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The EU in Geneva: The Diplomatic Representation of a System of Governance

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Abstract

The European Union (EU) diplomatic system can be conceived as representative of a system of governance, and, through this, of its constitutive independent units. The way in which the EU's political system is represented through diplomatic practices is telling of two interrelated aspects of the EU's international actorness. First, it reveals the link between the foreign policy of a non-state actor and sheds light on the division of competences that characterises the EU's foreign policy-making system. Second, it highlights the complex institutional and organisational features of a non-state diplomatic system. This article locates the puzzle of EU diplomatic activity in the general debate about changes in the institution of diplomacy. Secondly, it explains how post-Lisbon institutional arrangements have been translated into practice in two multilateral delegations: the delegation to the UN and the mission to the WTO in Geneva. It finally draws some preliminary conclusions. The article concludes that beyond competition over the attribution of competences in the EU's diplomatic governance, different ideas coexist about what 'locating the EU in the international scene' means. Pursuing a 'single voice' by unifying forms of external representation is not necessarily perceived as the most convenient strategy envisaged by all EU actors. While institutional actors tend to believe that coherence and strength may descend from a more unified system of representation, the member states tend to believe that, in certain circumstances, differentiation could increase the EU's strength.

Keywords

EU; European delegations; EEAS; diplomatic governance; diplomatic representation; intergovernmental organizations

The diplomatic representation of the European Union (EU) relies on complex mechanisms of institutional and organisational engineering in order to represent aptly all actors involved in the European project. The concept of diplomatic governance highlights the way in which different actors – on the grounds of different sources of legitimacy (territorial or functional) and foreign policy leverage – formally and informally share competences in foreign policies and diplomatic representation. Governance depicts 'a system of interaction' (Lavenex 2011: 372) underpinning 'activities backed by shared goals' (Rosenau and Czempiel 1992: 4) and signals 'a shift from hierarchical, territorial modes of government (based on the dominant position of the nation-state) to a more non-hierarchical functionally based system' (Boschma and Schobben 2000: 1). This definition suits well the analysis of the EU foreign policy system. In as much as foreign policy drives diplomatic action and organisation, diplomatic representation reflects the attribution of foreign policy competences and the informal interpretation of such distribution. In the EU, the management of foreign policy issues contributed to a plural arrangement to deal with foreign affairs. Accordingly, different actors possess distinctive foreign and external policy tools and take part in different instances of the EU foreign policy-making process.

This article aims at shedding light on the organisational and institutional arrangements that regiment the EU model of diplomacy governance. It does so by reviewing the main organisational problems that diplomatic representation in inter-governmental organizations (IGOs) imposes on the EU. Diplomatic representation in IGOs is illustrative of both internally- and externally-imposed sets of caveats. It sheds light on the complexity of the EU division of competences and overall coordination of all EU actors both at headquarters and on the ground. Additionally, it highlights the set of rules and procedures imposed on the EU by IGOs, and the overall question of the EU's status in these organisations. These two sets of issues are coupled with the general complexity of human and professional relations among European actors. These aspects contribute enormously towards shaping the EU's ability to speak with one voice in a given IGO.

The article proceeds as follows. It first reviews the literature on governance as applied to the external action of states and the EU. Second, it offers an analytical grid to make sense of the factors that affect the overall structure of the EU's diplomatic governance. It thereby focuses on the vertical dimension of governance in EU foreign policy and diplomacy and reviews the role of executive actors involved in diplomatic practices in Brussels. It then explores the ways in which the headquarters in Brussels liaise with the delegations in multilateral organisations; and the way in which the Union delegation and member states on the ground tune the EU voice. It draws on two empirical cases to describe the enmeshed character of the EU system of diplomatic representation: the delegation to the United Nations (UN) and the EU mission to the World Trade Organization (WTO).¹ It highlights how internal and external sets of constraints systematically impede a unified form of diplomatic representation. The article relies on 30 interviews conducted in the European External Action Service (EEAS), the European Commission in Brussels, the delegation to the UN, the mission to the WTO and the member states' embassies in Geneva in March 2012.

THE PUZZLE OF FOREIGN AND DIPLOMATIC GOVERNANCE: INSIGHTS FROM THE LITERATURE

During the twentieth century, the idea that diplomacy reflects an actor's foreign policy, set up 'by authoritative policymakers [...] directed toward entities outside the policymakers' political jurisdiction' (Hermann 1990: 5), was progressively dismissed. This idea implied a fictional distinction between an 'inside' and an 'outside', based on *separateness* and a need to ensure sound communication between parties (Hocking 2005: 3). Additionally, it spotted the locus of authoritative policy-making in the states' executives. Two main objections have been progressively raised against this ideal-typical definition of foreign policy: 1) the distinction between what is 'inside' and 'outside' the states has been contested; 2) and linked to this, the actors involved in foreign policy and diplomatic negotiations are not exclusively territorial representatives. In respect of the first, the practice and institution of diplomacy has undergone a steady process of change since the end of the Second World War and the beginning of the Cold War (Mingus 2006). Change is generally associated with a redefinition of the Westphalian system of states, as based on 'territorially defined, fixed, and mutually exclusive enclaves of legitimate dominion' (Ruggie 1993: 151). Breaches in the states' constitutive elements were envisaged as an effect of the dismantlement of three logical fictions: the separation of the economic from the political (Strange 1999), the separation of the nation from the state (Guéhenno 1995), and the distinction between the national and the international (Wallace 1999). Structural change in the global political economy engendered the emergence of a new model of statehood: a regulatory one (Majone 1990), characterised by dispersion and decentralisation of centres of political authority, intense and hybrid networking between public and private subjects, the fragmentation of the national economic space and the diffusion of power to various organisations and structures in civil society (Jayasuriya 2004). As a consequence, the concept of political space started to assume a double-edged meaning, whereas territorial space defines 'a political-juridical and administrative entity with legislative powers' which relates to the notion of "government"; while functional space defines 'a functionally defined homogenous or nodal entity [...] governed by a functionally-based system of "governance"' (Boschma and Schobben 2000: 3). As for the second objection, which is linked to the first, the actors doing the negotiations are not exclusively territorial/states' representatives. As a consequence of the overall process of evolution, change and adaptation of contemporary states, new diplomatic actors emerged both from within and from outside the state. Literature on paradiplomacy (Lecours 2002), or federalism (Blatter et al. 2008; Kerremans and Beyers 1996) has underlined the increasingly decentralised management of foreign policies at the state levels; while other streams of literature have described the participation of private subjects in diplomatic games (Devin and Toernquist-Chesnier

2010; Cutler, Haufler and Porter 1999). The emergence of new actors depends on structural and functional elements, tied up with the question of 'resource assets and deficiencies', 'knowledge assets and deficiencies' and 'legitimacy assets and deficiencies' (Cooper and Hocking 2000: 367-370), whereas states look at deeper interaction both with other states and non-state actors in order to cope with new challenges. In this context, two sets of actors interact on the international scene – at times in a complementary and at times conflicting way – on the grounds of two sources of professional specialisms: technocrats, i.e. those actors who engage in 'decision-making power based on technical expertise'; and topocrats (from the Greek *topos*, meaning 'place' and *kratos*, 'authority'), the plethora of generally elected state officials who represent a governmental unit with a political capacity (Beer 1978: 16-19). The principle according to which non-governmental actors are admitted into the diplomatic arena is based, however, on the concept of *unequal access*, itself based on limits imposed on international subjectivities other than states (Carta 2012).

The very nature of the problems that needed to be addressed challenged those narrow definitions of foreign policy which focused exclusively on the realm of high politics associated with questions of national security. Lower policy domains, including 'technical solutions to domestic economic and social problems' (Baun 1995: 624), have progressively dominated the international agenda. A complex blend of policies, therefore, contributes to defining an adequate answer to global problems, whereas 'low' external competences (like trade or international development) and other competences with an international spin-off (i.e. energy, agriculture and environment) need to be embodied in strategies towards third countries. The difficulty of defining the borders of what foreign policy is poses incredible organisational challenges, because policy domains are not 'legally recognised entities whose membership criteria are clear-cut and enforced by a central authority', but rather '[...] more or less fuzzy and porous [domain boundaries] allowing various participants, problems and policy proposals to enter and leave in a disorderly fashion' (Knoke et al. 1996:10).

Given these difficulties, the concepts of diplomatic governance (Hocking and Smith 2010) or multilevel networks (Krahmann 2003) help us to grasp the 'flexible mix between cooperation and competition between governmental actors as well as governmental and non-governmental actors, along both horizontal and vertical dimensions' (Esty and Gerandin 2000: 235). Along the policy spectrum, and throughout different policy fields, social and territorial pluralism shapes both political strategies and outcomes.

In the general framework of restructuring the institution of diplomacy, the EU stands as a particularly meaningful example of the process of governing without government (Rhodes 1996; Reinecke 2000). Firstly, the EU adds a highly institutionalised layer to the systems of its member states. Secondly, the system of competence sharing to deal with external relations and diplomacy reflects both the sensitivity of the policy field and the difficulty of imposing borders around policy domains. Finally, the EU adds its own complexity to that of the mutating diplomatic environment.

Accordingly, in the first place, the formal attribution of competences offers only a partial understanding of the living reality of EU foreign policy-making, which has been and is in reality cut across a set of complex and variegated dynamics of governance (Dijkstra 2009: 442). Along all policy-fields, a complex net of cooperation cuts across the making of common measures. This implies that an intense flow of communication between EU institutions and state governments (Bicchi and Carta 2010) supersedes the adoption of common measures; with regular meetings among all actors taking place at levels of capitals and in third-party states and IGOs, in addition to the traditional cooperation in Brussels and in capital format. The complexity of the system makes it hard to have any conceptualisation of the process of policy-making in dichotomist intergovernmental and supranational terms (Thomas and Tonra 2012). Beyond formal structures of cooperation,

a complex blend of cooperation and competition characterises the making of common policies.

In the second place, the borders of a given policy domain are produced by a 'social construction whose meanings result from participants' collective symbolization and negotiations' (Knoke et al. 1996: 10). Linked to this, the level of cooperation across policy domains varies hugely, whereas some fields, such as defence, are kept more firmly under nation-states' control, while others, such as environmental policy and the regulation of financial services, are 'examples of policy areas where effectiveness depends upon nation-states 'pooling' sovereignty or working with autonomous supranational institutions' (Coleman and Perl 1999: 693). This is particularly true in the realm of external action, inaugurated by the Lisbon Treaty. In fact, despite the rhetoric of depillarization launched by the Lisbon Treaty, a proper depillarization did not occur in the realm of foreign and external policies (Carta 2012). In this direction, both the division of competences and the institutional machinery for external action chalk out the borders previously established by the Maastricht Treaty.

In the third place, the EU – with its unprecedented attribution of competences and its inherently multi-vocal diplomatic system – is not necessarily welcomed in diplomatic circles. The EU's diplomatic representation in multilateral fora offers a good example of this. The way in which a regional and a global system of governance '*intersect multilateralism*' (Laatikainen and Smith 2006) convey different meanings as to what multilateral governance is supposed to be. The EU's diplomatic representation is, therefore, not only complicated by the complex system of internal governance, but also constrained by the set of rules which regiment different interstate systems of cooperation within multilateral fora.

A topical example could help to substantiate this point. With the entry into force of the Treaty of Lisbon, the bestowal of International Legal Personality (ILP) encouraged the EU and its members to ask for an upgrade of the EU status of observer to a status of special observer, like that conferred on the Holy See and the Palestinian Authority. The first attempt to upgrade the EU's status to the United Nations General Assembly (UNGA) and to other UN conferences met the opposition of a group of states, which presented a counter-resolution against the EU's resolution, adopted by 76 votes to 71 and 26 abstentions (Emerson and Wouters 2010). Eventually, the resolution was adopted by taking on board most of the concerns expressed by the Caribbean Community (Permanent Representative of the Bahamas on behalf of CARICOM; May 2011). The resolution was then generally considered as largely symbolic as it basically only allowed the EU to be inscribed on the list of speakers among representatives of major groups, after member states and the Holy See, and to participate in the general debate of the UNGA, under the existing order of precedence (UN Secretary General June 2011).

The opposition to an upgrade of the EU position was made on the grounds of three substantial objections, which can be reassumed in an emblematic one: several states strove to protect the intergovernmental nature of the UN. In this light, granting the EU a special status would represent both a break in the UN's rules and procedures and set the ground for similar claims on behalf of other Regional Economic Integration Organisations (REIOs). It would have, furthermore, given an unequal and excessive weight to the EU member states, 'as the voice of the EU would add on the already consolidated positions of its 27 member states' (Permanent Representative of Nauru to the UN 2011). As this example highlights, the EU diplomatic model still represents a pioneering and sophisticated example of diplomatic governance.

EU FOREIGN-POLICY GOVERNANCE AND DIPLOMATIC ARRANGEMENTS: A GENERAL OVERVIEW

The EU adds a highly institutionalised foreign policy and diplomatic layer to the diplomatic systems of its member states. The level of institutionalisation and the extent to which competences have been delegated at the EU level make it an interesting case of diplomatic governance. Three factors characterise the overall structure of the EU's diplomatic governance:

- 1) The EU is a 'many headed creature' (Jørgensen 2009: 194), in which different actors converge, on the grounds of territorial and functional sources of legitimacy;
- 2) A dynamic process of informal negotiation presides over the making of common foreign policies and diplomatic rules;
- 3) EU foreign and external policies are still divided policy fields. This policy fragmentation obliges all actors to switch role according to both the formal division of competences and informal and flexible interpretations of these competences.

These three sets of factors all impact on the enterprise of 'tuning the EU's voice' in both bilateral and multilateral diplomatic venues. To make sense of the EU's diplomatic action, therefore, one should intersect these factors with three instances of the EU's diplomatic activity: the logics of policy-making; the logics of diplomatic mandate; and the logics of diplomatic representation (see Table 1).

Table 1: Three instances of the EU's diplomatic representation

	The EU is a 'many headed creature'	A dynamic process of informal negotiation	A divided policy field
The logics of policy-making	Different actors converge in the making of common policies	Relationship of strength among EU's actors; relevance of informal agreements, beyond division of competences	Still different formal procedures regiment the adoption of common policies
The logics of diplomatic mandate	A fragmented system of diplomatic mandates at the EU level	Contested, dynamic, informal ways of interpreting diplomatic mandates	Need to make sense of different-headed diplomatic mandates and to ensure consistency among them
The logics of diplomatic representation	Different functional and territorial actors converging in the EU's external representation	Contested, dynamic, ever-changing rules for representing the EU on the ground	Several actors speaking for the EU in multilateral fora

The logics of policy-making require us to look at formal institutional arrangements and the informal relationships of power among the EU's actors who preside over the making of common policies. The logics of diplomatic mandates entails looking at ways in which headquarters communicate with diplomatic missions on the ground, on the basis of a set of formal and informal rules. The logics of diplomatic representation remind us that while the EU arrives at the negotiating table with its complex system of diplomatic representation, it also needs to respect the rules regimenting any given diplomatic

venue. This means that, in multilateral fora, the EU needs to respect the rules of the game of a given IGO. The next sections will look at these aspects in more detail.

The logics of policy-making: the Brussels arrangements

Both framing foreign policies and representing the EU through diplomatic practices are very complex exercises (Missiroli 2010; Duke 2009). The main reason for the complexity descends from the plethora of fully-fledged recognised diplomatic actors. Within the EU, all institutions represent relevant EU public actors,² whether on the grounds of territorial or functional representativeness.

Two institutions within the Union are representative of the member states' positions: the European Council and the Council of the European Union. The latter institution is at the core of both executive and legislative production of external policies, while the former holds a role of impetus. Three institutions and an institutional body represent instances of supranational governance. The European Parliament (EP), which is a second chamber of the legislative process, intervenes to various extents in the making of common external policies. The Commission and the EEAS, as administrative and executive bodies, intervene in the definition of the agenda, policy shaping and drafting, in the areas of external and foreign policies respectively. Finally, the Court of Justice of the EU, with its role of legal scrutiny, contributes to designing the borders of the policy field.

In terms of attribution of competences, the Lisbon Treaty maintained a definition of foreign policy as an artificially divided policy domain, with a different management for high and low policy fields. Therefore, while the Lisbon Treaty aimed at upgrading the diplomatic status of the EU, competences still respond to a fragmented rationale (Carta 2013). Four sets of competences converge in the EU external policy field: exclusive EU powers, where the member states are no longer allowed to act autonomously; collective foreign policy actions, which are pursued through the intergovernmental method of policymaking; and mixed competences, where both the Union and the member states share competences. Finally, there are competences of exclusive pertinence to the member states.

Consequently, the International Legal Personality (ILP) of the EU also relies on delegated functions and attributed competences. Accordingly, current arrangements contained in the Treaty on EU (TEU) create a quadruply-edged form of external representation, respectively imputed to the President of the European Council (Article 9B) and the High Representative/Vice President of the Commission, HR/VP (Article 13.2 (a)), the President of the Commission 'with the exception of the Common Foreign and Security Policy (CFSP), and other cases provided for in the Treaties, shall ensure the Union's external representation' (Art. 17 (1)). In addition to European actors, the rotating Presidency – which still chairs the bulk of first pillar configurations of the Council – speaks for the EU if this is necessary (see Table 2). This means that confusion about 'who is in charge of what' still remains for external partners.

Abroad, post-Lisbon arrangements allow the EU delegations to represent the EU on both CFSP and non-CFSP issues (Art. 221 (1) TEU). The delegations are under the authority of the HR/VP and perform their duty under the guidance of the Head of delegation, who has the final responsibility for the activities of the delegations. In operational terms, they work with a system of multiple mandates, depending on the nature of competences: if a competence touches upon the general responsibility of the Commission (i.e. development or trade), the delegations receive negotiating instructions from the Commission. If the competence is performed under the lead of the EEAS (i.e. foreign policy), the delegations will liaise with the desks of the EEAS. Travelling from the headquarters to the delegations, this means that EU diplomats need to liaise with both colleagues in the Commission and the EEAS, depending on the subject.

Table 2: Executive actors, foreign policy competences and diplomatic representation³

Executive actors converging in the process of foreign policy-making	Basis for representation	Attribution of competences	Diplomatic representation
The councils	Territorial	Ultimate decision makers, intervening in all EU measures	The President of the European Council speaks in the name of the EU
The Commission	Functional	Power of initiative, policy-formulation and policy-implementation of common measures in first pillar and mixed competences	The President of the EU Commission and different Commissioners speak in their areas of competence
High Representative-Vice President of the Commission (HR/VP); assisted by the European External Action Service (EEAS)	Functional	Power of initiative, policy-formulation in (formally, previously known as) second pillar competences	The HR/VP speaks on Common Foreign and Security Policy (CFSP)
The member states	Territorial	Still a role in mixed competences; still competences of exclusive pertinence to the member states	Member states' representatives in their own capacity, regardless of formal attribution of competences

If we define diplomacy as a function of foreign policy, the diplomatic representation of the EU logically reflects the borders of the European foreign-policy system. Often, competences are not easy to disentangle and a complicated system of inter-institutional coordination needs to be in place to ensure that all actors have a say in the coordination of the delegation activities on the ground. Therefore, the process of change from previous arrangements to the new system of representation has met several problems in its actual transposition. The next section describes the way in which headquarters liaise with the Union delegations in IGOs.

The logics of diplomatic mandates: linking headquarters and delegations

Unequivocally, all positions negotiated in the name of the EU in multilateral fora, are previously agreed upon by the Council of Ministers, in different configurations. Depending on the issue at stake, dossiers percolate between different Working Groups (WGs) of the Council and along different levels of the hierarchy. As different Council configurations are involved in the process, negotiations can be lengthy. This can cause problems on the ground, as timing in Brussels does not necessarily respond to a given IGO's timing (interview with a MS diplomat, 13 March 2012).

In terms of preparation and drafting of common positions and decisions, the EEAS and different Commission's Directorates General (DG) contribute, depending on the allocation of competences, to framing policy proposals. In the headquarters, an intense work of coordination between both the Commission and the EEAS is formally established through the strengthening and systematic consultation of the *Groupe Interservices des Compétences Externes* in the Commission. The system works through a dense pathway of informal exchanges that ensures that all relevant desks are duly informed. A given measure flows, therefore, from desk to desk before being presented to the Council. Once

arrived at the Council, the same position is discussed in several Council configurations, which liaise among themselves through both informal and formal channels of communication. To deal with multilateral affairs in Brussels, the EEAS relies on a Managing Directorate (MD).⁴ Depending on policy dossiers and the nature of competences, the EEAS liaises with its homologue within the Commission, which often has a Directorate or units dealing with multilateral issues (i.e. DG Trade Directorate F, which is in charge of coordinating multilateral trade issues).

Within the Commission, four DGs contribute systematically to the making of external policies. The DG for Development and Cooperation-EuropeAid (DEVCO), DG Enlargement (DG ELARG), DG International Cooperation, Humanitarian Aid and Crisis Response (ECHO), and DG Trade share competences to deal with specific macro policy-areas. However, not all relevant competences for multilateral dossiers fall under the remit of the DGs dealing with external affairs. The intervention of other DGs is mainly dictated by functional rationale. For instance, to deal with the International Labour Organization (ILO), coordination involves, in addition to the EEAS, DG Employment, DG DEVCO and DG Enlargement.

Importantly, the system of competences also informs the patterns of instructions and information exchanges between the delegations and the headquarters in Brussels. As Article 5 (3) of the Council decision establishing the organisation and functioning of the EEAS makes clear, the Union delegations receive instructions from both the EEAS and relevant Commission DGs. Therefore, both in the stage of preparation of policy proposals and in the stage of setting up of negotiations, the delegations need to liaise alternatively or in parallel with the EEAS or different Commission DGs. The delegations send information to headquarters, which contributes to the drafting of policy proposals. The division of labour and competences defines the frequency of contacts with both the Commission services and the EEAS. So, as an example, in light of the specific management of trade, the EU mission to the WTO will have contacts with DG Trade 'at least twice per day' (interview with two members of the WTO mission, 13 March 2012). For WTO dossiers, contacts with the EEAS occur more rarely, mostly on occasions in which country dossiers, horizontal issues and CFSP issues are at stake, as in the case of negotiations for the accession of Iran (interview with a member of the WTO mission, 13 March 2012). The way in which assessments and weekly reports are framed takes into account the different institutional roles of the EEAS and the Commission, whereby reports to DG Trade focus more on the 'substance of trade negotiations' and those to the EEAS on 'systemic factors' (interview with a member of the WTO mission, 13 March 2012). Analogously, a member of the UN delegation working at the Human Rights Council (HRC) will need to liaise more constantly with the EEAS (interview with a member of the UN delegation, 12 March 2012).

Interviewees tend to convey the idea that the new arrangements in terms of 'double lines of command' (interview with a member of the WTO mission, 13 March 2012) have been absorbed in a relatively unproblematic way. There is variation, however, in the ability to cope with the new system. This depends on the network that each member of the delegation/mission had at headquarters. In case of a conflict of competences, it is up to the head of delegation to solve all possible controversies.

In addition to this, the EU participation in IGOs is not clearly spelled out within the treaties (Jørgensen and Wessel 2011), and the Treaty of Lisbon did not and, arguably, could not give a clear indication of the rules to follow in all areas where the EU does not have exclusive competence to act. A homogeneous rule to regulate the chair of meetings; the order of intervention; the briefing on policy-dossiers and the overall management of internal coordination meetings is not in place. As we will see, this vagueness affects both internal coordination and external representation in multilateral fora. Patterns of cooperation on the ground reveal that, beside the problematic character of the vertical arrangements between Brussels and the delegations, the horizontal

coordination of all European actors on the ground makes for incredible difficulties and a litigious mood over competences.

THE LOGIC OF EXTERNAL REPRESENTATION: REPRESENTING THE EU IN THE UN AND THE WTO

Tuning the EU voice on the ground

The system of foreign-policy governance in place in Brussels is mirrored consistently in the delegations. If the situation in Brussels is characterised by an intricate system of attribution of competence and by an unclear and blurred way of defining responsibilities throughout the policy cycle (Carta 2013), the situation does not get easier when the moment arrives to take a seat, frame the EU position and negotiate it on the ground. Post-Lisbon arrangements in multilateral delegations replicated the unsolved problems that occur at headquarters. New rules, indeed, imposed a reorganisation of both internal coordination meetings and external representation, without any clear indication of how to proceed on the ground.

The Commission Secretariat General (CSG) insisted that the delegations in multilateral organisations should perform all functions of internal coordination and, wherever allowed by a given IGO, external representation. Some member states insisted on applying the 'Brussels rule'. The Brussels rule implied that, as happens in the Council, CFSP issues would be chaired by the members of the delegation, while issues related to former first pillar competences would be chaired by the rotating Presidency (interview with a member of the UN mission, May 2011; interview with a member state's diplomat, March 2012). The chasm which characterises the Council, according to which WGs dealing with former first pillar external competences are chaired by the rotating Presidency, while WGs dealing with CFSP competences are chaired by the EEAS, is partially reflected in the working arrangements set up to deal with both internal coordination and external representation.⁵

Eventually, a flexible arrangement was put in place in the two delegations under inquiry. In order to address misfits between internal coordination and external representation, each driven by a pragmatic way of proceeding, the Commission and the EEAS eventually combined a double-edged strategy. On the one hand, for both legally and non-legally binding measures, EU institutional actors on the ground constantly require negotiation authorisations and inform the relevant Council WG of the proceedings of the negotiations. On the other, transparency in conducting negotiations needs to be coupled with a great deal of flexibility. As in the past, therefore, flexibility and loose informal agreements are the instruments to overcome conflicts at the EU level (Carta 2012). This aspect has important repercussions for three broad sets of questions: 1) internal coordination among European actors (i.e. who sets the agenda, who chairs and coordinates external meetings, who shares information among all actors on the ground, and so forth); 2) external representation (i.e. who speaks for the EU); and 3) the nameplate under which all statements are given (i.e. in whose name do actors speak for Europe).

Beside the evident hindrances caused by the pluri-vocal diplomatic arrangements of the EU, the pooling together of diplomatic resources can also present some advantages. Often, in order to frame own negotiating positions, each actor needs to engage in a series of diplomatic *démarches* with third party states or organisations. According to several interviewees in Geneva, an outreach scheme was set up to discipline the member states' *démarches*. According to this working arrangement, each mission gathers information for all others, on the grounds of a common strategy. The agreement on a common outreach strategy can be seen as an important advancement in the state of

integration in foreign policy, whereby all actors divide the burden of diplomatic exchanges and share the contents of information to the benefit of all.

The next sections highlight the consequences of this twin set of burdens (IGO and EU) imposed on the EU diplomatic representation.

Representing the EU in multilateral fora: who sets the rules of the game?

The position of the EU within multilateral fora varies widely (Emerson, Balfour et al. 2011), ranging from the position of an observer to the position of full member. The EU position is generally associated with the competences that the EU holds. However, the existence of exclusive or mixed competences does not guarantee that the EU is a fully-fledged actor in a given organisation. As follows, the EU might be excluded from full participation in areas where it holds extensive competences, such as the International Maritime Organization (IMO) or the International Energy Agency (Jørgensen and Wessel 2011: 264). Each multilateral forum, therefore, imposes its own complexity over the organisation of the EU system of diplomatic representation. Accordingly, the EU's system of governance flexibly adapts to the internal rules of each IGO, with, alternatively, the rotating Presidency or the delegation that speaks and negotiates in the name of the EU.

The position of the EU in the UN complex landscape changes according to both the rules of procedures of each setting and the competences it effectively performs.⁶ Therefore, the EU's position within multilateral fora ranges from being able to attend to the proceedings of the plenary to the right to sign, ratify, accept, and approve adopted instruments on an equal footing as states. For example, the Union delegation to the UN and the mission to the WTO have a markedly different status, which emanates from the position that they have in the UN and WTO respectively. In contrast to states' missions, the EU has a *delegation* to the UN, which means, as a general rule, that it does not participate in the proceedings of the UN on an equal footing as states. Analogous to other states' missions, instead, the EU has a fully-fledged mission at the WTO, which signals that the EU has acquired a position that is very similar to that of states.

The procedures of each IGO, therefore, impose the rules of the game on the EU and define the margin of actorness to which it can effectively perform. As we shall see, diplomatic representation is profoundly complicated by this specific intersection of multilateralism. Linked to this, the rules and procedures of each IGO impact on the internal organisation of the EU's system of diplomatic governance. Beyond internal fights for competences, external representation, because of a restrictive definition of the functions of REIO, cannot be delegated to the EU level, resulting in a multiplication of actors who act and speak on behalf of the EU.

Who represents the EU? And in whose name?

With the rotating Presidency disappearing from the picture in foreign affairs, some member states wished to ascribe a restrictive interpretation of diplomatic representation in the aftermath of Lisbon. In the case of common statements or documents adopted, it is highly controversial as to how to establish 'in whose name' the diplomats speak. A long and harsh diatribe surrounded the question of what competences the Presidency and/or other member states present in the Governing Board should perform and on whether they should speak in the name of the EU exclusively or 'on behalf of the EU and its member states'. This issue – which an interviewee defined as the 'UK issue' (interview with a member state diplomat in Geneva, 15 March 2012) – caused an impasse and frustration among both the member states and all EU institutional actors. According to both internal documents and civil servants' accounts, this has been the case in all the multilateral delegations set out above.

With due caution, it could be said that the organisation of external representation reflects the overall institutional dynamics in Brussels and brings us back to the 'broader picture' of how member states interact with the EU, both in Brussels and in third countries. There is no straightforward translation of competences into external representation, however. Following Jørgensen (2009), the overall arrangements give rise to three governance models, depending on the relative weight of competences: an unconditional delegation model; a supervised delegation model; and a coordination model.⁷ As Jørgensen (2009: 197) warns, it is necessary to handle with care the guidelines offered by competences and 'ask who engages on behalf of the European Union in multilateral diplomacy', considering that, regardless of the existence of legal competences, officials may be 'accepted as part of the Presidency delegation' in given international conferences. In this direction, for instance, in the WTO multilateral trade diplomacy – where exclusive and shared competences converge – a 'supervised delegation' applies 'implying that member states during negotiations are essentially mute and instead carefully supervise how their agent [...] negotiates on their behalf' (ibid).

Accordingly, both the division of competences and the preferred model of external representation pose considerable problems of coordination at the horizontal level. In the first place, problems derive from the difficulty of disentangling EU exclusive competences from mixed and member states' competences in the course of negotiation of extremely enmeshed dossiers. In practical terms, mixed negotiations imply that both the EU representative and the representative of the state holding the EU rotating presidency can speak on behalf of the EU.

In matters of EU statements, in order to avoid confusing and swinging practices of external representation on the part of the EU, the Commission or the EEAS should be able to deliver all kinds of agreed positions, whether in matters of exclusive, shared or parallel competences. However, this is not always the case. It happens that, in the course of a negotiation or in a statement, elements of exclusive, shared or parallel competences coexist, with evident backlashes in external representation. In order to overcome this set of problems, the Commission tried to pursue a counterintuitive strategy of simplification of EU negotiation mandates, by explicitly asking the Council to avoid having the EU's competences and competences of exclusive pertinence to the member states coexist in a given statement.

Reportedly, hybrid-negotiating authorisations have been used by some member states to issue Council Decisions that combine the negotiating functions of both the Commission and the member states. In this case, the delegations can represent the EU in areas of exclusive competences (such as the customs union, competition, common commercial policy), while for shared competences (such as the internal market, social policy, cohesion, agriculture and fisheries, environment, energy, freedom, security and justice) some member states claimed that the decision on whether diplomatic representation is to be performed by the member state holding the rotating Presidency or in other forms is up to member states. Accordingly, in the WTO mission – where the bulk of competences are, to quote the words of a diplomat in the mission 'unionised' – the rotating Presidency chairs the bulk of internal coordination meetings, while the WTO mission represents the EU in all multilateral meetings. Contrary to this, the members of the EU delegation to the UN chair the bulk of internal coordination meetings, but do not have a great role in matters of diplomatic representation. Accordingly, in the HRC, it is up to the member state holding the rotating Presidency to speak for the EU in nearly all settings and for all dossiers other than those in which it is agreed the EU will talk (such as the interactive dialogue, where the EU can be rapporteur). At the ILO, the EU is mostly excluded from debates due to the rules governing the organisation. This is also the case of proceedings at the WHO and WIPO, where it is up to the Presidency or the EU member state represented in the board to talk in the name of the EU.

A divided diplomatic representation between the delegations and member states, therefore, is also urged by the rules of procedure of each IGO. This, in practical terms, implies that the members of the delegations do not necessarily sit at the negotiating table and are not necessarily allowed to speak. Reportedly, some Presidencies on the ground have adopted the practice of accrediting a member of the delegation as a member of their own mission, so that they can be in constant consultation during the *séances* (interviews with member states' diplomats, 12-14 March 2012).

Beside issues of diplomatic representation, disagreements occur regarding the nameplates under which all EU actors speak. Internal documents and interviews referred to some 100 statements that were to be issued in IGOs but then were blocked because the member states and the EU actors could not agree on whether the statements should have been issued under the nameplate 'on behalf of the EU' or 'on behalf of the EU and its member states'. In October 2011, the stalemate in multilateral organisations was finally overcome in COREPER II, with the adoption of a document prescribing the General Arrangements to be adopted in matters of EU Statements in Multilateral Organisations:

Should the statement refer exclusively to actions undertaken by or responsibilities of the EU in the subject matter concerned including in the CFSP, it will be prefaced by "on behalf of the European Union". Should the statement express a position common to the EU and its member states, pursuant to the principle of unity of representation, it will be prefaced by "on behalf of some of the EU and its member states". [...] Should the member states agree to collective representation by an EU actor of issues relating to the exercise of national competences, the statement will be prefaced by "on behalf of the member states" (Council 2011).

The agreement, however, did not simplify the way in which the EU presents its positions and coordinates with the member states in IGOs. The overall reform pursued by the Lisbon Treaty, therefore, left the most conflicting elements of the EU diplomatic governance mostly unsolved. While the Lisbon Treaty raised the expectation that a unified form of diplomatic representation could be pursued beyond the still fragmented division of competences, several conflicting strategies exist on how to improve the visibility and strength of the EU voice.

In the first place, the EU competences are neither exhaustive of the competences of the member states; nor do they cover the financial costs of all actions performed by the member states. Effectively, the 'follow the money' rule partially helps in individuating the areas of mixed competences in which the EU member states want to keep their own voice. This also explains member states' reluctance to empower the EU delegations even further: the EU cannot legitimately claim to represent the member states where they still perform their foreign policy activities under their own capacity and with their own resources. In the second place, several member states question the wisdom that an EU-led form of diplomatic representation would increase the overall strength of their negotiating positions vis-à-vis third parties. This reflection transforms the question 'who speaks for the EU' into a more pragmatic 'with what leverage does the EU speak'. As highlighted by some member states' diplomats, two different issues contribute to make the case for maintaining a strategy of 'going separately' in certain situations. Firstly, third party states in multilateral organisations are not supposed to know about the EU's system of diplomatic governance and the complex, competence-based distribution of powers among European actors. For a third party state's diplomat, a UK, German or French diplomat still represents a clear and easy-to-spot point of reference for negotiation, quite unlike the EU delegate. Secondly, the personal attributions of all individual actors contribute towards shaping the voice and face of the EU abroad.

As notorious turf battles over recruitment of the EEAS remind us, an immense amount of time, energy and resources were deployed to guarantee that the EEAS would recruit the 'best and brightest'. Criteria for recruitment tried to strike a difficult balance between

meritocratic and representational criteria. Beyond the issue of personal qualities and skills, the diplomatic skills of each European and national diplomat need to combine not only an overall generalist know-how, but also knowledge of the UN system of coordination and the dossiers that are discussed in all UN venues, in a way that goes well beyond the EU's division of competences. Reportedly, the UN's delegation staff was not necessarily trained to deal with foreign policy or often exhibited a lower diplomatic profile than colleagues within the UN working groups. So, not only were the EU member states not always keen to accept the upgraded role of the delegations' representatives, but neither were their counterparts within the UN. As a member state's diplomat laconically reported, 'in certain WG to the UN, you find incredibly specialised counterparts. An EU diplomat needs to confront a Cuban Ambassador who has 25 years experience in negotiating human rights, or, better, killing human rights. The delegation is not necessarily equipped to meet this challenge' (interview with a member state diplomat, 13 March 2012). As has previously been the case in the Commission's diplomatic experience (Carta 2012), the EU's diplomats and civil servants often find it difficult to reconcile headquarters' ambitions with acceptance into the wider diplomatic club.

As this section showed, two sets of caveats are imposed on the EU diplomatic representation. First, member states claim their own rights over their own reserved domains. Quarrels for both internal coordination and external representation have an undeniable impact on the construction of a climate of mutual trust between the member states and institutional representatives. Second, strategic considerations over the opportunity to 'play solo' also converge in rejecting the aspiration of a more unified diplomatic representation. Third party diplomats still adhere to a different, more traditional, conception of diplomatic representation. Member states' diplomats often refer to this caveat to claim back their voice in diplomatic representation.

CONCLUSIONS: STUDYING EU DIPLOMATIC GOVERNANCE

In line with the ambitions of this special issue, this article intended to locate studies on EU diplomacy in the general framework of studies of governance. It highlighted that both the EU and states adapted their foreign policy and diplomatic structures to the mutating nature of diplomacy. The fallacy of descriptions of foreign policy as being relegated to the area of high politics is the point of departure to unravel a monolithic idea of Ministries of Foreign Affairs as the exclusive repository of foreign policy competences.

The analytical toolbox offered by diplomatic governance encourages the pursuit of empirical research in order to unravel the extremely fluid and dense network of actors which systematically intervenes in shaping an actor's foreign policy profile and diplomatic action. However, the evolution of diplomacy still reflects different conceptions of what diplomacy is supposed to be, whether state-centric or inherently pluralistic.

The EU represents an interesting case to study practices of interstate cooperation in foreign policy matters, as it adds a further layer of governance to the general picture. The term co-opetition (Esty and Geradin 2000; Hocking and Smith 2010) depicts well the nature of interaction of all actors in the EU diplomatic system of governance. On the one hand, actors compete for the attributions of competences, sometimes adopting counterintuitive strategies to keep their own competencies (as in the case of the Commission calling for separated negotiating mandates which chalk out the borders of competences). On the other, the diplomatic environment and timing urge upon EU actors the need to find common solutions to challenging situations (as in the case of agreed outreach strategies to interact with third parties). Beyond competition over the attribution of competences in the EU's diplomatic governance, different ideas coexist about what 'locating the EU in the international scene' means. Pursuing a 'single voice', by unifying forms of external representation is not necessarily perceived as the most

convenient strategy envisaged by all EU actors. While institutional actors tend to believe that coherence and strength may descend from a more unified system of representation, the member states tend to believe that, in certain circumstances, differentiation could increase the EU's strength.

In a diplomatic governance system, therefore, tensions occur on the interpretation of common aims, whereas different emphasis can be placed on the *process* or on *outcomes* of diplomatic practices. Despite the complexity of the system, this also brings an additional resource to the member states, not only a burden.

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¹ The EU currently has eight such delegations: the delegation to the UN in New York; the delegations to the WTO and to the UN in Geneva; the delegation to the IAEA in Vienna; the delegation to the Food and Agriculture Organization (FAO) in Rome; the delegation to the OECD in Paris; the delegation in Nairobi; the delegation to the Council of Europe in Strasbourg.

² Private subjects enter the policy process in a less institutionalised way, by targeting those institutions – like the Commission and EP – which may have an interest in representing their entreaties (Broscheid and Coen 2003).

³ In addition to these actors, other EU actors can speak on behalf of the EU in more specific contexts. For instance, the President of the European Central Bank or the President of the Eurogroup may explain the EU position in multilateral fora such as the International Monetary Fund, the G8 or the G20.

⁴ The MD includes four units: multilateral relations and global governance (which also chairs the CONUN Working Group (WG) within the Council); Human Rights and Democracy (which chairs the COHOM WG, see Smith, 2006 on the work of the WG); Conflict Prevention and Security Policy; and Non Proliferation and Disarmament (which chairs the COARM; CONOP; CODUN WGs).

⁵ This difference is reflected also in the way in which the seating order is arranged for the rooms used for WTO and UN coordination meetings: in the WTO, the EU Mission's officials sit on the opposite side of the Presidency, close to the members of the Commission who might join the meetings to give debriefings or discuss instructions with the EU team. In the latter, the members of the delegation (UN) sit close to the Presidency, with members of the Commission coming from headquarters sitting right on the opposite side. This picture is, however, complicated by a high degree of variability among working practices adopted by all sections of the EU delegation to the UN; and the rules of procedures imposed on the EU by each IGO.

⁶ The European Economic Community first and the EU later are allowed to participate in UN fora on the grounds of the EC's status of Regional Economic Organization (REIO). Different treaties, adopted under the umbrella of different UN agencies, conferences or organisations, set the definition of REIO according to their own internal rules of procedures. A REIO is generally defined as 'an organization constituted by sovereign states of a given region which has competence in respect of matters governed'. The opening of this definition, which is the same for other Conventions, was given in the UN General Assembly's Framework Convention on Climate Change, available at:

http://unfccc.int/essential_background/convention/background/items/1349.php

⁷ The first model can be applied to the trade dispute system in the context of the WTO. The second model posits, 'EU member states delegate authority to negotiate with third parties, yet maintain formal representation, provide guidelines and mandates to their negotiator, closely supervise their negotiator's behaviour, and preserve the right to call back the delegation' (Jørgensen 2009: 107). This model applies to the WTO, development policy agreements and international climate policies. Finally, in the third model – which is the most commonly used – 'we witness an example of each member state for itself, not an example of the European Union in multilateral diplomacy' (Jørgensen 2009: 1999).

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