



Maastricht University



European Union
EXTERNAL ACTION



CLEER

Centre for the Law of EU External Relations

The EEAS and the HR - "New" institutional actors since the Treaty of Lisbon

CLEER Summer School on the Law of EU External Relations

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THE HIGH REPRESENTATIVE AND THE EUROPEAN EXTERNAL ACTION SERVICE



The HR and the EEAS

The establishment

- EU: economic giant ⇔ political dwarf
- Kissinger's question (?)
- European Constitution (Treaty of Lisbon) – to answer the question:
 - Three different roles
 - Javier Solana: HR 1999-2009 – „Foreign minister of Europe” => Article 18(2) TEU
 - BFW – RELEX Commissioner
 - Rotating Presidency in Foreign Affairs

What is the EEAS?

- Article 27(3) TEU: “In fulfilling his mandate, the High Representative shall be assisted by the European External Action Service.”
- Council decision 2010/427/EU – EP opinion + consent of COM
 - “functionally autonomous body”
 - Separate from the GSC and the Commission
 - With the necessary legal capacity
 - Article 2 EEAS CD: tasks – assist the three-hatted HR + assist the Commission + COM PRES + PEC

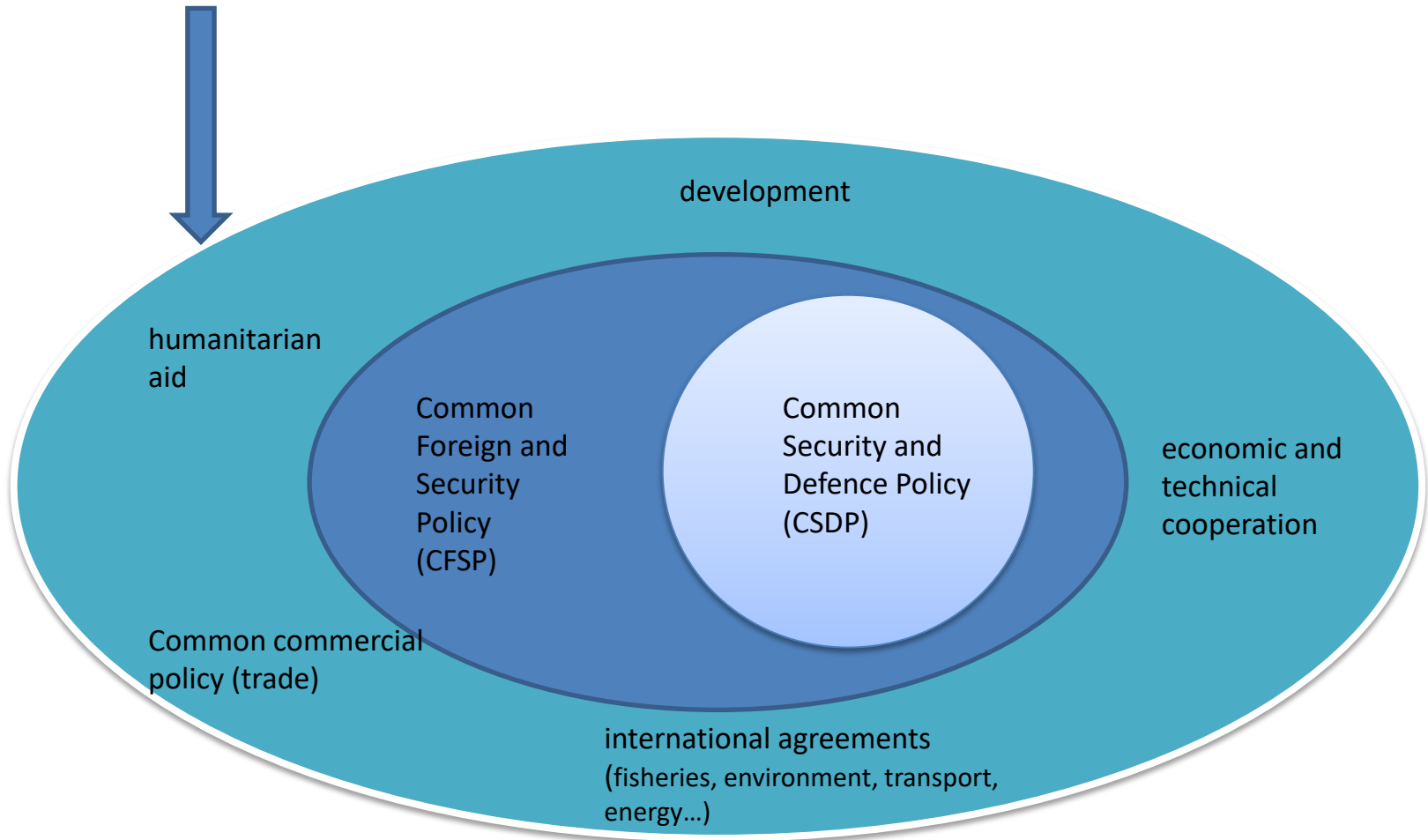
The Challenges

- Expectations: bridging the gap, avoid duplications, « European diplomatic culture »,



	27 EUMS	EU
• 1. Number of delegations (embassy + consulate)	~3.100	142+
• 2. Number of employees	~88.000	~3.750
• Total		
- own national	~52.500	~1.650
- local staff	~35.500	~2.100
- total staff/population	1/5330	1/135.000
3. Budgetary expenditure (2018 total)	7.529 m €	476 m €
- per capita	15 €	1 €

EU EXTERNAL RELATIONS



The main role: assisting the HR

- The HR as the CFSP institutional actor
 - Article 18(2) TEU
 - Right of initiative (also EUMS – Article 30 TEU)
 - Implementation / conduct of CFSP
- The HR as Vice-President of the Commission
 - Article 18(4) TEU
 - Coordination of (non-CFSP) external policies + external aspects of internal policies
 - Necessary cooperation with COM services
- The HR as Chair of the Council's Foreign Affairs formation
 - Article 18(3) TEU
 - HR with the help of EEAS sets the agenda
 - EEAS chairs (most of) FAC preparatory bodies (geo WGs, PSC, etc.)

Some of the EEAS' main tasks

- CFSP:
 - Restrictive measures – support the HR to prepare proposal together with COM services
 - Two legal acts prepared simultaneously:
 - Council decision (Article 29 TEU - HR proposal - unanimity)
 - Council regulation (Article 215 TFEU – HR + COM joint proposal) – QMV)
 - Policy aspects, link to the CFSP => EEAS
 - Technical details (how to implement in the internal market) => COM services (DG FISMA, COM SJ)
 - Before the proposal is made: making sure Council (and all EUMS) are backing it ⇔ not a legal requirement
 - horizontal corruption regime / what about immobilised assets?

Some of the EEAS' main tasks (2)

- CFSP:
 - European Peace Facility (EPF) – support the HR to prepare then propose the action to be financed and implement
 - Set up in 2021
 - Council decision 2021/509/CFSP (Articles 28, 41,42 TEU - HR proposal + COM support - unanimity)
 - Became important in February 2022 (Russian aggression)
 - Military operations (Atalanta) + Assistance measures: EU can provide financial or material help including military equipment of lethal force
 - Originally perceived to help mainly peacekeeping in Africa / Asia => quickly became the main tool to provide military help to UA (so far +/- 4 billion euros approved)
 - Budget had to be reviewed (5 billion for 7 years, already spent)
 - EEAS meeting: end of February: services proposed 50 mio => 500 mio

Some of the EEAS' main tasks (3)

- CFSP/CSDP:
 - CSDP civilian and military missions – support the HR to prepare / propose and to exercise political oversight
 - SOMA/SOFA to be negotiated;
 - Preparatory work in the Council (PSC): O-PLAN, internal rules, objectives;
 - comprehensive approach towards crisis management, combining civilian and military assets;
 - peace-keeping operations, conflict prevention and the strengthening of international security;
 - Since 2003 the EU has launched +/- 40 peace missions and operations in Europe, Africa, the Middle East and Asia.
 - At present, there are 12 civilian and 9 military CSDP missions on-going

Some of the EEAS' main tasks (4)

- Chair of FAC:
 - EEAS chairs FAC preparatory bodies – supports the HR in preparing the FAC by chairing preparatory bodies
 - EEAS to chair most of the prep bodies, but not all => still rotating Presidency
 - Exception:
 - COREPER II
 - Trade and development cooperation related WPs
 - Certain thematic working groups
 - Why these exceptions?
 - General question about EEAS participation in Council prep bodies within and outside of FAC

Some of the EEAS' main tasks (5)

- HR:
 - Representing the HR in Court in cases with external relations dimension – EEAS (Legal Department) represents the HR and provides the agents for the HR's representation in Court
 - Inter-institutional cases touching on the HR's prerogatives (C-551/21)
 - To defend EU restrictive measures (T-125/22, T-307/22...)
 - Important to defend the legal choices made when proposing CFSP acts, but also to protect prerogatives of the HR

Some of the EEAS' main tasks (6)

- VP of the COM:
 - Negotiation of international (framework) agreements
EEAS supports the HR acting as VP responsible for coordinating all aspects of EU external action
 - EEAS negotiates on behalf of the Commission, prepares COM proposal, defends it in Council, informs the Parliament
 - VP is under COM procedures, EEAS takes part in those procedures (autonomous!)
 - CFSP clauses are negotiated for the HR
- CFSP
 - Negotiation of international (CFSP) agreements, EEAS supports the HR in negotiating and concluding them