

EU Turf War in External Affairs

European Commission Power Retention in the European Union's External Affairs

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Abstract

After the Lisbon treaty came into effect in 2009 the European Commission lost its position as the main representative of the European Union in external affairs to the High Representative of Foreign affairs and the newly established External Action Service. This thesis explores why the European Commission despite the new treaty has remained a major player in External Affairs. European Commission power retention is analysed through two multiple case studies. One exploring the function of the External Action Service and making a comparative analysis with the European Commission and another exploring the involvement of the European Commission in the policy areas directly linked to the external dimension of the Union. Historical institutionalism and role theory as well as a look on institutional overlap are employed to analyse the methods used by the European Commission to retain its position in External Affairs. This paper makes the conclusion that the European Commission has been successful in retaining power through a varied method of long-term policy development, multi-lateral frameworks of foreign policy negotiations, policy overlapping to maximise use of mandate and path dependency of expertise based legitimacy to create a policy legacy with other European Union institutions.

Key words: Power retention, European Commission, European External Action Service, Historical Institutionalism, Institutional overlap

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Introduction

Before the Lisbon treaty established in 2009 the European Commission was responsible for representing the European Union abroad. In the treaty this all changed by the extended powers of the High Representative of Foreign Affairs. The treaty explicitly states:

“2. The High Representative shall represent the Union for matters relating to the common foreign and security policy. He shall conduct political dialogue with third parties on the Union’s behalf and shall express the Union’s position in international organisations and at international conferences.

3. In fulfilling his mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States./.../”
(European Union, 2010)

This clearly shifted the legal power of representation abroad from the European Commission to the High Representative and the newly established European External Action Service (EEAS). The treaty goes on to state that the goals of the Common Foreign and Security Policy shall be decided by the Council and only approved by the Commission and the parliament. The full extent of the Commission’s power as legislated is to be called upon to give the HR the resources required to fulfil a policy goal and if necessary work in liaison with the European Defence Agency. Finally, the HR also needs the Commission’s support when relaying a question of importance to the council. (European Union, 2010)

In short; this should spell the end of the European Commission’s place in EU external relations. Its duties being carried out by the EEAS and its representative power being taken over by the HR where necessary. The Commission’s position would seem to be internal and transnational between the borders of the member states only. However, since the 2009 Treaty of Lisbon this has as will be shown by this essay, not been the case. This piece of research will investigate *“Why the European Commission is still a major player in European external relations in a post-Lisbon Europe.”*

This study is of interest due to the fact that there is a need to understand the European Commission’s use of its new roles in external relations to retain the power it had before the treaty changed. This is imperative to understand EU external relations in the new institutional framework and may add to the debate of what the EEAS and the High Representatives actual functions are by contrasting them to the functions already carried out by the European Commission in this area. As the European Union takes a more and more prominent position on the world stage and with new challenges to the stability of Eastern Europe the coordination of the European External Relations is more relevant to discuss than ever.

A basis for this piece of work is the fact that the entry into force of the Lisbon treaty never specified how the institutional setting would work in practice. While many authors have previously attempted to examine the power of the newly established EEAS and the authority of the empowered High representative of foreign affairs. This paper will attempt to explain the position of the European Commission in external affairs. How it has changed from in the post-Lisbon European Union and how its power has remained largely unchanged despite the new roles and methods that has to be used by the Commission to function as an external actor.

There are no shortage of articles assessing the effectiveness or performance of the Union and the EEAS post-Lisbon, often discussing a specific area. Marangoni and Vanhoonacker (Marangoni & Vanhoonacker, 2015) for example discusses Zimbabwe post-Lisbon while Baltag and Smith views performance in Ukraine and Moldova (Baltag & Smith, 2015). Most of which focuses on the HR or the EEAS. Goldthau and Sitter focuses on the performance of the EC externally but does so only in the external relations in Energy (Goldthau & Sitter, 2014).

Due to the shared mandate of institutions in external relations the EEAS and the EC are unavoidably interlinked as stated by Mark Furness the External policy-making of the European Union is pluralistic and it is such unclear what positions the diverse institutions involved fill (Furness, 2011). The mandate is 'liquid' there is an ongoing 'turf war' and there is considerable institutional overlap. This makes the basis of what this paper will focus on.

Method

Research Problem

Before the treaty change Common Foreign and Security Policy and external decision-making had a divided mandate between the European Commission and the EU council secretariat. The European External Action Service was supposed to be a unitary actor in charge of foreign policy as a whole. In both making decisions, implementing foreign policy and representing the European Union as its diplomatic service. The European Commission would thus seize to fill this function and would be decreased to supply expertise and information concerning the relevant policies.

However, there was no explanation to how the new institutional setting would function and the power that the new institution would have let alone which powers would remain in the European Commission. This presents a problem in that the mandates are 'liquid' changing between institutions and tends to be 'handed over' more and more to the EEAS as it realises its position within this institutional framework. The fact that this is still ongoing despite the treaty being changed in 2009 highlights the institutional inertia that exists within the union increasing the complexity of mandates and powers.

The powers that remain with the commission can be roughly divided into two types; mandates and resources: Mandates where the EC has real formal power which it can utilize and resources which relates to the experts employed, the ability to do research on policy-potential and the experience that it retains within the relevant policy areas. This together with the agenda and attempts to retain their powers in the external dimension leads us to the hypothesis that the European Commission has managed to retain most of its powers in the external policies of the union. The question this paper poses is why. To reach a conclusion the effects of the inertia needs to be looked at from a perspective of historical institutionalist theory which will find the inertia means for power retention of the Commission in the context of a treaty change. The current institutional overlap will need to be investigated to find if it might benefit the European Commission's position.

To collect the findings in a way that explains the current position of the European Commission beyond its method of retention and use of the institutional setting role-theory will be applied. In order to create a role-set for the European Commission the roles will be divided and explained per policy-area in a multiple case study analysis. Secondly to better find the mandate dimension of its powers a comparative analysis to the EEAS will be applied to find the mandates that remain and may overlap with the EEAS. The final product will be a role-set that appropriately explains what the roles the Commission has been taking to assure retention of its current External Relations powers.

Disposition

This research will be structured to present the material that has been used to make the appropriate analysis. This will include a discussion on if more appropriate areas and sources could have been included and an explanation as to why some have been excluded which may have shown other findings of value. A discussion on the method of the analysis will follow explaining from which perspective the results should be viewed. Then theoretical expectations and findings will be produced explaining the phenomena from the perspective of historical institutionalism and setting out the role-theory utilised to make the empirical findings understandable in a way that has explanatory value for the research question. The analysis will then be carried presenting the findings from the multiple case study and comparative analysis followed by a discussion of the findings and producing the role set for the European Commission. Some concluding remarks will be made.

Methods of Analysis

The conclusions made from this research will rely on two analyses. The first will be a deductive comparative multiple case analysis between the EEAS and the European Commission. While this paper will focus primarily on the European Commission, the EEAS is imperative in making the analysis function as it is the institution taking on many of the Commission's previous duties in the external policy sector due to the diplomatic services it provides. This puts the European Commission into the context being discussed and sets out an example to which the EC may be viewed. In external affairs the institutional overlap and 'turf war' between the two institutions make them remarkably similar adding value to the overall research. Finding any way in which the EEAS has been ineffective as an institution can be seen as another reason why the EC has been successful to retain power and remaining a major player in external affairs. The EEAS will effectively be used a lens in which one might clearer see the phenomena of power retention by the EC. This particular study will be deductive; aiming to prove that the EC has been the more successful institution.

Due to the policy division made in the later analysis the comparative analysis will have a research design following a point-by-point structure via clearly divided policy areas. The selection of these areas will be explained at length under demarcation.

The second is similar to the extent that it is a multiple case study. It observes the same phenomena (power retention) in several observations demarcated by policy areas. Unlike the first analysis it is not meant to be comparative although the policy areas certainly can be compared to each other. While the research itself explains the phenomena from a pattern of theories it is actual inductive in to the extent that it attempts to create a suitable role-theory for the European Commission. The policy areas will thus be put into the perspective of a role-set depending on how retention has been achieved (or not achieved) in the areas discussed. Each case study is created with the aim to be as objective as possible with the exception of the analysis which concludes every case study which is more subjective in nature.

Both of the analyses are qualitative in nature. And will as such leave room for subjective views. Due to the nature of the sources and the information which is not publicly available a quantitative analysis would have yielded little if not no information of any value.

Material and Sources

Material used for the empirical analysis is primarily retrieved from policy documents and information available on the internet regarding policy decisions and reports on foreign policy activities carried out by the institutions in question. The EU has websites for each of the Directorate-Generals which describes their actions and goals as well as the policy targets they aim to achieve (including the Horizon 2020 goals). As using all of this information and these documents would have provided for unmanageable amounts of data a selection has been made to narrow it down to its essentials. The Directorate-Generals accessed to compile the research has been the General Directorate for Mobility and Transport (MOVE), Trade (TRADE), Energy (ENER), Climate Action (CLIMA), Communications Networks, Content and Technology (CNECT), Humanitarian Aid and Civil Protection (ECHO), International Cooperation and Development (DEVCO) and the Foreign Policy Instrument (FPI). Additionally, information provided by other DGs may have been at best peripheral to the areas studied. The aim was to find sources that were first-hand as to make sure the analysis made from the information was not affected by other authors but provided from the facts found in these documents. In appropriate cases information from other institutions were used as well, such as the European Council and the European Parliament websites. But also independent institutions such as the World Trade Organisation. These were accessed to provide information on the workings of these organisations and the role held by the European Union within them. Many of these institution provide

a forum of multilateral negotiations, the representative of the European Union in these forums is required knowledge to find how the European Commission's representative role has changed (if at all).

In terms of comparison and facts regarding the European External Action Service most facts have been collected from the website of the EEAS and the documents found therein. Unlike the European Commission which is divided into the DGs, information about the EEAs activities are all readily available on the same website. As the EEAS is also the diplomatic service of the EU information have sometimes been compiled from the websites of the different diplomatic delegations to different countries in the world as most have their own separate websites. The research on these have mostly been superficial. The facts on these sites often focus on individual projects and contain unmanageable amounts of data. This method of data-gathering has thus mainly been used when dealing with large and especially important negotiation partners of the European Union, such as China and the US.

For reasons of providing a sufficient theoretical background and strengthen the explaining force of theories used works of several scholars have been consulted in their construction such as Chafetz and Aggestam. To keep the analysis preliminarily original work these have not been taken out of works that dealt with the European Commission itself but rather to provide a general explanation of the theory. However, works from scholars of the European Commission and other institutions such as Hall, Taylor and Furness have been consulted to explain some of the central themes used in this paper.

Considerations and Demarcation

The divide into the policy areas Energy, Climate, ICT, Transport, Trade, Aid and development and Common security and defence policy may seem to be an arbitrary one. As such a sufficient explanation to the choices is required. The policy divides have been made to simplify the selection process of material. All of these areas are represented by European Union Directorate-Generals. As such when considering the division of power between the EEAs and the EC there is little need to consider the divisions within the EC as well as they are clearly divided into these DGs. This makes a study of institutional overlap slightly clearer.

It needs to be mentioned that the research has been done almost completely on basis of these websites and various documents of EU origin. The issue of bias therefore needs to be considered. Research has been focused on simple facts and avoided issues that may be a form of opinion. This is to make sure analysis is done with separation to the object of study. Nevertheless, all forms of bias cannot be avoided.

The DGs were chosen based on three factors:

One is the division based on similar topics. A study on the DG CLIMA and policy area of climate should be sufficient to cover the issues of environment related overlaps without also having to cover DG ENV. Similarly many of the policy areas affected by DG TAXUD (Taxation and Customs Union) area already covered in an analysis of the DG trade. In most cases these DGs overlap enough that even their structure is largely the same. The distinctions made by DGs would also be difficult to compare to the broader EEAS if they were to be made.

Secondly, the requirement of the DGs to provide a wide variety of different roles that the EC and the EEAS might take. This is needed to create the role-set which is constructed by this piece of research. An addition of DG MARE for example may have been redundant due to the similarities of roles carried out in DG MOVE in many a sense. Of course, one might argue that the weighing becomes skewed due to this specific selection but the paper compares different ways mandate has been retained,

while the assertion is that the EC has managed to retain most of its mandate in external affairs an essay-length discussion on this assertion does not add to the research at hand.

Thirdly, the selection required the policy area to have an important external dimension. The treaty change only affected representation with third-party countries and as such changes within the union are not discussed in this paper. Each of the areas have been analysed based on their relations to these third parties. While the union may partake in many important projects within the union in a specific policy area it is not to be equalled to the role it might take externally. It could be argued that almost all of the Union's activities have some sort of external dimension or effect, for example while the DG SANTE's regulations on food safety might affect the TTIP treaty negotiations, the DGs policy area requires a more specific external dimension than this.

Lastly, one item that must be addressed is the issue of the CAP (Common Agricultural Policy). One might say that the CAP is the single one policy that affects the external dimension of the EU to the greatest effect. Not choosing to study DG AGRI might as such be seen as massively overlooking important issues. Certainly, while the effects of the CAP are significant, especially discussing issues such as food dumping and similar trade practices along with the significant budget of the CAP is essential it falls outside of the scope of this essay. This is partly because the topic is wide enough to require its own research paper but also because the retaining over mandate on trade by the EC has left the issue mostly unchanged and the interest in agriculture of the HR and the EEAS has been rather tame. Going as far as not to mention it in public documents. It might be desired to keep it in mind around discussions on the external level, however.

Theory

Historical Institutionalism: Inertia in institutional authority

To make the assertion that the European Commission has lost little power after the treaty changes of Lisbon is a controversial claim. It requires basis in both theory and fact to do. We often view the Union as a whole as an ongoing process with no pre-set goal. In this we see the process as one of integration, further pooling of the powers of the government of the Member States and more mandate and policies being pursued at the European level. As such, the European Commission, being given more power to act abroad in external relations is one such process one would assume to continue in the same direction, with more mandate given to the Commission. The process at large, but also in the smaller scale regarding the Commission is part of 'path dependence'; a process to which the Member States have little control (Hall & Taylor, 1996, p. 937). This idea of historical institutionalism is applied to the Commission as an institution which have been following this path for a very long time has become part of a 'routine'. On the European Level individuals serve as actors in relating to representing their Member State. (Hall & Taylor, 1996, p. 939) Large decisions (such as treaty revision) and small ones (deciding to take measures to investigate a course of action) are de facto decided by either heads of governments or their ministers. Especially in terms of external action where the main part of mandate lie within the Foreign Affairs Council.

Viewing the EC's ideas through historical institutionalism provides a starting point which fits very well with the commission as a whole due to institutionalist understanding of the evolution of institutions. They profess that they have certain ideas and goals in mind when structuring policies (Hall & Taylor, 1996, p. 942). Which is certainly true for the European Commission especially in the policy area of trade which also penetrates most areas in European External relations especially in those policy areas that relate to economy.

The central theme on these international relations is as always power. In this case complicated by the fact that some sovereignty has been pooled in the EU institutions. Individuals will seek to maximize their benefits from the arrangement. The best way to do so is to use the instruments at hand (Hall & Taylor, 1996, p. 939). The largest of which available is the European Commission which acts as in different roles such as agreement broker, enforcer, and node of information. The information kept by the Commission is necessary for the actor to act rationally and strategically. Actors turn to the Commission as not doing so would leave the individual less off than his adversaries (Hall & Taylor, 1996, p. 440). The Commission resolves issues; especially those around coordination. The EU, in External Relations, has an abundance of such issues. The more the Commission is successful in resolving these issues the stronger and more robust of an institution it becomes (Hall & Taylor, 1996, p. 941). The Commission, compared to the EEAS which is a contender as a representative of the Union abroad has existed for a long time and been involved in many coordination disputes. It is far more likely that the FAC calls on the Commission to act as dispute resolver and expert advice. As an interesting side-note on this it is noted that the High Representative of Foreign Affairs at current time is far more influential than the institution she holds. This can be explained by the fact that the HR was an effect of the Amsterdam treaty and has such existed longer than the EEAS (European External Action Service, 2015w). The effect of this is that the position of HR has become far more robust over the years as it worked to coordinate external relations of the EU.

The inefficiency generated by this pattern of behaviour is the general inertia within EU institutions. The fact that The EC has been able to retain much of its power is just one effect of this. The EEAS is imagined as a more effective and purposive institution but the 'policy legacy' (Hall & Taylor, 1996, p. 941) of external relations lie in the EC. The inertia is, however, prevalent even within EU domestic

policies. Yet, the question of how it has retained its power, and in what the Lisbon Treaty actually changed remains.

To certain point the treaty itself could be viewed as a ‘critical juncture’. A situation or a decision important enough to create a punctuation or branching point where the path that the dependency follows changes (Hall & Taylor, 1996, p. 942). These are most of the time new decisions made that changes institutions in such a way that the path must turn. The Lisbon treaty can be viewed as an attempt to make this happen. It warrants a discussion on why this was seen as necessary as most historical institutionalists stress military conflict or economic crisis as the most common factors that decide when junctures are reached (Hall & Taylor, 1996, p. 942) this does not seem to be the case here. Although the world was in a time of economic distress it probably had little effect on the Lisbon Treaty.

It needs to be expressed that the Commission itself fought the changes. Some officials rather saw the DG RELEX, which now no longer exists, should be empowered and that the new institution was not needed (Furness, 2011, p. 4). The Commission, as well as the Member States, have also taken significant steps to guard against the EEAS’ supposed autonomy (Furness, 2011, p. 5). The current situation of retained power within the EC can thus be explained first by the unwillingness of the Member States to give the EEAS a clear autonomous mandate, as demonstrated by the safeguards. Second by the Commission having an agenda of fighting the changes. As can be seen by Barroso’s Commission ensuring that the HR works closely with other commissioners so that coordination would require commission participation. The Commission also made sure to have strong control over which areas were transferred to the EEAS and secured that commission official staff that was transferred were given important positions in the new institution (Furness, 2011, p. 14). The larger more functional EC now has many areas that overlap with the EEAS. One that stands out is the DG FPI (Foreign Policy Instrument) which makes sure that the operation budget of the EEAS is controlled by the Commission (Furness, 2011, p. 14). Third, paradoxically, the hypothesis that the EEAS was created to limit the Commission’s power. As discussed previously it is in the individual’s interest to maximize its benefits from the arrangement of pooling resources (Furness, 2011, p. 8). This means securing more benefits from its adversaries in the EU, the Commission, holding an agenda was eventually seen as too powerful and thus became another adversary to overcome in reaping the benefits of pooling resources. New policy areas and greater involvement in the world at large, as well as increased military activity abroad (European External Action Service, 2015u) has thus not echoed by an increased power of the Commission but rather a stronger focus on power retention by the Commission.

The result is that the critical juncture did not occur as one would expect from the change of institutional set-up, instead the policy area mandates and initiatives are far more ‘liquid’ than they used to be changing between the EEAS and the Commission which are holding a form of institutional ‘turf war’ (Furness, 2011, p. 14) all the while the Member States and the European Parliament are also involved in the process. A closer look at the policies in question is well warranted and will be discussed as well as a more in-depth discussion about institutional overlap.

Institutional Overlap

If we know that there is a great deal of institutional overlap regarding the EEAS and EC ‘turf war’ confirming the assertion made by the research questions requires a look at how that overlap affects the ability to project power in external relations.

Institutional Overlap consists of three dimensions. The degree and form of overlap depends on the how they vary between these dimension. First is membership which often matters little in this context as the membership is the same for both institutions with the absence of qualified majority voting in external relations (Hofmann, 2011, p. 103). The second is mandate. Sources of retention for the EC within mandate does not only lie in the functions set out to it by the treaties which would be assumed, but also in the ambiguity of the EEAS' mandate itself. The fact that the EEAS' mandate is not clearly defined but still subject to limitations makes the mandate of the EC in this area vary depending on the EEAS' granted functions and areas of limitations (Hofmann, 2011, pp. 103-104). Where the EEAS cannot act the Commission normally can. In broad strokes we see the Commission as leading in trade, budgetary in security and prominent in multilateral action due to the EEAS being leading in bilateral actions, operational in security and regulatory in trade. The third one is resources. Resources is where the EC outshines the EEAS due to its vast access to expertise and information. In external actions the Commission serves as the main repository for information that constructs action (Hofmann, 2011, p. 104). The FAC also relies on the Commission when it comes to making decisions within policies. If the EC has been legally relieved of some influence in External Relations it is in resources we will find powerful sources of ability for retention.

As a whole it is important to note that institutional overlap must not be an inhibiting force to member states or the EU. In fact actors and member states involved in the policy-making process may benefit from a great deal of institutional overlap as it allows the state or the actor the choice of two *different* ways to affect policy and may choose the one that is most suitable for its preferences (Hofmann, 2011, p. 105). As such the interaction of member states with the institutions will affect the legitimacy of an institution's claim of a policy area. The perceived ability of the institution to reach the state's preferences affects the degree to which the state is likely to prefer its involvement in a policy area. There is a clear tendency of the FAC to trust the Commission to carry out missions regarding information gathering. Through the strategic documents it is clear that the FAC consider the European Commission a full member of the CFSP being qualified by its capacity for expertise.

Toward a theory to analyse the European Commission

From historical institutionalism we may see that institutions often have a tendency of retention due to institutional inertia caused by a behavioural pattern affected by path dependency of the Member states to relate to the European Commission in times of need of the FAC (policy legacy). The European Commission is thus expected to hold agency and fight to keep their power in external relations. The path dependency is also strong due to the lack of a sufficient crisis to nurture the need for a change in External Relations and the mandate supposed to be held by a new institution in an already highly institutionalized area was not sufficiently clarified by the treaty change. The result being a change in mandate which may have a diminished effect due to the EC's ability to use other forms of power and taking on alternative roles to counteract the changes.

Institutional overlap shows us that the access to expertise has now most likely become the most important resource to the European Commission. As such we can draw the conclusion that the roles that the European Commission fulfils have changed and is thus the most prominent effect of the treaty change. As such to see why the European Commission has remained a major player in the European Union's external relations we need to look at the new roles of the European Commission through a perspective of roles in the policy areas relating to external action as well as explaining the mandates through a comparative discussion with the EEAS.

Role Theory and its application to the European Commission

The European Commission plays a plethora of different roles in EU external relations. Using a theme of roles it is perhaps natural when analyzing the actual territory of the EC in External Affairs. By using Role-Theory as an analytical tool it is easier to interpret the conduct of the EC in European world affairs. In this area referring to the European Commission in the world as carrying out not one function or agenda but as having several roles, in this case divided by different policy areas. Policies, here, will be what Glenn Chafetz discusses to be 'situations' in his use of Role-Theory (1997, p. 664). The approach is further made valid by the fact that the European Commission is far from the only actor within the European Union institutional fora who acts for the Union in external relations. Since this discussion is bound to be one of institutional and interior power as much as one of external mandate and capacity it is also required to use a theory that favours domestic sources of policy (Beneš, 2011). This leaves room for some eccentricities that are either non-existent or much more subtle in nation-state foreign policy. In analyzing the European commission role it is important to pay attention to the two dimensions of power it possesses. In the ways it has direct power in form of a mandate or delegated power but also in the indirect way where it has power through its capacity for expertise and ability to create or investigate policy approaches, which is often allowed by the Foreign Affairs Council although it is outside of the treaty-based competences. While the dimensions are not mutually exclusive it goes without saying that the lack of the 'upper' dimension of power in some policy areas the EC does not qualify for some of the roles within the theory. The fact that it does not have the same mandate in all policies increases the array of roles it may fill.

Thus; using Foreign Policy Analysis like Role-Theory rather than International Relations theory, which would be more applicable when analyzing the European Union as an international institution serves a specific reason in this paper. Emphasis lie on the EU and the EC in specific as a Foreign Policy actor. A focused look on the policies that the Commission pursue in the EUs foreign policy is much better at finding the roles that the Commission fulfill.

More common approaches also has the weakness of seeing actors on the international level either having to be nation-states and/or see them as entirely unitary actors. This is a weakness of many forms of IR theory and makes them incompatible in an approach where you see the Union as a force to be reckoned with in the International system. While Ziêba remarks the European Union can be analysed as serving the role of a sovereign actor in international politics (Ziêba, 2012, p. 63); most IR approaches are focused on the three levels of analysis where the European Union stands out as an exception, especially as an actor in the world; as it falls between the cracks. The idea is also not to look at the EU as a whole but to focus on one of its institutions. IR theory is ill equipped for this purpose.

Lisbeth Aggestam argues that it is best to discuss Role Theory from the perspective of four concepts: 'Role Expectation' as to what is expected of the Actor (Aggestam, 2006, p. 18). One would assume that the role expectation here is the functions set out in the treaty, however, this is far from the truth. The EC is given a great deal of mandate in the European Foreign Policy by the Council still. A more complex, but accurate approach would be to look at the External Action Service and the High Representative of Foreign Affairs as compared to the commission. The EEAS is not equipped to handle all aspects of foreign affairs, as will be seen. This leaves room for the Commission which has performed strongly before, to pick up the mandate that the EEAS cannot (yet) carry. A look at the functions of the EEAS in a comparative analysis would thus show where the EC's range of tasks lie.

'Role Conception' refers to the expectations the EC holds toward itself (Aggestam, 2006, p. 19). EC policy goals are easy to find. The Commission frequently produces strategic papers and report to the

Council its activities in the relevant policy area. Actions also require approval from the Council thus prompting the EC to produce a great deal of material on why an action should be taken and the EC's expectation on how to carry out the task at hand.

'Role performance' to how well the EC manages to carry out its conceptions (Aggestam, 2006, p. 20). This concept justifies a multi-faceted approach. The EC varies widely in its performance based on the mandate it is given in the specific area. As such the performance itself is very much based on the freedom it is given to act; in some policies it has exclusive power, such as trade, while it fills only the role of expert advice in others.

Finally 'role-set' which defines the different roles the EC takes and has the capacity to perform in the international arena (Aggestam, 2006, p. 21). Found by the combination of the other concepts. By constructing an accurate role-set we will see why the EC has retained its power so well in external relations.

Analysis

Comparative Analysis: The EEAS in Foreign Affairs

The FPI: The Go-between

While the EAS has direct authority over the CFSP and the CSDP of the EU since the change brought in by the Lisbon Treaty commission power still exists to some degree. The DG FPI (foreign policy instrument) works in tandem with the EAS. Unlike other DGs the FPI operates under the authority of the High Representative for Foreign Affairs (Federica Mogherini) (Directorate-General, FPI, 2015e). This relationship is unique among the DGs and makes the FPI a half-half between the commission and the EAS. Where Mogherini has authority over them but requires approval from the college of commissioners to use it (European External Action Service, 2015b). It is important to note that the HR is already a vice-president of the commission and is responsible for coordinating the work of many of the commissioners of the areas previously discussed. She does not, however, have the same authority over their areas as she does over the FPI.

Discussing the FPI requires a close look at the context in which it was created and exists today. Unlike other DGs one cannot discuss a process of 'handing over' power to the EAS as the FPI was created with the Lisbon Treaty much like the EAS itself. The scope of the FPI is as such set from the beginning and its authority is static as opposed to the DGs which have (formally) lost some external authority. Regardless, the FPI much like EAS but even more so was created to fill a function which was not as prevalent before. As the main function of the FPI is to oversee operations and financing for external missions an entire DG would not have been required before these mission became common enough to justify it (Directorate-General, FPI, 2015e) Instead the Directorate General RELEX which was succeeded by the EEAS carried out both functions. Simply put as the EU became more invested in external actions a new instrument was required to oversee them.

With this in mind it should be noted that the FPI operates according to the EAS' and FAC (Foreign Affairs Council's) policy goals and does not pursue them on a political level themselves. Their goals would rather be set out on the targets of their actions abroad be they civil or military. Therefore their actions are likely to be quick, small-scope and numerous in order to reach the overarching targets of the EAS (Directorate-General, FPI, 2015e). This is outside the scope of this research.

What must be mentioned, however, is the function it serves in tying the EAS to the rest of the EC itself. This relates to broad-scope action relating to several actors such as the Instrument contributing to Stability and Peace (IcSP). The IcSP combines long-term and short-term actions for crisis response and stability building. In this case the FPI mobilizes services of the EC and the EAS to meet the needs of the situation (Directorate-General, FPI, 2015b). As development and aid are EC functions but the Common Defense and Security Policy is an EAS function close cooperation is required (European External Action Service, 2015b). The IcSP is far from the only instance where this is true, however. Election observation, while decided upon by the EAS are headed by a select member of the European Parliament (MEP) (Directorate-General, FPI, 2015a). More areas are sanction-related actions (Directorate-General, FPI, 2015c) and cooperation with EU partnership countries (Directorate-General, FPI, 2015d).

The FPI could be seen as the evidence that the division of Foreign Affairs issues made by the EU at present is not always equipped to handle the situation. With the EAS being in charge of some areas and the EC of others the FPI works as a go-between in areas where none of these institutions solely

can take the lead or have the competencies to handle the situation in a satisfactory manner. What shows this further is that even when the EAS is not involved the instrument sometimes works as the go-between of other EU institutions concerning external operations as well.

Commission vs. EEAS influence a matter of negotiation structure or policy area?

The EEAS first and foremost profiles itself as the EU's diplomatic service. This means that in practice the EEAS carries out all bilateral negotiations. A difference in form of negotiation and action rather than a difference in policy is therefore also important in seeing the full scope of how Foreign Affairs are carried out by the EU. Many agreements, as will be seen, in some policy areas have been negotiated bilaterally via a delegation in the partner's capital. In the areas in which this has been done, the EC can be seen to have diminished in power severely in the recent years. Transport is an example of this. Bilateral negotiations and delegations are no longer controlled by the EC since the removal of DG RELEX and all such negotiations are thus on the table of the EEAS (European Commission, 2010, p. 1).

The EEAS superiority in bilateral negotiations in relation to the EC comes from the EU delegations. With 139 of them in total the EEAS runs relations with any country in which there is no strong formal connection to (European External Action Service, 2015d). There are some policy areas in which the EC has seen little actual progress within the last five years, sometimes as much as a decade with no change in relation between the EC and the target country. In most, if not all cases, this is due to the EC losing their bilateral competence. This certainly presents a picture of a foreign affairs institution more limited by its form than by specific policy areas. To find if this is the case; a thorough comparative analysis of the EEAS competences in the policy areas needs to be carried out. While the EEAS does not possess the same form of DG structure as the EC the DGs make the distinction of policy areas required not to make the selection of areas arbitrary.

Energy in the EEAS

The EU seeks coherence in Energy trade approaches toward the rest of the world. The EC is not getting directly involved in affairs concerning the actual trade, but negotiates on peripherals. The EEAS similarly works with coherence but focuses on the importance of Energy security. Due to trade of this kind being the area of the EC, and the European council asking the EC to produce the European Energy security strategy the EEAS is decisively pushed to the sidelines despite having the authority in security within the institutional structure of the EU (European External Action Service, 2015a). One of the reasons for this is that Russia supplies the EU with nearly 40% of its gas (Directorate-General, ENER, 2015c). Due to the Ukrainian situation, negotiations with Russia has not only soured but been brought enough to the frontlines that bilateral negotiations with Russia has been handed over to higher authority than the civil servants of the EEAS. Frederica Mogherini is involved but so are many of the European Council members and thereby MS heads of states (The Guardian, 2015). Nevertheless the EEAS is responsible for implementing sanctions against Russia and is therefore indirectly involved (Directorate-General, FPI, 2015c). Furthermore energy trade is not carried out bilaterally by the EU as a whole but rather bilaterally between the MS themselves (European Commission, 2011). When talks with the EU is done it is mostly done in international organizations in a multilateral manner. In many cases this means it is a commission concern as is demonstrated by VP of the Commission Maroš Šefčovič's presence in Ukraine and hosting the trilateral Ukraine-Russia-EU meeting on gas (Directorate-General, ENER, 2015b) (Directorate-General, ENER, 2015a). Lastly it is the responsibility of the EC to oversee the bilateral agreements between countries on energy trade (Directorate-General, ENER, 2015d). Suffice to say the EEAS authority is at the moment rather limited in the policy area of Energy.

Climate change: Green diplomacy

If the EEAS is limited in the Energy arena due to the power of MS bilateral agreements it is the limited by the opposite in the Climate debate. Despite this also being a security threat the EEAS has been very much inactive in the climate area. Due to its nature, it is an issue that must be pursued on the multilateral level. The EC has thus been the most active party as demonstrated by the VP of the Commission Maroš Šefčovič being present at the UN climate summits representing the union (Directorate-General, CLIMA, 2015) and roundtable events being organised by the commission with e.g. Africa. (Directorate-General, CLIMA, 2014d). Nevertheless, it would be misleading to say that the EEAS is entirely inert in this matter.

The EEAS as seen through a contemporary viewpoint is taking areas previously controlled by the Commission to a much greater extent than before. What we see could be considered a slow process of handing over the policy area. As we see, the roundtable on Climate action with Africa was hosted by the commission but the later roundtable with Asia and the Pacific region was a co-hosted event with the EEAS (Directorate-General, CLIMA, 2014d). Similarly with the G-20 meeting in 2014 Rompuy was present to drive Climate change as one of his main points (van Rompuy, 2014). Despite this in 2015 at the G-7 meeting in Lübeck Mogherini is the present representative. Climate change was one of the primary security concerns discussed at the meeting (G7 Foreign Ministers, 2015). One interesting point might be the European strategy on environmental integration in external relations. This legislation aims to integrate the environmental aspect in all areas of external affairs. With bilateral relations being an area of the EEAS this would mean that the EEAS is required to bring up the point in any negotiation through their diplomatic service. Though negotiations are often non-transparent and their results rarely report progress in the area of sustainable development it is feasible that the EEAS has a greater stake in environmental and climate policies than what can otherwise be anticipated (European Commission, 2005).

Yet; goals and ambitions towards battling climate change is still the EC's responsibility nearing the 2015 Paris protocol on climate change. A necessity due to many of the environment goals has been set out years before the EEAS was established (Directorate-General, CLIMA, 2014d). This would have to be considered some expertise and legislative 'stickiness' working to keep competences for environment in the EC. In conclusion EEAS green diplomacy must be, at best, seen in terms of a work in progress. At worst it is very much an issue for the European Commission still.

Trade

Unlike the area of climate and energy the disparity between responsibilities of the EC and the EEAS are much clearer in the trade policy area. Trade is firmly an area in which the EC is taking a leading role and the EEAS do not discuss trade deals in e.g. the WTO. One of the reasons for this is of course the position of the Commission in this area. Being the exclusive policy-maker in external trade matters the EEAS has no position in negotiations or discussing/concluding international agreements (Directorate-General, TRADE, 2014d). However, there are a few areas of trade which the EEAS are indirectly involved with due to their nature relating to security of the Union. Most notably these are sanctions and arms exports and proliferation (European External Action Service, 2015g).

Sanctions are under the control of the EEAS due to it being considered a part of the Common Foreign and Security Policy. The sanctions are implemented by FAC's (Foreign Affairs Council) approval but are essentially an EEAS and FPI tool superseding trade policies and free trade measures in place (European External Action Service, 2015g). These place restrictions upon 31 countries in regards to trade as well as restrictions upon individuals and organizations thought to be providing various types of aid to terrorist groups (European Council, 2014, pp. 2-3). Discussions about these

restrictions and politics surrounding them are then also the responsibility of the EEAS and the FPI (European External Action Service, 2015g).

In the area of arms trade it is the aim of the EEAS to make sure that all such trades and exports are restricted and comply with the code of conduct on arms export. These products are subject to restrictions not commonly in place in EU trade (Council of the European Union, 1998). As such it is their right to refuse the right of export for MS based on criteria set out in the code of conduct. The EEAS may also call on international agreements on arms trade to make denials toward arms trade and exports (European External Action Service, 2015e). The Commission is not negotiating in trade relating to arms exports. And the EEAS is the negotiating partner in the UN when the Arms Trade Treaty is being discussed (European External Action Service, 2015f).

ICT and Communication

Unlike the other areas discussed formerly the EEAS has more than a peripheral involvement in ICT and communication regulations. The EEAS is together with the commission the originator of the EU Cyber Security Strategy, EU position on priorities for the EU's international cyberspace policy (European External Action Service, 2013). The EEAS in direct matters is through the European Defence Agency responsible for the EU cyber defense. This includes training and exercises for cyber defense personnel. (European External Action Service, 2013)

The EEAS is an initiator within the area and the council takes decisions based on the proposals by the HR regarding the issue. The EEAS is developing the 'EU Cyber and Defence Policy Framework' and is such deciding on the defense priorities in this area (European External Action Service, 2013). The topic having been previously discussed it comes as no surprise that negotiations are heavily influenced by the EEAS as the diplomatic service is involved in many negotiations with partners in a bilateral fashion. This makes the EEAS far more influential in this policy area than in others although form is not the only reason for this. This responsibility and the delegations themselves are causing considerable spill-over due to the broad spectrum of ICT in general. The European Delegation to China can be seen as a good example of this. The EEAS is now involved in research, ICT industry, personal data protection and infrastructure development apart from its original activities (Delegation of the European Union to China, 2015).

Having first developed the 'Cyber Security Strategy' in 2013 the EEAs has enveloped the area of the internet and now claims to cover justice and home affairs, the internal market and foreign policy issue with the policy frameworks that exist. For the foreign policy apparatus to take care of home affairs is a considerable step forwards for its influence (European External Action Service, 2015o). Indirectly the policy document wishes to strengthen EU market by ensuring safe and trustworthy business online as well as pursue EU foreign policy goals as spreading European values through securing access to a free and open internet abroad for nationals in third party countries (European External Action Service, 2015o). Safe to say ICT is a key area for the EEAS, being a policy area that has recently expanded rapidly may be one of the reasons why the EEAS has had an easier time of gaining control over this policy area.

Aid and Development

Aid and development is an area of considerable policy overlap which is accentuated by the fact that the Commission and the EEAS has a closer collaboration and a rather artificial split in the area. The EEAS being responsible for the short and medium term operations. These include the civilian aspects of policing, ensuring the rule of law, assisting with expertise and administration as well as help workers to aid in case of natural disasters (European External Action Service, 2015l). The EEAS also

carries out military missions these include both missions of training local forces but also joint action military operations to promote stability (European External Action Service, 2015u). The range is wider, however, the special representatives previously discussed are key players in mediation and political facilitation (European External Action Service, 2015m). Their task is to build confidence and foster dialogue in the area of military or civilian personnel abroad the EEAS holds most of the jurisdiction and is the most prominent actor in the field.

In the long-term the European Aid programs are mostly controlled by the EC which provides FDI (Foreign Direct Investment) and holds most of the money but the EEAS is still involved to make the transition more tangible. The EEAS is responsible to assess the effectiveness of EuropeAid and spreads good practices through its expertise (European External Action Service, 2015n). It is also responsible for deciding on the synergy which means it essentially decides when the area is ready for more long-term plans (European External Action Service, 2015s). An area which is possible promoted in equal measure by both parties is the respect of human rights as it is by the treaties considered to be 'mainstreamed'; carried out in all areas of European external affairs; even trade (European External Action Service, 2015q). The EEAS' bilateral relations are heavily influenced by this but similarly so are multilateral EC relations. The central principles of European external activities are the same as those of the EEAS, democracy and the rule of law; abolishing the death penalty, combating torture and fighting racism and other forms of discrimination (European External Action Service, 2015v).

In more concrete terms in mediation the EU holds 'facilitated dialogues' special mediation session that focus on specific areas. These have normally been approved by the UN such as the ones in the middle-eastern peace process and the normalisation talks between Kosovo and Serbia (European External Action Service, 2015r) (European External Action Service, 2015p).

Aid and Development and the discussion of the EEAS and the EC contribution comes down to a difference of action and finance. Where the EEAS carries out most action abroad as well as coordinate military and civilian EU operations the EC oversees almost all of the financing not only for the operations but also for Aid payments abroad and the EU is the largest aid donor in the world today (European External Action Service, 2015n).

Transport

In the case study analysis of the EC influence in the transport area it was concluded that power might have been lost to the EEAS. This assumption made due to the activities in the transport area in bilateral negotiations by the EC with partners such as India, China and Russia dropping and little if anything happening after 2006. The argument is problematic, the EEAS was not set up until much later. In this context it must be taken into account that development took many years to complete already before the stop in 2006 (European Commission and the Ministry of Transport of the Russian Federation, 2005) (Directorate-General, MOVE, 2012c) (Directorate-General, MOVE, 2012e).

In relation to China; transport discussions are not reestablished since. The EEAS has had no greater success in establishing greater coordination in aviation or water traffic. However, China has no direct borders toward the EU and the EEAS has therefore strived to connect land routes to China through the Central Asia strategy put up by the EC in 2007. This particularly relates to cooperation with Kazakhstan in connecting the TEN-T network to western China (Commission of the European Communities and the Ministry of Transport and Communications of the Republic of Kazakhstan, 2009). As with India due to large geographical distances; the focus of negotiations have been on internet and E-services besides Maritime security (Directorate-General, MOVE, 2012h).

Connections with Russia have been different however, with cooperation going on until the break in communication in 2014. The EEAS mainly negotiates with Russia on transport through the EU-Russia transport dialogue. It has removed some border congestion and improved interoperability of rail transport. As well as removing the Siberian Overflight Charges System. The EEAS has competently both taken over negotiations in transport with Russia and strengthened overlooking recent developments in Ukraine (European External Action Service, 2015x).

Despite this most negotiation on transport are now carried out through multilateral frameworks such as the ENP and the EU-Mediterranean Partnership (EUROMED Transport Project, 2014) (Directorate-General, MOVE, 2015). As such it can be seen that the EEAS is not looking at transport as a prioritized area. Excluding the fight against piracy and maritime security where the EEAS has a stake with both military and civilian operations abroad (European External Action Service, 2015y). The EEAS is heavily invested especially in Somalia and has full ownership of these operations (European External Action Service, 2015y). In the field of transport the EEAS has full control over the security aspect.

CSDP and CFSP

Much of the capacity of the EEAS in CSDP and CFSP comes down to the post of the High Representative of Foreign Policy. While the EEAS itself does not exert much influence on other institutions the HR does in many ways. She is not only the head of the EEAS but also of the European Defense Agency which facilitates defense cooperation among the member states and promotes development of better armaments (European External Action Service, 2015h).

Furthermore she chairs the European Institute for Security Studies (EUISS) which supports the elaboration and projection of the EU's foreign policy and further develops the CSDP and CFSP. The institute analyses foreign, security and defense policy issues relevant to formulating the foreign policy and promote discussion around it as well as facilitating expert and decision-makers to meet and discuss (European External Action Service, 2015i).

She decides the operational direction of SatCen which is the EU institution which provides intelligence data from the European observation satellites and is the primary institution governing the EU CFSP/CSDP for development and cooperation in the space security domain (European External Action Service, 2015j). These are the primary examples of the HR's capabilities outside of the EEAS itself which competences have been elaborated upon previously. Excluding of course, her vice presidency of the commission and her ability to chair the Foreign Affairs Council and sit in on European Council meetings. This all goes well in line with her objective to bring all EU assets together for a coordinated approach to a common foreign and security policy (European External Action Service, 2015k). She also coordinates all commissioners with external relations portfolios.

It is important to note that the role of HR was implemented a decade before the EEAS and therefore has been instrumental in the construction of the EEAS itself.

Multiple Case Study: The European Commission's Roles in Foreign Affairs

Energy: The Facilitator

A good starting point when addressing the research question in terms of the energy policy area is to establish in legal documents where competences lie and what may be pursued in these competences. In this policy area the ability to trade energy is the main external component while other areas are more

domestic. Since the EU holds a supranational position inside the EU negotiations on a global and external level are where research is best suited to examine where the EC authority lies in its foreign policy. By September 2011 EU energy policy and bilateral agreements were incoherent and only the area of the member states, the EU being on the side-lines. There was no transparency in the agreements between member states and third party countries toward the EU and was thus a completely intergovernmental concern (European Commission, 2011). The EU's role was passive in this field at this time and was of little demand; it could carry out no function of use to the member states. However, since the 7th of September 2011 the Commission has followed a strategy to change how relations to third countries are carried out in the energy market. The result was a 'Communication on Security of Energy Supply and International Cooperation' in November the same year. It should be noted that it was a response to Member State requests to create a coherent strategy in this area as it was based on a conclusion from the council as early as February 2011 (European Commission, 2011).

The communication led to the legislated decision on an information exchange mechanism on intergovernmental agreements in the field of energy with third countries in which all IGAs (intergovernmental agreements) are voluntarily submitted to the Commission which makes it available to all other member states (European Parliament and Council of the European Union, 2012, p. 13). This has led to increased coherence in EU external energy policies to the point where it has been possible for the Union to take action as a single actor. Specifically in relations to the US (European Commission, 2013) LNG (Liquid Natural Gas) exports. A single European external energy policy is not the aim of the Commission strategy as of yet but the new communication has led to a shift in negotiation locations from the national parliaments to the energy council as a direct effect of the transparency on bilateral agreement. The Commission is now also responsible for assessing how coherence has improved on the external level (European Commission, 2013). The commission suggests that the EU does play a prominent role in organisations of relevance in global energy politics such as the G8/G20, International Energy Forum, Clean Energy Ministerial and the International Platform for Energy Efficiency Cooperation. The Commission does stress that they only have an effect in informal meetings however, and has no formal instance (European Commission, 2013).

In actual negotiations the EC does not discuss or aim to replace bilateral agreements between Member States and third-party countries. Instead the EU aims to deepen cooperation with third party states through other means of treaties and negotiations. This manifests through different types of agreements such as enlargement of the Energy Community to include more states in the European Neighbourhood Area and agreements on construction of pipelines and various economic advice in terms of enhanced energy infrastructure for interlinking with the European market for energy (European Commission, 2013). The Commission sees itself as complementing the bilateral agreements rather than overshadowing or replacing them.

Since this communication has come into effect the EC fills a new, previously non-existent role in this policy area. The EC does take a regulatory role by facilitating the deals between the trade partners in the field of energy. While in these negotiations the EU makes peripheral treaties that affect the energy area its most important role is likely the role as a judicial instance. The Commission analyses the IGAs and ensures that they are compatible with EU regulations. The Commission has so far been satisfied with the actions taken to mitigate any incompatibilities that have been identified (European Commission, 2013). The voluntary mechanisms and peripheral negotiation role keeps External Energy Relations to be out of the reach for the EC which in other areas of trade is often in a leading position.

The circumstances of this agreement and the enhanced role the EC is taking can be seen as the Council (who decided on this arrangement in the first place) is attempting to make full use of Commission

expertise to the disfavour of EEAS structural relevance. The decision was taken two years after the decision to make the EEAS the institution to support the High Representative in representing the Union and the Commission is also responsible for deals in infrastructure to facilitate energy trade deals. The EC retaining its role as Union representative in this policy area and even further developing it is a mixture of the Council preferring the use of EC resources and the EC using its mandate in multilateral trade deals separate from EEAS deal competences. The EC has gained a new role as a facilitator of energy deals.

Climate Change: The Negotiator

Given that international treaties is the main component of climate issues it is by its structure different from energy policy area. Bilateral agreements are present here as well, but as they are mostly enveloped by emission trading systems between states the EU takes a different and somewhat more active role. The Directorate-General (CLIMA) itself overtly claims that its main role is that of leading international negotiations but it is also involved in the emissions trading system as it implements it (Directorate-General, CLIMA, 2014c). One of the clearest examples of EU taking a more active role is its use of finance and aid through the commission to third party states, this aid is specifically aimed at developing climate related projects and goes by the definition of 'climate finance' (Directorate-General, CLIMA, 2013, p. 4).

Since 2005 a mandate to engage further with third party countries has been developed within the EU. For the EC itself this has meant creating a number of different bilateral agreements beside the agreements with regional groupings that have been established during roundtable conferences (Directorate-General, CLIMA, 2014d). The EC has been consistently providing communications and information necessary for the Council to make decisions since 2005 pushing the Climate Agenda. This initially led to the previously mentioned spring 2005 decision by the council to establish a mandate to third party negotiations but also to contributions to every climate conference including the upcoming 2015 Paris conference. These have contributed largely or fully to the EU platform going into these negotiations although they have not always been successful on the global scale (Directorate-General, CLIMA, 2014d).

Contrary to the Energy Exchange Mechanism the Climate Actions specifically in relation to 2020 are not done on a voluntary basis but are the result of binding legislation (Directorate-General, CLIMA, 2014b). While the targets were agreed by the Council it is also important to note that the targets were first planned by the Commission. While it is domestic (EU internal) in its nature it is a step in a process to export many of these goals to the global and external level in 2015 at the Paris climate conference. The Commission is certainly holding competences as it is delivering the proposal on what targets the EU should set in 2015. No agreement has been reached yet, however (Directorate-General, CLIMA, 2014a). Furthermore, also contrary to the Energy Exchange Mechanism, the monitoring mechanism for GHG (Green House Gases) emissions is mandatory and controlled by the Commission in cooperation with the European Environment Agency (European Union, 2004, p. 2).

Regarding the negotiation role, the Commission has recently hosted a roundtable on climate change with the Asia-Pacific region. The roundtable represents a situation blurred lines between the Commission and the External Action Service (EAS) as it was a co-hosted event. In terms of attempting to establish a leading actor the roundtable was a direct follow-up of an earlier roundtable with the African Union which was hosted singularly by the commission (Directorate-General, 2012). It is reasonable to assume that the EAS was added as a host to be able to envelop further issues in the external policy arena. Similar negotiations have been carried out by the EC with the Association of South East Asian Nations (ASEAN), the Gulf Cooperation Council (GCC), Latin American and

Caribbean countries (LAC) and the Organization of Petroleum Exporting Countries (OPEC) (Directorate-General, CLIMA, 2014d).

The EU and ECs interest in the climate may be noticed in wider global conferences as well. Both Herman van Rompuy and Jean-Claude Juncker are formal members of the G-20 group. As explained by Herman van Rompuy Jean-Claude Juncker has specifically stated that Climate was one of his main three issues to be discussed in the G-20 Meeting in Brisbane, along with the Ukraine Crisis and the global financial crisis. It is as such the only long-term question pushed by the commission president (van Rompuy, 2014, pp. 1-2). In specific the EC prudently pushes the question of applying the legally binding EC legislation due in 2030 that was agreed on by the council in October 2014 to the G20 as a whole (van Rompuy, 2014, p. 2).

The EC is currently sticking to its negotiating role in the Climate area due to some legal stickiness in its mandate. The emission trading system was first implemented within the EU and its initial domestic nature made the Commission responsible for it. As the trading system went external they kept their implementation role in it. As always; their mandate to negotiate multilaterally makes them the chief negotiator in the multilateral climate talks. As such they are still chief representative in the area. It is not as clear as other areas, however, the EEAS has mandate in bilateral sustainability talks now and Mogherini has shown great interest in the climate area. As in other areas, time is a factor. The climate policy area is still in development, growing ever more important. The EEAS has been shown to make a grab for mandate and resources in developing areas as it is not affected by the EC's ability to retain power. New roles are likely to fall to the EEAS easier than it is to transfer roles that the EC will try to retain. This idea can be best demonstrated by the HR's failures to attend climate summits until the Paris conference where Mogherini stood with the presidents Juncker and Tusk (EEAS, 2015).

Trade: The Leader

Due to the Single Market policy Trade policy is the only policy in the EU in which the EU as a whole has exclusive power. This means the MS cannot alone decide on trade agreements and policies but needs to consult through the EU (Directorate-General, TRADE, 2014d). As it is under the OLP (Ordinary Legislative Procedure) the framework also needs to be approved by the EP (European Parliament). As a whole EC power therefore lays mostly in the right of initiative (as is common in internal issues) (Directorate-General, TRADE, 2014d). Furthermore the EC is responsible to negotiate trade agreements for the EU; although it needs to request permission from the council to do so. When the agreement is concluded it needs to be ratified by the council and approved by the EP (Directorate-General, TRADE, 2014d).

In actions directed outwards the EC monitors and assists regarding trade protection introduced by third party countries. It also pursues disciplinary actions to be taken against defending countries through the WTO courts (Directorate-General, TRADE, 2014e). The Commission is also responsible to apply external WTO law on to the MS to prevent trade defense from the side of the EU itself. In this sense its legal authority is greater than that of the MS in the global arena. With the WTO it also has a chief negotiating position (Directorate-General, TRADE, 2013a).

The Commission may engage in establishing trade defence rules if it can establish through a successful investigation that goods exported to the EU is subsidized by the exporting country. It is also capable to safeguard EU producers should prices change so rapidly that there is too little time to adapt to the new circumstances. The measures that the EC may take are strictly regulated (Directorate-General, TRADE, 2014c, p. 1). In case of subsidies counter-measures the EC may after a ruling be apply them for a 6 month period. After a second investigation they may be made definitive up to a

maximum of 5 years. In case of safe-guards they may last for a maximum of 200 days or to a maximum definitive decision, 4 years (Directorate-General, TRADE, 2014c, p. 1). Definitive measures regarding subsidies are subject to Council decision but may be implemented for a 9 month provisional period before the council takes a decision. In the case of safeguards the commission has full authority unless an MS wishes to refer to the council which may then overturn the commission ruling via a QMV-decision (qualitative majority vote) (Directorate-General, TRADE, 2014c, p. 2).

Finally, WTO negotiations are carried out by the EC. In order to get MS input they consult with the Trade Policy Committee. The goal is reconciliation between MS concerns and trade partner requests. This means that the details are discussed with the EP while complaints are handled with the council (Directorate-General, TRADE, 2013b, p. 1). As the EU counts as a custom's union this effectively makes the EU commissioner for trade (Cecilia Malmström) the highest authority for trade of the largest economy in the world (while consultation for approval of negotiations still needs to be handed to the council and the EP) (Directorate-General, TRADE, 2014b). This is essentially because the trade Commissioner handles negotiations in the ministerial conferences which is the highest authority of the WTO (World Trade Organisation, 2013).

Trade is a policy in lockdown by the EC. While the treaty states that the common commercial policy shall be made with the principles of the Union's external action point 3 stipulates that the EC is representing the Union in trade deals and make the propositions for negotiations (European Union, 2008). The mention in treaty text makes this policy area unique as mandate is expressly given to the EC for negotiation giving no concern to the EEAS which was created in the same treaty. Clearly this area has been most strongly retained by the EC already from the start. This area is solely retained by mandate and such form.

ICT and Communications: The Enabler

Unlike previously discussed areas, ICT and communications is different as it does not fit into the MS – EC competence divide. In internet governance, as well as internet infrastructure neither has a complete say over any part of the policy program. The internet cannot be governed on a national basis but neither is there a disconnect between Europe and other regions of the world (with some possible exceptions eg. China and other authoritarian states) (European Commission, 2014a). Simultaneously this is also an area where ideas of new policies are the most controversial. The EU idea of internet governance is very different from that of the United States for example. The commission thus pursues a policy of moving stewardship of the internet out of US hands to avoid large-scale surveillance of EU citizens which are in breach of the fundamental rights treaty (European Commission, 2014b, p. 1).

The EC in the area of ICT and communication list most of their goals and methods under the policy flagship 'Digital Agenda for Europe' for the Horizon 2020 project. Their competences vary from regional areas and are, contrary to other policy areas, rather asymmetrical depending on geographical locations (European Commission, 2014c). As such EC authority varies from geographic area rather than on basis of policy. Overall their goal is to promote regulation that is compatible with the EU legal framework, act as space or information for European ICT industries and promote international cooperation in research and innovation (European Commission, 2014c).

Areas in direct proximity to the EU outer borders have most of their ICT negotiations done either through accession negotiations covering potential enlargement or via the European Neighbourhood Policy (ENP) (European Commission, 2014g). Both of these fields are naturally much broader than simply ICT negotiations but as no framework for these types of questions yet exist they are done through these processes. EC authority within accession and enlargement is very limited as they are

bound by decision from the European Council for actual accession and by the Aquis Communautaire regarding what is actually negotiated. As such what can be agreed upon is all codified in chapter 10 of the Aquis which needs to be fully adopted before accession (European Commission, 2014g). The EC is limited to a monitoring role as enlargement is a politically sensitive area. Regarding the ENP the EC has become mainly side-lined in favour of the European External Action Service (EAS) (European External Action Service, 2014z). As such the EC no longer has any authority regarding the negotiations with these countries in specific. In this geographical area this leaves Russia, in which the on-going dialogue between the EU and the Russian Federation contains the sectorial dialogue on the information society in which negotiations are handled by the European Commission Directorate-General CONNECT with the Russian Ministry for Telecom (European Strategic Partnerships Observatory, 2014). The outcome of these negotiations is discussed during the ministerial meetings and the EU-Russia summits twice a year (European Strategic Partnerships Observatory, 2014). Currently EU-Russia relations are not optimal and such negotiations have less than productive outcomes.

In terms of African geographical zone the EU's target is mostly aimed at ICT development and subsequently harmonisation of African regulations with EU regulations. EU negotiations are carried out with the African Union (AU). However, most negotiations with African states are carried out through the International Telecommunication Union (European Commission, 2014d). Not being a private agent or a sovereign nation-state the EU is not eligible for membership and as such negotiations are carried out on a ministerial basis where the member-states act on their own. Nevertheless ITU projects in Africa are often financially supported through the EU on basis of EC decisions (European Commission, 2014d).

As has been discussed previously a DCFTA (Deep and Comprehensive Free Trade Agreement) which covers digital issues already exists with Canada and another one is being discussed with the US (part of the DCFTA known as TTIP). The condition surrounding DCFTAs have been discussed before. As TTIP has not yet been accepted ICT negotiations have been carried out by the Directorate General CONNECT through the EU representation in Washington D.C. which meets with the US department of State on an annual basis (European Commission, 2014e); a dialogue very similar to that which is held with Russia.

Regarding Latin America plans are in motion for a submarine fibre-optic cable to Europe. The commission is involved in a number of different international regulatory networks in connection with ICT (Such as Regulatel and REDCLARA). (European Commission, 2014e) The EC is also a participant in UN discussions on the subject. Three countries have special involvement from the EC. Brazil cooperates with the commission through the EU delegation to Brasilia on topic of higher performance and cloud computing (European Commission, 2014e). Mexico is being advised by the commission on deregulating their telecommunications sector. The EC is here in contact with their national telecoms regulatory institution (IFETEL). In Colombia the EC provides financial aid for the country to develop its digital video broadcasting technology (European Commission, 2014e).

Relations in Asia is mainly based on bilateral negotiations with the exception of direct cooperation with ASEAN which is a multilateral organisation modelled closely to the EU. The EU has a specific instrument in place for relations called READI. The instrument is a useful resource to harmonise with the annual ASEAN meetings concerning telecom. Horizon 2020 (and thereby Digital Agenda for Europe) allows ASEAN member states to participate if willing (European Commission, 2014f).

Bilateral negotiations are carried out with China, India, Japan and South Korea. In the first three instances the Commission is in direct contact with their national ministries to try to identify common challenges facing the regions. In the case of China, several common working groups have been established. In South Korea, the cooperation is mainly business driven but the EC admits to have plans to establish a working relationship with their ministry as well (European Commission, 2014f). On a higher political level, ICT is discussed during the Asia-Europe Meeting (ASEM) in which the EC and the Member States are present to discuss issues on a very broad scope. Finally, the EC also provides financial aid for development and information exchange between research groups and students in the area of ICT through the Trans-Eurasia Information Network (TEIN) (European Commission, 2014f).

It is difficult to talk about the EC as capacity retainers in this area as the area itself is new. As previously discussed, time is a factor when it comes to retention of capacity vs the EEAS. In this sense the EC actually has less influence than the EEAS in this specific area as Cyber Defense is seen as such an important area and it has in the normal fashion been possible to pick up by the EEAS for two reasons. It is a defense issue which the EEAS is very good at influencing and it is a new issue which means it is not an issue the EC has the normally superior resources in. This leaves mandate, which in this case is mostly, like in energy, a manner of facilitating cooperation with external actors. As in Energy the EC is shut out of many important negotiations due to the forums they take place as the EU is not considered a state. This concerns both Africa and the European Neighbourhood Area. It is safe to say that retention has not worked as well in ICT as in other areas.

Aid and Development: The Investor

The Commission authority in EuropeAid and development policies is very much bound to its obligations and limit according to the Lisbon Treaty. Its first task is to write legislation to initiate the legislative procedure around development and aid. If adopted by the council and the parliament the sums and general aims are created. Loans and financial support are given to the commission from the European Investment Bank (Directorate-General, DEVCO, 2014h). Other than this the EC has control over the implementation process and the structure of the actual aid grants, budget support and sector support (Directorate-General, DEVCO, 2014a). Here it is only limited by the control of its reports which is done by the court of auditors (Directorate-General, DEVCO, 2014h).

The EC's authority over development aid is mostly regulated by the beneficiary state or organisation as the EC is naturally limited by the sovereignty of the beneficiary whenever aid is carried out externally. In these cases it is a matter of what form the aid takes. EuropeAid is providing in three forms: Grants and Contracts, Budget support and Sector support (Directorate-General, DEVCO, 2014a).

In the case of Grants, the EC is the initiator, proposing to finance third party entities that are often invested in aid operations. The EC may in this case entirely finance or carry out operations but usually require the beneficiary to finance half of the activity with the other half coming from the development fund or the EU budget (Directorate-General, DEVCO, 2014b). What is produced from the activities is entirely the property of the receiving entity and grants are not to be seen rewards rather as reimbursement for the costs. The EC is also limited to offer Aid to areas which are stated as being part of the EU's external aid programmes which is laid out on the political level. In this case a written agreement between the two parties is required (Directorate-General, DEVCO, 2014b). If the project would have specific needs, or require something which they cannot receive from monetary support EuropeAid may aid by making a call for tender (Directorate-General, DEVCO, 2014e). If the EC finds someone who may assist with the service, supplies or specific work expertise a contract may be

created in which the EU pays for the specific service in question (Directorate-General, DEVCO, 2014j).

In other cases Direct Budget Support may be carried out (Directorate-General, DEVCO, 2014a). The use for this are primarily for two reasons: Either the issues are better identified by the beneficiary country or full ownership of the project is preferred by the receiving country (Directorate-General, DEVCO, 2014c). While the EC assesses and carries out dialogue with the receiver, the funds are transferred to their treasury and the EC has no power over how they are used (Directorate-General, DEVCO, 2014a). This method builds on transparency and funds are not given unless the receiver is fully committed to democratic values and human rights as well as having a stable economic system and sufficient transparency into how funds are spent (Directorate-General, DEVCO, 2014c) (Directorate-General, DEVCO, 2014d).

The final form of funding; sector support, is a form of mixture of both. With this structure the project is also government-owned but the project needs to be on one of the EU's target sectors and therefore narrower than budget support. Sector support can receive aid from any of the previous forms of support and aims to support already existing government programs (Directorate-General, DEVCO, 2014a). The sectors assisted are under Human Rights and Governance, Food and Agriculture, Economic Growth, Human Development, Infrastructure, Environment, Energy, Health and education (Directorate-General, DEVCO, 2014i). This form allows the EC better control and influence of the projects.

As has been noted the European Commission enjoys quite a degree of freedom here when it is not limited by the beneficiaries. They are limited by the legislators in various forms, however. Regular reports have to be delivered to the council and the EP and it has to be verified by the court of auditors (Directorate-General, DEVCO, 2014h). Furthermore the framework laid out by the legislator is limiting in term of sectors. For example; half of the budget is earmarked for Africa, this part has to be spent on Africa and no less than 50% can be spent on Africa (Directorate-General, DEVCO, 2014f). Finally, the commission also has to fulfil other specific non-geographical directives which include analysing and formulating the written formulation of the policy. Focus on increasing the effectiveness of aid and carry out international dialogue with the aim of increasing the EUs influence in aid work. The EC is also responsible for managing the human resources in this area (Directorate-General, DEVCO, 2014g). Furthermore, the EC is not to be involved with building relations with the beneficiary country but at this point ownership of a project needs to be turned over to the EEAS (Directorate-General, DEVCO, 2014h).

It could be argued that the EC has done well to retain their control over finance. This is because the EU is the largest aid donor in the world today as such being the one to hold the money is significant in the case of external relations in this case. On one hand this allows the EC to be the main institutions third party countries seek to negotiate with in order to convince the EU of an investment but and on the other it makes the EC the long-term presence in external relations with the third party. This is capacity through both mandate and resources. Still, in this area the EEAS finds one of the places where mandate works in its favour. In its role of representing the EU abroad it is specified that the EC may not use its resources in this area to deal with external relations directly. This is to be handed over to EEAS in order to improve relations. While the EC has certainly managed to retain most of this area through its resources by getting to handle the money with the expertise of knowing how to spend it and the contacts needed to supply the experts that make aid work it has perhaps lost its main function simply through mandate of the Lisbon treaty.

Transport: The Forum Builder

By its very nature, and due to globalization, transport, like communication has become an issue which has been integrated outside of the borders of the nation-state and even the European Union. While the EU and EC pursue a Single European Transport Area (Directorate-General, MOVE, 2012a) they also use methods to reach to third party countries to reach their goals in the policy area of transport (Directorate-General, MOVE, 2012b). EU transport policy on the international level is divided into bilateral relations and regional cooperation (Directorate-General, MOVE, 2012f) as well as cooperation with some IOs in relation to Aviation Safety Policy (Directorate-General, MOVE, 2014b). Long-term regional cooperation is in effect with the ENP region, Africa, Caucasus (Central Asia, countries referred by the EU) and EUROMED (Euro-Mediterranean Partnership) (Directorate-General, MOVE, 2012f). In terms of bilateral relations the EU focuses on the four partners of China, India, Russia and the US (Directorate-General, MOVE, 2012f).

Relations with Africa has seen little improvement in the years following 2009 which was the last year a communication with transport concerns was published by the EC (Directorate-General, MOVE, 2012d). The communication mostly sets out to establish what tools are at the EU's disposal in mapping and prospecting the area for ease of transport. This involves mostly projects covered under development (European Commission, 2009, p. 12). Concretely they wish for an informal forum for transport within the EU-African Partnership (European Commission, 2009, p. 13). It is to focus on intertwining African infrastructure and transport Networks with the European essential TEN-T transport network. However, little outside of the ENP and EUROMED is being done or even has concrete plans. Due to the lack of things being done it is difficult to assess the function of the EC, but it is implied that discussions are taking place under the EU-Africa partnership summits.

In relation to EUROMED, a formal transport forum exists under the EUROMED Transport Project which has been set up based on an extensive Blue Paper created under the 2005 November proceedings of the EUROMED transport ministerial conferences (EUROMED Transport Project, 2005). The project is still on-going and covers a wide area of tailored approaches on transport in all countries around the Mediterranean (excluding Syria) (EUROMED Transport Project, 2014). Now operating under a 2007-2013 action plan which has been extended due to financial concerns beginning 2009 (EUROMED Transport Project, 2007). The EC's function is peripheral, providing technical assistance to the EUROMED transport forum, but is extended due to the Blue paper integrating environmental and socio-economic concerns (EUROMED Transport Project, 2014).

The Caucasus/Central Asia relations are formed in the spirit of the EU enlargement project. Currently integration of the European TEN-T network into the South East Core Regional Transport network is on the Agenda for the South East Europe Transport Observatory (SEETO) (Directorate-General, MOVE, 2012f). SEETO was created in 2004 by the countries of Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro and Serbia as well as the EC and the UN mission in the area. While there are ministerial meetings every years the process has been halted. The EC attempted to set up a Transport Community with the Western Balkans and negotiated in order for the treaty on the community to be signed but the negotiations failed due to political differences (Directorate-General, MOVE, 2012f). The attention of the EC for further tension of the TEN-T network therefore turned to the accession negotiations with Turkey as it has a strategic location in terms of transport. As the Accession discussions with Turkey are also halted development is currently very slow in the Caucasus/Central Asia Area (Directorate-General, MOVE, 2012f).

Due to somewhat stalled development in these areas the EC encouraged the Transport Council to renew the approach in 2011. Transport network integration is now moving forward in the Easter

partnership Transport Panel set up in September 2011 including the countries of Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. The panel is not run by the EC, however, but is an information exchange tool between member states and the partnership countries (Directorate-General, MOVE, 2014a).

The EC cooperates with China on several areas of transport. As an overarching dialogue the EU-China summit in Beijing 2005 the Dialogue on Strategies in the Transport and Energy Sectors was created between the Chinese National Development and Reform Commission and DG TREN. Agreements have been concluded on Maritime navigation and satellite navigation. Aviation has been negotiated since 2005 but has not reached a conclusion yet. Little development with China has happened since 2006 in these sectors (Directorate-General, MOVE, 2012c). The same is true for India and Russia where dialogues have been set up but little has been achieved in terms of agreements (Directorate-General, MOVE, 2012e) (European Commission and the Ministry of Transport of the Russian Federation, 2005). The cooperation agreements with the USA have from the beginning been very focused at security. As official summits and joint statements were first issued in 2003 the EC connects this to the increased security agenda of the US after the 9/11 attacks. As a direct effect most agreements have been issued in regards to air traffic. However, as security have been on the agenda the EC have had little effect lately as external security issues are mostly handled by the EEAS which was established after some of these statements (Directorate-General, MOVE, 2012g). The EC is negotiating the DCFTA TTIP, on the other hand, which sets out the future of especially aviation between the EU and US once completed.

In conclusion the EC has little authority and little effectiveness in the area of transport in recent years. There have either been political differences or lack of common grounds in the negotiations that have been carried out. It is possible that this is partly affected by the EC losing influence over important areas in transport such as security to the EEAS. Furthermore, the EEAS taking control over the diplomatic service has made dialogue options on a bilateral level scarce. Retention is difficult to discuss in this area since transport is not well developed by either party. It is fair to say the attempts of the EC to build forums and set up dialogues in the area with multiple parties, especially in the neighboring areas would eventually lead to a more active role taken by the EC, however, the area is unstable and member states take security seriously. Frosty relations to the east coupled with instability and war in the south has crippled the ability for development in the transport area. Technically one could say that the EC is retaining this area due to its limitations, the dialogues, if proven successful in the future will show that the EC has been able to structure the area in such a way that it promotes the position of the EC.

CSDP and CFSP

The European Commission is not the guiding institution within external action and is legally not powerful in the common Security and defense policy. However, due to the different agencies within the EU needing the ECs guidance and expertise it is quite often involved in making external policy decisions in an indirect way. In many cases the external security measures and decisions are difficult to distinguish from the internal making the EC a capable player in this area. The European Commission tries to follow on with security issues on an external level through the promotion of democracy and human rights in third party countries as it has competences within these areas. The EU strategic Framework and Action Plan on Human Rights and Democracy effectively sets out the areas in which the Commission has and does not have authority to act (Council of the European Union, 2012).

The Commission is in charge of Directorate General ECHO responsible for implementation, operation and delivery of humanitarian aid and civil protection (European External Action Service, 2015s). This includes actions protecting civilians in disaster areas like Nepal, the countries faced with Ebola and conflict zones like Syria, Ukraine and South Sudan (ECHO, European Commission, 2015).

In terms of diplomatic actions it is implementing the 'Instrument for Cooperation with Industrialized and other high-income countries and territories' (ICI) in which it promotes the EU visibility, business cooperation with European companies and creates common understandings in education and civil society dialogues (European External Action Service, 2013).

The Commission is in charge of the long-term part of the Instrument for Stability. In which it promotes conflict prevention, crisis management and peace-building (European External Action Service, 2015t). Alongside the EEAS it also developed the Cyber Security Strategy (European External Action Service, 2013).

Unlike many other policy areas the division of capacity between the EEAS and the EC in CFSP is much more clearly defined. Since direct foreign relations are often done by MS leaders or by Frederica Mogherini, High Representative of Foreign Policy, the EC has submitted their expertise to be used by her in this case (Council of the European Union, 2012). This, by mandate, places the HR in charge of the EC in many of these affairs raising the authority of the EEAS as the handlers of CFSP. In most cases CFSP involvement of the EC concerns long-term plans and stability of third world countries requiring assistance. The EEAS in this case supports with short-term missions and sometimes military involvement while the EC makes sure to stabilize what the EEAS creates.

By mandate, the EC does not hold much power in direct relation-building but it is by resources and expertise it may affect policy, as well as tie-ins with other policy areas. The HR requires the EC's assistance to have effect due to their importance in other policy areas closely related to CFSP as the EEAS is the diplomatic service relations are often done through trade agreements and aid; both of which are placed in the hands of the EC. Effectively, the two most important tools of Foreign Policy helps the EC retain their role as a player in external relations. Furthermore; most multilateral negotiations where the HR could be very effective by being a source of unity to rally around are almost exclusively carried out by the Commission and the HR is not always present. Ironically the creation of the HR position and establishing her as a single voice for the European Union foreign policy has through the division of capacity into the two branches of foreign policy in the EC and the EEAS had more of a crippling than a beneficial effect as they are inescapably interlinked when they attempt to be effective tools of external relations.

Discussion

A discussion around the research question will inevitably take its beginning in the Lisbon Treaty due to it being the starting point of changes to the European Commission's position in external relations. In its essence, the changes that occurred are all related to the mandate given to the European Commission. It is no longer in its formal power to represent the European Union abroad. European Commission functions which still allow the European Commission to be a major player in external relations are as such all sources of power retention for the European Commission. In this paper the major distinction that has been made is between mandate to retain power, which is considered to be formal, and resources to retain power which are more informal.

An original presumption must be to dispel the illusion that sources of retention can be easily listed as the two functions that has been described. In the vast majority of cases we see a combination of factors working together to extend the EC's authority. In cases where the EC can use its resources to act in external relations we often see a strong connection to path dependency under the historical institutionalist theory. In concrete examples we may look at energy where the European Commission's information gathering function cause the council to consult the Commission to construct a coherency mechanism for the European Union's energy trade abroad. Although coherency in external relations is an EEAS authority the council normally consults with the EC and is thus more likely to do so again as EC is capable of carrying out its extended function due to its expertise-related resources. Mandate is such overwritten by a combination of the council preferring to consult with an institution which has been successful in resolving these types of issues in the past and the ECs having the ability to fulfil the function required. This builds inertia where the EEAS is hindered from the start to carry out its intended function. For each time this process is being repeated the EC grows stronger and retains more power. An example of how far this process has come can be seen through the European Energy Security strategy. One of the areas the EEAS has been more successful in influencing has been security. Yet, the security strategy is produced by the European Commission.

Similarly, path dependency also affects the EC's position in climate debate. This is partly because it is connected to energy, making the EC implemented expertise in Energy being useful in climate issues and partly because of the nature of climate summits. The EC set out the basis of EU external actions on climate change in 2005 when the EU was still represented by the commission. The strategy set out a road map until 2012 (Directorate-General, CLIMA, 2014b). In 2010 binding resolutions were drawn up, monitored and enforced by the commission. Because of these resolutions external action has to be done on basis of these agreements as the member states are required by law to abide by the EU regulations. As such, the Commission has put itself in a spot where it is needed to carry out negotiations with third party countries. The initial path dependency established 2005 eventually strengthened itself into legal mandate. Until 2020, the EEAS cannot take any action without relying on the Commission. As with energy, only even more successful the EC has remained major player in climate policy due to its ability to bind the policy area to long-term goals following a set plan; its objectives being further developed and extended by the commission.

This process sped on by path dependency is known as a policy legacy. While there is no more mandate the continuing path dependency creates a policy legacy which the council continues to express by relying on the commission. As noted by DG CLIMA the Commission's role conception is much that of a negotiator in world affairs around climate change. The conception is fulfilled via the expectation of the council for the commission to be the primary arbiter for policy coherence among the EU countries. Its role performance can be seen as nothing but high due to the fact that it has attained the ability to be part of conferences as a representative for the EU (although it has had to share that

responsibility with the HR as of recently). As long as the EC can retain its control over union long-term policy coherence and general policy direction it will be a major player in these policy areas. The only threat to this are policy issues that are not covered by the EC's current policies. Such policy issues are given to the institution with the majority of mandate in the area. Such will often be given to the High Representative.

In the area of trade, the EC has had to apply very little of its retention capacity. The reason, of course being that the EU has exclusive mandate. As such, trade has become an area where mandate is the main source of power retention. The direct effect is that the treaty need to apply specific mandate to have an exception to commission control in this area. This has happened in relations to arms export, sanctions etc. Where retention is near secured by the commission a discussion around theory provides little of value though it could prove useful should there be a treaty revision. However, the effect of trade on other policy areas may be required.

Due to the legal mandate the commission can be viewed to attempt to bind this policy area to other policy areas as it would give them legal mandate to act in other policy areas as well. This would strengthen their ability for power retention in other areas. This can be seen in the case of ICT and communications for example. A relatively new policy area it should be an area which the Commission would have little success in influencing as there can be no retention in an undeveloped policy area. However, ideas around ICT and Communications have come up as an issue in trade agreements discussed by the EC. For example, they are an integrated part in the DCFTA (Deep and Comprehensive Free Trade Agreement) with Canada. The fluency of said policy area is benefitting the EC as can be seen by the fact that when institutions do exist (such as the ITU) the EC often cannot act. Instead attempts are being made to create trade agreements extending the EC's mandate to this policy area. Institutional overlapping is used in order to retain and acquire power. Power retention in this area is as such much more due to mandate than may be apparent.

The role expectation of the council for the commission in trade would be to take initiative and facilitate deals which are of value to the Union and act in defense of the union in immediate changes to the world market. The role of the Union's regulator and leader. The expectation in this area matches the commission's role conception. Due to its ability to secure Free Trade Agreements the performance is very high and allows the Commission to overstep into other policy areas. In ICT and Communication on the other hand the Role expectation is that of advisor to the EEAS on digital security issues. While the Union itself sees itself in the role of a policy enabler. The performance ranges from strong to weak based on geographical area and pre-existing institutions and the EC's ability to bind agreements through overlapping into areas where the EC has a greater mandate.

As has been easy to see through the recently discussed policy areas the EC often promotes circumventing mandate through its use of sources of power retention made possible by unclear mandates. Regarding the area of aid and development on the other hand we see another trend. Synergy between the EC and the EEAS is working rather well through the division of timeframes. The EEAS takes care of short-term missions, military and civilian while the EC is responsible for long-term measures of aid and development efforts. The EC holds the money but may not use it to directly influence bilateral relations with a country but must leave that to the EEAS. The synergy works rather seemingly as the guidelines are firmly laid and resources are divided in such a way that neither institutions can overstep its mandate due to the lack of resources to carry out the functions of the other. The EC has no policing or military unit and may as such not carry out any intervention missions. The EEAS also has no control over the funding and may as such not carry out any investment or

development measures. At the same time the EC has no control over the bilateral negotiations as has been previously discussed. As such it hands over relations with the country when necessary to do so.

EuropeAid is an example where the mandate works as intended as the overlap is minimal and the EEAS mandate is not as ambiguous as in other areas. Power retention in the intervention area has been impossible as intervention was a rather rare occurrence before the Lisbon Treaty and the EC has no retention sources here. Similarly, the EC has been allowed to keep most of its mandate in investment as such has had no need to use retention techniques to circumvent the EEAS. As has been discussed previously, one of the areas the EEAS has been effective in keeping is bilateral relations which the EC has shown no need of trying to control in this area. The EC also enjoys considerable freedom in how it spends the money as long as it does it within the guidelines given through the investment programs.

As there is no 'turf war' in this area it also works rather well. The institutions mesh in a way intended and the EC carries out its function with little attempt to bind this policy area to other. It carries out its function as money-man and expertise on development issues. The Role conception and expectation are the same of the EC and its performance is thus very high.

Transport is a good example of a policy area where retention has not worked well. Most transport policies or negotiations were carried out on a bilateral level. Not being in control over bilateral negotiations anymore the EC has been effectively shut out from the negotiations due to the EEAS taking over the diplomatic services.

It could be perceived that the EC attempted to retain power in the in transport policies through its involvement in the European Neighbourhood area. The European Neighbourhood Policy includes forums for discussion on transport policy for both eastern European Countries not yet ready for accession and the Mediterranean countries in the EUROMED partnership. While the multilateral nature of these negotiations and the previous involvement in the EC in these discussions would normally allow for retention through path dependency, institutional legacy and pre-existing expertise development in these areas have prevented this. Due to political development in the Mediterranean area and political unrest in Eastern Europe, especially concerning Georgia, Ukraine, Syria and most of Northern Africa there has not been enough policy coherence for the EC to bind policies to long-term commitments. This clearly demonstrates that the EC has difficulty dealing with unforeseen political circumstances. This is further clarified with the fact that in stable areas the EC has been successful (TTIP with the United States). In this single occurrence retention has been kept by overlap with the Trade policy area.

Transport works as an example of the limitations of the ECs power for retention. When the EC has no mandate and fails to secure a policy area through overlapping issues or path dependency the EC have no other source for power retention. As such the Transport policy area is useful to map out the full extent of the ECs ability to retain power. It also points out the weaknesses of the EC when development is difficult to predict. Long-term negotiations such as the ones with the US highlights what the EC can successfully do to retain power.

Role expectation of the Member States for the EC in the transport area has been low. The ECs role has mainly been to set up forums for the Member states to meet and discuss. The ECs Role conception has included to retain power and become a major player in the multilateral transport negotiations of the neighbouring countries of the EU. However, it is clear that the role performance in relation to the role conception has been very weak. The EC has failed to be major player in this area.

The policy area which most directly influences EU external actions is the Common Foreign and Security Policy. While the EC is involved in this area in a major way due to it being the largest source of expertise and information in relation to the actions carried out its power is being limited by the constraints on its autonomy. The High Representative of Foreign Affairs is the spider in the web of external relations and coordinates the work of the EC and all other institutions in the CFSP. Due to her direct involvement in this area she turns to the EC to find information but she also restricts their ability to act by doing so as the institution that backs her up is supposed to be the EEAS. With no mandate the EC has to rely on the HR to affect external relations in security.

The EC's performance in this area relates a great deal to its performance in transport. The EC has difficulties in retention in areas where fast action and development is expected. In this area path dependence is unlikely due to the flexibility required in decision making. There is little chance of institutional legacy to build as the HR is replaced every five years. The EC has all its mandate in handling money, but no mandate to handle it in relation to external relations. That falls to the HR. Consultation with the EC is also not required but the HR may choose to consult with them if she wishes. All in all it makes the EC be of little influence. It has not been able to retain much of its power here. As the area regards representation specifically the Lisbon Treaty has been effective in this regard.

The Role expectation put on the European Commission in this policy area is to be a source of information and expertise in handling of external relations decision-making. The role conception is much the same as the EC takes no particular action to extend its mandate. As the Role conception does matches the expectation it performs well. The expectation and conception are not high, however.

Conclusion

The European Commission employs a wide variety of methods to retain its position in European External Relations despite the Lisbon Treaty removing its formal position as the European Union's representative abroad.

In the majority of cases the European Commission utilizes a mixture of long-term policy goals to build trust and expertise-based legitimacy among EU decision-makers. The aim is to build a path dependency of consulting with the European Commission to present the outline of an EU position on external affairs. Whenever a new concern in a policy area comes up the path dependency contributes to an institutional legacy where the European Commission is consulted despite the European External Action Service's mandate to negotiate on the issue. A wide variety of issues are such tied up in long-term plans often decided upon before the creation of the EEAS in order for the European Commission to take future decisions on the matter due to their experience in the policy at hand. In time the goal is to be given formal mandate in the area by their plans becoming binding laws.

In areas that are new of where the European Commission has not had long-term plans in place since before the creation of the EEAS the Commission will attempt to retain control of a policy area by using areas in which it has formal mandate and find an area in which the two policies overlap in order to inescapable link them together to give them mandate over both areas. Another way to achieve this is to tie the policy area to multi-lateral negotiations where the European Commission has greater authority than the EEAS which is mainly focused on bilateral negotiation in its role as the EU's diplomatic service.

Retention has a number of weaknesses. When unexpected or short-term situation occur where the EC has attempted to build long-term plans the EC fails to act accordingly as it has little room for flexibility or adapting to the circumstances. In such cases the EC often fails to retain the area and instead it will be claimed by the High Representative of Foreign Affairs or the EEAS which has better adaptability and flexibility. Retention is also weak in areas where EC mandate has been completely marginalized and is only called upon on a case-by-case basis. This also includes areas where most negotiations are carried out by bilateral or diplomatic relations. Finally, the EC is also unable to retain power in areas which are new, or has developed rapidly recently, as the it has no experience or expertise to call on in such cases.

In conclusion, the European Commission has been able to remain a major player in European external relations by using all available sources of power and institutional structure as well as legitimacy created by expertise to retain power in policy areas it had previously been in control over before the implementation of the Lisbon Treaty.

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