

**THE EUROPEAN COMMISSION AND THE EUROPEAN  
UNION'S EXTERNAL RELATIONS AFTER THE LISBON  
TREATY**

*Neill Nugent (Manchester Metropolitan University) and  
Mark Rhinard (Swedish Institute of International Affairs)*

Paper prepared for the Twelfth Biennial Conference of the European Union  
Studies Association, Boston, March 3-5 2011

Not to be quoted without permission

## INTRODUCTION<sup>1</sup>

The European Commission has long been a key policy actor in the conduct of the EU's external relations. But, with the EU's external relations covering a wide range of specific policies – including trade policy, development policy, enlargement and neighbourhood policy, the external dimension of such internal policies as environment and transport, and foreign and security policy – the precise nature of the Commission's external roles and responsibilities, along with the power it holds and the influence it exercises, varies considerably across the particular spheres of external relations.

This paper analyses the significance of the Lisbon Treaty for the roles and influence of the European Commission in the conduct of the EU's external relations. It does so across the various spheres of EU external relations, but with a particular emphasis on foreign and security policy for that is where Treaty changes might be expected to have the greatest impact on the Commission's position in respect to external policies. The paper also assesses how changes wrought by the Lisbon Treaty influence the Commission's traditional roles related to the conduct of EU external relations – notably strategic leadership, policy goal-setting, coordination, policy management, and representation.

The analysis contained in this paper is placed against the backdrop of ongoing debates regarding the Commission's relative decline in institutional power and influence since the mid-to-late 1990s. This decline is generally seen to have been accelerated by the Lisbon Treaty, with the Commission often portrayed as the main loser in the institutional reforms and redistribution of power arrangements brought about by the Treaty (see, for example, Kaczyński *et al.*, 2010), particularly in the area of foreign and security policy (Wessels and Bopp, 2008). The analysis in this paper qualifies those findings and adds some critical nuance. The main qualification made is that although the Lisbon Treaty contains reforms that

---

<sup>1</sup> The authors are grateful for the invaluable research assistance provided by Malin Häggqvist of the Swedish Institute of International Affairs.

contribute to the relative decline of the Commission generally, it leaves the Commission's position in most external relations policy areas largely untouched. This is the case even in CFSP/CSDP matters, notwithstanding the inclusion in the Treaty of fairly radical institutional reforms.

The paper is divided into five main sections. The first section provides a brief overview of the Commission's pre-Lisbon Treaty responsibilities, tasks, powers, and influence in respect of the EU's external relations. The second section looks at why, even before the Lisbon Treaty, the Commission was seen to be in decline as a policy driver and initiator, not least in the sphere of external relations. The third section outlines the main provisions of the Treaty with implications for the Commission and the conduct of external relations. The fourth section offers an early assessment of the Lisbon Treaty's effects on the Commission's policy powers and influence in the sphere of external relations. This section demonstrates that while ongoing post-Lisbon inter-institutional struggles dictate that assessments must still be very tentative, it is possible to detect subtle changes in the different kinds of policy-making roles traditionally ascribed to the Commission. These changes show that although the Treaty has certainly weakened the Commission's external relations position in some respects, overall it has not weakened it by as much as is commonly supposed. The fifth and final section draws together our main points.

## **THE COMMISSION'S PRE-LISBON RESPONSIBILITIES, POWERS AND INFLUENCE IN RESPECT OF EXTERNAL RELATIONS**

The Commission's position in the conduct of the EU's external relations has always varied considerably across the various dimensions of the EU's external policy commitments and involvements. It is not possible to examine these many dimensions in any detail here, but if the dimensions are placed into five broad categories – trade policy, development policy,

enlargement and neighbourhood policy, the external dimension of internal policies, and foreign and security policy – then the Commission has long been a central policy actor in respect of the first four of the categories and has been a significant associated actor in respect of foreign and security policy.

The Commission's significance, of course, has been not as a policy decision-maker since, except in respect of certain implementing decisions, decision-making powers in virtually all areas of external relations have lain with the European Council and the Council of Ministers – and, in a few areas, also with the European Parliament where the latter has had the power of assent. Rather, the main significance of the Commission as a policy actor has been as a very important policy framer and formulator (Rhinard, 2010). So, to take trade policy, since the Common Commercial Policy (CCP) was established in the 1960s the Commission has been responsible for drafting the EU's mandates for international trade negotiations and for conducting the negotiations. To be sure, the mandates and negotiated trade agreements have had to be approved by the Council of Ministers, but the Commission has usually had considerable discretion as to what it actually puts before the Council for approval. Or, to take enlargement policy, again it has been the Council – or often, in practice, the European Council – that has been the main formal decision-maker on key decisions. Such decisions normally concern whether or not to open and close accession negotiations with applicant states and, if they are to be closed, when accession dates should be. But, as with trade policy, though the formal decisions have been made elsewhere, the Commission has done much to set the pace of enlargement policy – not least through its annual reports on the adaption progress being made by applicant states and by the fact that it (the Commission) is the main negotiator on the EU's side in accession negotiations.

In the various areas of external relations, the Commission's position has always been weakest in respect of foreign and security policy and, since it began to be developed after the

1998 Franco-British summit at St Malo, defence policy. This is because policy processes in these areas have always rested primarily on intergovernmental bases, so the Commission's position has never been as strong as in policy areas where the Community method has been used. Nevertheless, the Commission has attempted, as best it can, to insert itself into foreign and defence policy-making processes (Duke, 2006). One way in which it has sought to do this is by linking foreign policy issues and instruments (where it is institutionally weak) to trade, development, and internal policy issues and instruments (where it is institutionally much stronger). Another way has been by frequently changing its internal structural arrangements for dealing with foreign and other external policies so as to maximise such power potential as it has (see Nugent and Saurugger, 2002).

## **THE DECLINE OF THE COMMISSION**

The Commission was at its 'policy peak' during the ten year Delors' presidency from 1985. During that time, and especially in the first years of the presidency, the Commission seemed to stride the policy-driving stage with confidence and from a near-monopolistic position. Since then, its policy position appears to have weakened. This weakening has been a theme of much of the commentary on the Commission in recent years, with the decline in respect of providing the EU with policy momentum being singled out for particular attention (Cram, 2001; Majone, 2002; Burns, 2004; Balint *et al.*, 2008). Whilst the Commission is, of course, still recognised as being a very important actor in driving policy in the EU – particularly in terms of policy initiation and formulation – it is seen as now being not quite as central as it used to be in furnishing the EU with policy momentum.

Insofar as it is the case that there has been a decline in the Commission's position and influence – and arguably the extent of the decline has been exaggerated – what have been the main explanations for it? There is not space here to examine in depth the many explanatory

factors that have contributed to the decline, but the most important factors will be outlined for they have all impacted, directly or indirectly, on the Commission's external policy roles and influence. There are four such factors or, to be strictly accurate, sets of factors.

### *Institutional factors*

A number of institutional factors have been important, both in having a direct impact on the Commission and in affecting its structural standing amongst other actors in the EU system.

A major institutional factor has been the rise, and the increasing agenda-setting role, of the European Council. Since it was established in 1975 the European Council has increasingly asserted itself as a major policy player, to the extent that few significant policy initiatives today are not channelled through its meetings. This increasing policy role of the European Council is partly accounted for by its formal treaty powers – which have been considerable since they were first set out in the 1992 Treaty on European Union (TEU): ‘the European Council shall provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof’ (Article D); and in respect of the TEU-established Common Foreign and Security Policy (CFSP) ‘the European Council shall define the principles of and general guidelines for the common foreign and security policy’ (Article 6.8). But, even more important than its treaty powers in explaining the increasing policy roles of the European Council – an increase most clearly seen in the foreign policy area, with few European Council Conclusions not including declarations on important foreign policy issues – has been its composition. After all, who is going to tell national leaders that a policy goal they have identified or a policy initiative they have launched is unacceptable?

Another institutional factor that has contributed to a decline in the influence of the Commission has been the existence since the mid-2000s of the ‘trio’ Presidency concept, which has shifted leadership of the Council of Ministers from a single member state

Presidency lasting six months to sequential Presidencies lasting eighteen months (though with one member state still ‘in the lead’ for six months). Although the eighteenth month Council Presidency programmes do not appear to strongly constrain individual presidencies, and although the Commission is closely consulted in the process of drafting the eighteen month programmes, the trio format has increased the policy planning capacity of the Council and led to ‘agenda competition’ to the detriment of the Commission.

The Commission has also had to contend with institutional innovations that have challenged its ambitions in specific policy areas, including foreign and security policy. One major problem arose for it with the creation by the 1997 Amsterdam Treaty of the new post of High Representative for the Common Foreign and Security Policy. Although the Treaty was somewhat vague about the High Representative’s functions (see Article 26, 1997 version of the TEU), it was clear that the Council base of the post would give the occupant a decisive *de facto* edge over his counterpart in the Commission – the Commissioner for External Relations – in respect of the initiation of policies and policy actions. And so it proved, with the first, and as it turned out the only, High Representative for the CFSP – the former Spanish Foreign Minister, Javier Solana – quickly establishing himself as ‘Mr CFSP’.

As well as contending with new and competing institutional players, the Commission has been witness to an institutional growth and expansion of its administrative counterpart across the rue de la Loi: the Council’s General-Secretariat. In the late 1990s and early 2000s, the Secretariat took on an increasing number of responsibilities in parallel with the expansion of what was then called the European Security and Defence Policy (now, Common Security and Defence Policy) with its focus on military and civilian crisis management. The need to boost institutional competences linked to tasks traditionally associated with the Commission – information gathering, planning, and executive functions – gave way to reforms within the Council and a swelling of its administrative ranks. This expansion in tasks and personnel took

place, in the eyes of many officials, at the expense of the Commission (Juncos and Pomorska, 2010).

A final institutional factor to challenge the position and influence of the Commission in the EU system has been the increasing policy powers of the European Parliament. Every round of treaty reform since the Single European Act has increased the Parliament's policy powers. This has been most notably the case with regard to the making of legislation, where the gradual expansion of the co-decision procedure has had the effect of upgrading the Parliament's position at the expense of the Commission (Burns, 2004). But it has occurred in other respects, too, as is witnessed by the Parliament's successes in extending its powers of scrutiny – over both the Commission and other key policy-makers in such key policy spheres as EMU and EU foreign policy.

### ***Procedural factors***

A very important procedural factor has been the increasing use of policy processes other than the Community method. Whereas under the Community method the Commission holds monopolistic policy initiation and formulation rights, it does not do so under other methods. And these other methods – which are mainly made up of intergovernmental cooperation and open coordination in their various forms – have come to be used for some of the EU's most important areas of policy development over the last fifteen or so years: foreign and defence policy, macroeconomic policy, social policy, and employment policy. The use of policy processes other than the Community method is not, of course, in itself, a recent phenomenon, as is witnessed with European Political Cooperation from the early 1970s, which utilised intergovernmental cooperation, and the European Monetary System from the late 1970s, which utilised an early form of open method of coordination. But, whereas until the 1990s the

use of methods other than the Community method was very restricted, their use has now come to be common.

A key reason for the declining use of the Community method is, in Giandomenico Majone's view, that since the early 1990s many member states have become increasingly uneasy about ways in which the Commission has sometimes exercised its powers: '...there is clear evidence that the Commission, and arguably also the Court of Justice, on many occasions have used the Community method well beyond the limits envisaged by the drafters of the Treaty of Rome, and ...the member states have reacted to this lack of self-restraint by limiting the scope of the delegation to the supranational institutions' (Majone, 2006: 616).

### ***Policy factors***

This set of factors overlaps with procedural factors in that another important reason for the decline in use of the Community method is the expansion of the EU's policy competences over the years, and more particularly the expansion into policy areas where national sensitivities have resulted in member states being wary of giving too much power to the EU's 'supranational institutions' – notably the Commission and the Court of Justice. Thus, the expansion of competences following the Maastricht Treaty was accompanied by separate legal 'pillars', including intergovernmental policy-making and different policy instruments in the areas of CFSP and Justice and Home Affairs (JHA), which had the effect of sidelining the Commission. Although JHA issues no longer exist in a separate pillar since the Lisbon Treaty came into effect, the Commission continues to have difficulties asserting itself in foreign and security policy. This has been largely for the reasons that have always explained why foreign and security policy has been based mainly on intergovernmental policy-making procedures: some states are very concerned about retaining formal sovereignty in this, often very sensitive, policy area; member states have differing interests in particular foreign policy

theatres; and member states have differing perceptions of what should be the guiding principles of EU foreign and security policy – in respect of, for instance, how far the EU should restrict itself to tightly defined ‘soft security’ policy aims and actions.

But foreign and security policy is not the only external relations policy area where policy-specific factors have served to constrain the Commission’s role. This is the case even in respect of trade, which for many decades has been the policy area in which the Commission has enjoyed almost exclusive competence. Although trade remains a Commission stronghold, as the contents of trade policy have been widened over the years then so have member state governments sought to qualify the Commission’s role by applying pressure through the Article 133 committee (now called the International Trade Committee) and by questioning the Commission’s right to negotiate on some trade-related questions, including aspects of services, intellectual property and investment (Dashwood and Hillion, 2000; Bretherton and Vogler, 2006). Similarly, challenges have confronted the Commission’s role in conducting external negotiations over such ‘mixed competence’ issues as the environment and passenger records (Young, 2002).

### ***Leadership factors***

Leadership factors are more idiosyncratic than the other factors, but nevertheless they are essential to explain the lack of dynamism, and even respect, afforded to recent Presidents of the Commission. The fact that the three Presidents of the Commission since Jacques Delors – Jacques Santer, Romano Prodi and José Manuel Barroso – have not been as impressive or dynamic as was Delors, helps to explain why the Commission seems to have lost its standing. Moreover, this standing was dealt significant blows by the circumstances surrounding the resignation of the Santer College in 1999 and the requirements placed on Barroso in 2004 and

2009 to make changes to the composition of his intended College in order to gain the (necessary) approval of the Parliament.

\*\*\*

These four categories of factors – institutional, procedural, policy-specific and leadership-related – can be seen to have undermined the Commission’s once predominant role in the EU system and to have contributed to a more general decline in the standing of the Commission since the early-to-mid 1990s. This trend, in turn, has resulted in other major EU actors becoming more quizzical of attempted Commission policy leads, and becoming less willing to necessarily follow such attempted leads, in external relations and wider policy spheres. Such reluctance applies most crucially to the governments of the member states – which are now more wary than they used to be of giving the Commission a long policy leash.

But arguments regarding the decline of the Commission should not be exaggerated or taken out of context. There are two main reasons for this.

First, the decline that the Commission has experienced in respect to many of its policy responsibilities, powers and influence has not been wholly and uniformly replicated across the full range of its policy involvements. Indeed, in some respects – and not least with regard to external policies – its position has been actually strengthened. So, for example, in the sphere of enlargement policy, the challenges posed by what became the 2004-07 enlargement round gave the Commission considerably expanded tasks to perform as accession processes became much more difficult and more managed than hitherto. In this changed situation, the Commission led the existing member states to permitting the accession of Central and Eastern countries (CEECs) more quickly than many of them ideally would have preferred. The increasing ‘externalisation’ of internal policies has also been to the Commission’s institutional advantage, with justice and home affairs perhaps the busiest and most notable of these policy areas (Wolff, Wichmann, and Mounier, 2010).

Second, the context in which the Commission has been operating has changed dramatically, not least owing to enlargements (which have placed considerable burdens on the effort to provide cohesion and thus dynamism to the Commission) and to administrative reforms (which have caused considerable upheaval in the management and coordination routines of the Commission). Under such conditions, it seems reasonable to observe that ‘the Commission would have had trouble maintaining its position whatever its size and whoever was leading it’ (Kaczyński *et al.*, 2010: 60). Moreover, contextual factors provide a useful reminder that the Commission has most likely declined in relative, rather than absolute, terms within the overall evolution of the EU system.

## **LISBON TREATY PROVISIONS IMPACTING UPON THE COMMISSION AND THE CONDUCT OF EXTERNAL RELATIONS**

The Lisbon Treaty contained a number of institutional reforms and policy provisions with a bearing on the Commission’s position in the conduct of the EU’s external relations. Some of these reforms and provisions constitute new and significant changes, some build on and accelerate processes already under way, and some have only a marginal effect. This section of the paper identifies the most prominent of the Treaty changes with implications for the Commission’s external relations’ roles.

Perhaps the most significant changes in the Lisbon Treaty potentially affecting the Commission’s external policy responsibilities and powers are those concerning the strengthened institutional position of the European Council. There are two aspects of this. First, in Article 22 TEU, which falls under Title V covering the CFSP, the European Council is given a potentially very wide-ranging strategic leadership role:

... the European Council shall identify the strategic interests and objectives of the Union. Decisions of the European Council on the strategic interests and objectives of

the Union shall relate to the common foreign and security policy and *to other areas of the external action of the Union*. Such decisions may concern the relations of the Union with a specific country or region or may be thematic in approach. (Emphasis added).

As Wouters, Coppens and De Meester (2008) have noted, this broad framing of the role of the European Council potentially allows it to adopt decisions across the entire spectrum of the Union's external action. It thus represents a serious incursion on the Commission's direct strategy-setting and indirect coordination prerogatives.

Second, the creation of the new, semi-permanent, post of European Council President further strengthens the institutional capacity of the European Council. Indeed, the European Council's moves in recent months to use its President to assist it to guide the Union's response to the sovereign debt crisis, to the chagrin of the Commission, may give a strong indicator of what is to come. The power potential of the new President applies particularly to CFSP for this is the policy sphere where, more than any other, the European Council as an institution is clearly both *de jure* and *de facto* 'above' that of the Commission. So as to ensure there could be no doubt about this, the Lisbon Treaty provided that 'The President of the European Council shall, at his level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy...' (Article 15:6, TEU).

In the area of foreign and security policy, the Lisbon Treaty further crowded the leadership table for the Union with the creation of the post of High Representative of the Union for Foreign Affairs and Security Policy. The occupant of this post holds very important powers – 'The High Representative shall conduct the Union's common foreign and security policy' (Article 18:2, TEU) – and occupies a considerably stronger position than the previous 'HR' because the position is combined with that of the former Commissioner for

External Relation. This ‘double hatted’ post serves as the Council’s High Representative and chairs the Foreign Affairs Council while also serving as a Commission Vice President. Inevitably this has given rise to debate about the institutional loyalties of the post.

Another Lisbon Treaty institutional change with implications for the Commission and external relations policies is the creation of a European External Action Service (EEAS) to assist the High Representative/Vice President (HR/VP). From the outset this seemed, on balance, not likely to be in the Commission’s institutional interests since it was highly probable that it would take over much of the foreign policy work of the Commission. In particular, DG External Relations (which, in practice, dealt not with all of external relations but rather mainly just with CFSP related matters) and the Commission’s 130 plus external representations looked to be ‘threatened’. But, little was set down about this in the Treaty – indeed the EEAS is covered in but one, seven line paragraph in the Treaty – so there was much to play for in terms of how the EEAS would be structured and operate and what its relations would be to other institutions, including the Commission. Would the EEAS be, in effect, an extension of the Commission (since it was to be headed by a Vice President of the Commission, and was originally conceived as a ‘service’) or an institutional competitor to the Commission?

Increased powers for the European Parliament in the Lisbon Treaty also had potential implications for the Commission’s external relations responsibilities and powers. The Parliament generally has been seen as the major institutional beneficiary of the Treaty and has been so primarily because of a strengthening of its law-making powers through significant extensions of the reach of the co-decision procedure, which significantly was re-named the ordinary legislative procedure. But, the Parliament’s position in respect of external relations powers was also strengthened with important roles and powers given to it regarding international negotiations and agreements. Before the Lisbon Treaty, the Parliament had no

formal role during negotiations on international agreement (although a Commission-Parliament ‘Framework Agreement’ generated informal obligations for information exchange). In contrast, the Lisbon Treaty explicitly indicates that the Parliament ‘shall be immediately and fully informed at all stages of the procedure’ (Article 218:10, TFEU). Furthermore, the Parliament must give its consent to any Council decision that concludes an international agreement, and is no longer limited to a certain set of issues. The Parliament’s consent is now necessary for a wide variety of international agreements, including any covering fields to which the ordinary procedure applies internally. Since the ordinary procedure applies internally to most areas of policy – with agriculture, fisheries, and justice and home affairs being amongst the areas made newly subject to the procedure by the Lisbon Treaty – the Parliament’s external relations powers have clearly been greatly expanded. They have been so to the detriment of the Commission which now must consult the Parliament during negotiations and must get its approval for recommended agreements.

One change not made in the Lisbon Treaty was any modification of the intergovernmental nature of decision-making in the CFSP area. Although the Constitutional Treaty brought together the different aspects of the Union’s external action, the Lisbon Treaty formally separates CFSP from the other areas of EU external relations.<sup>2</sup> A new set of instruments will be used to conduct the CFSP – including the definition of general guidelines, the adoption of decisions, and the strengthened policy cooperation amongst member states – but none of this lends any additional role to the Commission beyond what it currently has. In a declaration attached to the Lisbon Treaty, the point is hammered home: CFSP provisions increase neither the power of the Commission to initiate decisions nor the power of the Parliament in this domain (Declaration No. 14).

---

<sup>2</sup> In the words of Javier Solana, this separation was ‘important conceptually’ to the UK in particular (House of Lords, 2008: 31).

## **THE LISBON TREATY IN PRACTICE: AN EARLY ASSESSMENT OF ITS IMPACT ON THE COMMISSION AND THE EU'S EXTERNAL RELATIONS**

As has been shown above, a number of factors have contributed to undermining the position and influence of the Commission in the EU system over the years, and the Lisbon Treaty contained a number of reforms that threaten to further that trend, including in the area of external relations. It is, of course, too early, only a little over a year after the Lisbon Treaty entered into force, to draw definitive conclusions about the impact of the Treaty on the Commission's position in the external policy arenas. This is especially so given that post-Lisbon inter-institutional struggles for control and influence are still very much ongoing.

Nonetheless, with caution in mind, this section draws some initial conclusions. It does so firstly by looking at how the Commission has fared in some of the more high-profile inter-institutional struggles that have been waged in the wake of the Lisbon Treaty. Attention is then turned to a broader, more generalisable, assessment by examining key traditional tasks played by the Commission in EU policy process and examining those tasks in the light of Lisbon Treaty reforms in principle and practice.

### ***Indicators from inter-institutional struggles***

The potentially momentous impact of the Lisbon Treaty on how the EU conducts its external relations has been evident in early turf struggles between different institutional players in the EU system. These struggles have been exacerbated by two factors. First, there was little advanced planning over post-treaty external relations arrangements while the Constitutional Treaty, then Reform Treaty, and finally Lisbon Treaty were being negotiated and then – in the case of the last two – awaited ratification. This was largely because of the sensitivity of the matter whilst negotiations were ongoing and then fear of attracting attention from sceptical voters. Second, the various provisions within the Lisbon Treaty related to external

action are somewhat vague, producing general ideas rather than clear divisions of labour. Subject to those vagaries and a lack of planning to structure discussions, it comes as no surprise that there have been numerous inter-institutional struggles over such simple questions as ‘who is responsible for what?’ and ‘who takes the lead on which issues?’

An early indication of the inter-institutional struggles that were to come was seen even before the Lisbon Treaty came into operation, with the Commission making it clear that it was not prepared to cede its historical role in most aspects of the EU’s external relations. Faced with the prospect of losing some of its portfolios to the EEAS, the Commission even took steps to mitigate the challenge by ‘ring-fencing’ certain responsibilities. So, Barroso shifted several key issue responsibilities, including the substance of EU Neighbourhood Policy, out of DG Relex to other Commission portfolios before those responsibilities could be moved to the EEAS. He ensured that personnel working on Community issues in external delegations would continue to take directions from the Commission rather than the EEAS hierarchy. And he took steps to make certain that the Commission would retain control over most financial instruments – including even those associated with development projects, the planning of which was moved to the EEAS. Some of these moves of Barroso might be thought to have violated the spirit, if not the letter, of the Lisbon Treaty, but he was clearly motivated by a desire to protect the Commission’s powers, responsibilities, and arguably also rights.

More broadly, the Commission has taken the strategic step of conceding influence over CFSP/CSDP in exchange for a clearer position in the policy lead over all other external action issues. As the Commissioner for Inter-institutional Relations, Maros Šefčovič, stated in a speech in February 2011, ‘the Commission’s position is very clear: under Article 17 of the Treaty, the Commission is responsible for areas outside the CFSP, while the President of the European Council and the High Representative are responsible for CFSP matters’ (Šefčovič,

2011). Šefčovič's assertion confirmed signals that Barroso had been sending out for some time, not least when, in the early days of his new College, he had stated that he, and not the double-hatted High Representative/Vice President, would coordinate the Commission's external relations portfolios: he assigned Catherine Ashton only a limited coordinating role within the College.<sup>3</sup>

One might also interpret a degree of inter-institutional competition in the severe criticism that has been made of the performance of Catherine Ashton as High Representative/Vice President, for many of the criticisms have emanated, though not usually openly, from institutional competitors and rivals. In fact, many of the criticisms – such as that she has been slow to be physically at 'trouble spots' (as after the 2010 Haitian earthquake), or that her attendance record at College of Commissioners meetings has been poor – are barely warranted given the enormity of the tasks she has: chairing Foreign Ministers meetings, being a Commission Vice President, being the EU's main CFSP figure, and establishing the EEAS (which has been a huge endeavour – that has not been helped by the Parliament 'carping' most of the way).

Finally, it is worth noting how the Parliament quickly used its new powers on international agreements to assert itself against the Commission and the Council for the purpose of establishing itself as an institution that must now be taken much more seriously. In February 2010 – that is, less than three months after the Lisbon Treaty entered into force – the Parliament rejected the SWIFT (Society for Worldwide Interbank Financial Transfers) agreement with the US on exchange of information on bank transfers. To be sure MEPs were genuinely concerned about personal privacy issues, but there is no doubt that the rejection

---

<sup>3</sup> Catherine Ashton was called upon by Barroso to coordinate the Commissioners for Enlargement and Neighbourhood Policy (Stefan Füle), for Development (Andris Pieļbags), and for International Cooperation, Humanitarian Aid and Civil Protection (Kristalina Georgieva). However, the Trade Commission (Karel de Gucht) was not included in this coordinating group, thus sending a pointed message that Ashton would not have coordinating authority over all of the Commission's external portfolios (as the Lisbon Treaty implies, see TEU Article 18:4). Instead, that task would remain the responsibility of the Commission President (see Missiroli, 2010).

was largely inspired by MEPs wanting to give notice to the Commission and the Council that the Parliament was now a significant external relations policy player and that its new power to ratify international agreements should result in it also being involved in the negotiation of such agreements. Significantly, the SWIFT rejection was the first time the Parliament had ever used the veto power it is given under the EU's consent (known as assent pre-Lisbon Treaty) decision-making procedure. As MEPs intended, the rejection resulted in the Commission being much more sensitive to the Parliament when the SWIFT baton was picked-up off the floor. Indeed, as Ripoll-Servent and MacKenzie (2011) have observed in their account of the SWIFT rejection, 'the Commission effectively interpreted the obligation to *inform* the Parliament at all stages as being equivalent to *involving* the Parliament from the earliest stage of the procedure.'

\*\*\*

Since the Lisbon Treaty came into operation, the Commission has thus sought, amidst the inter-institutional jostling that has been so openly in play, to look after its positions in respect of the conduct of the EU's external relations as best it can. This has involved having to give ground in some respects but to protect and assert it in others.

### ***A more conceptual approach to analysing the Commission's post-Lisbon roles in external relations policy-making***

While it is difficult to generalise the precise nature of the Commission's roles in different kinds of external relations tasks, conceptual clarity and analytical traction can be gained by analysing them in terms of traditional tasks of the Commission in the policy process. Foremost amongst these tasks are: strategic leadership, specific policy goal-setting, policy coordination, policy management, and representation. Strategic leadership includes setting the broad parameters of policy goals and articulating policy principles. Specific goal-setting

is normally policy-specific, and involves outlining the purposes of a policy programme or a policy instrument and setting indicators of policy success. Coordination is a task in which the Commission draws together those actors relevant to a particular policy activity to reconcile differences and work towards consensus. Policy management is a more operational task, involving day-to-day administration, supervision, and decision-taking related to implementing a particular programme. Finally, representation involves providing the public ‘face’ of the EU in third countries and international organisations as well as during international negotiations. It should be noted that, with the exception of ‘representation’, these traditional tasks apply as much to the Commission’s role in internal policy-making as to external policy-making. Each of these tasks has evolved in different ways over the years, with treaty changes and incremental adjustments both contributing to the process.

A full analysis of these tasks as they apply to the Commission and the EU’s external relations after the Lisbon Treaty would require something that is not possible here, namely a detailed evaluation of all of the tasks in all external policy areas – trade policy, development policy, enlargement and neighbourhood policy, the external dimension of internal policies, and foreign and security policy. Nonetheless, an overview is possible, and desirable in that an assessment of this type allows for a broad perspective on whether the Commissions’ external policy roles and influence have changed significantly or not.

The first role, *strategic leadership*, can be seen to have suffered as a result of the Lisbon Treaty. The Commission’s ability to drive the EU’s overall external relations agenda, once fairly strong, is no longer what it used to be. This trend began several decades ago and cannot be attributed directly to the Lisbon Treaty. But the Treaty’s provisions in principle, and subsequent institutional struggles in practice, show the Commission has continued to lose ground on the issue of strategic leadership to other institutions. The enhanced role of the European Council, and the free ranging responsibilities of its new semi-permanent President,

clearly impinges on the Commission, as does the institution of the rotating Council Presidency – which, as the Spanish Presidency in the first half of 2010 showed – refuses to submit to a peaceful death. The position of High Representative/Vice President, responsible for foreign policy broadly defined, as well as the growing agenda-setting role of the European Parliament, might also be seen as detrimental to the leadership potential of the Commission *per se*.

The second role, *specific policy goal-setting*, is largely unchanged. In the case of foreign and security policy, the Commission retains its rather peripheral role. Any hopes that the new High Representative/Vice President might allow the Commission to push into the CFSP/CDSP policy area have been somewhat disappointed. On the one hand, expectations should always have been kept low. The Council’s ‘hold’ on the HR/VP is quite strong, not least because of its role in appointing the post and its ability to force a resignation. In the Commission, the HR/VP has not been given as powerful a position in the College as some observers would have anticipated. Such realities might lead us to argue that the post is more ‘HR’ than ‘VP’, but clearly only time will tell.

In other external policy areas, the Commission’s specific goal-setting role has changed in different ways. In development policy, for instance, the Commission ceded responsibility (and personnel) to the EEAS related to drawing up country and regional development strategy papers, to making allocation decisions, and to stipulating specific project priorities (*EurActiv*, 22 March 2010). In the area of trade policy, however, the strategic leadership function of the Commission is boosted by a move towards exclusive Community competences in a number of ‘mixed’ competences areas (Woolcock, 2010). On balance, therefore, it might be said that the Commission’s specific policy goal-setting role has not been widely altered.

The third role, *policy coordination*, is clearly affected by the increasing number of posts in the EU political system, including that of HR/VP and President of the European Council. These positions, and that of the Commission President, are responsible for overlapping coordination responsibilities. The HR/VP is specifically responsible for coherence in the EU's foreign and security policy, while also ensuring other external relations portfolios (with the exception of trade) are properly coordinated. For instance, responsibility for coordinating some aspects of the EU's Neighbourhood Policy has been shifted to the EEAS, under the direction of the HR/VP. The President of the European Council enjoys a wider, if more vague, remit to coordinate the EU's external policies (Article 22:1 TEU) and the President of the European Commission holds tight onto his interpretation that the Commission is to coordinate all non-CFSP questions (Article 17 TEU; see also, Šefčovič, 2011). Very little is said in the Treaties as to who coordinates whom on issues related to the external dimension of internal policies such as environment, transport, and JHA issues; as such, the Commission is likely to retain, if not boost, its coordinating role in these spheres (particularly in the wake of a strengthened EU policy competence in such areas).

Turning again to specific external policies, we can expect that the Commission's role in coordinating issues related to development is likely to decline owing to involvement by the HR/VP, while the Commission will maintain the status quo in enlargement and neighbourhood policies and trade policies. The Commission's coordinating role in foreign and security policy, as stated above, has never been significant (except where such policies touch upon Community competences such as agriculture and trade) and remains unchanged by the Lisbon Treaty.

The fourth role played by the Commission in the EU's external relations is that of *policy manager*. This concerns the day-to-day management of programmes and involves such tasks as ongoing evaluations, policy adjustments, and implementing decisions. Although the

term ‘management’ seems to imply routine, even minor, activities, some of this work can have a major bearing on EU outcomes (evaluation reports for candidate countries, for example, or proposals to sanction a trading partner). This role has never been significant in the area of foreign and security policy, but it has been important in the area of development. Although the Commission ceded authority for strategic leadership in the area of development, it retains its policy management and implementation role here (Gavas and Koeb, 2010). For enlargement and neighbourhood policies, the Commission remains in control of managing the enlargement process and of carrying out neighbourhood policy-related programmes (the latter of which typically involves finding third-parties to carry out projects). Concerning the management of externally-oriented programmes in the areas of environment, transport and justice/home affairs policies, the Commission maintains its traditional role, although in some cases (such as the border control policies) it has delegated that role to agencies. In the case of trade, the Commission has lost a small part of its role in managing trade sanctions, since proposals to target third-countries must now be jointly proposed with the High Representative (Article 218: 9, TEU). For the most part, however, the Commission remains a central policy manager in trade-related questions.

Finally, the Commission’s role as *representative* to the outside world has been affected in varying ways by the Lisbon Treaty. On the question of representation via delegations abroad, the move from Commission-managed delegations to EEAS-managed delegations comes with some degree of reduction in the Commission’s voice, although the extent of this reduction will likely be mitigated both in principle, since the Commission retains control over ‘its’ personnel in delegations, and in practice, since Commission entrepreneurial activism in third country delegations would also obviate such restrictions. Issues related to development assistance, which previously occupied significant amounts of

the Commission's time in many third country delegations, will now need to be managed in close coordination between the Commission and EEAS within those delegations.

On the issue of international negotiations, the Commission 'wins' rights to negotiate on behalf of the EU in most trade-related areas, now that CCP has been clarified as including services, commercial aspects of intellectual property, and even foreign direct investment. In other 'mixed' competence areas, such as international environmental policy, however, the Treaty contains a curious provision over which legal scholars are still debating: Article 218:3 states that the Council will 'nominate' the head of a negotiation team, a stipulation which did not previously exist and which, together with the elimination of the Community pillar in which the Commission had firm external rights, casts the Commission's negotiation position into some doubt (Wouters, Coppens and De Meester, 2008). When a matter of CFSP is at stake, of course, the negotiator for the EU will be the HR/VP.

Beyond legal niceties, however, lies the question of the symbolic representation of the Union on the international stage. There is some evidence to suggest that Barroso has wasted no time ensuring the Commission is highly profiled in international discussions, whether in the case of the G20 meetings (in the UK, Korea and more recently France) or in international climate change negotiations. Of course, the Commission has the legal right to attend and participate robustly in such gatherings, but it would seem the Commission is also taking advantage of institutional uncertainties and competition between less established players in the EU framework (namely the HR/VP and the President of the European Council) as an opportunity to raise its own profile.

Table 1 offers an overview of the extent to which the Commission's various roles in external policy-making have been changed by the Lisbon Treaty in the different spheres of EU external relations.

**Table 1.** Impact of the Lisbon Treaty upon key functions of the Commission, in various external relations areas. Key: --- = weakened, 0 = unchanged, + = strengthened

<b>Task</b> <b>Sphere</b>	<b>Strategic Leadership</b>	<b>Specific Policy Goal-Setting</b>	<b>Policy Coordination</b>	<b>Policy Management</b>	<b>External Representation</b>
<b>Trade</b>		<b>+</b>	<b>0</b>	<b>0</b>	<b>+</b>
<b>Development</b>		<b>---</b>	<b>---</b>	<b>0</b>	<b>---</b>
<b>Enlargement/ Neighbourhood</b>		<b>0</b>	<b>---</b>	<b>0</b>	<b>0</b>
<b>External Dimension of Internal Affairs</b>	<b>---</b> (cross cutting)	<b>+</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Foreign and Security Policy</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>---</b>

*Source: Authors' analysis, with gratitude for research assistance from Malin Häggqvist.*

## CONCLUSIONS

There can be little doubt that the widely-held perception of the Commission as having been 'in decline' for some years is correct. This decline is mainly a consequence of underlying structural changes that pre-date the Lisbon Treaty. These changes include the increasing use of decision-making procedures other than the Community method and the growing institutional importance of the European Council and the European Parliament. The Lisbon Treaty does in some respects contribute to the decline, most notably through further institutional strengthening of the European Council and the European Parliament, but arguably not significantly more so than have previous treaties.

In the sphere of external relations, the 'headline' Lisbon Treaty changes involving the creation of the two new posts of European Council President and High Representative are

clearly not to the Commission's advantage, and nor is the creation of the EEAS. But, in most non-CFSP/CSDP external policy areas, the Commission's position is left largely untouched. Indeed, in these areas the Commission might even have cause for institutional optimism. After all, foreign and security policy represents just a fraction of the Union's entire external relations, and even there it increasingly overlaps with concerns regarding human rights, trade, development and humanitarian aid – areas in which the Commission retains considerable control. Moreover, the post-Lisbon Treaty TEU stipulates, in Article 21, specific objectives that the EU must respect and pursue in all areas of its external relations. These objectives – which include supporting measures that will help to extend and underpin democracy, the rule of law, respect for human rights, the integration of countries into the world economy, and the preservation and improvement of the environment – are so wide-ranging and so interlinked with 'Community policies' as to mean there are few areas of EU external action, including the CFSP, where the Commission will not be, if it is not in the lead, closely integrated into decision-making.

## **REFERENCES**

- Balint, T., Bauer, M., and Knill, C. (2008) "Bureaucratic change in the European administrative space: The case of the European commission", *West European Politics*, 31(4), July 2008: 677-700(24).
- Bretherton, C. and Vogler, J. (2006) *The European Union as a Global Actor*, Norfolk: Routledge.
- Burns, B. (2004) "Codecision and the European Commission: a study of declining influence?", *Journal of European Public Policy*, 11(1): 1-18.

- Cram, L. (2001) “Wither the Commission? Reform, renewal and the issue-attention cycle” in *Journal of European Public Policy*, 8(5): 770-786.
- Dashwood, A. and Hillion, C. (eds.) (2000) *The General Law of EC External Relations*, London: Sweet & Maxwell.
- Duke, S. (2006) “The Commission and the CFSP”, EIPA Working Paper 2006/W/01. Maastricht, NL: European Institute of Public Administration.
- EurActiv (2010) “Ashton readies sketchy proposal for EEAS”, [www.euractiv.com](http://www.euractiv.com), published 22 March 2010.
- Gavas, M. and Koeb, K. (2010) “Setting up the European External Action Service: Building a comprehensive approach”, Overseas Development Institute, Background Note April 2010.
- Juncos, A. E. and Pomorska, K. (2010) “Secretariat, Facilitator or Policy Entrepreneur? Role Perceptions of Officials of the Council Secretariat”, *European Integration online Papers* (EIoP), 14(7), 2010.
- Kaczyński, P. M. *et al.* (2010) “The Treaty of Lisbon – A Second Look at the Institutional Innovations”, Joint Study of CEPS, EGMONT, and European Policy Centre, September 2010.
- Majone, G. (2006) ‘The Common Sense of European Integration’, *Journal of European Public Policy*, 13(5): 607-26.
- Majone, G. (2002) “What Price Safety? The Precautionary Principle and its Policy Implications”, *Journal of Common Market Studies*, 40(1): 89-109.
- Missiroli, Antonio (2010) “The EU ‘Foreign Service’: Under Construction”, *Robert Schuman Centre for Advanced Studies (RSCAS) Policy Papers*, 4, 2010.

- Nugent, N. and Saurugger, S. (2002) 'Organisational Structuring: The Case of the European Commission and its External Policy Responsibilities', *Journal of European Public Policy*, 9(3): 345-64.
- Rhinard, M. (2010) *Framing Europe: The Policy Shaping Strategies of the European Commission*, Boston: Martinus Nijhoff.
- Ripoll-Servent, A. and MacKenzie A. (2011) *The Battle Over SWIFT: The European Parliament's Consent to International Agreements*, paper presented at the Conference on Supranational Governance and European Security, University of Salford, 27-28 January.
- Šefčovič, M. (2011) "The European Union's Institutional Evolution since the Entering into Force of the Lisbon Treaty", Speech/11/80, 9 February 2011, Brussels.
- United Kingdom (2008) "Foreign Policy Aspects of the Lisbon Treaty: Third Report of Session 2007-08", House of Commons, Foreign Affairs Committee, London, January 2008.
- Wessels, W. and Bopp, F. (2008) "The Institutional Architecture of CFSP after the Lisbon Treaty: Constitutional breakthrough or challenges ahead?", CEPS Challenge Paper 10, 23 June 2008.
- Wolff, S. Wichmann, N., and Mounier, G. (2010) *The External Dimension of Justice and Home Affairs: A Different Security Agenda for the European Union?*, London: Routledge.
- Woolcock, S. (2010) EU Trade and Investment Policymaking After the Lisbon Treaty, *Intereconomics* (1): 22-25. See [http://www.ceps.eu/system/files/article/2010/02/22-25-Woolcock\\_0.pdf](http://www.ceps.eu/system/files/article/2010/02/22-25-Woolcock_0.pdf).
- Wouters, J., Coppens, D., and De Meester, D. (2008) "The European Union's External Relations after the Lisbon Treaty" (pp. 143-203), in Griller, S. and Ziller, J. (eds.) *The*

*Lisbon Treaty: EU Constitutionalism without a Constitutional Treaty?*, Vienna:  
Springer.

Young, A. R. (2002) *Extending European Cooperation: The European Union and the 'New'*  
*International Trade Agenda*, Manchester: Manchester University Press.