



# STRATEGIC FILE

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## Joint Venture—Joint Responsibility EEAS Review 2013

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*The March informal meeting of EU foreign ministers (Gymnich) marks the starting point of a channelled discussion on EEAS review, creating the prospect for improvements in the institutional dimension of EU external activity. The exercise presents in particular an opportunity to develop a stronger sense of ownership in EU foreign policy. However, the review as such needs to be adequately managed and structured. Thus, the relevant actors should have a say as to the scope, timing and conduct of the review. Under this precondition, the effort invested in the review could contribute to a recommitment by the member states and consequently strengthen the EU's performance on the international stage.*

As a part of the compromise achieved in 2010 with regard to the legal framework of the European External Action Service (EEAS), it was agreed that by mid-2013 the High Representative for Foreign Affairs and Security Policy will review the organisation and functioning of the newly created service. If necessary, the evaluation process should result in a revision of the EEAS decision by the beginning of 2014.\* By committing to the review, member states have indicated their readiness to modify its initial setup. Created only on 1 December 2010, however, the EEAS may not have been running for long enough to permit a meaningful review, let alone to propose changes to its legal framework. This is not least because the internal and external conditions that accompanied its start up were hardly favourable—growing tensions within the European Union caused by the eurozone crisis, the increasingly visible divergences in member state interests, the different interpretation of the Lisbon Treaty related to the area of external action—all this made an impact on the EEAS. At the same time, European diplomacy was confronted immediately with severe challenges in the international environment—the Arab Spring demonstrating quickly where the weaknesses of the new body lie. That said, these challenges have provided a wealth of empirical material that can facilitate a review if carried out in a measured way. The “shareholders”—member states acting through the Council as well as European Commission—are now more aware of what is working and what is not and what should be changed.

The question is how much political scope there is for adjustment and further progress. It is not easy to forget the laborious negotiations on the EU's foreign policy machinery in the long-drawn-out institutional debate preceding the adoption of the Lisbon Treaty, and then in the course of work on the 2010 EEAS decision, when the interests of member states and European institutions clashed. Trade-offs at that time resulted in intentionally vague provisions. Yet this makes the review even more necessary. This vagueness was defensible three years ago, since it allowed progress towards a settlement primarily based on theoretical considerations. The review provision today creates the possibility to identify successful practices

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\* Article 13(3) of the Decision establishing the organisation and functioning of the European External Action Service 2010/427/EU (hereafter EEAS Decision).

and solutions and reduce the scope for unsuccessful ones. This indeed was a factor that facilitated agreement during the setup of the new service, giving the assurance that some issues would be considered once more on the basis of more empirical arguments. Therefore, the review could be seen not as much as an opportunity to renegotiate the compromise of 2010 but rather a final stage in that negotiation process.

Here though, the scope of the potential changes remains open, the EEAS Decision leaving much room for flexibility in this regard. Modifications of the review provision during negotiations on the Decision clearly showed that there were various ideas as to the concept both with regard to the lead, timing and scope as well as the desired outcome. Article 13(3) specifies only that the evaluation should include the implementation of some provisions concerning EEAS staff [Art. 6 (6), (8), (11) of the Decision]. (The clear indication of personnel policy issues was especially important for member states that joined the European Union in 2004 and 2007 due to their inherited under-representation in particular in the previous Directorate-General for External Relations of European Commission—DG RELEX.) Despite the danger that continued political divisions will prevent in-depth reflection and targeted modifications, the review creates the opportunity—perhaps the only one for a long time—to improve the institutional dimension of EU foreign policy and it is desirable to ensure that the scope of analysis remains wide. This broader, ambitious approach gains, meanwhile, increasing support among member states.

In order to provide structure to the review, it is useful to group the challenges the EEAS is facing into three main categories: (1) the internal development of the newly-created service, (2) its relations with member states and finally (3) its modes of cooperation with other EU institutions. The first category includes the usual issues of internal organisation (such as internal structuring, defining the chain of command, budget, recruitment), and those specific problems that arose following the merger of different administrative structures (the Commission and General Secretariat of the Council), various positions (diplomats, military, administrators) with different work cultures. The second has its roots in the weaknesses of the EU's foreign policy caused by the lack of political will, the disparities in the international ambitions of the member states, their diplomatic and financial resources, their traditional approach to EU cooperation in this field, and the uneven ability to upload national priorities to the EU level. Institutional innovations introduced by the Lisbon Treaty did not improve the situation. As to the third category, the European Commission is indicated as a significant challenge to the EEAS's efficient performance of the tasks assigned to it (and to the High Representative, who is also Vice-President of the European Commission). Compromise solutions dividing responsibilities between the two have not brought satisfactory results either in the EEAS headquarters or in the EU delegations in third countries and in international organisations.

## **Shareholders and Stakeholders**

The special role for member states and the European Commission in the review emerges from the structural hybridity of the EEAS. Both shareholders of this “joint venture” are linked through the specific mandate of the High Representative/Vice-President and exercise the most political influence, whereas the European Parliament (EP) as a stakeholder of the EEAS needs to “elbow in” to profile itself and to get a say within the process.

According to the final formulation of the EEAS Decision, the lead on the review process is to be given to the High Representative. This choice is well-founded because of the High Representative's triple-hatting, allowing the High Representative to join different dimensions of EU external action. Nevertheless, one should consider that the fixed lead of HR requires the involvement of EEAS shareholders. At the same time, it is worth stressing that the course of the review is determined by the approaches taken by the actors involved, which are guided by different logics.

For member states, the review constitutes the opportunity to claim ownership of the EEAS. In this regard, it seems that most of them will take the position of a prudent investor, adopting one of two tactical approaches. The first is oriented towards optimising the existing structure by reducing the deficits identified while taking stock. The second goes beyond basic adjustments and corrections aiming also at the further development of the EU's external activity. In the run-up to the review, a sense of member state-ownership was indicated by the delivery of contributions in the form of non-papers on an individual basis or in a broader coalition. These carry weight, and should the review result in the EEAS Decision be modified, the Council will gain the main role as a lawmaker.

The European Commission also has a clear stake in the EEAS review, having in mind that the establishment of the new body heavily affected this institution's prerogatives. The engagement of the Commission will probably depend on the scope of the review. The Commission seems to consider a narrower review, i.e., of a mere organisational character, the better one, because of the expected risk of diminishing its influence on policy-shaping in the area of external action. Should, however, the EEAS review move towards change in the Commission's "holding," its weight in the process will considerably strengthen because of the consent requirement in the legislative procedure based on Art. 27(3) Treaty on European Union (TEU).

Unlike the defensive European Commission, the European Parliament can freely explore new horizons of political influence. Obviously, the deputies actively use the EEAS review to strengthen the Parliament's position in the area of EU foreign and security policy. The debate on the EEAS—parallel to the main review process—is already running in Parliament. Nevertheless should the budgetary and statutory regulations be placed on the agenda in the process, its voice will grow. Furthermore, this institution could tactically enter into an alliance with other actors involved. In any case, the role of the EP should not be underestimated: just consider the participation of the EP's representative—besides the Commissioner for inter-institutional relations and administration—at the discussion during the Gymnich meeting. The EP has shown itself to be a player who smartly compensates the formal power weakness with substantial preparations, political engagement and a clear agenda. The coherence of the EP's political performance could, however, be undermined by the influence of diverging interests reflecting the different preferences and political orientations of its members.

## **Where and When**

A successful EEAS review will require a decision about where to discuss the issues to be tackled and at what stage of the process. There are many fora available, varying as regards the composition of participants, the obvious appearance of the issues connected with EEAS on the agenda, the frequency of meetings, impact on the EU decision-making process, the role in the legislative procedure in case of potential EEAS legal framework change, different agenda-setting power and the suitability for different actors involved. This wide spectrum of options ranges from the Council (Foreign Affairs Council or General Affairs Council) and Gymnich, through Committee of Permanent Representatives (COREPER), Council working parties to meetings among Secretaries General.

This diversity of options thus creates a temptation for forum-shopping, and maintaining the overall perspective on the process is challenging. Because the core of the review is of an institutional and not substantial (foreign policy) nature, the rotating presidency of the Council of the EU could play a significant role both in organising the discussion among member states and monitoring the process across its different dimensions.

A good starting point for discussion on the issues to be addressed during the review was to table the member states' expectations at the informal foreign ministers' meeting in the Gymnich format on 22–23 March 2013. Nevertheless, it seems important to go jointly further and agree on a formula of subsequent interaction between member states and High Representative concerning the scope and course of the review.

## **Honest Diagnosis as *Conditio sine Qua Non***

All this shows that leaving the authority to define the scope of the review to the HR alone will leave the process vulnerable to convenient selectivity, in turn implying that the review will fall short of its potential. A foretaste of this was given by the High Representative's report analysing the first year of EEAS activity in December 2011, which drew on insufficient dialogue between High Representative and the member states. Although the report alluded to the views expressed by member states, in particular to a joint letter signed by 12 foreign ministers (Belgium, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxemburg, the Netherlands, Poland and Sweden), the report did not serve as incentive for in-depth dialogue with governments and institutions. Neither the date of publication (December 22!) nor the methodology, form and extent contributed to more fruitful debate on EEAS. More regrettably still, it hardly served as an adequate preparation exercise for the review.

It also suggests that this time the High Representative will be tempted to highlight the budgetary constraints imposed on the service, meticulously present the service's achievements (such as negotiations with Iran, efforts to mediate between Serbia and Kosovo, etc.) as well as the external challenges the service has had to face, rather than to expose the homemade limits of EEAS's performance. Similarly, a shyness of conflict may encourage the High Representative to present a document focused on organisational and technical aspects rather than on true political constraints and options to be explored. Therefore, a process of tabling of member state positions and demands could enrich the High Representative's view with a more differentiated assessment. Another option to broaden the analysis for review could be a more inclusive approach also within the EEAS itself, taking in the opinions of the officials representing different structure levels and areas of activity.

For their part, however, member states themselves must resist the temptation for EEAS-bashing. The stocktaking of EEAS activity will be more objective if a dynamic approach is taken, delivering not only a snapshot but also the message about the tendencies and prognosis of the expected modifications or stalemates. An appreciation of EEAS achievements on the part of the member states will be essential to promoting best practices and to providing a proper basis for strategic decisions on structure and modes of cooperation. This will in turn increase the readiness to invest in activities and areas in which the added value of the EEAS is already recognised. Both member states and institutions, in particular the European Commission, could at the same time evaluate their experience of cooperation—including a critical look at their own commitment while shaping EU foreign policy.

### **Recommended: Keeping the Task in Mind**

With all this discussion about the political manoeuvring underpinning the process, the purpose of the EEAS review as set up through Decision wording should not be forgotten. According to Art. 13(3), this is to identify room for improvement in the organisation and functioning of the service. The way to this leads through timely structuring and prioritising after the expectations towards the review have been specified and agreed.

Evaluation of the EEAS can draw from other ongoing parallel debates touching European foreign policy, i.e., reflection on the strategic orientation and a new attempt to handle the security dimension of the EU. These debates encourage deeper consideration on the expectations for the EEAS and the resources that would be required to meet these expectations. Having in mind this broader context, the EEAS review should, however, concentrate on making the EEAS able to deliver.

Staying focused also means the determination to meet timelines as set up in the EEAS Decision, which favours the smooth running of the process, concentrating on priorities, and creates an incentive for achieving the outcome in a timely manner. Furthermore, the rescheduling of the review from 2014 to 2013 during the 2010 negotiations strengthens the indication that there was the will to conclude the potential legislative changes within the current term of High Representative. After the start-up phase, the next term could then be relieved from most leftovers founded within the creation of the new structure.

The biggest risk for the success of the EEAS review consists of excessive generalisation to the detriment of concreteness. It will not bring things much further if there is only general talk about “strengthening the EEAS”—with the same cognitive value as the vague formula “more Europe.” It would be beneficial to adapt the rule that the number of concrete proposed solutions during discussion exceed the number of identified inadequacies. They could touch on both: the elimination of shortcomings that limit EEAS by carrying out its tasks on the one hand and desired improvements to increase the potential—assessed case by case—on the other hand.

The review will be a successful undertaking if it delivers change for the better as to the EEAS's performance, increasing its effectiveness and ability to adequate rapid reaction on international challenges. Nevertheless, this change does not have to be of the legislative nature, and above all, there is no need to determine this at the starting point. Clearly any Decision modification must be backed up with appropriate proposals of the High Representative and, what is more important, member states must be willing to resume the negotiations effort. The outcome of the review could therefore be limited to proposals for improvements that do not require amendments of the legal framework, which can relate especially to

improvement of the modes of cooperation with the member states and Commission as well as modification of internal organisation.

## **The Ownership Matters**

Implementation of the “review *acquis*” will be determined by the sense of ownership fostered during the process and will be decisive for its lasting effect. Thus the need arises to specify also the monitoring procedure concerning elaborated recommendations and agreed measures. Such an oversight mechanism could become a tool for building ownership and a feeling of joint responsibility, provided that the review process is carried out in a constructive and inclusive way. It is notable that the review was designed as a one-time process, so that henceforth only standard methods of evaluation and audit will apply. There is no obligation for the High Representative to provide periodic reports on the functioning of the EEAS. A report on Common Foreign and Security Policy submitted annually to the EP does not apply to the internal aspects of the service and as such could be seen as not fully meeting the needs of member states in this regard.

Therefore, it could be one more point of reflection whether the unique character of the EEAS demands more tools for its shareholders to assess the condition of their joint venture in the years to come. Different options are possible: besides some kind of comprehensive evaluation, one might consider an issue-oriented analyses of the EEAS's performance touching on such themes as the EU's external representation, disputed in the early days of EEAS, cooperation between EU delegations and the diplomatic services of the member states, and the proper allocation of resources in the context of policy priorities and budgetary constraints.

The EEAS review can give all actors involved a look-in to improve communication, develop inclusive patterns of cooperation, and—consequently—to encourage the leadership of High Representative. Without measures guaranteeing the ownership on the EEAS, one could doubt whether there will be a significant increase of member states' political will for a common approach towards external challenges. After all, the EEAS is simply a tool for upgrading the EU's external action. Without standing up to this condition, the joint venture could turn into joint disappointment.