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LIVING IN THE "AGE OF ACCOUNTABILITY": HOW CO-DECISION EMPOWERS THE EUROPEAN PARLIAMENT IN THE DESIGN OF EU AGENCIES

by

PATRICK CHRISTOPHER KENARD

Under the Direction of Dr. William Downs

ABSTRACT

Bátora alleges that political accountability has been "almost entirely overlooked" (2010, 2) in studies of the European External Action Service. An examination of the subject that extends previous studies on agency design, the co-decision procedure, the "democratic deficit," and European Union foreign policy would resolve the neglect. As a result, the study derives a hypothesis from an established theory of bureaucratic structure. Findings suggest that during the design of EU agencies co-decision power improves the ability of the European Parliament to institutionalize methods of accountability to it.

INDEX WORDS: Accountability, Co-decision, European Defence Agency, European External Action Service, European Food Safety Authority, European Parliament, Institutional design

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DEDICATION

For my grandfather, Elwood R. Watson, Jr.

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To everyone who supported me, thank you.

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"If things go wrong and we have large numbers of young men coming back home in body bags, people will want to know who in Europe is responsible." – Graham Watson MEP[1]

"If angels were to govern men, neither external nor internal controls on government would be necessary." – James Madison[2]

Introduction

We live in an "age of accountability" (Fisher 2004: 1). Demands for public officials to account for their decisions transcend levels of governance and are on the rise (Curtin 2005: 87). Democratic principles affirm that people should have the ability to influence the decisions that affect their lives (Kraft-Kasack 2008: 537; Stie 2010: 3; Peters et al. 2010: 4); however, because people transfer their sovereignty to representatives, they manage government performance through accountability mechanisms. These norms even extend to uses of power beyond the nation-state (Fisher 2004: 1). For decades, Europeans held public officials indirectly accountable for European Union foreign policy decisions through national elections; however, a meaningful shift toward internal accountability occurred with the passage of the Lisbon Treaty (2009). As a result, new systematic studies are necessary to investigate accountability in EU foreign policy.

The creation of the European External Action Service (2010) is momentous because it confers upon a non-state entity a capacity formerly reserved only for states, namely the ability to "enter into relations with other states."[3] Although this diplomatic service will represent nearly half a billion people abroad,[4] its accountability has not been a "much discussed theme" (Bátora 2010: 14). Instead, consecutive reforms "overlooked" accountability in external relations in order to focus on "coherence, visibility, and continuity" (Barbé 2004: 49-50). Thus, the objective of this thesis is to remedy the shortcoming. Employing established theory, it compares the European External Action Service with the European Defence Agency in order to investigate how it is accountable.

The structure of the study is as follows. In the first section, it presents a critical evaluation of the extant research on how Europeans hold the European External Action Service accountable. In the second section, the paper advances an explanation for why the accountability present in the European External Action Service exists. In the third section, it describes the methodological procedures employed to assess the theory. In the fourth section, a comparison between the accountability of the European External Action Service and the European Defence Agency occurs. In the fifth section, a detailed description of the accountability of the European Food Safety Authority occurs in order to present further confirmation of the hypothesis in another policy environment. In the last section, concluding remarks summarize findings and propose directions for further research.

The Literature

Several fields of research relate to an examination of how Europeans hold the European External Action Service accountable. Since the executive and legislative branches exercised roles in the creation process, the study must employ previous research on the effect of inter-institutional politics on the design of EU agencies. Next, in order to understand the strength of the European Parliament under co-decision, an assessment of research on the topic will occur. Additionally, the European Union has accountability deficits, and they are on the rise (Bovens 2007: 447). Moreover, in order to understand the current state of EU foreign policy, there will be a review of its relationship to accountability thus far. Lastly, the paper will present reasons how it can contribute to these fields of research through an investigation of accountability in the European External Action Service.

Inter-institutional politics plays a "decisive role" in the design of EU agencies (Kelemen 2002: 94). As the executive and legislative branches interact, they negotiate over the structures new bureaucratic institutions receive (Kelemen 2002: abstract). Threatened, incumbent bureaucracies will seek to protect their "territory" (Dijkstra 2008: 3). Apprehensive, Member State governments, for instance, attempt to shield their national administrations from such potential threats (Kelemen 2002: 103, 110). From their perspective, European agencies should depend on – not rival – national administrations. As a result, the Council prefers to fill agencies with their appointees and to limit their power to information gathering (Tarrant and Kelemen 2007: 30; Schout and Pereyra 2010: 1). Similarly, the European Parliament seeks to protect its institutional self-interest (Tarrant and Kelemen 2007: 5). Council controlled agencies, it thought, would weaken its influence at the implementation stage; therefore, in order to maintain relative power, the European Parliament would need to extend its influence over the executive (Kelemen 2002: 104). Lastly, the European Commission resists attempts to reduce or remove its "established powers"; therefore, it prefers that new agencies exist within its hierarchy (Kelemen 2002: 98, 101). According to Schout and Pereyra (2010), on the other hand, the European Commission does not want people to feel that EU bureaucracy is "continually growing" (6). As a result, the European Commission will accept losses in "bureaucratic turf" in order to improve its focus on its "core competences: policy planning and policy enforcement" (Kelemen 2002: 98; 112). Therefore, agency design outcomes reflect a combination of institutional preferences.

The European Parliament receives influence from its co-equal legislative authority with the Council. In principle, neither institution may adopt legislation without the other's consent.[5] Originally, the European Commission and the Council could negotiate legislation between themselves with "little reference" to the European Parliament (Burns 2004: 3). Known as the

consultation procedure, it "effectively limited" the European Parliament to offering amendments that could be ignored (Burns 2004: 3). Today, however, the co-decision procedure is the norm.[6] Since Maastricht, each additional treaty has extended the practice to include new policy areas. Since Amsterdam, public health and consumer protection fall under co-decision, and since Lisbon, co-decision includes budgetary and staff regulations. Curtin (2005) suggests that the increase in legislative power has produced a "more powerful role" (99) for the European Parliament in the design of new agencies, and that the "intensity of its role" (102) in the design process "directly relate[s]" (102) to its influence in the "selection and screening" (102) of candidates for management boards. In addition, Kelemen (2002) suggests that the increase in legislative powers will cause the European Parliament to oppose designs with administrative autonomy (110). Therefore, the co-decision procedure provides the European Parliament a capacity to extend its influence into the design of the European External Action Service.

According to Follesdal and Hix (2006), the "standard version" of the "democratic deficit" involves five "main claims" (534). Firstly, as European integration increases executive power, the ability of national parliaments to hold them to account decreases (Follesdal and Hix 2006: 534). Secondly, since the European Parliament is the only directly elected EU institution, a suggested solution to add accountability is to increase the powers of the European Parliament with regard to the Council and the European Commission (Follesdal and Hix 2006: 534). Thirdly, although citizens elect their governments, national elections encompass domestic rather than European issues (Follesdal and Hix 2006: 536). Fourthly, citizens see the European Union as "remote and opaque" (Riekmann 2007: 122). Since it is exceedingly dissimilar from accustomed domestic institutions, people struggle to understand it (Follesdal and Hix 2006: 536). As Follesdal and Hix (2006) illustrate, appointments to the European Commission follow an

"obscure procedure" that elects individuals neither directly nor indirectly by a single electorate (536). Fifthly, the European Union adopts policies that do not have the support of a majority of citizens in many or even most Member States (Follesdal and Hix 2006: 537). This "policy drift" occurs because Member States are able to undertake policies at the European level that they cannot pursue domestically; thus, policy outcomes are regularly to the right of domestic status quos (Follesdal and Hix 2006: 537). Although scholars debate the validity of these claims (Moravcsik 2008), this paper asserts the deficit is real and that it provided the environment for the construction of the aforementioned EU agencies.

The Twenty-First Century presents European nation-states with the possibility of future irrelevance in global affairs. Both Franco Frattini[7] and David Miliband,[8] foreign ministers of Italy and the United Kingdom, respectively, have cautioned that without a common foreign policy, European nation-states will become "spectators in a G2 world shaped by the US and China." Thus, sequential reforms have sought to develop a "single voice" (Meunier 2005: 2) that would permit Europe the ability to "defend its values and promote its interests in the world" (Irondelle 2008: 155). Originally, foreign policy cooperation encompassed informal consultation among Member States. Confidential and strictly intergovernmental, European Political Cooperation received the condemnation of the European Parliament as a "situation intolérable qui constitue un désaveu de la démocratie parlementaire" (Barbé 2004: 52). Incrementally, a "coordination reflex" (Nuttall 1992) began to develop wherein states "automatically [consulted] their partners before defining their national positions" (Sjursen 2003: 5). As a result, the Maastricht (1993) and Amsterdam treaties (1997) gradually added to the number of foreign policy functions performed by European Union institutions (Barbé 2004: 52). Based in Brussels, the Political and Security Committee, for instance, consists of Member State ambassadors who

assist in the formation and implementation of common foreign policy initiatives. Actions by these executive agents, however, are more difficult for national parliaments to control than actions by cabinet ministers or domestic bureaucrats (Follesdal and Hix 2006: 535). As national parliamentary control diminished, however, at the European level, no "substantial additional democratic controls" emerged (Barbé 2004: 52). As a result, it became more difficult for Europeans to hold officials responsible for their decisions. Therefore, EU foreign policy studies suggest "Brusselization" (Barbé 2004: 48) impairs accountability.

Although these fields of study complement research into how Europeans hold the European External Action Service responsible for its decisions, a shortfall exists that this research paper addresses. Agency design studies explain that design outcomes are the product of inter-institutional politics. Co-decision studies describe the method the European Parliament employs to strengthen its position vis-à-vis the European Commission and the Council. Additionally, European Union studies express the presence of an accountability deficit. Lastly, EU foreign policy studies detail the history of cooperation and its accountability. Collectively, these studies depict a European Parliament with the motivation and means to make the European External Action Service responsible to it; however, scholars have scarcely assessed the outcome that resulted. Bátora (2010) and Raube (2009), for instance, wrote before the finalization of arrangements, and although Missiroli (2010) describes them, he examines them through the lens of their contribution to the EU as an international actor. Similarly, Comelli (2010) considered an analysis of the concession that the European Parliament obtained to be "beyond the scope of [her] paper" (90). As a result, scholarly research will benefit from the examination that this paper undertakes.

Theory

Institutional designs are more than considerations of efficiency; they are most often also overtly political products (Moe 1995: 127). They reflect interactions between the actors needed to ratify them (Wood and Bohte 2004: 176) and considerations of an uncertain future. Since structural choices influence the content and direction of policy (Moe 1995: 127), actors desire to construct institutions amenable to present and future interests. One inclination directs them to design structures that connect them to the agency (Moe 1995: 122); on the other hand, another inclination directs them to design "insulated" structures (Moe 1995: 124; Kelemen 2002: 96). Therefore, the organization of public bureaucracy is "inextricably bound up with politics" (Moe 1995: 149).

Economic organizations are a type of governance structure wherein voluntary actors have an incentive to pursue seemingly optimal arrangements (Moe 1995: 125). Public bureaucracies, on the other hand, are "structures of coercion" that exist in order to impose costs on losers (Moe 1995: 126). As a result, losers have an incentive to want public bureaucracies to fail (Moe 1995: 127). Thus, they pressure the dominant actor for a design that "fragment[s] authority, [has] labyrinthine procedures, and [has] mechanisms of political intervention" (Moe 1995: 138; Kelemen 2002: 96). Constraints on enactment of the design affect the amount the dominant actor accommodates these demands in order for it to prevail (Moe 1995: 127). Therefore, a different definition exists between economic and political organizational arrangements: one seeks efficiency; the other merely seeks ratification by a sufficient coalition.

Once established, a new institution becomes an actor in the realm of politics (Moe 1995: 182); therefore, its enacting coalition, those individuals who ratified the design, must consider "bureaucratic drift" (Kelemen 2002: 96; Wood and Bohte 2004: 182). The enacting coalition

desires to design structures that achieve its mandated functions; however, there are no assurances that the agency will maintain the policy domain its enacting coalition envisioned over desires to "strike out on its own" (Moe 1995: 121). Thus, the enacting coalition recognizes that it needs to design a structure that "links" it to the agency (Moe 1995: 122). Common political control methods include budgetary oversight and jurisdiction over appointments (Kelemen 2002: 96; Moe 1995: 122). Thus, Wood and Bohte (2004) argue, "When the enacting coalition perceives that the probability of bureaucratic drift is high, then they should prefer administrative designs that… reduce transaction costs for monitoring the bureaucracy" (182).

The enacting coalition recognizes that elections impede it from continuous control of the agency (Moe 1995: 124; Pierson 2000: 491). A new dominant coalition could emerge that seeks to emasculate the achievements of the enacting coalition (Kelemen 2002: 96; Moe 1995: 124; Wood and Bohte 2004: 180). "Coalitional drift" (Wood and Bohte 2004: 180), therefore, causes designers to want to "shield" the bureaucracy from its opponents (Moe 1995: 124). For instance, the enacting coalition may grant the agency formal autonomy or "minimize the power and number of political appointees" (Moe 1995: 136-7). A "greater emphasis" on a career civil service, Moe (1995) contends, lessens coalitional drift since "professionals generally act to protect their own autonomy and resist political interference" (136). Although these impediments safeguard "their" agency from coalitional drift, it simultaneously "shuts out" the enacting coalition (Moe 1995: 125). Therefore, Wood and Bohte (2004) contend, "As the probability of adverse coalitional drift increases, the expected benefit from adaptive and responsive designs decreases, because the probability of obtaining the potential benefits declines" (181).

Although Shepsle (1992) argues that a solution to either drift "exacerbates" (115) the other, Macey (1992) suggests his assertion "seems overstated" (109). An enacting coalition can

reduce bureaucratic and coalitional drift simultaneously (Macey 1992: 94). The "most powerful device" available to the enacting coalition is to "customize" designs that perpetually "generate results that coincide" with its preferences (Macey 1992: 100). Since the enacting coalition may "hardwire" (Macey 1992: 100) the agency to favor certain groups over others, "power and legitimacy" (Macey 1992: 99) results from the design. "Undermined," members of the "destroyed group" are thus "unlikely" to influence the preferences of future coalitions (Macey 1992: 98-9). Therefore, an incentive exists for enacting coalitions to design agencies that clearly identify "empower[ed]" groups over "disempower[ed]" ones in order to "minimize the chances that politicians' preferences…will change over time (Macey 1992: 98-9). Although the enacting coalition may design agencies in a manner that restricts the preferences of future politicians, it must also ensure that the preferences of future bureaucrats reflect the "political equilibrium" that existed during ratification (Macey 1992: 99). Agency policies change as the preferences of its constituencies change; however, as Macey (1992) suggests, it is "implausible" (96) that its constituencies will "simply wither away" (96) and abandon "reap[ing]" (109) the advantages offered by the agency. Therefore, since disappearance of its constituencies would lose the agency's *raison d'être*, both bureaucrats and the enacting coalition have a "mutual interest" in its "health" (Macey 1992: 96). Therefore, "controlling" the design of an agency is "probably…the single most important mechanism" employed to reduce bureaucratic and coalitional drift (Macey 1992: 109).

As a result, structural design is an iterated political game (Moe 1995: 146). In the "formative round" (Moe 1995: 146), constraints on ratification frequently require the inclusion of individuals opposed to the success of the agency. They attempt to construct an inefficient agency burdened with arduous conditions. Once approved, the agency is susceptible to both

bureaucratic and coalitional drift. Bureaucrats may begin to "shirk" the responsibilities the enacting coalition intended in order to promote their own autonomy (Moe 1995: 145). Therefore, an incentive exists for the enacting coalition to make the agency accountable to it. On the other hand, the enacting coalition concedes that elections hinder perpetual hegemony over the institution (Pierson 2000: 491). As a result, an incentive exists for the enacting coalition to "bind [its] successors" (Pierson 2000: 491). Since the "trade-off" between these two forms of drift presents the enacting coalition with a "legislative possibility frontier" (Macey 1992: 98; Shepsle 1992: 115) over short-term and long-term interests, a theory about bureaucratic organization "cannot help but be a thoroughly political theory" (Moe 1995: 148).

Insert Table 3.1

Hypothesis

Institutional design entails the building of an enacting coalition. For the European External Action Service, the benchmark for ratification was strenuous. Before the Council could decide on establishment, the High Representative needed to "consult"[9] with the European Parliament. Afterwards, the proposal needed to achieve the "consent"[10] of the European Commission. Due to their composition, these institutions represent different interests. Members of the Council represent national governments; on the other hand, members of the European Parliament represent European constituencies. Finally, although appointed by national governments, members of the College of Commissioners represent the interest of their respective portfolios. As a result, in order for the proposal to prevail, these interests would have to compromise. Therefore, this thesis assumes the design of the European External Action Service reflects inter-institutional negotiations.

The enacting coalition desires to create a European External Action Service that minimizes bureaucratic drift. An incentive exists for the European Commission and the Council to maintain "existing policy-making and enforcement competences" (Kelemen 2002: 98); however, each decided to terminate their respective foreign policy bodies in order to create an institution outside of their hierarchies. On the other hand, an incentive exists for the European Commission and European Parliament to exploit the demilitarization of foreign policy issues in order to maximize their competencies beyond the first pillar (Dijkstra 2008: abstract); however, the Council retains influence over military affairs. Therefore, although the European External Action Service is outside of their hierarchies, each institution has an interest to ensure that it does not deviate from its interests. As a result, this thesis assumes each institution will seek to minimize bureaucratic drift by institutionalizing mechanisms that ensure that the European External Action Service is accountable to it.

Simultaneously, the European Commission, the European Parliament, and the Council have an incentive to establish barriers to coalitional drift. Again, subsequent coalitions might negate actions undertaken by the enacting coalition. Due to separate national elections, the composition of the Council is constantly susceptible to change. Although appointed, members of the College of Commissioners serve terms equal to the duration of a European Parliament, i.e., five years. Therefore, since the enacting coalition cannot expect that its position of power will remain, this thesis assumes it will endeavor to minimize coalitional drift by impeding its successors from influencing the European External Action Service.

As a result, inter-institutional negotiations determine the drift equilibrium the enacting coalition accepts in the design. If a member of the enacting coalition is relatively powerful, then it may direct the equilibrium towards its drift preference. Therefore, although the European

Parliament participates in the design negotiations, it would be ineffective without co-equal legislative authority with the Council. Kelemen (2002) contends that the increase in legislative powers changed the politics of "Eurocratic" structure because it permitted the European Parliament the ability to assert a "more powerful role in the oversight of existing EU executive bodies and in the design of new ones" (111). Motivated by the "threat" of Member State appointees, the European Parliament seeks to seize the opportunity afforded by its "new political stature" (Kelemen 2002: 104, 106). Because Council controlled management boards could decide to reverse its decisions during implementation, the European Parliament advocates structures it can supervise (Kelemen 2002: 110). Therefore, since co-decision enables the European Parliament to be a veto player, it may achieve its desire for oversight.

> Hypothesis: Legislative co-decision in the design of an agency increases institutionalization of accountability to the legislature.

Alternatively, even with the addition of co-decision, the legislature may fail to secure accountability gains, or choose not to pursue them, or choose to distribute them to another institution. Additionally, national governments, for instance, may decide only to cede limited regulatory oversight powers to the European Parliament, ones without de facto capacity to hold a new agency accountable. Likewise, since the agency design is an iterated political game, the European Parliament, for instance, may choose not to press for stringent controls over an agency because concessions in one round of inter-institutional negotiations could yield even greater payoffs in future rounds. Finally, given the political costs that come with greater responsibility, actors in the European Parliament might choose to avoid increased oversight over a potentially contentious new agency. Europe may be in an "age of accountability," but "euroskepticism" exists as well; therefore, the European Parliament could conceivably prefer to share its role with

the European Commission or the Council in order to reduce receiving public dissatisfaction in its entirety. As a result, if the evidence does not support the presented hypothesis, then one of these alternative logics may exist.

Methods

The European External Action Service and European Defence Agency were chosen as comparable cases because they cover policy fields that are integral to the "number one goal" of states, survival (Mearsheimer 2001: 57). If states are constantly "suspici[ous]" that war approaches (Mearsheimer 2001: 32), then cooperation in diplomacy and defense capacity signifies that Member States accept the risk that partners may "cheat" in order to attain a "significant advantage" (Mearsheimer 2001: 52). Similarly, there is consistency in the leader of these two European Union agencies – the High Representative. A "double-hatted" individual implies that European officials consider a connection between these two fields that necessitates union in a single person.

Since the European External Action Service and the European Defence Agency are comparable cases, the study employs a Most Similar Systems Design in order to test the presented hypothesis. Such methodology is advantageous because it "keep[s] constant as many extraneous variables as possible" (Anckar 2008: 389) so as "to isolate the explanatory value of the independent variable as much as possible" (Anckar 2008: 399) in order to "establish whether or not there is a causal relation between one specific independent variable and the dependent variable" (Anckar 2008: 392). As a result, in order to test the effect of "X" on "Y," only the "key independent variable is allowed to vary" (Anckar 2008: 393). Therefore, the European Defence

Agency represents the exclusion case in the comparison. In other words, in this instance, the European Parliament did not use co-decision powers (Curtin 2005: Table 5.1).

Furthermore, a detailed analysis of the European Food Safety Authority is necessary in order to add further support to the hypothesis. Similarly created under co-decision, it exists in order to "harmoni[ze] product regulations for the Single Market" (Krapohl 2004: 520). After several food scandals of the 1990s, the European Food Safety Authority provided a means to standardizes foodstuffs "from the farm to the fork"[11] throughout the union. Therefore, since it oversees "potentially high risk [products] for consumers" (Krapohl 2004: 519), it tests the hypothesis in another policy environment, public health.

The hypothesis tests an independent and dependent variable. The design of the European External Action Service signifies the proposals that the High Representative presented to the European Commission, European Parliament, and the Council; on the other hand, inter-institutional negotiations refer to compromises between the institutions of the European Union in order to form an enacting coalition. Additionally, designs formalize inter-institutional accountability (the dependent variable) when the European Parliament possesses co-equal legislative authority with the Council (the independent variable). A bureaucratic institution accounts when "[a] relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgment, and the actor may face consequences" (Bovens 2007: 450). As a result, institutionalization of accountability to the enacting coalition transpires when budgetary oversight and/or jurisdiction over appointments exists.

Because transcripts of inter-institutional negotiations do not exist, this study collects data from several sources in order to relate these occasions. News reports are one essential resource.

Articles from independent news sources – *EurActiv* and *EUobserver* – describe meetings among members of the European Commission, European Parliament, and the Council without the ideological spin of many European publications (for example, *l'Humanité*, *Libération*, or *Le Figaro*) or public funding (for example, *BBC* or *France24*). In regards to the European External Action Service, articles cover negotiations conducted after ratification of the Lisbon Treaty (1 December 2009) until 1 December 2010 when the agency began operations. For the European Defence Agency, articles cover the 2003 European Council meeting in Thessaloniki until 1 January 2005 when the agency became active. Lastly, articles that relate to negotiations on the European Food Safety Authority cover the 1996 "mad cow crisis" until its launch in January 2002. Information is relevant if it describes the purpose, creation, and design of these cases during these periods. Official European Union documents such as treaties and Council Joint Decisions provide another means of information. Specifically, they include the procedures for the design process, the proposals, and the design outcomes. Additionally, it is necessary to employ materials located on official EU websites that detail the structures and functions of these three agencies. Moreover, the study requires the use of research journal articles in order to describe the current state of analysis on these three agencies' structures.

Analysis

European External Action Service

The road to the construction of the European External Action Service was lengthy. Introduced in the Convention on the Future of Europe (2002-3), expressed in the Treaty establishing a Constitution for Europe (2004), rejected twice by referendum (2005), resuscitated by the German Presidency (2007), rejected by referendum again (2008), approved in treaty

format (2009), the diplomatic service did not launch until 1 December 2010. Raube (2009) emphasizes the influence of the first several of these events on the construction of the service; however, the analysis that follows emphasizes *post-treaty* negotiations among EU institutions. The intent is not to demean these previous negotiations; instead, the argument here is that the Lisbon Treaty consigned substantial elements of the service's accountability until after the treaty's ratification. Therefore, although the "broad traits" of the diplomatic service were agreed to in the Convention on the Future of Europe, as Missiroli (2010) proposes, it is necessary to examine the "concrete talks" of 2010 (433).

Once Member States ratified the Lisbon Treaty (2009), the search began for both a President of the European Council and High Representative that could "stop traffic"[12] in foreign capitals. Out of the "chrysalis of a euro-compromise"[13] emerged Herman Van Rompuy and Catherine Ashton. Although Baroness Ashton had previously been EU Commissioner for Trade and Leader of the House of Lords, she was relatively unknown; therefore, some argued that due to Europe's *selbstverzwergung*,[14] the European External Action Service would not receive the publicity it deserved. Nevertheless, once the European Parliament confirmed her appointment as a member of the College of Commissioners, she, together with a dedicated "High Level Group," set out to draft a proposal for the agency's design (Missiroli 2010: 435). Nevertheless, apprehension over upcoming parliamentary elections in the United Kingdom compelled the Council to set an April deadline (Missiroli 2010: 435). As draft documents circulated, however, several events increased inter-institutional tensions: the Brok-Verhofstadt "non-paper," the appointment of João Vale de Almeida as the new Head of the EU Delegation to the United States (Missiroli 2010: 436), and two decisions by the High Representative. Expressing the desires of the European Parliament, the "non-paper" requested that the diplomatic service have closer

association with the European Commission than the Council and that deputies to the High Representative be "politically responsible."[15] On the other hand, Member States saw the unilateral appointment of one of President Barroso's close aides as a "pre-emptive strike" (Missiroli 2010: 436) by the European Commission to obtain a coveted ambassadorial position. Simultaneously, High Representative Ashton received heavy criticism for her delayed visit to earthquake-ravished Haiti as well as her decision to attend the Ukrainian presidential inauguration of Viktor Yanukovych over a meeting of EU defense ministers in Mallorca.[16] These events characterize the environment that preceded High Representative Ashton's first proposal.

On 22 March 2010, High Representative Ashton presented a blueprint for the European External Action Service to a joint General Affairs Council and Foreign Affairs Council.[17] According to some, the document was intentionally "short and general"[18] in order to avoid controversy; nevertheless, disapprovingly, the European Parliament considered the document as the "return of intergovernmentalism."[19] Thus, the European Parliament threatened that it would stall the process through use of its authority under co-decision.[20] On 26 April in Luxembourg, High Representative Ashton presented a revised proposal to European foreign ministers who reached "political agreement"[21] on the document. As a result, formal consultations began with the European Parliament in the context of a "quadrilogue": Ashton's staff, the European Commission, the EU Presidency (Spain), and a delegation of members from the European Parliament (Missiroli 2010: 436).

The next stage of inter-institutional negotiations transpired throughout June and July 2010. On 21 June in Madrid, the four parties reached a "historic" (Missiroli 2010: 436) compromise. Two weeks later, on 8 July, a plenary session of the European Parliament approved the agreement with 549 votes in favor, 78 against, and 17 abstentions (Missiroli 2010: 436).

Afterward, on 13 July, the Council requested that the European Commission give its consent; it responded, a week later, unanimously in the affirmative (Missiroli 2010: 436). Subsequently, on 26 July, the General Affairs Council similarly approved the revised version. In October, the European Parliament and the Council approved staff and financial regulations as well as amendments to the 2010 budget. Finally, on 1 December 2010, the agency became operational.

According to the Lisbon Treaty, the European Parliament merely consulted the High Representative on the construction of the European External Action Service.[22] Establishment of the diplomatic service, once consented to by the European Commission, however, was the prerogative of the Council.[23] On the other hand, because of "good strategic planning,"[24] the European Parliament was able to employ its co-decision powers in budget and staff regulations to "create pressure"[25] on the Council and European Commission in order to receive concessions.[26] As the leader of the Socialists & Democrats, Martin Schulz indicated, "If [Parliament's] demands are not met, then "[Parliament] will not give the approval that is needed."[27] As previously mentioned, in July 2010, the Council adopted a decision establishing the new agency; however, the diplomatic service could not become operational until the European Parliament approved staff and financial regulations. Therefore, these co-decision powers effectively gave the European Parliament the "last word" over the European External Action Service.[28] As a result, it was necessary for the High Representative, the European Commission, and the Council to appease the European Parliament on some of its demands in order to create an enacting coalition.

Overall, negotiations over the European External Action Service were a "significant"[29] victory for the European Parliament. Although financial control of the service resides with the European Commission,[30] the European Commission routinely accounts for its budget to the

European Parliament. In the past, a "gentlemen's agreement" limited parliamentary influence because it did not specify expenditures;[31] however, members of the European Parliament are now able to hold officials accountable for every Union delegation and mission expense.[32] Furthermore, the European Parliament was able to obtain a condition requiring at least sixty percent of staff members to be EU *fonctionnaires*. The remainder are to be civil servants temporarily seconded from Member States.[33] Additionally, before taking up their posts, EU Special Representatives and Heads of Delegation to countries and organizations that the European Parliament considers "strategically important" will appear before the Foreign Affairs Committee for an "exchange of views."[34] Since these occurrences are not US Senate-style confirmation hearings, the European Parliament cannot veto their employment; however, these and other regular briefings by top diplomats and staff will keep the European Parliament informed on EU delegations and missions in order to make better decisions on the diplomatic service's budget. Furthermore, the European Parliament succeeded to have only a "Member of an EU Institution" substitute for the High Representative.[35] Parliamentary rapporteurs were adamant that when the High Representative is unable to attend a plenary session of the European Parliament "unelected officials" – civil servants – should not substitute on her behalf (Missiroli 2010: 442). As a result, he or she is either a member of the College of Commissioners or the foreign minister of a Member State; therefore, he or she is either directly accountable to the European Parliament or indirectly accountable through a national government.

Lastly, it is important to note that the design of the European External Action Service reflects *inter-institutional* negotiations. The European Commission received its request to continue supervision of the European Union's development and neighborhood policies.[36] The original proposal, on the other hand, transferred these cooperation programs to the European

External Action Service. Since the move would have "relegate[d] the Commission to … an 'internal market secretariat'" (Bátora 2010: 5), the European Commission acted to maintain these established functions within its hierarchy.

European Defence Agency

"Strategic culture(s) can change over time" (Gray 1999: 52). Traditionally, militaries emphasized the protection of state territorial integrity (Barrinha 2008: 4; Bátora 2009: 1085); however, increasingly, their focus is the multilateral projection of security abroad (Comelli 2010: 80). Bickerton (2010) proposes that European states, for example, underwent a shift from egoistical "warfare" states to humanitarian "welfare" states (217). Indeed, the St. Malo declaration (1998) affirmed that the European Union would strive to respond to international crises with its own "credible military forces."[37] Although security and defense cooperation would contribute to the overall European integration project as well as build the European Union an international identity (Bickerton 2010: 222-3), autonomous action, however, requires a "strong and efficient European armaments industry supported by public policy."[38] Therefore, Member States, Bátora (2009) says, must take a "difficult leap of faith" and trust each other in the "sensitive" area of "defense supplies and shared capabilities" (1092).

As Barrinha (2008) points out, the military sector is frequently associated with the ideas of autarky and self-sufficiency (6). Arms imports expose one to supply cuts and, thus, make one vulnerable (Barrinha 2008: 6). Independently, however, many European states cannot afford to purchase or manufacture numerous weapons (Keohane 2004: 2). Moreover, efficiency suffers due to "fragmentation [,] redundant spending… [and] wasteful duplication" (Bátora 2009: 1086). Furthermore, separate defense industries expose Europe to a future as a "niche player" in the global defense market (Barrinha 2008: 16-7). The situation is problematic because military

equipment is “a form of power distribution in the international system” (Barrinha 2008: 6). A state that controls military supplies is able to avoid market laws and to distribute them consistent with its geostrategic interests (Barrinha 2008: 7). The United States, for example, is able to “press” other countries to buy its military equipment because it possesses several large defense corporations.[39] As a result, there are several advantages for Europeans to pool military resources; however, if they fail, then vulnerability lurks. The message is drastic but clear: “Europe must unite for its own survival – this is no longer an option” (Barrinha 2008: 22).

The notion of a European agency over armaments dates back to a 1978 report by Egon Klepsch to the European Parliament; however, more Atlanticist Member States, reluctant to establish a European only organization, stopped its passage (Keohane 2004: 2).[40] Although it resurfaced as an attachment to the Maastricht Treaty, some Member States remained unwilling. The United Kingdom, specifically, thought a European defense agency would erect a “Fortress Europe” that would effectively obstruct them from contracts with non-European suppliers (Keohane 2004: 2). Obligated, European defense ministries would “spend their money unproductively on uncompetitive European monopolies” (Keohane 2004: 2). Then, in 2002, the idea resurfaced during the Convention on the Future of Europe.[41] Once the British government had assurances that the Constitutional Treaty would exclude references to a defense agency, it gave its support.[42] With the exception of Denmark, the remainder joined during the 2003 European Council meeting in Thessaloniki.

Half a year later, a twelve-person group, the Agency Establishment Team, undertook the role to create the defense capabilities agency that the Thessaloniki Presidency Conclusions envisioned.[43] Mandated by Council Decision 2003/834/EC, the team derived from the Council Secretariat, the European Commission, and Member States.[44] The Head of the Team, in

particular, was a Member State candidate that received the consent of the Council and the European Commission and the appointment of High Representative Solana.[45] The European Parliament participated neither in the appointment of team members nor in the formation of the agency (Curtin 2005: Table 5.1). Therefore, it could not employ co-decision powers to institutionalize mechanisms of accountability. Moreover, through the Head of the Team, Nick Witney, regular reports went to an ad hoc group that reported to the Committee of Permanent Representatives.[46] Their deadline was the end of April 2004.[47]

In June 2004, the Council reached a consensus on the proposal to establish the European Defence Agency. In comparison to earlier proposals, Council Joint Action 2004/551/CFSP maintained the purpose and responsibilities of the agency; however, with regard to the governance of the agency some modifications occurred.[48] Members of the Council sought, for instance, to make a "clearer distinction" between their responsibilities and those of the Steering Board.[49] A month later, High Representative Solana appointed Nick Witney, the former leader of the Agency Establishment Team, to be the agency's first Chief Executive. Nevertheless, although the Steering Board met for the first time on 17 September 2004, the European Defence Agency was not operational until the mandate of the Agency Establishment Team ended on 31 December 2004.[50]

As previously mentioned, the European Defence Agency is "subject to the Council's authority."[51] Member States exercise their control of the agency through their respective defense ministers, who collectively compose the Steering Board. Additionally, two other officials sit on the committee, a member of the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy who acts as Head of the Agency. Since the agency receives revenue exclusively from participating Member States, circumventing any role for the

European Parliament, these twenty-eight officials exercise exclusive control of the agency's budget and operations. Formerly, the European Commission thought its attendance to defense meetings would "offend" Member States because it did not have "much to contribute in terms of expertise" (Vanhoonacker et al. 2010: 10). At the time, its experience encompassed the management of civilian crisis operations that derived from the CFSP budget (Vanhoonacker et al. 2010: 11). Nevertheless, although the European Commission participates more in defense decisions than in the past, the main "shareholders"[52] of European Defence Agency vastly remain the Member States. Below the Steering Board, a chief executive exists, appointed by the Steering Board for a three-year term. Assisted by two deputies, he or she supervises the operation of five directorates: capabilities, research and technology, armaments, industry and market, and corporate services. Through the Steering Board, Member States determine who hold these offices; therefore, officials account for their decisions to the people indirectly through their national governments.

European Food Safety Authority

A "food scare" occurs when public anxiety over food safety incidents "spiral[s]" and media attention "escalat[es]" (Knowles et al. 2007: 43). Since the mid-1980s, European countries have experienced at least one or more significant scare (Knowles et al. 2007: 44). As a result, today, food safety is an issue of "intense public concern" and, thus, a "highly political" one (Knowles et al. 2004: 56). During food scares, shopping carts become "potent weapons"[53] that damage distributers and producers due to deteriorations in consumer confidence. In other words, food scares may not be "serious in terms of life and death, even of the animal, but its practical consequences on the livestock industry are *devastating*; if it is not eradicated, then, all intents

and purposes, the effect is *terminal*" (Blair 2010: 309, emphasis added). Therefore, governments react with new regulations and regulatory agencies (Knowles et al. 2007: 56).

On 20 March 1996, the UK Secretary of State for Health, Stephen Dorrell, announced a possible connection between Creutzfeldt-Jakob disease, a neurodegenerative disorder, and *Bovine spongiform encephalopathy* (BSE), a fatal neurological disorder that mainly affects adult cattle.[54] Immediately, domestic sales of beef products plummeted by 40%.[55] A week later, the European Commission shattered hopes of export sales with the imposition of a ban throughout the union.[56] Since the British government saw the ban as an attempt by other Member States to devastate the British beef industry, it employed a "policy of non-cooperation" in all EU affairs (Kelemen 2002: 106). As a result, at the Florence European Council (21-2 June 1996), Member States decided to "gradual[ly] phase-out" the beef ban (Kelemen 2002: 106). Although while at the summit, several heads of government sought to "ease" consumer confidence by "letting themselves be seen whilst bravely eating beef," beef consumption continued to drop "dramatically," corresponding to a "collapse" in the beef market (Vos 2000: 227). In the UK, the price of cattle fell by over 25%.[57] An industry estimated to be worth £3.2bn a year with 130,000 workers temporarily closed slaughterhouses or made workers part-time.[58]

"Seizing" the opportunity to apply new powers (Kelemen 2002: 106), the European Parliament launched an investigation into the crisis on 18 July 1996. Months later, on 18 February 1997, the Inquiry Committee released its report, "clearly demonstrat[ing] [that] severe shortcomings" in the management of the crisis were due to the European Commission (Vos 2000: 228). Although the European Commission responded instantly to the BSE crisis with the ban, for several years, it had adhered to a policy of "disinformation" with the public and other EU institutions on BSE (Vos 2000: 232). Therefore, the European Parliament gave the European

Commission until October 1997 to reform or face censure (Kelemen 2002: 106). As a result, the European Commission "moved towards an approach emphasizing food safety, linked to the protection of consumers" (Vos 2000: 234).

The repercussions of the BSE crisis, the "trigger" for regulatory reform throughout Europe (Knowles et al. 2007: 53), extended even to the Amsterdam Treaty (Vos 2000: 235). Member States and EU institutions possessed a "strong desire" not to repeat the errors of the BSE crisis; therefore, the Amsterdam Treaty overhauls Articles 95, 152, and 153 EC (Vos 2000: 235). Article 95 EC now obliges the European Commission to consider "any new development based on scientific facts" as well as permits the Council the ability to introduce national measures based on new scientific evidence when a problem is specific to that Member State (Vos 2000: 235). Similarly, Article 152 EC now permits the removal of veterinary and phytosanitary measures from Article 37 EC when their direct objective is the protection of public health (Vos 2000: 236). Lastly, Article 153 EC now requires EU institutions to protect the health, safety, and economic interests of consumers (Vos 2000: 236). Each one of these articles is subject to co-decision (Article 251 EC).

Shortly after taking office, Romano Prodi, the President of the European Commission, announced that food safety would be a "top priority."[59] Because the BSE crisis exposed the "deficiencies" of the ad hoc approach (Vos 2000: 233), EU food safety policy needed to be "proactive, not reactive."[60] Therefore, the European Commission promised to release a White Paper on reforms within months with the intention of "establish[ing] a coherent and up-to-date body of food legislation by 2002."[61] Its findings emphasized that EU food policy "must be built around high food safety standards, which serve to protect, and promote, the health of the consumer."[62] Since the European Union would need to "cover the whole food chain and all food

sectors" (Vos 2000: 245), the "most appropriate response"[63] would be the establishment of "an independent European Food Authority."[64] As a result, following the suggestions of the White Paper, in November 2000, the European Commission proposed COM (2000) 716[65] to the European Parliament and the Council under co-decision. More than a year later, on 28 January 2002, both institutions approved Regulation No 178/2002,[66] establishing the European Food Safety Authority.

Since the Amsterdam Treaty extended co-decision to public health and consumer protection, "strategic interaction" (Kelemen 2002: 109) among the European Commission, the European Parliament, and the Council determined the design of the European Food Safety Authority (Krapohl 2004: 529). During the negotiations over the design of the agency, the European Parliament "insisted" that management structures and operating procedures provide it with "opportunities for oversight and control" (Kelemen 2002: 109). In contrast to management boards of agencies created under the consultation procedure, which Member State appointees controlled, the European Parliament acquired the ability to consult the Council on its appointees (Kelemen 2002: 108). Additionally, since there are only fifteen members on the management board, not every Member State receives an appointee. One member must be a member of the European Commission and four members must have their background in "organizations representing consumers and other interests in the food chain."[67] Furthermore, before taking office, the candidate selected by the management board to serve as Executive Director must undergo a hearing before the European Parliament (Kelemen 2002: 108). Lastly, because the agency receives its budget entirely from the EU budget, the European Parliament has jurisdiction over its financing. Nevertheless, since the negotiations were inter-institutional, the European Commission obtained status as the "formal agenda-setter within the decision-making process"

(Krapohl 2004: 529). In other words, without its agreement, the agency cannot initiate policies (Krapohl 2004: 529).

Insert Table 6.1

Conclusion

An analysis of how Europeans hold the European External Action Service responsible was necessary because the diplomatic service will make decisions on their behalf. Moreover, since the diplomatic service is new, there have been few studies done that focus on the inter-institutional negotiations that resulted after the ratification of the Lisbon Treaty. Herein, the research paper concentrated on the influence of the European Parliament to achieve its demands. A comparison to the role of the European Parliament in the creation of the European External Action Service with the European Defence Agency suggests that the European Parliament is able to obtain concessions from other EU institutions when it possesses co-decision powers. Similarly, since the European Parliament possessed co-decision powers in "the protection of public health or the [*sic*] consumer protection" (Knowles et al. 2007: 57), it was able to make the European Food Safety Authority accountable to it. On the other hand, during the construction of the European Defence Agency, its range of co-decision powers did not apply; therefore, the Council could circumvent it. During the construction of the European External Action Service, however, co-decision powers acquired through the Lisbon Treaty, specifically staff and financial regulations,[68] permitted the European Parliament the ability to employ co-decision in order to create formal accountability mechanisms. Therefore, as Kardasheva (2009) argues, co-decision remains a "strong predictor" (19) of success for the European Parliament.

How EU institutions implement accountability in the design of agencies has specific implications for the academic debate on the European Union's "democratic deficit." Eurobarometer data suggests that a "large majority" of Europeans support "a European government responsible to the European Parliament" (Lord and Beetham 2001: 446), that Europeans trust the European Parliament (48%) more than either the European Commission (44%) or the Council (40%),[69] and that sixty-seven percent support making foreign policy decisions within the European Union.[70] Therefore, conceivably, Europeans would prefer that the European Parliament oversee the European External Action Service. Furthermore, accountability to the European Parliament helps resolve the "democratic deficit" because only the European Parliament possesses the ability to hold policymakers responsible for common policies. Since national parliaments are only able to evaluate the conduct of their governments, EU external relations would require the approval of every national parliament in order to be legitimate (Bono 2006: 220); however, since national parliaments possess a diversity of "authority, ability, and attitude" (Hänggi 2004: 12-5), only the European Parliament is able to provide uniformity in accountability. As a result, external relations should become more legitimate.

Although legislatures are the "representative body of the polity" (Hänggi 2004: 7), critics argue that legislatures "[interfere] in the conduct and implementation of [foreign] policy" (Lalone 2005: 8). For them, secrecy, speed, and "flexibil[ity]" (Peters et al. 2010: 4) supersede considerations of a "democratic deficit." Traditionally, foreign policy received a higher level of secrecy than other policies because states distrusted other states (Comelli 2010: 79; Peters et al. 2010: 3-4). Additionally, because unforeseen emergencies may occur, external policy decisions may require haste; therefore, legislative involvement would only delay urgent decisions (Barbé 2004: 54; Comelli 2010: 79). Lastly, methods and goals for foreign policy must be "constant[ly]

adapt[able]" (Thym 2006: 124). As a result, the normative implications of institutionalizing accountability to the European Parliament are debatable.

Finally, enthusiasm to produce a "new paradigm" without rigorous hypotheses tests on a theory impedes "cumulative improvements in knowledge" (Caporaso 1995: 459). Scholars, on the other hand, should seek to discover falsifiable hypotheses by testing theories with a greater amount and variety of data (King et al. 1994: 19). As a result, this study applied an established theory of institutional design to the creation of the European External Action Service, the European Defence Agency, and the European Food Safety Authority. Further research remains necessary to test other applicable conditions for the theory. Considerations, for instance, may lead scholars to search for cases that test an alternative hypothesis to the one presented here. Although this paper contends otherwise, conceivably, the European Parliament could choose not to obtain formal accountability from an agency through use of its co-decision power. Since "emphasis on human rights and democracy promotion" is "central" to the "foreign policy identity" of the European Parliament, the European Parliament may have sought to make the European External Action Service accountable to it because it recognized that the "promotion of [human rights and the rule of law] generally meets public opinion's concerns" (Bickerton 2010: 220-1). Similarly, the prominence of the BSE crisis may have made designing an agency accountable to it desirous; on the other hand, non-salient issues could arise that are not advantageous for the European Parliament to pursue. As a result, in these situations, since the European Parliament trusts the European Commission to serve the "Community interest" (Kelemen 2002: 97), the European Parliament would prefer the agency to account to the European Commission rather than the Council.

Table 3.1

	Bureaucratic drift	
Coalitional Drift	Bureaucrats' preferences diverge from enacting coalition. Future coalition preferences diverge from enacting coalition. Both occur	Bureaucrats' preferences DO NOT diverge from enacting coalition. Future coalition preferences diverge from enacting coalition. Bureaucratic drift DOES NOT occur, Coalitional drift occurs
	Bureaucrats' preferences diverge from enacting coalition. Future coalition preferences DO NOT diverge from enacting coalition. Bureaucratic drift occurs, Coalitional drift DOES NOT occur	Bureaucrats' preferences DO NOT diverge from enacting coalition. Future coalition preferences DO NOT diverge from enacting coalition. Neither occur

Table 6.1

	Co-decision	EP budgetary influence	EP appointee influence
European External Action Service	Yes	Yes	HR/VP as a member of the College of Commissioners “Exchange of views” with Special Representatives and Heads of Delegation Deputies for the HR/VP are members of the College of Commissioners
European Defence Agency	No	No. (Member States in proportion to their GNI.)	HR/VP as a member of the College of Commissioners
European Food Safety Authority	Yes	Yes	Consulted on Member State appointees Holds hearing on the Executive Director appointee

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