



TOWARDS A COMMON EUROPEAN DIPLOMACY?
ANALYSIS OF THE EUROPEAN PARLIAMENT RESOLUTION ON
ESTABLISHING A COMMON DIPLOMACY (A5-0210/2000)

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Since the 1950s the Community's external activity has expanded continuously. For many years that activity was focused on the economic field and in particular on commercial policy and development aid, but thanks to Community dynamics and to the establishment of the European Union with its Common Foreign and Security Policy, it has been gradually moving from being strictly economic in nature to increasingly involve the political and diplomatic spheres.

In the first part of this article we will analyse the way that this vast amount of external activity is currently run, focusing in particular on the players responsible for its internal management and external representation. We will try to highlight the shortcomings of the system, especially the inadequate training of officials (1), the deficiencies in the operation of Commission delegations (2) and the lack of co-ordination with the external services of the Member States (3).

The second part of this article will be devoted to an analysis of the resolution on establishing a common diplomacy adopted by the European Parliament on 5 September 2000 (A5-0210/2000), which aims to put an end to the shortcomings of the system, perfecting and rationalising the way in which external powers are exercised. We will cover the specific proposals put forward in the resolution on creating a real Community diplomatic service (1), regularising the functioning of the delegations (2) and co-ordinating the work of the delegations with that of the embassies of the Member States (3). The question is, can fundamental external powers be exercised without having a diplomatic service? Do we not need to finally move towards a genuine common European diplomacy?

I. ANALYSIS OF THE CURRENT SITUATION:

Before starting to analyse the shortcomings in the operation of external activity, and considering the new proposals in that area, it is appropriate to look back at what the Community's external activity and the common foreign and security policy consist of, and which players are involved in that external activity.

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The founding Treaties, signed in the 1950s, already recognised the European Communities as legal entities¹ and gave them powers in the international sphere. Since then the Community's external powers have expanded continuously. The successive reforms of the Treaties have gradually extended the Community's powers to the extent that the current wording of the Treaty expressly assigns the Community external powers affecting (to a greater or lesser degree)² the following areas³: trade policy, associate countries and overseas territories, relations with other international organisations, research and technological development, environment policy, education, vocational training and youth, culture, public health, trans-European networks, economic and monetary union and development co-operation.

Moreover, these extensive explicit external powers are not the only possibilities for external Community action, as according to the theory of implicit powers, when the Community has internal powers to achieve an objective, it may also contract the necessary international obligations⁴ (parallelism of internal and external powers). Finally, Article 308 EC (ex 235) has also been used to increase the Community's external powers.

Events show that for many years the Community's external activity has been markedly economic in nature, focusing particularly on trade, in which the Community enjoys exclusive powers,⁵ and development co-operation. Nevertheless, it is obviously impossible to make a clear-cut distinction between the economic aspects (largely Community competence) and the remainder of external policy (competence of the Member States). The Community's external activity also contains a substantial and growing political dimension, as demonstrated by its tendency to make development aid funding dependent on progress made in human rights.

¹ Articles 281 EC, 6 ECSC and 184 EAEC.

² It should be pointed out that these areas are affected to very different extents; while the common commercial policy falls within the exclusive competence of the Community, in other areas the powers are concurrent, and any external action will be governed by the principle of subsidiarity.

³ See the following provisions of the TEC: common commercial policy (Articles 131 to 134 EC), associate countries and overseas territories (Arts. 182 to 188 EC), relations with other international organisations (arts. 302 to 304 EC), research and technological development (Art. 170 EC), environment policy (Art. 174.4 EC), education, vocational training and youth (Arts. 149.3 and 150.3 EC), culture (Art. 151.3 EC), public health (Art. 152.3 EC), trans-European networks (Art. 155.3 EC), economic and monetary union (Art. 111 EC, also articles 6 and 23 of the Statutes of the ESCB and the ECB), and development co-operation (Arts. 177 to 181 EC). For a more detailed explanation see: ARACELI MANGAS MARTÍN and DIEGO LIÑÁN NOGUERAS *Instituciones y Derecho de la Unión Europea*, McGraw-Hill, Madrid, 1999, p. 331.

⁴ According to the theory of implicit powers adopted by the Court of Justice, "whenever Community law created for the institutions of the Community powers within its internal system for the purpose of obtaining a specific objective, the Community had the authority to enter into the international commitments necessary for the attainment of that objective even in the absence of an express provision in that connection," Opinion 2/91 of 19.3.1993, p. 1061 onwards. This case law has been building up since the 1970s, see the rulings of 31.1.1971, *AETR*, case 22/70 and of 14.7.1976, *Kramer*, cases 3-4 and 6/76.

⁵ The common commercial policy falls within the exclusive competence of the Community, see the Opinion of the Court of Justice 1/75, of 11.11.1975.

All in all, the result is a very broad and varied spread of external powers, which are mainly but not exclusively economic, exercised by the Community in tandem with the Member States (which is the general rule) or exclusively (as is the case of the common commercial policy). Through these powers the Community has become an international player of the first order, with considerable external activity that is of major importance for the whole world.

We will now see who are the players involved in the internal management and the external representation of this Community activity.

Let us start with internal management. Community external action is conducted by the institutions according to the supranational method. The Commission and the Council are involved in concluding international agreements (the main instruments for external activity), with the Council being responsible for authorising the opening of negotiations, the Commission for negotiating the agreements (in consultation with the Committees of the Council and in accordance with its guidelines), and the Council for actually concluding the agreements⁶. The European Parliament is involved at various stages of this process, its role being the essential one of exercising political control⁷.

The Commission plays an essential role in implementing the agreements and managing the funding, and as we will discuss later, it is responsible for the external representation of the Community within the scope of its powers.

Council and Commission officials therefore play an active role in planning and implementing this substantial external activity. The Prodi Commission has carried out a major restructuring of its external relations departments in order to reflect the increasingly leading role that the Commission is playing in external relations and to increase its effectiveness. In the new Commission the following Directorates-General are involved in external relations: 1) External relations, 2) Trade, 3) Development, 4) Enlargement, 5) Common External Relations Service and 6) Humanitarian Aid Office. Within the Council Secretariat, Directorate General E, External Relations, is particularly involved.

External representation is the responsibility of the Commission delegations. In order to maintain permanent relations with third countries and international organisations, the Commission has gradually established its own delegations, which have expanded to a remarkable degree and now number 128⁸. Within the Community sphere of competence, it is the Commission delegation that is authorised to represent the Community in a third country.

⁶ See Article 300 EC. For agreements on monetary policy, Art. 111 EC establishes a different procedure.

⁷ With the exception of the trade agreements referred to in Article 133 EC, for which, unfortunately, the Treaty does not establish parliamentary scrutiny.

⁸ Out of those 128, only 107 are in fact formally delegations. The other 21 are: 17 offices (former antennas), one representation (Turkey), one office (Hong Kong), one representative (West Bank and the Gaza Strip) and one "Somalia" Unit in Kenya. There are also 32 countries where a non-resident head of delegation is accredited, but where there is no Commission presence, and two offices that are subordinated to delegations in the same country (in South Africa the office in Cape Town, subordinated to the delegation in Pretoria, and in Nigeria the office in Lagos, subordinated to the delegation in Abuja). This data was supplied by the Commission, on 11 May 2000.

So far we have discussed the Community's external activity. For years an artificial distinction had assigned external powers in economic matters mainly to the Community, and the rest of foreign policy (in its traditional sense) to the Member States. However, following the Maastricht reform, the Union is playing a definitive⁹ role in external policy, which, although it remains the remit of the Member States, is nonetheless, a matter for consultation within the framework of the CFSP. Thus the Treaty on European Union has taken a fundamental step in moving beyond the economic nature of external activity. This development means that we have better co-ordination between the Community's external activity and the external policy, despite the fact that separation, thanks to the pillar-based structure, is upheld. The CFSP means that the scope of Community activity is extended and that the Union takes on a whole new dimension, going far beyond the economic sphere. The Community institutions and their officials will now be involved in the new field of non-economic external policy, namely traditional international relations and diplomacy.

The next step is to assess the ways in which the institutions and their officials are involved in the internal management and external representation of the CFSP.

Let us start with internal management. The TEU established a single institutional framework.¹⁰ The European Council, the Council of Ministers, Parliament and the Commission are all involved in the CFSP, although their roles are different from those in the first pillar. The European Council¹¹ lays down the principles and general guidelines of the CFSP and adopts joint strategies. Within the Council of Ministers¹² the Member States inform and consult one another on external policy, and adopt joint actions and common positions, whose implementation is mainly incumbent on the Presidency. COREPER and the Political Committee take part in preparation, and the network of European correspondents plays an essential role. The Commission is currently fully associated with the work of the CFSP,¹³ enjoys the right of initiative and

⁹ In reality, co-operation between the Member States on external policy had been developing, step by step, since the Hague Conference in 1969. The Luxembourg report, adopted in 1970, gave rise to European Political Cooperation (EPC), which operated for many years, finally being regulated in the Treaty with the reform of the Single European Act. The Maastricht Treaty took a step further, establishing the common foreign and security policy.

¹⁰ Article 3 EU states that "The Union will be served by a single institutional framework which shall ensure the consistency and the continuity of the activities carried out in order to attain its objectives (...)".

¹¹ The main role of the European Council in the sphere of external policy consists of defining the principles and general guidelines for the CFSP (13.1. EU), and adopting joint strategies (13.2 and 13.3 UE).

¹² The Council is the fundamental institution in the CFSP, the forum in which the Member States inform and consult one another on any issue of the common foreign and security policy that is of general interest (16 EU). The Council adopts the decisions for defining and implementing the CFSP (13.3 EU) and decides on actions and common positions (14 and 15 EU).

¹³ The Commission is fully associated with the work of the CFSP (27 EU), shall have the right of initiative and shall be able to convene extraordinary Council meetings (22 EU), it shall be associated with the functions of implementation and representation attributed to the Council (18.4 EU) along with the Presidency and the High Representative of the CFSP, and shall be able to assist the Presidency in negotiating agreements with third countries or international organisations (24 EU). It shall also be involved in informing the EP on the CFSP (21 UE). The Commission delegations shall co-operate with the

partners the Presidency in the representation and implementation of the CFSP. The European Parliament is consulted and informed, tables questions and annually debates the progress that has been made.¹⁴

Given the intergovernmental nature of the CFSP it is logical that the responsibility for the system should fall on the Council. However it should be pointed out that the political focus of decision-making is shifting from the national capitals to Brussels. The Member States have ceased to deal with foreign policy issues as purely internal matters and must now consult and co-ordinate their actions with their European counterparts and with the Commission.¹⁵

All this means that Community officials – both in the Secretary-General of the Council and in the Commission – are involved in external policy. The Secretary-General of the Council exercises the function of High Representative for the CFSP (18.3 EU) and is responsible for a Strategic Planning and Early Warning Unit,¹⁶ which will consist¹⁷ of personnel drawn from the General Secretariat, the Member States, the Commission and the WEU. The Commission is fully associated with the work of the CFSP and hence the RELEX DGs and delegations take part in external policy.

With regard to external representation it is worth noting that while in the Community sphere (mainly economic relations) external representation falls on the Commission delegations, in the CFSP sphere (the remainder of external policy) it falls mainly on the Presidency of the Council. The Presidency represents the Union (18.1 EU) in partnership with the Commission (18.4 EU), it also has the assistance of the High Representative for the CFSP (18.3 EU) and if necessary, of the next Member State to hold the Presidency (18.4 EU). Finally, the Council may designate a special representative with a mandate in relation to particular political issues (18.5 EU).

The Commission delegations do not represent the Union in the CFSP sphere, which is the responsibility of the Presidency, but they are also involved, as the Commission is associated with the task of representation, and Article 20 of the TEU provides for the Commission delegations and the diplomatic missions of the Member States to "co-operate in ensuring that the common positions and joint actions adopted by the Council are complied with and implemented. They shall step up co-operation by exchanging information, carrying out joint assessments and contributing to the implementation of the provisions referred to in Article 20 of the Treaty establishing the European Community."

diplomatic missions of the Member States in order to ensure that joint actions and common positions are complied with and implemented (20 EU).

¹⁴ Under Article 21 EU, the EP shall be consulted on the main aspects and basic choices of the CFSP, shall be kept regularly informed by the Presidency and the Commission, may ask questions of the Council and make recommendations to it and hold an annual debate on progress in implementing the CFSP (21 EU).

¹⁵ See DAVID SPENCE *European Foreign Ministries: between reform and adaptation*, McMillan, 1999, especially the chapter in the introduction entitled "Shifting the policy focus to Brussels".

¹⁶ Declaration no. 6 annexed to the TEU in Amsterdam. The first paragraph provides for the establishment of the unit and states that "Appropriate cooperation shall be established with the Commission in order to ensure full coherence with the Union's external economic and development policies."

¹⁷ Paragraph 3 of Declaration no. 6 annexed to the TEU in Amsterdam.

Therefore, from what has been explained we can conclude that currently the Union has fundamental powers in external matters, which the Commission and Council officials established in Brussels and the Commission officials in the delegations take an active part in implementing. These officials and the delegations do not play an equal role in the Community sphere and in the CFSP sphere, which is still dominated by intergovernmental co-operation. However, as the integration process progresses, they will play an increasing role in the CFSP.

We will now assess the training that these officials receive, how the delegations are regulated and operated, and how their activity is co-ordinated with that of the Embassies of the Member States.

(1) Training of officials assigned to external activities

It is generally considered that external relations require highly specialised personnel. Therefore, the Member States organise the recruitment of the officials assigned to these activities through especially selective procedures, and they give them special training, not only in technical matters but also in diplomacy and international relations.

We have seen how the Union carries out fundamental external activities that are no longer limited to strictly economic matters, but increasingly cover political matters. However, the many Commission and Council officials who are responsible for external relations are technical specialists who generally lack the diplomatic training necessary to carry out this growing external activity.

For many years, the officials assigned to Brussels and to delegations for external activity have been recruited through general competitions, following the normal Community staff career plan, subject to the Staff Regulations like all other officials.¹⁸ No specialised category existed for these officials, nor did they receive any specific training.¹⁹

It should be noted that until 1994, neither delegation nor RELEX DG staff received any specialised training in external relations. In practice, the delegations were dominated by technical specialists, who were mainly experts in development co-operation. Also there was a voluntary rotation system, under which the RELEX DG officials were under no obligation to work in a delegation, and when they did so, they frequently remained at the same allocation for many years.²⁰ In reality there was not

¹⁸ Moreover, for a long time the contractual system has been used to recruit up to 2/3 of staff in delegations. See the "Report on the Longer Term needs of the External Service" Sec (1996) 554, of 27.3.1996, known as the *Williamson Report*, p. 3.

¹⁹ In this sense it is worth pointing out that in 1998 the Commission called general competitions for graduates specialised in Law, Economics and Statistics, Public Administration, *External Relations* and Management of aid to third countries. This therefore promotes the recruitment of personnel specialised in these areas.

²⁰ In 1994 the level of experience of A-grade staff outside the Communities was scarcely above 15%. As the rotation was voluntary and minimal, 2/3 of A Grade officials in delegations were in their second allocation, or had been there for more than eight years.

even a unified external service, as the delegations were answerable to different DGs depending on the subject area that they dealt with.

Finally, in 1994 the Commission decided to establish a unified external service.²¹ At the same time a working party was set up to assess and identify the long term needs of the external service, the result of which was the *Williamson* report, adopted on 27.3.1996.²² Based on this report changes took place which represented *some degree* of change in various aspects²³ of the external service.²⁴

Since then a programme of continuous training has been organised, taking place mainly during or after the summer holiday period, as have preparatory courses for officials being sent abroad. A specific introduction course is also being prepared for RELEX DG and external service officials. These improvements in training are positive, but in our opinion, they are not enough, they are entirely inadequate.

The *Williamson* report also led to other changes. In 1997 the Commission decided to establish an obligatory rotation system,²⁵ whereby A-grade officials from the RELEX DGs have to work in the delegations.²⁶

An effort has also been made to establish closer relations with the national diplomatic services, through various methods,²⁷ even making it possible for a certain

²¹ Commission decision of 1.2.1994 on the unified external service, taken by delegation procedure under the authorisation of 14.12.1993, COM PV (93) 1181.

²² Sec (1996) 554, of 27.3.1996, "Report on the longer term needs of the external service " known as the "*Williamson Report*."

²³ Particularly in personnel training and rotation, in linking-in of diplomats from the Member States and regarding the Parliamentary committees and interparliamentary delegations.

²⁴ On the development of the external service see the Communication to the Commission of 9/03/99 which aimed to release the sum of 13.1 million euros from the external service budget which the EP had put in reserve. Previously the Commission had already adopted three communications on the development of the external service, also with the purpose of complying with the conditions set in 1996, 1997 and 1998 by the European Parliament for the release of the reserves in the budget for the external service:

* Sec (1996) 554, of 27.3.1996, "Report on the Longer Term Needs of the External Service " known as the "*Williamson Report*."

* Sec (1997) 605, of 8.4.1997 "Development of the External Service of the Commission."

* Sec (1998) 1261, of 22.7.1998 "The External Service of the Commission."

²⁵ Sec (1997) 605.

²⁶ If, once he/she has worked in the directorate generals for six years, an official has not requested or obtained a post outside the Community, his/her name will be automatically included on the list of people who can be allocated to a delegation. It was established that this system would enter into force, following a three-year transition period, in 2000.

²⁷ Taking part in the CFSP "Administrative affairs" group (COADM), encouraging regular contact between the officials responsible for managing the external service and their counterparts in the national foreign ministries, organising courses for national diplomats, and, through the partnership programme, arranging for a certain number of diplomats from the Member States to work for the RELEX DGs and in the delegations.

number of Member State diplomats to work for the RELEX DGs and in the delegations. Nonetheless, practice has shown the difficulties associated with a diplomat from a Member State working in a delegation.²⁸

In short, we can conclude that since 1994 some improvements have been made, improvements that we consider positive but completely inadequate. The training of officials who carry out important external activities cannot be entrusted to a few brief *summer schools*. The link-up with the Member State diplomats, which could enrich the external representation of the Union with their experience, is in fact negligible.

(2) Functioning of the delegations

In the 1950s it was made clear that in order to exert the broad Community powers in the external sphere it was necessary to maintain permanent relations with third countries and international organisations through diplomatic bodies. As the first attempts to establish joint Community missions had failed,²⁹ and as the Treaties say nothing on the subject,³⁰ the Commission created (under the power for internal

²⁸ In March 1999 nine officials from the Member States (called seconded national officials) worked in China, Korea, Japan, Côte d'Ivoire, Bangladesh, Zimbabwe, Poland, Vietnam and the USA. Some of them had experience in the foreign ministries of the Member States, but none of them is an acting member of a diplomatic service. As explained by the Communication from the Commission (9.3.99), one of the reasons is that the diplomatic services plan their staff movements very far in advance, and given the precarious nature of the Commission's budgetary funds for these activities, it is not possible to inform the Member States sufficiently early as to the exact number of posts available. Also, the diplomatic services of some Member States, which are obliged by the partnership programme to bear the salary costs, have indicated that they do not have the resources to fund their diplomats to work outside their own service.

²⁹ In 1954 the ECSC opened a permanent representation in London. After the creation of the EEC and the EAEC, the possibility was proposed of creating *European Communities* delegations in third countries. The Van der Goes van Naters report (docs. 87 and 88/1959) which included this proposal was favourably accepted by Parliament, which adopted a Resolution (19.11.1960, OJ no. 76, 16.12.1960, p. 1496) in this respect. However, this attempt to establish joint European Communities missions repeatedly failed, and the institutional negotiations were suspended. This failure has been put down to two reasons: the fear on the part of the Member States of losing their leading role in diplomatic life, and the tension between the Commission and the Council regarding control over this diplomatic activity.

³⁰ The founding Treaties did not say anything about the European Communities' right to active and passive legation. There is an incidental mention of passive legation in art. 17 Protocol on the privileges and immunities of the European Communities annexed to the Treaty of Brussels of 8.4.1965: "The Member State in whose territory the Communities have their seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Communities." The first mention of the right to active legation did not appear until the Draft Treaty establishing the European Union adopted by the European Parliament on 14.2.1984, Article 89 of which stated that: "1. The Commission may, with the approval of the Council of the Union, establish representations in non-member States and international organisations. 2. Such representations shall be responsible for representing the Union in all matters subject to common action. They may also, in collaboration with the diplomatic agent of the Member State holding the presidency of the European Council, coordinate the diplomatic activity of the Member States in all fields subject to cooperation. 3. In States and international organisations where there is no representation of the Union, it shall be represented by the diplomatic agent of the Member State currently holding the presidency of the European Council or else by the diplomatic agent of another Member State." However, the draft was not ratified. Finally, the Single European Act mentions the right to active legation in paragraph 9 of Article 30: "The High Contracting Parties and the Commission, through mutual assistance and information, shall intensify cooperation between their representations accredited to third countries and to international

organisation) its own delegations, which until now have been responsible for the external representation of the Community.

As regards Community policies, the delegations have the monopoly in representing the Community. No Member State, not even that of the Presidency, has the legal power to represent the EC or to speak on its behalf in the host state.³¹ When we are working in the sphere of shared powers, there has to be a partnership between the Commission delegation and the missions of the Member States.

These Commission delegations have expanded spectacularly,³² currently numbering 128, and have been fully accepted by third countries and international organisations, which have proceeded to open up their corresponding embassies in Brussels. The delegations have the rights, privileges and diplomatic immunities granted to the missions of the Member States according to diplomatic law, and the head of delegation even has the diplomatic rank of Ambassador.

For a long time the function of these delegations³³ has focused on economic matters, but with the passing of time they have acquired a political role which goes beyond the strictly economic sphere. The delegations are no longer merely responsible for managing commercial policy and development aid, but have a vital role as political representatives of the Community, which is recognised as a main player on the international stage.

Despite the expansion of the delegations and the prime importance of their activity, it should be recognised that their legal status, their role and their relationship with the institutions are somewhat uncertain aspects that need to be clarified.

The delegations represent the Commission at international level, which creates a certain amount of confusion, as the Commission is only an institution of the Community, and does not have international legal personality. Furthermore, although formally they are answerable solely to the Commission, in practice they have relations with the Council and the European Parliament and fulfil a broader representation role on behalf of the Community as a whole.³⁴ In 1991 the Commission addressed its heads of

organisations." The Treaty on European Union again mentions active legation in Article 20: "The diplomatic and consular missions of the Member States and the Commission delegations in third countries and international conferences, and their representations to international organisations, shall cooperate to ensure that the common positions and joint actions adopted by the Council are complied with and implemented. They shall step up cooperation by exchanging information, carrying out joint assessments and contributing to the implementation of the provisions referred to in Article 20 of the Treaty establishing the European Community."

³¹ JOSÉ MANUEL SOBRINO HEREDIA "La actividad diplomática de las delegaciones de la Comisión en el exterior de la CE" *Revista de Instituciones Europeas*, vol. 20, 1993, no. 2, p. 519.

³² On the development of the delegations see the detailed article by JOSÉ MANUEL SOBRINO HEREDIA "La actividad diplomática de las delegaciones..." op.cit.

³³ On the functions of the delegations see the third annex to the Communication "Development of the External Service of the Commission" Sec 97 (605).

³⁴ As MICHAEL BRUTER explains, there is a high level of confusion on this subject, both for European diplomats and for those whom they deal with externally. Frequently in third countries the delegation and its head are perceived by the public as representatives of the whole of the Union and even of Europe in

delegation in the following way: “*For the time being, Commission delegations remain Commission delegations -not Community delegations- even though they may in practice represent the Community on questions falling within areas of exclusive competence*”³⁵.

The relationship, which has developed over the years, between the delegations and the Council and the European Parliament, also need to be clarified. Aspects such as the role of the delegation when MEPs or the High Representative of the CFSP visit the area are unclear. There also needs to be a closer relationship between the delegation and the Parliament, in order to ensure a greater degree of political control over its activities.

There are also gaps in the map of delegations, which, as it arose from practice, suffers from a lack of planning, and also in the delegation staff, given that they only number 693,³⁶ compared with around 2000 local staff recruited by the Commission largely because of shortages of funds which need to be resolved.

(3) Co-ordination between the delegations and the embassies of the Member States.

Despite the degree of integration that has been achieved between the Member States, and the progress in the CFSP, the Union’s external representation still suffers from confusion, and needs greater co-ordination. In Brussels the Member States legislate together and co-ordinate their external activity, but in the rest of the world, the external services remain dispersed.

Co-ordination between the Commission delegations and the embassies of the Member States is absolutely essential in order increase the visibility and the effectiveness of the CFSP, and in order to maintain cohesion between economic affairs, for whose external representation the delegations are essentially responsible, and political matters, which are the remit of the missions of the Member States and the Presidency.

The Treaty on European Union highlights the need to co-ordinate Community external policy and the CFSP,³⁷ as Community trade policy and development aid policy are fundamental instruments for external policy,³⁸ and in Article 20 it establishes that

general. See “Diplomacy without a State: the external delegations of the European Commission” *Journal of European Public Policy*, Glasgow, 1999, p.186-197.

³⁵ Horst G. Krenzler, *Note for the Attention of Heads of Delegation DG I: Use of the Title of Ambassador*, Brussels, 27 May, 1991. Cited in the article by MICHAEL BRUTER, “Diplomacy without a State...” op. cit., p.190.

³⁶ The external service currently has 693 staff. Out of these, 494 are A-grade staff, 124 are B-grade, and 75 are C-grade. This information was supplied by the Commission and dates from 26 March 2000.

³⁷ The TEU states in Article 3 that "The Union shall in particular ensure the consistency of its external activities as a whole in the context of its external relations, security, economic and development policies. The Council and the Commission shall be responsible for ensuring such consistency and shall cooperate to this end. "

³⁸ The Treaty establishes various bridges between the first and second pillars. See for example Article 301 EC on sanctions.

the missions of the Member States and the Commission delegations will co-operate in various ways.

In practice a certain amount of progress has been made in this area, as the ambassadors from Member States accredited in a third country and the head of the Commission delegation frequently hold meetings and share points of view.

Another useful channel for promoting co-operation is pooling embassies. There are already cases of Member States sharing embassies,³⁹ and the Community has tried to encourage⁴⁰ pooling of Member State embassies along with the Commission delegation. This practice could be very useful for achieving greater co-ordination of its activities and to reduce costs, which is essential in a context in which the Foreign Ministers of the Member States have serious financial difficulties in maintaining their network of embassies.⁴¹ The possibility has also been considered of a Member State accrediting a diplomat in a Commission delegation in a third country in which it does not have an embassy.⁴²

However, it must be regretted that due to the reticence of the Member States, so far in practice this has been very limited,⁴³ with Member States frequently preferring to close embassies and consulates for financial reasons rather than sharing them with their European partners.⁴⁴

II. THE EUROPEAN PARLIAMENT PROPOSAL: TOWARDS A COMMON EUROPEAN DIPLOMACY?

The Union has many fundamental powers in external matters. We need to improve the way in which this important external activity is carried out, in order to

³⁹ The United Kingdom, France and Germany share embassies in Almaty and Minsk. The Nordic countries do so in Windhoek, Namibia and Dar-es-Salaam.

⁴⁰ Parliament has shown its interest in this issue. In its resolution on the development of the CFSP in 1994, of 18 May 1995 (report A4-0083/95), it regretted that the Member States “have not been able, for example, to establish joint embassies in the independent states of the former Soviet Union as originally envisaged” (point 28; DO C 151 of 19.6.1995, p. 223).

⁴¹ DAVID SPENCE includes reports on the current situation of the Foreign Affairs Ministries of the Member States in *European Foreign Ministries...* (op. cit.). From reading it, it emerges that the Member States are facing similar financial difficulties in maintaining their external services.

⁴² This has occurred on two occasions. Germany has used the delegation in Sierra Leone and Austria has used the one in Burundi.

⁴³ On 19 April 1994, ten Member States and the Commission signed a Memorandum of Understanding under which they would pool their missions in Nigeria into a joint embassy, EUROPA HOUSE, in Abuja, the capital. This agreement was made after the Nigerian government’s decision to transfer its seat from Lagos to Abuja. All of the twelve Member States that were then part of the Community took part except for the United Kingdom, which had already established its embassy in Abuja, and Luxembourg, which does not have a mission in Nigeria.

⁴⁴ As DAVID SPENCE explains, this is an unusual field, in which the constant desire to make savings is not so apparent. On the contrary, motives of national politics come before economic and financial incentives. See the introduction to *European Foreign Ministries...* op. cit.

overcome the shortcomings that have been highlighted, particularly regarding the training of the officials involved, the functioning of the delegations, and the coordination of the external services.

We could say that there is already a common European diplomacy, because there is a European political entity whose positions are represented at international level by delegations and officials that defend its interests. However, it is a diplomacy without *diplomats*, without appropriately regulated *embassies*, and without sufficient coordination with the diplomatic services of the Member States.⁴⁵ Given the importance of the activities, we need to improve these aspects, progressing towards a true common European diplomacy, which should be compatible with the diplomacies of the Member States.

The European Parliament had already on several occasions suggested ways of improving various aspects of external representation.⁴⁶ The Commission has also

⁴⁵ BRUTER talks of the peculiarities of *Diplomacy without a State*: without a clear external policy, with limited resources, without a head of State and without diplomats. See “*Diplomacy without a State...*” op. cit.

⁴⁶ The European Parliament has already given its opinion on this, see:

The resolution on the progress of the CFSP in 1994, of 18 May 1995 (report A4-0083/95), in which Parliament “Believes that it is essential for the European Union to have a diplomatic apparatus of its own; is of the opinion that the Commission’s delegations to non-member countries should be upgraded to embassies of the European Union and, on this basis, have a special role in relation to the embassies of the Member States; regrets that the Member States have not been able, for example, to establish joint embassies in the independent states of the former Soviet Union as originally envisaged” (point 28; OJ C 151 of 19.6.1995, p. 223).

The resolution on the progress of the CFSP in 1995, of 18 July 1996 (report A4-0175/96), in which Parliament “Emphasizes the important role of national diplomatic services in shaping foreign policy and the lack of effort being made to adapt them to the new circumstances of European integration.”(point 26; OJ C 261 of 9.9.1996, p.154).

The resolution on the progress of the CFSP in 1996, of 12 June 1997 (report A4-0193/97), in which Parliament highlights the need to “bring national diplomatic corps and intelligence services into line with the new aspirations of the CFSP,” (point 9) and “Requests that it be made possible for the Member States to use, in third countries where they have no diplomatic mission, the delegations of the Commission for the purpose of representation of their interests in addition to those of the Union;” (point 10; OJ C 200 of 30.6.1997, p.148).

The resolution on the CFSP in 1997, of 28 May 1998 (report A4-0169/98) in which Parliament “Considers it essential as a matter of urgency to create a genuine common European diplomacy, transforming the Commission representations into proper diplomatic representations of the Union in those countries where the majority of Member States are not fully represented;” (point 10; OJ C 195 of 22.6.1998, p.35).

The resolution on the CFSP in 1998, of 5 May 1999 (report A4-0242/99), in which Parliament “Reiterates its proposal in last year’s report to create a genuine common European diplomacy, transforming the Commission representation into proper diplomatic representation of the Union in those countries where the majority of Member States are not fully represented” and “Suggests in preparation for such a common European diplomacy, the establishment of a ‘College of Diplomacy’ of the European Union;” (points 52 and 53; Minutes of Sitting of 5.5.1999, p.76).

The resolution of 13 March 1996 (A4-0068/96), in which Parliament sets out its priorities for the Intergovernmental Conference, and declares that “In order to provide a preliminary solution to the issue of the Union’s representation in third countries, the necessary steps should be taken to have a diplomatic

worked to improve the external service, particularly based on the Williamson report⁴⁷, and the Council has in turn taken some initiatives.⁴⁸ But on 5 September 2000 an important step was taken with the adoption by the European Parliament of the Resolution “On a common Community diplomacy” (A5-0210/2000), by the rapporteur Gerardo Galeote, the joint author of this text.

The aim of this resolution is not to increase the Union’s powers in external matters, but rather to propose measures that will rationalise and improve the way in which this important external activity is carried out. Of course the objective is not to establish a single European diplomacy that will replace national diplomacy with Community diplomacy, but rather to provide the European Union with genuine professional and suitably regulated external services, so that it can exert its powers effectively and in close co-ordination with the diplomatic services of the Member States.

The Parliament resolution therefore suggests moving forward in three directions:

(1) Training of officials assigned to work in the field of external activity

Parliament believes that steps must be taken to establish a professional, permanent European diplomatic service that is adapted to today’s changed circumstances and can contribute effectively to achieving the Union’s goals in the international arena.

Therefore, it is proposed that a College of European Diplomacy be set up to ensure that officials involved in external activities, both at the Commission (in the delegations and the RELEX DGs) and the Council (DG for External Relations at the Council Secretariat and the Strategic Planning and Early Warning Unit) are given not only technical training in Community policies, but also full-blown diplomatic and international relations training. It is also envisaged that the College could be open to Member States wishing to provide their diplomats with further training, and to diplomats from applicant countries. Until the College has been set up, it is proposed that Community officials could extend their training by means of programmes and seminars in co-operation with European university institutions, particularly those funded by the Community, and diplomatic colleges in the Member States.

It is also considered essential that the diplomats from the Member States be closely involved with the nascent Community diplomatic service, to enable the Union to benefit from the wealth of experience that they have. The Council and the Commission

representation of the Union established in third countries where fewer than four Member States have diplomatic representation;” (point 18.10; OJ C 96 of 1.4.1996, p.77).

⁴⁷ The last Commission initiative in this field is the Communication to the Council and the European Parliament on the evolution of the external service, 18.07.2000, COM (2000) 456.

⁴⁸ On 26 November 1999 the Political Committee adopted the “European Diplomatic Programme” (doc. 13807/99) which is open to national diplomats and Commission and Council officials and aimed at helping to establish a European foreign policy identity. The Member States were thus helping to achieve the objectives agreed in the “Report on the training of junior diplomatic staff” adopted by the Political Committee on 6 December 1995 (doc. 13033/95).

are therefore urged to design a 'bridging' system to link the national and Community external services, allowing for the temporary placement of Member States' diplomats in the Community's external service.

Finally, it is proposed that adequate funding should be provided for these advances (a fundamental aspect that has been repeatedly highlighted by the Commission) and that before the end of 2000 a meeting should be convened of the diplomatic colleges of the Member States and the relevant bodies of the European Commission with a view to making progress on the training programmes for officials, setting up the European College of Diplomacy and the 'bridging' system.

(2) Functioning and legal status of the delegations

Parliament recognises the disparities in the functioning of the delegations and the need to clarify their legal status, their role and their relationship with the Community institutions.

Along the lines of previous declarations by Parliament, this resolution states that "it cannot be ruled out" that in future, once the Union's legal personality has been recognised,⁴⁹ *Union embassies* will be set up, consisting of the Community delegation and the missions of Member States wishing to have a presence in the third country.⁵⁰ However, for the present, and in order to ensure that the changes take place gradually, the report limits itself to proposing that Commission delegations should become Community delegations.

It is considered that although formally the delegations are answerable solely to the Commission, in practice they have relations with the Council and the European Parliament, and fulfil a broader representative role on behalf of the Community as a whole, so the aim is to give this situation formal legal recognition. Turning the Commission delegations into Community delegations would clarify the situation, as the Community has international legal personality. Moreover, this would not require a further transfer of powers, since within the framework of the CFSP the Community delegations would only act to the extent provided for by the Treaty, respecting the responsibilities of the Presidency and the High Representative for the CFSP.

The resolution proposes that the Community delegations should remain part of the Commission's staffing plan, but aims to build up closer ties with Parliament and with the Council. Along these lines it is proposed to ensure that the heads of delegations appear before parliamentary bodies, especially before taking up their duties. It is also proposed that the Commission submits to Parliament for debate a redrawn map of its external delegations, and that it submits an annual report to the European Parliament

⁴⁹ Something which has already been requested by Parliament, which declared in its resolution of 13 March 1996 (A4-0068/96) containing its priorities for the Intergovernmental Conference that it "agrees with the majority of members of the Reflection Group who feel that the fact that the European Union has no legal personality is a source of confusion to the outside world and tends to hamper and minimise the external role of the Union. The Union should be given international legal personality."

⁵⁰ We will come back to this issue in the next paragraph.

and the Council on the functioning of the delegations. It also proposes that the duty of the delegations to assist Members of the European Parliament and the High Representative for the CFSP when they visit the area concerned should be recognised.

Finally, the budget issue. Many of the problems with the current Community external service are the result of budget constraints. The resolution therefore considers that under these new circumstances the delegations should have the necessary human and financial resources, for which they should have the corresponding budgetary support. It is also considered to be appropriate to set up regional delegations, whose duties would extend to various neighbouring states.

(3) Co-ordination between delegations and the embassies of the Member States

The Parliament resolution recognises the lack of co-ordination of the external services and proposes improving co-ordination between the embassies and the delegation, in order to maintain cohesion in external activity and improve the visibility and effectiveness of the CFSP.

For this purpose it proposes that joint reports be drawn up in which the embassies of the Member States (particularly that of the Presidency-in-Office) and the delegation jointly express their views. It also aims to encourage joint information to the Council, and through the Council to the national governments (particularly in the case of representations to international organisations where there are many cases of duplication that could be reduced), and, when appropriate, to the European Parliament.⁵¹

Another fundamental proposal is to promote the pooling of the diplomatic missions of the Member States that so desire with the delegation. This would result in improved co-ordination, and also in lower costs deriving from the sharing of infrastructures.

Finally, it is proposed to encourage Member States to use the current Commission delegations in third countries in which they have no diplomatic representation and assign to them one of their own diplomats who, in addition to contributing to enriching the Community's external policy, would be responsible for maintaining bilateral relations.

These last two possibilities already exist, although they are hardly ever put into practice, so this report aims to give them fresh impetus. In reality, we consider these

⁵¹ This is stated on para. 8 of the resolution. Previous versions (see para. 12 of the draft report) had not gone so far, as the aim was simply "that joint information to the national governments be encouraged (particularly in the case of representations to international organisations where there are many cases of duplication that could be reduced), and, when appropriate, to the European Parliament". The idea was not that the information from the embassies to the national governments should be through the Council. The current version, which is more ambitious and was expressed in the report that the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy presented to the plenary session, is the result of the adoption of an amendment tabled by the MEP Olivier Dupuis. However, it should be taken into account that the resolution only talks about *encouraging* this joint information via the Council, and particularly in the case of representations to international organisations.

initiatives to be only intermediary steps as the CFSP progresses, and that the optimum solution, in the long term, when the necessary legal personality of the Union has finally been recognised, is to establish Union embassies. This possibility is scarcely explored in the resolution,⁵² but looking towards the future, it is worth giving it some attention:

The expression *Union embassy* undoubtedly awakens all the hesitations of the Member States. However, the establishment of these embassies would not exclude the possibility of bilateral representation. The embassies would be made up of the delegation and the missions of the Member States that wished to have representation in the third country. The national missions would therefore, within the framework of the Union embassy, maintain their legal personality, being available to provide the appropriate services for their country, while the interests of the Member States who did not consider it to be necessary to assign their own mission would be represented by the Union embassy.

This would be a creative response to the changes and the financial difficulties that the external services are experiencing. Currently many Member States are not represented in numerous third countries. Establishing Union embassies would enable them to delegate the representation of their interests to the embassies, or even to assign a mission to them at minimum costs. It would therefore be especially useful to establish the embassies in those third countries in which the majority of Member States do not have diplomatic representation.

In this way the Member States could maintain a greater degree of international representation, which is essential for defending their interests in the globalised world of the 21st century. It would also increase the co-ordination of European external policy and the visibility and effectiveness of the CFSP. We believe that in the long term this solution would be a good response to the new international and European situation. However, we need to wait for the legal personality of the Union to be recognised.

III. CONCLUSION

This resolution was supported by a large majority in the European Parliament,⁵³ with 405 of the 541 MEPs who voted having voted in favour,⁵⁴ so we trust that the European Commission will follow it up appropriately. In fact, Commissioner Patten, who was in the plenary session on 4 and 5 September when the report was debated and

⁵² It is only stated that “it cannot be ruled out” that in the future Union embassies may be set up. In a previous version (see the draft report) this issue was clarified in greater detail, establishing in recital Q that “The Union Embassies would be made up of the delegation and the delegations of the Member States that wished to be present in the third country. In this way, the national missions would maintain, within the framework of the Union Embassy, their legal personality, being available to provide their country with the appropriate services, while the interests of the Member States that did not consider it necessary to assign their own mission would be represented by the Union Embassy. In order to establish these embassies it would be necessary to identify the priorities of the Member States and of the Union, it being particularly appropriate to open them in those countries in which the majority of the Member States do not have diplomatic representation”.

⁵³ The debate that took place in the plenary session can be consulted in the Parliament Minutes of 04-09-2000, p.26 onwards, and 05-09-2000, p.28 onwards.

⁵⁴ The result of the vote was as follows: 541 votes, 405 in favour, 86 against and 50 abstentions.

voted on, stated that the Commission will consider Parliament's recommendations very carefully and will prepare a communication on the external services for the first half of 2001. The Commissioner expressed his enthusiasm for the arguments in the report regarding training for the external service and encouraging co-ordination of external services. As expected, he was more reticent regarding the proposals on the functioning of the delegations, among which is the possibility of transforming the Commission delegations into Community delegations.

Given the wide-ranging support that it has received, we trust that this resolution will be followed up appropriately. We hope that in the next few months a plan will be put in place for reforming the training of Commission and Council officials assigned to external activities. This plan should include training programmes in co-operation with European University institutions and their diplomatic colleges. We also hope that the College of European Diplomacy will be established, and that an effective 'bridging' system will be designed to enable national diplomats to work in delegations. The European meeting that will discuss these issues should be held soon. We also hope for changes in the Commission delegations and in the co-ordination and pooling of the embassies of the Member States and the delegations. In order to make all these improvements it is foreseeable, in the light of the report, that Parliament will be prepared to support an increase in the budget for the external service. This should be one of the immediate consequences of this resolution.