



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 29 June 2010

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**POLGEN 100
INST 234**

NOTE

from: Presidency
to: Permanent Representatives Committee
Subject: Proposal for a Council Decision establishing the organisation and functioning of the European External Action Service

Delegations will find enclosed the revised text of the proposal for a Council Decision establishing the organisation and functioning of the European External Action Service as agreed in the framework of the overall political agreement reached during the quadrilogue on 21 June 2010 and confirmed by Coreper on 23 June 2010.

Proposal for a
COUNCIL DECISION

of (date)

establishing the organisation and functioning of the European External Action Service

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 27(3) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy ("the High Representative"),¹

Having regard to the Opinion of the European Parliament,²

Having regard to the consent of the Commission,³

¹ OJ...
² OJ...
³ OJ...

Whereas:

(1) The purpose of this Decision is to establish the organisation and functioning of the European External Action Service ("EEAS"), a functionally autonomous body of the Union under the authority of the High Representative, set up by Article 27(3) of the Treaty on European Union ("TEU"), as amended by the Treaty of Lisbon. This Decision and in particular the reference to the term "High Representative" will be interpreted in accordance with her different functions under Article 18 of the TEU.

(2) In accordance with Article 21(3), second subparagraph, of the TEU, the Union will ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative, will ensure that consistency and will cooperate to that effect.

(3) The EEAS will support the High Representative, who is also a Vice-President of the Commission and the President of the Foreign Affairs Council, in fulfilling her mandate to conduct the Common Foreign and Security Policy ("CFSP") of the European Union and to ensure the consistency of the EU's external action as outlined, notably, in Articles 18 and 27 TEU. The EEAS will support the High Representative in her capacity as President of the Foreign Affairs Council, without prejudice to the normal tasks of the General Secretariat of the Council. The EEAS will also support the High Representative in her capacity as Vice-President of the Commission, for her responsibilities within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action, without prejudice to the normal tasks of the Commission services.

(3a) In its contribution to the EU external cooperation programmes, the EEAS should seek to ensure that these programmes respond to the objectives for external action as set out in Article 21 TUE, in particular its paragraph (2)(d) and that they respect the objectives of EU development policy in line with Article 208 TFEU. In this context, the EEAS should also promote the fulfilment of the objectives of the European Consensus on Development and the European Consensus on Humanitarian Aid.

(4) It results from the Treaty of Lisbon that, in order to implement its provisions, the EEAS must be operational as soon as possible after the entry into force of that Treaty.

(5) The European Parliament will fully play its role in the external action of the Union, including its functions of political control as provided for in Article 14(1) of the TEU, as well as in legislative and budgetary matters as laid down in the Treaties. Furthermore, in accordance with Article 36 of the TEU, the High Representative will regularly consult the European Parliament on the main aspects and the basic choices of the CFSP and will ensure that the views of the European Parliament are duly taken into consideration. The EEAS will assist the High Representative in this regard. Specific arrangements should be made with regard to access for Members of European Parliament to classified documents and information in the area of CFSP. Until the adoption of such arrangements, existing provisions under the 2002 Interinstitutional Agreement on classified documents and information in the area of ESDP will apply.

(6) The High Representative, or her representative, should exercise vis-à-vis the European Defence Agency, the European Union Satellite Centre, the European Union Institute for Security Studies and the European Security and Defence College the responsibilities provided for in their respective founding acts. The EEAS should provide these entities with the support currently provided by the General Secretariat of the Council.

(7) Provisions should be adopted relating to the staff of the EEAS and their recruitment where such provisions are necessary to establish the organisation and functioning of the EEAS. In parallel, necessary amendments should be made, in accordance with Article 336 of the TFEU, to the Staff Regulations of Officials of the European Communities ("Staff Regulations") and the Conditions of Employment of Other Servants of those Communities ("CEOS") without prejudice to Article 298 of the TFEU. For matters relating to its staff the EEAS should be treated as an institution within the meaning of the Staff Regulations. The High Representative will be the Appointing Authority, in relation both to officials subject to the Staff Regulations and agents subject to the CEOS. The number of officials and servants of the EEAS will be decided each year as part of the budgetary procedure and will be reflected in the establishment plan.

(7bis) The staff members of the EEAS will carry out their duties and conduct themselves solely with the interest of the Union in mind.

(7ter) Recruitment will be based on merit whilst ensuring adequate geographical and gender balance. The staff of the EEAS should comprise a meaningful presence of nationals from all the Member States. The review foreseen in 2013 should also cover this issue, including, as appropriate, suggestions for additional specific measures to correct possible imbalances.

(7a) In accordance with Article 27(3) of the TEU, the EEAS will comprise officials from the General Secretariat of the Council and the Commission as well as personnel coming from the diplomatic services of the Member States. For that purpose, the relevant departments and functions in the General Secretariat of the Council and in the Commission will be transferred to the EEAS, together with officials and temporary agents occupying a post in such departments or functions. Before the 1st of July 2013, the EEAS will recruit exclusively officials originating from the General Secretariat of the Council and the Commission as well as staff coming from the diplomatic services of the Member States. After that date, all officials and other servants of the European Union should be able to apply for vacant posts in the EEAS.

(7b) The EEAS may, in specific cases, have recourse to specialised seconded national experts (SNEs), over which the High Representative will have authority. Seconded National Experts in post in the EEAS will not be counted in the one third which staff from Member States should represent when the EEAS will reach its full capacity. Their transfer in the phase of setting up of the EEAS will not be automatic and will be made with the consent of the authorities of the originating Member States. By the expiry of the contract of an SNE transferred to the EEAS under article 6bis, the function will be converted into a temporary agent post in cases where the function performed by the SNE corresponds to a function normally carried out by staff at AD level, provided that the necessary post is available under the establishment plan.

(7c) The Commission and the EEAS will agree on modalities relating to the issue of instructions from the Commission to delegations. These should foresee in particular that when the Commission will issue instructions to delegations, it will simultaneously provide a copy of these to the Head of Delegation and the EEAS central administration.

(8) The Financial Regulation should be amended in order to include the EEAS in Article 1 of the Financial Regulation, with a specific section in the Union budget. In accordance with applicable rules, and as it is the case for other institutions, a part of the annual report of the Court of Auditors will be dedicated also to the EEAS and the EEAS will respond to such reports. The EEAS will be subject to the procedures regarding the discharge as provided for in Article 319 of the Treaty on the Functioning of the European Union and in Articles 145 to 147 of the Financial Regulation. She will provide the European Parliament with all support necessary to complete European Parliament's right as discharge authority. The implementation of the operational budget will be the Commission's responsibility in accordance with Article 317 of the TFEU. Decisions having a financial impact will in particular respect the responsibilities laid down in Title IV of the Financial Regulation, especially Article 75 thereof regarding expenditure operations and Articles 64 to 68 regarding liability of the financial actors.

(8bis) The establishment of the EEAS should be guided by the principle of cost-efficiency aiming towards budget neutrality. To this end, transitional arrangements and gradual build-up of capacity will have to be used. Unnecessary duplication of tasks, functions and resources with other structures should be avoided. All opportunities for rationalisation should be used.

In addition, a number of additional posts for Member States' temporary agents will be necessary which have to be financed within the framework of the current multi-annual framework.

(9) Rules should be laid down covering the activities of the EEAS and its staff as regards security, protection of classified information and transparency.

(10) It is recalled that the Protocol on the Privileges and Immunities of the Union applies to the EEAS, its officials and other agents, who shall be subject either to the Staff Regulations or the Conditions of Employment of Other Servants of the Union.

(11) The European Union and the European Atomic Energy Community continue to be served by a single institutional framework. It is therefore essential to ensure consistency between the external relations of both, and to allow the Union Delegations to undertake the representation of the European Atomic Energy Community in third countries and at international organisations.

(12) The High Representative should, by mid-2013, make a review of the functioning and organisation of the EEAS, accompanied, if necessary, by proposals for a revision of this Decision. Such a revision should be adopted no later than the beginning of 2014.

HAS ADOPTED THIS DECISION:

Article 1

Nature and Scope

1. This Decision establishes the organisation and functioning of the European External Action Service ("EEAS").
2. The EEAS, which has its headquarters in Brussels, shall be a functionally autonomous body of the European Union, separate from the Commission and the General Secretariat of the Council, with the legal capacity necessary to perform its tasks and attain its objectives.
3. The EEAS shall be placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy ("High Representative").
4. The EEAS shall be made up of a central administration and of the Union delegations to third countries and to international organisations.

Article 2

Tasks

1. The EEAS shall support the High Representative in fulfilling her mandates as outlined, notably, in Articles 18 and 27 TEU:
 - in fulfilling her mandate to conduct the Common Foreign and Security Policy ("CFSP") of the European Union, including the Common Security and Defence Policy ("CSDP"), to contribute by her proposals to the development of that policy, which she shall carry out as mandated by the Council and to ensure the consistency of the EU's external action;
 - in her capacity of President of the Foreign Affairs Council, without prejudice to the normal tasks of the General Secretariat of the Council;
 - in her capacity as Vice-President of the Commission for fulfilling within the Commission the responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action, without prejudice to the normal tasks of the services of the Commission.
2. The EEAS shall assist the President of the European Council, the President of the Commission, and the Commission, in the exercise of their respective functions in the area of external relations.

Article 3

Cooperation

1. The EEAS shall support and work in cooperation with the diplomatic services of the Member States as well as with the General Secretariat of the Council and the services of the Commission, in order to ensure consistency between the different areas of the Union external action and between these and its other policies.
2. The EEAS and the services of the Commission shall consult each other on all matters relating to the external action of the Union in the exercise of their respective functions except on matters covered by CSDP. The EEAS shall take part in the preparatory work and procedures relating to acts to be prepared by the Commission in this area. This paragraph shall be implemented in accordance with Chapter 1 of Title V of the TEU, and with Article 205 TFEU.
3. The EEAS may enter into service-level arrangements with relevant services of the Commission, the General Secretariat of the Council, or other offices or interinstitutional bodies of the European Union.
4. The EEAS shall extend appropriate support and cooperation to the other institutions and bodies of the Union, in particular to the European Parliament. The EEAS may also benefit from the support and cooperation of these institutions and bodies, including agencies as appropriate. The EEAS internal auditor will cooperate with the internal auditor of the Commission to ensure the consistency of audit policy, with particular reference to the Commission's responsibility for operational expenditure. In addition, the EEAS shall cooperate with the European Office for the Fight against Fraud (OLAF) in accordance with Regulation (EC) N° 1073/1999. It shall in particular swiftly adopt the decision required by this Regulation on terms and conditions for internal investigations. As provided in this Regulation, Member States, in accordance with national provisions, and institutions shall give the necessary support to enable the OLAF's agents to fulfil their task.

Article 4

Central administration

1. The EEAS shall be managed by an executive Secretary-General who will operate under the authority of the High Representative. The executive Secretary-General shall take all measures necessary to ensure the smooth functioning of the EEAS, including its administrative and budgetary management. He shall ensure effective coordination between all departments in the central administration as well as with the Union delegations.
2. The executive Secretary-General shall be assisted by two Deputy Secretaries-General.
3. The central administration of the EEAS shall be organised in directorates general. These shall in particular include:
 - a number of directorates general comprising geographic desks covering all countries and regions of the world, as well as multilateral and thematic desks. These departments shall coordinate as necessary with relevant services of the Commission and with the General Secretariat of the Council;
 - a directorate general for administrative, staffing, budgetary, security and communication and information system matters working in the EEAS framework managed by the executive Secretary-General. The High Representative shall appoint, in accordance with the normal rules of recruitment, a Director General for budget and administration who shall work under the authority of the High Representative. He shall be responsible to the High Representative for the administrative and internal budgetary management of the EEAS. He shall follow the same budget lines and administrative rules as applicable in the part of Section III of the EU budget which falls under Heading V of the Multiannual Financial Framework;

- the crisis management and planning directorate, the civilian planning and conduct capability, the European Union Military Staff and the European Union Situation Centre, placed under the direct authority and responsibility of the High Representative shall assist her in the task of conducting the Union's CFSP in accordance with the provisions of the Treaty while respecting, in accordance with Article 40 of the TEU, the other competences of the Union.

The specificities of these structures, as well as the particularities of their functions, recruitment and the status of the staff shall be respected.

Full coordination between all the structures of the EEAS shall be ensured.

The central administration shall also include:

- a strategic policy planning department;
 - a legal department under the administrative authority of the executive Secretary-General which shall work closely with the Legal Services of the Council and the Commission;
 - departments for inter-institutional relations, information and public diplomacy, internal audit and inspections, and personal data protection.
4. The High Representative shall designate the chairpersons of Council preparatory bodies that are chaired by a representative of the High Representative, including the chair of the Political and Security Committee, in accordance with the modalities set out in Annex II of the COUNCIL DECISION of 1 December 2009 laying down measures for the implementation of the European Council Decision on the exercise of the Presidency of the Council, and on the chairmanship of preparatory bodies of the Council, (2009/908/EU)¹.

¹ OJ L 322, 9.12.2009, p. 28.

5. The High Representative and the EEAS shall be supported where necessary by the General Secretariat of the Council and the relevant departments of the Commission. Service level arrangements may be drawn up to that effect by the EEAS, the General Secretariat of the Council and the relevant Commission departments.

Article 5
Union delegations

1. The decision to open or close a delegation shall be adopted by the High Representative, in agreement with the Council and the Commission.
2. Each Union delegation shall be placed under the authority of a Head of Delegation.

The Head of Delegation shall have authority over all staff in the delegation, whatever their status, and for all its activities. He shall be accountable to the High Representative for the overall management of the work of the delegation and for ensuring the coordination of all actions of the Union.

Staff in delegations shall comprise EEAS staff and, where this is appropriate for the implementation of the Union budget and Union policies other than those under the remit of the EEAS, Commission staff.

3. The Head of Delegation shall receive instructions from the High Representative and the EEAS, and shall be responsible for their execution.

In areas where the Commission exercises the powers conferred to it by the Treaties, the Commission may, in accordance with article 221(2) TFEU, also issue instructions to delegations, which shall be executed under the overall responsibility of the Head of Delegation.

4. The Head of Delegation shall implement operational credits in relation to EU projects in the corresponding third country, where sub-delegated by the Commission, in accordance with the Financial Regulation.
5. The operation of each delegation shall be periodically evaluated by the Secretary General of the EEAS; evaluation shall include financial and administrative audits. The Secretary General of the EEAS may request to be assisted for this purpose by the relevant Commission departments. In addition to internal measures by the EEAS, OLAF shall exercise its powers, notably by conducting anti-fraud measures, in accordance with Regulation (EC) N° 1073/1999.
6. The High Representative shall enter into the necessary arrangements with the host country, the international organisation or the third country concerned. In particular, the High Representative shall take the necessary measures to ensure that the host States grant the Union delegations, their staff and their property, privileges and immunities equivalent to those referred to in the Vienna Convention of 18 April 1961 on Diplomatic Relations.

7. Union delegations shall have the capacity to service the needs of other EU institutions, in particular the European Parliament, in their contacts with the international organisations or third countries to which the delegations are accredited.
8. The Head of Delegation shall have the power to represent the EU in the country where the delegation is accredited, in particular for the conclusion of contracts and being a party to legal proceedings.
9. The Union delegations shall work in close cooperation and share information with the diplomatic services of the Member States.
10. The Union delegations shall, acting in accordance with Article 35, third subparagraph, of the TEU and upon request by Member States, support the Member States in their diplomatic relations and in their role of providing consular protection to Union citizens in third countries on a resource-neutral basis.

Article 6

Staff

The provisions set out in this Article, except paragraph 2, shall apply without prejudice to the Staff Regulations of Officials of the European Communities ("Staff Regulations") and the Conditions of Employment of Other Servants of those Communities ("CEOS"), including the amendments made to these rules, in accordance with Article 336 of the TFEU, in order to adapt them to the needs of the EEAS.

1. The EEAS shall comprise officials and other servants of the European Union, including personnel from the diplomatic services of the Member States appointed as temporary agents;

The Staff Regulations and the CEOS shall apply to this staff.

2. If necessary, the EEAS may, in specific cases, have recourse to a limited number of specialised seconded national experts (SNEs).

The High Representative shall adopt the rules, equivalent to those laid down in Council Decision 2003/479/EC as amended by Council Decision 2007/829/EC of 5 December 2007¹, under which SNEs are put at the disposal of the EEAS in order to provide specialised expertise.

3. The staff members of the EEAS shall carry out their duties and conduct themselves solely with the interests of the Union in mind. Without prejudice to Articles 2(1), third indent, 2(2) and 5(3), they shall neither seek nor take instructions from any Government, authority, organisation or person outside the EEAS or any body or person other than the High Representative. In accordance with the second paragraph of Article 11 of the Staff Regulations, the EEAS staff may not accept any payments of any kind whatever from any other source outside the EEAS.
4. The powers conferred on the appointing authority by the Staff Regulations and on the authority authorised to conclude contracts by the CEOS shall be vested in the High Representative, who may delegate those powers inside the EEAS.

¹ OJ L 327, 13 December 2007, page 10.

5. Recruitment in the EEAS shall be based on merit whilst ensuring adequate geographical and gender balance. The staff of the EEAS shall comprise a meaningful presence of nationals from all the Member States.
6. Officials of the European Union and temporary agents coming from the diplomatic services of the Member States, shall have the same rights and obligations and be treated equally, in particular as concerns eligibility to assume all positions under equivalent conditions. No distinction shall be made between temporary agents coming from national diplomatic services and officials of the European Union as regards the assignment of duties to perform in all areas of activities and policies implemented by the EEAS. In accordance with the provisions of the Financial Regulation, the Member States shall support the Union in the enforcement of financial liabilities resulting from any liability under Article 66 of the Financial Regulation of EEAS temporary agents coming from national diplomatic services.
7. The High Representative shall establish the selection procedures for EEAS staff, which shall be undertaken through a transparent procedure based on merit with the objective of securing the services of staff of the highest standard of ability, efficiency and integrity while ensuring adequate geographical balance, a need for a meaningful presence of nationals from all EU Member States in the EEAS and aiming towards gender balance. Representatives of the Member States, the General Secretariat of the Council and the Commission shall be involved in the recruitment procedure for vacant posts in the EEAS.
8. When the EEAS has reached its full capacity, staff from Member States, as referred to in paragraph 1, first subparagraph, should represent at least one third of all EEAS staff at AD level. Likewise, permanent EU officials should represent at least 60% of all EEAS staff at AD level, including staff coming from the diplomatic services of the Member States, who have become permanent EU officials, in accordance with the provisions of the Staff Regulations. Each year, the High Representative shall present a report to the European Parliament and the Council on the occupation of posts in the EEAS.

9. The High Representative shall lay down the rules on mobility so as to ensure that the members of the staff of the EEAS are subject to a high degree of mobility. Specific modalities shall apply to the personnel referred to in Article 4 (3), third indent. In principle, all EEAS staff shall periodically serve in Union delegations. The High Representative shall establish rules to that effect.

10. In accordance with the applicable provisions of its national law, each Member State shall provide its officials who have become temporary agents in the EEAS with a guarantee of immediate reinstatement at the end of their period of service to the EEAS. This period of service, in accordance with the provisions of Article 50b of CEOS, shall not exceed eight years, unless, it is extended for a maximum period of two years in exceptional circumstances and in the interest of the service.

EU officials serving in the EEAS shall have the right to apply for posts in their institution of origin on the same terms as internal applicants.

11. Steps shall be taken in order to provide EEAS staff with adequate common training, building in particular on existing national and EU practices and structures. The High Representative shall take appropriate measures to that effect within the year following the entry into force of this Decision.

Article 6 bis
Transitional provisions regarding staff

1. The relevant departments and functions in the General Secretariat of the Council and in the Commission listed in the Annex shall be transferred to the EEAS. Officials and temporary agents occupying a post in departments or functions listed in the Annex shall be transferred to the EEAS. This shall apply *mutatis mutandis* to contract and local staff assigned to such departments and functions. SNEs working in those departments or functions shall also be transferred to the EEAS with the consent of the authorities of the originating Member State.

These transfers shall take effect on 1 January 2011.

In accordance with the Staff Regulations, upon their transfer to the EEAS, the High Representative shall assign each official to a post in his function group which corresponds to his grade.

2. The procedures for recruiting staff for posts transferred to the EEAS which are on-going at the date of entry into force of this Decision shall remain valid: they shall be carried on and completed under the authority of the High Representative in accordance with the relevant vacancy notices and the applicable rules of the Staff Regulations and the Conditions of Employment of Other Servants.

Article 7

Budget

1. The duties of authorising officer for the EEAS section of the General Budget of the European Union shall be delegated in accordance with Article 59 of the Financial Regulation. The High Representative shall adopt the internal rules for the management of the administrative budget lines. Operational expenditure shall remain within the Commission section of the budget.
2. The EEAS shall exercise its powers in accordance with the Financial Regulation applicable to the general budget of the Union within the limits of the appropriations allocated to it.
3. When drawing up estimates of administrative expenditure for the EEAS, the High Representative will hold consultations with, respectively, the Commissioner for Development Policy and the Commissioner for Neighbourhood Policy regarding their respective responsibility.
4. In accordance with Article 314(1) of the TFEU, the EEAS shall draw up estimates of its expenditure for the following financial year. The Commission shall consolidate these estimates in a draft budget, which may contain different estimates. The Commission may amend the draft budget as provided for in Article 314(2) of the TFEU.
5. In order to ensure the budgetary transparency in the area of external action of the Union, the Commission will transmit to the budgetary authority, together with the Draft EU Budget, a working document presenting, in a comprehensive way, all expenditure related to the external action of the Union.

6. The EEAS shall be subject to the procedures regarding the discharge provided for in Article 319 of the Treaty on the Functioning of the European Union and in Article 145 to 147 of the Financial Regulation. The EEAS will, in this context, fully cooperate with institutions involved in the discharge procedure and provide, as appropriate, the additional necessary information, including through attendance in meetings of the relevant bodies.

Article 8

External Action Instruments and programming

1. The management of EU external cooperation programmes is under the responsibility of the Commission without prejudice to role of the Commission and of the EEAS in programming as set out in the following paragraphs.
2. The High Representative shall ensure overall political coordination of the EU's external action, ensuring the unity, consistency and effectiveness of the EU's external action in particular through the external assistance instruments:
 - the Development Cooperation Instrument,
 - the European Development Fund,
 - the European Instrument for Democracy and Human Rights,
 - the European Neighbourhood and Partnership Instrument,
 - the Instrument for Cooperation with Industrialised Countries,
 - the Instrument for Nuclear Safety Cooperation,
 - the Instrument for Stability, regarding the assistance foreseen in article 4 of Regulation (EC) n. 1717/2006 of 15 November 2006.

3. In particular, the EEAS shall contribute to the programming and management cycle for the said instruments, on the basis of the policy objectives set out therein. It shall have responsibility for preparing the following Commission decisions regarding the strategic, multi-annual steps within the programming cycle:
- (i) country allocations to determine the global financial envelope for each region (subject to the indicative breakdown of the financial perspectives). Within each region, a proportion of funding will be reserved for regional programmes;
 - (ii) country and regional strategic papers (CSPs/RSPs);
 - (iii) national and regional indicative programmes (NIPs/RIPs).

In accordance with Article 3, throughout the whole cycle of programming, planning and implementation of these instruments, the High Representative and the EEAS shall work with the relevant members and services of the Commission without prejudice to Article 1(3). All proposals for decision will be prepared through Commission procedures and submitted to the Commission for decision.

4. With regard to the European Development Fund and the Development Cooperation Instrument, any proposals, including those for changes in the basic regulations and the programming documents in paragraph 3 above, shall be prepared jointly by the relevant services in the EEAS and in the Commission under the responsibility of the Commissioner responsible for Development Policy and then jointly submitted with the High Representative for decision by the Commission.

Thematic programmes, except the European Instrument for Democracy and Human Rights, as well as the Instrument for Nuclear Safety Cooperation and the part of the Instrument for Stability referred to in the seventh indent of paragraph 2, shall be prepared by the appropriate Commission Service under the guidance of the Commissioner responsible for Development and presented to the College in agreement with the High Representative and other relevant Commissioners.

5. With regard to European Neighbourhood and Partnership Instrument, any proposals, including those for changes in the basic regulations and the programming documents in paragraph 3 above, shall be prepared jointly by the relevant services in the EEAS and in the Commission under the responsibility of the Commissioner responsible for Neighbourhood Policy and then jointly submitted with the High Representative for decision by the Commission.
6. Actions undertaken under the CFSP budget, the Instrument for Stability except the part referred to in the seventh indent of paragraph 2, the Instrument for Cooperation with Industrialised Countries, the Communication and Public Diplomacy as well as the Election Observation Missions are under the responsibility of the High Representative/EEAS. The Commission shall be responsible for their financial implementation under the authority of the High Representative in her capacity as Vice-President of the Commission.¹ The Commission department responsible for this implementation shall be co-located with the EEAS.

¹ The Commission will make a declaration to the effect that the High Representative will have the necessary authority in this area, in full respect of the Financial Regulation.

Article 9

Security

1. The High Representative shall, after consulting the Committee referred to in Council Decision 2001/264/EC, decide on the security rules for the EEAS and take all appropriate measures in order to ensure that the EEAS manages effectively the risks to its staff, physical assets and information, and that it fulfils its duty of care responsibilities. Such rules shall apply to all EEAS staff, and all staff in Union Delegations, regardless of their administrative status or origin.

2. Pending the Decision referred to in paragraph 1:
 - with regard to the protection of classified information, the EEAS shall apply Council Decision 2001/264/EC;

 - with regard to other aspects of security, the EEAS shall apply Commission Decision 2001/844/EC.

3. The EEAS shall have a department responsible for security matters, which shall be assisted by the competent services of the Member States.

4. The High Representative shall take any measure necessary in order to implement security rules in the EEAS, in particular as regards protection of classified information and the measures to be taken in the event of failure by EEAS staff to comply with the security rules. For that purpose, the EEAS shall seek advice from the Security Office of the General Secretariat of the Council, from the relevant services of the Commission and from the relevant services of the Member States.

Article 10

Access to documents, archives and data protection

1. The EEAS shall apply the rules laid down in Regulation (EC) 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. The High Representative shall decide on the implementing rules for the EEAS.
2. The Secretary General of the EEAS shall organise the archives of the Service. The relevant archives of the departments transferred from the General Secretariat of the Council and the Commission shall be transferred to the EEAS.
3. The EEAS shall protect the individuals with regard to the processing of personal data in accordance with the rules laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. The High Representative shall decide on the implementing rules for the EEAS.

Article 11
Immovable property

1. The General Secretariat of the Council and the relevant Commission services shall take all necessary measures so that the transfers referred to in Article 6bis can be accompanied by the transfers of the Council and Commission buildings necessary for the functioning of the EEAS.
2. The terms on which immovable property is made available to the EEAS central administration and to the Union delegations shall be decided on jointly by the High Representative and the General Secretariat of the Council and the Commission, as appropriate.

Article 12
Final provisions

1. The High Representative, the Council, the Commission and the Member States shall be responsible for implementing this Decision and shall take all measures necessary to do so.
2. The High Representative shall submit a report to the European Parliament, the Council and the Commission on the functioning of the EEAS no later than the end of 2011. This report shall in particular cover the implementation of the provisions of Article 8 and Article 5(3) and (10).
3. By mid-2013, the High Representative shall make a review of the functioning and organisation of the EEAS, which will cover *inter alia* the implementation of the provisions of Article 6(7) and (10). This review, shall, if necessary, be accompanied by appropriate proposals for revision of this Decision. In this case, the Council, in accordance with Article 27(3) TEU shall, revise this Decision in the light of the review no later than the beginning of 2014.

4. This Decision shall enter into force on the date of its adoption. Its provisions on financial management and recruitment shall take effect once the necessary amendments to the Staff Regulations and the Financial Regulation, as well as the amending budget, have been adopted. Arrangements shall be entered into by the High Representative, the General Secretariat of the Council and the Commission, and consultations shall be undertaken with the Member States to ensure a smooth transition.
5. At the latest one month after the entry into force of this Decision, the High Representative shall submit to the Commission an estimate of the revenue and expenditure of the EEAS, including an establishment plan, in order for it to present a draft amending budget.
6. This Decision shall be published in the Official Journal of the European Union.

Done at Brussels, [date]

For the Council

The President

**Annex to the Council decision
establishing the organisation and functioning
of the European External Action Service**

Departments and functions to be transferred to the EEAS¹

The following is a list of all the administrative entities to be transferred en bloc to the EEAS. This does not prejudice the additional needs and the allocation of resources to be determined in the overall budget negotiations establishing the EEAS, nor decisions on the provision of adequate staff responsible for support functions, and the linked need for service-level agreements between the General Secretariat of the Council and the Commission and the EEAS.

1. GENERAL SECRETARIAT OF THE COUNCIL

All staff in the departments and functions listed below shall be transferred en bloc to the EEAS, except for a very limited number of staff to perform the normal tasks of the General Secretariat of the Council in line with Article 2(1), second indent, and for certain specific functions which are indicated below:

¹ The human resources to be transferred are all financed from the expenditure heading 5 (*Administration*) of the multiannual financial framework.

Policy Unit

ESDP and crisis management structures

- *Crisis Management and Planning Directorate (CMPD)*
- *Civilian Planning and Conduct Capability (CPCC)*
- *European Union Military Staff (EUMS)*
 - *Departments under the direct authority of DGEUMS*
 - *Concepts and Capability Directorate*
 - *Intelligence Directorate*
 - *Operations Directorate*
 - *Logistics Directorate*
 - *Communications and Information Systems Directorate*
- *EU Situation Centre (SITCEN)*

Exception:

- *Staff in the SITCEN supporting the Security Accreditation Authority*

Directorate-General E

- *Entities placed under the direct authority of the Director-General*
- *Directorate for the Americas and the United Nations*
- *Directorate for the Western Balkans, Eastern Europe and Central Asia*
- *Directorate for Non-Proliferation of Weapons of Mass Destruction*
- *Directorate for Parliamentary affairs in the area of CFSP*
- *New York Liaison Office*
- *Geneva Liaison Office*

GSC officials on secondment to European Union Special Representatives and CSDP missions.

2. COMMISSION (INCLUDING DELEGATIONS)

All staff in the departments and functions listed below shall be transferred en bloc to the EEAS, except for a limited number of staff mentioned below as exceptions.

Directorate-General for External Relations

- *All hierarchy posts and support staff directly attached to them*
- *Directorate A (Crisis Platform and policy coordination in CFSP)*
- *Directorate B (Multilateral Relations and Human Rights)*
- *Directorate C (North America, East Asia, Australia, New Zealand, EEA, EFTA, San Marino, Andorra, Monaco)*
- *Directorate D (European Neighbourhood Policy Coordination)*
- *Directorate E (Eastern Europe, Southern Caucasus, Central Asia Republics)*
- *Directorate F (Middle East, South Mediterranean)*
- *Directorate G (Latin America)*
- *Directorate H (Asia (except Japan and Korea))*
- *Directorate I (Headquarters resources, information, inter-institutional relations)*
- *Directorate K (External Service)*
- *Directorate L (Strategy, Coordination and Analysis)*
- *Task Force on the Eastern Partnership*
- *Unit Relex-01 (audit)*

Exceptions:

- *Staff responsible for the management of financial instruments*
- *Staff responsible for the payment of salaries and allowances to staff in delegations*

External Service

- *All Heads of Delegation and Deputy Heads of Delegation and support staff directly attached to them*
- *All Political Sections or cells and staff*
- *All information and public diplomacy sections and staff*
- *All Administration sections*

Exceptions

- *Staff responsible for the implementation of financial instruments*

Directorate-General for Development

- *Directorate D (ACP II – West and Central Africa, Caribbean and OCT) except OCT task force*
 - *Directorate E (Horn of Africa, East and Southern Africa, Indian Ocean and Pacific)*
 - *Unit CI (ACP I: Aid programming and management): Staff responsible for programming*
 - *Unit C2 (Pan-African issues and institutions, governance and migration): Staff responsible for Pan-African relations*
 - *Applicable hierarchy posts and support staff directly attached to them*
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