new integrated service. The question arises as to whether this should be an autonomous service, neither in the Commission nor in the CGS, or whether it should be partly attached to either or both.

11. The organization of the EEAS needs to ensure that the double-hatted Minister is equipped to fulfil all his responsibilities effectively. The first question in this respect concerns the scope of the EEAS and the nature of its relations with the Commission and the CGS services.
12. In view of the Minister's particular role in conducting CFSP (including CSDP), the services presently working in those areas both within the Council and the Commission should be an integral part of the EEAS. Given that CSDP and crisis management are part of the Minister's core responsibilities, the Military Staff should be integrated within the EEAS. The European Security Strategy emphasises that today's threats cannot be tackled by purely military means and underlines the importance of bringing together all EU instruments for crisis management. In view of the multiple functions of the SITCEN, its location requires further thought. In any event, the Minister will be one of its main clients and must be able to order assessments and evaluations directly.
13. In order to allow the Minister to play the roles he has been given by the treaty, the EEAS must be able to provide unified policy advice and briefing not only to the Minister, but also to the other Commissioners and the President of the European Council. This requires that the EEAS comprises geographical desks which cover all the countries/regions of the world. These desks, which should not be duplicated either in the CGS or the Commission, should assist the Minister in shaping a coherent policy framework for relations with a particular country or region. This will not prevent the Commission from organising its Directorate-Generals in other fields such as trade, development or enlargement so as to allow them to fulfil their tasks.
14. There should be single thematic desks, located within the EEAS, on issues such as human rights, counter-terrorism, non-proliferation and relations with international organisations such as the UN.
15. It will be important to organize effective consultation between the EEAS and the services of the Commission with external responsibilities including those primarily responsible for the management of internal policies with significant external projection. Similar issues could arise over the interface between the EEAS and the services of the CGS.

16. Beyond these areas of external action, there are also areas such as trade, development policy and humanitarian assistance, management of external financial assistance programmes, and the enlargement negotiations. Due to their specific nature, there is no prima facie case for integrating the corresponding services into the EEAS. Generally speaking these areas are however co-ordinated by the Minister inside the Commission.
17. In view of the growing importance of the European Parliament in external relations, the EEAS should contain a service responsible for relations with the EP. It will require in addition support services such as protocol, security, press, and information technologies. It is too early to go into details at this stage.

UNION DELEGATIONS

18. A major innovation of the treaty is the establishment of Union delegations in third countries. Under Article 328 of the treaty, the Union delegations will be under the authority of the Minister. The question arises as to whether in view of the various responsibilities in terms of external representation of the EU as described in the treaty (see Articles 22, 26 and 296 in particular), the delegations should form part of the EEAS or not. Rules concerning staff regulations, origin and recruitment of personnel and financial management, should apply accordingly. As is the case for national embassies, the Union delegations can include personnel seconded from other services to cover issues such as trade, JHA, financial matters, agriculture, transport and other areas. Such personnel should be under the authority of the Head of delegation, as is the rule in national diplomatic missions. It is important to make sure that all representatives of EU bodies in third countries should be a part of a single structure, i.e. the Union delegation.
19. Questions requiring further thought include the future role of the Union delegations in consular protection and possibly in the issuing visas as well as the provision of other services to Member States.

20. Questions also arise concerning the relationship between the EEAS and national diplomatic services. These include:
- Exchange of information between the EEAS and national diplomatic services at headquarters and in third countries;
 - Arrangements for the Heads of EU delegations to chair all meetings of Heads of Missions of EU Member states in third countries.

ADMINISTRATIVE QUESTIONS

21. It is premature to tackle the many administrative questions that will have to be looked at with respect to the future EAS. At this stage, it may be useful just to list a few general questions that require further work:
- How the EEAS, although drawing on three separate sources of personnel, could have a single "*tableau d'effectifs*";
 - How the Minister could be the appointing authority, responsible for recruitment on the basis of merit, while ensuring that staff are recruited on the broadest possible geographical basis, drawing as appropriate on the three sources of personnel (Council/Commission/Member States);
 - How specific requirements of the EEAS could be reflected in the general implementing rules of the Staff Regulations, to which its staff would be subject;
 - How to meet the administrative costs of the EEAS including payment of staff from the EU budget with the necessary degree of management autonomy.

CONCLUDING REMARK

22. In line with the conclusions of the European Council of December 2004, the Secretary-General/High Representative and the Commission will prepare a joint progress report on the preparatory work, carried out by themselves and the Member States, to be presented at the latest at the June European Council.