

CONV 839/03

CONTRIB 375

COVER NOTE

from Secretariat

to The Convention

**Subject : Contribution by Mr Barnier and Mr Vitorino, members of the Convention:
"Joint External Action Service"**

The Secretary-General of the Convention has received the attached contribution from Mr Barnier and Mr Vitorino, members of the Convention.



EUROPEAN COMMISSION
SECRETARIAT GENERAL

Brussels, June 24, 2003

Joint External Action Service

Contribution by Mr Barnier and Mr Vitorino to the European Convention

Joint External Action Service

The following reflections on a possible *Joint European External Action Service* are intended to clarify thinking. These questions are mainly of administrative organisation and should therefore not be specified in the Constitution itself. The present Treaties stay well clear of these details and the Constitution should not unduly tie the hands of future generations either. Also, the draft Constitution already contains the necessary legal basis for any decisions that might be required in this regard: see in particular Articles III-300, III-242, 2nd paragraph, III-225, 2nd paragraph and III-329.

The key Article of the draft Constitution on the Foreign Minister reads as follows:

Article I-27: The Foreign Minister ⁽¹⁾

1. *The European Council, deciding by qualified majority, with the agreement of the President of the Commission, shall appoint the Union's Foreign Minister. He shall conduct the Union's common foreign and security policy. The European Council may end his tenure by the same procedure.*
2. *The Foreign Minister shall contribute by his proposals to the development of the common foreign policy, which he shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.*
3. *The Foreign Minister shall be one of the Vice-Presidents of the Commission. He shall be responsible there for handling external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the Foreign Minister shall be bound by Commission procedures.*

Footnote ⁽¹⁾ *The establishment of a Joint European External Action Service, to assist the Minister, will be addressed in a Declaration/Part III.*

The External Action Service will work under the authority of the Minister. At Headquarters it will be composed of some of the services of the Commission and of the Council General Secretariat. It will also contain the Delegations of the Union (see Article III-225, 2nd paragraph), presently the Commission Delegations in 3rd countries and the Council Liaison Offices in New York and Geneva.

Headquarters

The point of abandoning the pillared structure of the existing Treaties, and creating a post of Foreign Minister, is to allow the European Union to pursue a genuinely coherent foreign policy, combining CFSP and ESDP with trade policy, external assistance, humanitarian aid, external economic policy, external aspects of the Justice and Home Affairs agenda, environmental policy, transport policy, agricultural policy, relations with the Union's nearest neighbours (including the negotiation of Accession Treaties) and every other part of the EU's agenda which touches on third countries. All of these should be included in a coherent external policy, which should bring together what is now called "CFSP/ESDP" and what are now called "external actions and policies of the Community".

As Javier Solana put it in the paper on European Security that he presented at Thessaloniki:

“...we are stronger when we act together. Over recent years we have created a number of different instruments, each of which has its own structure and rationale. The challenge now is to bring together the different instruments and capabilities: European assistance programmes, military and civilian capabilities from Member States and other instruments such as the European Development Fund. All of these can have an impact on our security and on that of third countries. Security is the first condition for development. Our objective should be to create synergy through a more coherent and comprehensive approach. Diplomatic efforts, development, trade and environmental policies, should follow the same agenda.”

It would be strange, in the light of this ambition – and having decided, in recognition of the need for coherence, to make the Foreign Minister a Vice-President of the Commission – to create a *Joint European External Action Service* that was divorced institutionally from other parts of the Commission and from the Council Secretariat which share responsibility for addressing this huge agenda. It would give rise to crossed responsibilities, loss of financial control, and massive inefficiency.

What *would* be possible, and might be desirable, would be to formalise the idea of what is known as “Famille RELEX” in the present Commission (without necessarily maintaining its existing structures). The present “famille” includes DG External Relations – including the Service responsible for External Delegations; DG Trade; DG Development; DG Enlargement; the EuropeAid Co-operation Office; the European Humanitarian Aid Office; and some external aspects of DG Economic and Financial Affairs. The services presently working for the High Representative and the Council, including the Policy Unit, the Situation Centre, and the External Relations Directorate of the Council-Secretariat, belong to the same group. Since the Foreign Minister will also chair the Foreign Affairs Council (Article III-192), he will need staff in order to discharge that important function. All of these relevant services could be called the *Joint European External Action Service* which would help to communicate – internally and externally – the determination of the EU to pursue an integrated, coherent policy.

The Foreign Minister would be, as it were, “père de famille” of this service, which would however also work for a number of other Commissioners.

The Foreign Minister would have direct responsibility for those parts of the Service covering what – in today’s nomenclature – is called CFSP and ESDP, including that part of DG External Relations (Directorate A) which deals with “CFSP/ESDP issues” as they are presently defined. Here the Foreign Minister would work “*as mandated by the Council*” (Art I-27.2).

Within the *Joint European External Action Service*, however, the Foreign Minister would also work with, and help to co-ordinate, fellow-Commissioners with lead responsibility for what are now called “external actions and policies of the Community”. Here he or she would be “*bound by Commission procedures*” (Art I-27.3).

The administrative decisions that are required to set up this Service can be taken on the basis of the Articles in the Constitution mentioned above. Some specific administrative arrangements may have to be adopted by the Institutions concerned at a later stage.

Union Delegations

The Union Delegations in 3rd countries, which (according to *Art III- 225.2* of the draft Constitution) fall under the authority of the Foreign Minister, should also be included in the *Joint European External Action Service*. The current role of these delegations is explained in the Annex to this paper.

Art 20 of the Maastricht Treaty already requires the Delegations and the diplomatic missions of Member States to:

“co-operate in ensuring that the common positions and joint actions adopted by Council are complied with and implemented”.

Once under the authority of the Minister of Foreign Affairs, Delegations will play an increasingly active role in helping to co-ordinate common positions among Member States. In this context, Member State diplomats and other experts attached to Delegations as seconded National Experts or Temporary Agents can make an especially useful contribution, bringing important outside experience. This is a resource which should be developed further.

Heads of Delegations and their staff can be drawn from Headquarters and from the Members States and there would be a greater involvement of the Council in their appointment. The Council (and Member States) would therefore have more say in the selection of staff at Delegations, including Heads of Delegation – not all of whom would necessarily be drawn from within the Commission.

For practical reasons – and for reasons of financial management and control – the Delegations should however remain administratively dependent upon and accountable to the Commission. This is because the work of Delegations, even after they become “Union Delegations” with additional responsibility, will be primarily in fields where the Commission has lead responsibility – eg for managing external assistance projects, handling economic/trade matters, environmental policy, and other matters of Community responsibility (see Annex).

The Union Delegations should therefore be included in a future Joint European External Action Service, but they should, for practical reasons – and for reasons of financial management and control – continue to be administratively dependent upon and accountable to the Commission.

ANNEX I: THE CURRENT ROLE OF THE DELEGATIONS

I. the tasks of the delegations

The Delegations of the European Commission serve the EU interests in 123 countries¹ and five centres of international organisations (OECD, OSCE, UN, WTO²). They exercise powers conferred by the Treaties by means of:

- (1) presenting, explaining EU policy
- (2) analysing and reporting on countries/organisations to which they are accredited
- (3) conducting negotiations in accordance with a given mandate (from trade matters to JAI passing through different aspects of internal policies such as transport)
- (4) implementing EC policies (with specific attention to external aspects of internal – currently called first pillar- policies) and in particularly external assistance
- (5) Delegations also provide support and assistance to other EU institutions such as the HR/SG of the EU Council (who can rely on their logistical support and to whom all policy reports are copied) or the European Parliament. Also of relevance is the assistance they give to the local EU Presidency (Heads of Delegation-HoD- regularly take part in troikas and assist Presidency in many other ways).

The role of delegations in management of external assistance merits attention in view of its increasing importance as a consequence of the devolution policy decided by the Commission in 2000 with a view to speed up and increase the efficiency of the provision of EU external assistance. The concept behind the devolution is that “everything that can be better managed and decided on the spot, close to what is happening on the ground, should not be managed or decided in Brussels”. In practice devolution means that Delegations contribute with their opinion to the programming process, manage the operational cycle and have direct responsibility for identification of projects exercise locally, appraisal and contractual aspects of implementation, as well as monitoring projects and programmes.

For this purpose the Head of Delegation receives subdelegated financial powers from the Commission, through which accountability to the budgetary authorities and the European Court of Auditors is ensured. In the management of financial resources, the Head of Delegation is submitted to the Chart of subdelegated authorising officers.

The first wave of devolution was completed in 2001 (21 delegations); in 2002 the second wave was carried out (26 delegations) as well as devolution for the Kabul office and the Delegation to Bosnia. The third wave is now starting for 30 delegations (ACP countries), bringing the total to 79.

In the framework of the “Evian process” that was set up by the Council and the Commission under the French Presidency in 2000, Delegations will increasingly play an important role in co-ordination at local level of EU strategy and with other donors. With a yearly budget of

¹ See listing of EC Delegations in Annex. Current delegations to enlargement countries will be transformed into EU Representation office as per the accession date.

² The Council has two offices (New York and Geneva) formally accredited within the EC Delegation.

almost 5.000 Mio € (not considering the European Development Fund- 13.000 Mio€ over 5 years for 9th EDF); the EC manages 15% of EU development aid and 50% of EU humanitarian aid. To maximise the use of EU resources, as well as to reduce the unacceptable burden this imposes on partner countries, Delegations are meant to work in synergy with Member States.

II. delegation's resources

As per June 2003, the staff of Commission's delegations amounted to 4.751 of which 954 Commission officials and 26 National Seconded Experts. Other staff are local agents or expert staff contracted from Europe.

In terms of the nature of tasks undertaken by the staff, by far the most resources are devoted to the management of aid and the trade or economic/bilateral aspects of EC relations. Even in the case of Washington where the management of funds represents a very little share of the work, only 11 people out of almost 90 work in the Political and Academic section (tasks of this section also include Justice and Home Affairs, New Transatlantic Agenda and management of academic programmes). In Cairo, only one person is full time devoted to pure political/economic matter (the whole section including trade and press is of 7 people, the rest of the staff (around 60) dealing with aid and aid management issues. For Nicaragua (Managua) the proportion is more revealing with only one person covers both trade and political issues.
