

# EU Representation in the OPCW after Lisbon: Still Waiting for Brussels

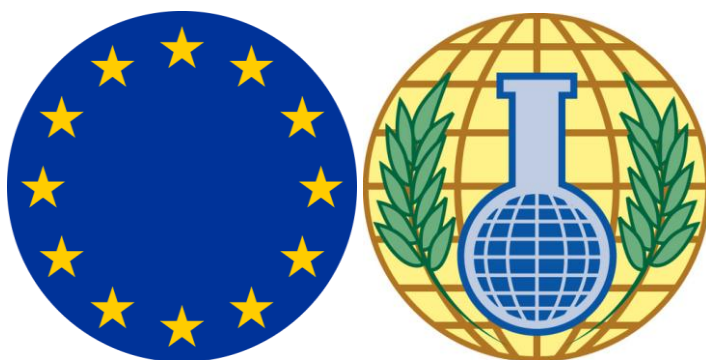
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## **Abstract**

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This paper examines the current status – that is, after the entry into force of the Lisbon Treaty – of the EU’s representation in the Organisation for the Prohibition of Chemical Weapons (OPCW) in The Hague. The EU’s current effectiveness in the OPCW is related to its international ‘actorness’, which is examined through EU authority, preference homogeneity and EU socialisation. Data were gathered through interviews with EU member states’ diplomats working on OPCW issues. The paper finds that although the EU has the authority to deal with OPCW issues and the 27 delegations in The Hague share roughly the same preferences, the representatives of EU member states still mainly see themselves as national representatives. The country holding the rotating EU Presidency is still very much in the driving seat and the newly established European External Action Service is hardly involved. Instead, the diplomats from EU member states working on the OPCW in The Hague are rather self-reliant, operating relatively isolated from the international arena, which results in a disconnect with broader international debates (such as general debates on non-proliferation). Establishing an EU delegation to international organisations in The Hague, which is tasked with responsibility over EU coordination and external representation in the OPCW, could improve the EU’s



effectiveness, as it is likely to enhance the EU's visibility and coherence between the EU position brought in at the OPCW and at other international venues. However, an EU delegation would only be of added value if it operated with well-informed staff who quickly gain the confidence of EU member states and are sensitive to national sovereignty claims made by, for instance, the United Kingdom.

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# 1. Introduction

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After the Lisbon Treaty entered into force in 2009, the European Union (EU) was expected to speak with a single voice in all international organisations. For issues of the Common Foreign and Security Policy (CFSP), external representation is to be conducted by the EU's High Representative (HR) (Treaty on European Union, Article 27:3). The European External Action Service (EEAS) was established in 2010 to assist the HR. Further assistance comes from the former European Commission delegations in, for instance, New York, Paris and Geneva, which were renamed EU delegations and are now also responsible for CFSP issues. As there was no Commission delegation to international organisations in The Hague to cover the EU's representation at the Organisation for the Prohibition of Chemical Weapons (OPCW), the International Criminal Court and *inter alia* the International Criminal Tribunal for the former Yugoslavia, no existing delegation was in place to be changed into an EU delegation. As a result, at the OPCW the EU member states are largely still waiting for the new EU foreign policy actors to arrive.

This paper asks whether this is a problem, in particular with regard to the EU's ability to influence the OPCW's tasks and policies. To date, the preparation of EU statements and the chairmanship of EU coordination meetings are still being handled by the country holding the rotating Presidency of the EU (in line with the old CFSP rules for external representation) and not by a representative of the EEAS. Officially, the Presidency country is carrying out the task of 'EU coordinator' under the auspices of the EEAS, and a senior-ranking EU diplomat from the EEAS joins its team merely to read out the EU statement in the annually held Conference of the States Parties, the organisation's principal organ. The OPCW's Executive Council consists of 41 countries, of which nine are EU member states, so the rotating Presidency country is not always represented. This results in the EU at best speaking from the observer seat, leaving the main and executive organ of the OPCW largely uncovered by an EU representative (Emerson *et al.*, 2011: 95).

The OPCW is the international organisation dealing with the activities of chemical disarmament. In line with the Chemicals Weapons Convention (CWC), which it serves, it aimed at the destruction of all declared chemical weapons by 2007. This objective was not reached, however, leaving the signatories of the CWC to decide to extend the deadline and keep the OPCW fully operational with a staff of over 400 people. The OPCW usually functions in a very concealed and intergovernmental context, with non-governmental organisations, media and think tanks in the background (Lak, 2007: 197). Specialist magazines on arms control and chemicals, such as *Analytical and Bioanalytical Chemistry*, *Arms Control Today* and *The Chemical and Biological Weapons Conventions Bulletin*, discuss the OPCW's agenda in detail, but hardly any research is available on the political dynamics of the organisation, let alone on how the EU operates within it.

This paper will seek to analyse the EU's current effectiveness in the discussions taking place in the OPCW's governance bodies. It will focus on the OPCW's relevance for the EU and will investigate to what extent the EEAS's lack of involvement is harmful for the EU and the functioning of the OPCW. Effectiveness will be viewed in relation to the EU's so-called 'actorness', which will be examined through the EU's authority on

the issue of chemical weapons, the preference homogeneity of the EU member states on matters discussed at the OPCW, and EU socialisation among their representatives working on OPCW affairs. The main question is whether and to what extent the EU is effective in OPCW negotiations and how this is related to its actorness in this organisation. The paper is particularly interested in investigating the consequences of the limited involvement of the EEAS and the absence of an EU delegation to international organisations in The Hague. To put it more bluntly, how much of a problem is it that Brussels has still not arrived at the OPCW?

In order to answer this question, this paper proceeds in section two by elaborating on how we could consider the EU's effectiveness in international institutions and how this is likely to be related to its international actorness. The paper will briefly explain why we look at authority, preference homogeneity and EU socialisation to analyse the degree of EU actorness and how these factors could influence the EU's effectiveness in the OPCW. The third section will look at EU actorness in the context of the OPCW. Findings based on interviews with diplomats working on the OPCW will be presented. The fourth section will focus on the question of the EU's effectiveness in the OPCW and will outline findings with regard to how our interviewees judge the EU's effectiveness, relate it to its actorness, and look at why the EU failed to be effective on a specific issue, namely the proposed increase of inspections at sites where chemical products are made. The fifth section will discuss whether the establishment of an EU delegation to international organisations in The Hague could strengthen the EU's overall influence within the OPCW. The concluding section returns to the question of how bad it is that the EEAS is so little involved and discusses what the EU could gain if it became more active and knowledgeable on matters discussed at the OPCW.



## 2. The EU's Actorness and Effectiveness in International Institutions

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This paper analyses EU effectiveness in its relation to EU actorness. Research on EU actorness goes back to the 1970s when the EU was defined as a 'Civilian Power' with a presence in world politics (Sjöstedt, 1977). It was developed *inter alia* by Bretherton and Vogler (1999 and 2006), Jupille and Caporaso (1998), and Groenleer and Van Schaik (2007). EU actorness was depicted as not being well developed in all fields and its emergence as not relying solely on competence being transferred to the EU (as often indicated by politicians), but also by other factors, such as coherence or the cohesion of preferences of EU member states. EU effectiveness has more recently become a subject of study with, *inter alia*, an edited volume by Laatikainen and Smith (2006) and a special issue on EU performance that was edited by Jørgensen *et al.* (2011). Assessments of the EU's influence were also made in other case studies and general research on EU foreign policy (such as Smith, 2010; and Bickerton, 2011). The EU's effectiveness has been compared in some studies to that of other great powers, such as the US (for example, Keukeleire and MacNaughtan, 2008), or portrayed against a background of a changing world order in which the EU's influence would be in decline because of the shift of power towards the emerging

economies (particularly China and India). The decline in influence would be related to the EU's actorness, since it would make EU member states realise that – having become medium-sized powers at best – they have no choice but to operate with a single voice (for example, Sapir, 2007).

The relationship between actorness and effectiveness has been studied by Van Schaik (2010) and is the subject of a forthcoming special issue of *International Relations* that is edited by Niemann and Bretherton (forthcoming). It is often assumed that a larger degree of EU actorness is a precondition for becoming more effective, but empirical findings are still ambiguous with regard to this relationship. Thomas (2012) points to the central importance of coherence, which in his view relates to both the policy viewpoints of EU actors and to their political support of common EU positions. In the model used here, these concepts are separated and labelled preference homogeneity and socialisation. This paper aims to contribute to the debate on EU actorness and its relationship to effectiveness by providing empirical evidence in the case of the EU's activities in the OPCW.

*Effectiveness* is defined in this study as the extent to which the EU reaches the main goals of its common position in the results of international negotiations (see also Young, 1994 and Jørgensen *et al.*, 2011). Measuring the EU's effectiveness in multilateral negotiations is not only difficult but also inherently subjective. It is strongly influenced by the perceptions of the participants to negotiations. In this paper it is accepted that effectiveness is subject to different views, which will be described. Judgements of effectiveness will moreover be analysed within the OPCW-specific negotiating context. If the EU's position is very different from the position of the rest, it will be more difficult to achieve outcomes that the EU prefers, a factor that needs to be taken into account.

This paper relates the effectiveness of the EU's representation in the OPCW to actorness – meaning the EU's ability to function actively and deliberately in relation to other actors in the international system (Sjöstedt, 1977: 16). Actorness is analysed by looking at authority,

preference homogeneity and EU socialisation. Looking at authority resembles an institutionalist way of looking at actorness, since it defines the rules of the game (and in line with this the responsibilities and tasks of the actors involved). Analysing the degree of preference homogeneity can be considered an intergovernmentalist way of explaining EU actorness, since it points to the central role of the EU member states in explaining whether or not they are willing to unite their external representation. Looking at EU socialisation adds a constructivist perspective, where EU actorness is explained by EU member states merely considering it 'appropriate' or not to operate together with their European partners in international affairs. Our assumption is that by combining these insights from major international relations theories, we are able to establish an accurate analysis of EU actorness and we expect in turn that the identified factors influence EU effectiveness without defining *a priori* the direction of this relationship.

*EU authority*, or the EU's right to conduct policies in any given policy area,<sup>1</sup> influences whether the EU is obliged to act on the basis of a common position. The legal concept of competence is not used here, as this is very much linked to whether the EU is legally entitled to make laws on a specific issue and is therefore more relevant for issues belonging to the Treaty on the Functioning of the European Union (TFEU). Instead, we use the concept of authority and use it to analyse whether EU actors have the right to propose positions and to represent the EU externally. After the entry into force of the Lisbon Treaty, the EU's HR obtained these rights concerning issues belonging to the CFSP. However, questions remain regarding the definition of this field and how the HR's authority is related to EU member states' own rights to operate within international organisations (and more generally to conduct an independent foreign policy). What issues do and do not belong to the CFSP, and can EU member states still represent their own cause or make complementary interventions? With regard to international organisations' agendas, it can often be debated whether specific issues belong to the CFSP. This subsequently raises questions about whether the EU's foreign policy actors (that is, the HR and her

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1 The definition of authority used in this paper is similar to the one used in Jupille and Caporaso (1998) and Groenleer and Van Schaik (2007).



subordinates) are allowed to take care of external representation. The difficulty is that it is hard to solve these disputes over the definition of what falls under the CFSP, as the field remains outside the remit of the European Court of Justice.

A higher degree of EU authority could be expected to contribute positively to EU actorness and to increasing its effectiveness. When EU actors have the authority to act, this is likely to increase the EU's visibility and presence. On the contrary, it might also undermine the EU's actorness and therefore its effectiveness, since member states may consider a forced coordination of CFSP positions by the HR as too much of a straightjacket, limiting possibilities for individual EU member states to influence the negotiations. This is particularly relevant if member states find it difficult to agree on a common position or do not feel that their interests are represented most effectively by the HR or one of her deputies (from the EEAS and/or EU delegations). To increase our understanding of the motivations and support of EU member states to operate on the basis of a single voice, this paper will therefore also look at preference homogeneity and EU socialisation to analyse EU actorness.

*Preference homogeneity* exists during the negotiations when EU member states have similar preferences to each other (and in comparison to other actors in the negotiations). As a result, they manage to agree upon a common position relatively easily and are willing to speak with a single voice, even if this is not obligatory. EU international actorness would be the result of a congruence of EU actors' preferences in relation to those of its negotiating partners (Frieden, 2004). The EU can be expected to be more effective in the negotiations when the EU member states' preferences are rather homogeneous. If they can easily agree on the EU's position, there is more scope for devising a negotiating strategy and more room for the lead negotiator to seek compromises. An exception could be a case where the EU wants to obstruct progress in the negotiations. If it wants to stick to the status quo, it can argue that its hands are tied by a very strict mandate, a phenomenon known in the literature as the 'Schelling conjuncture' (Meunier and Nicolaidis, 1999). *EU socialisation* means that the EU member states' representatives who are involved in the negotiations consider it appropriate to operate on

the basis of a unified EU approach in international affairs (Smith, 2006). In that case, EU member states' representatives can be expected first of all to adopt a European and not a national orientation towards the issue at stake. They no longer wish to make statements of their own in the official negotiations and they also support the EU position during informal encounters with negotiating partners or third states. EU international actorhood would be the result of representatives considering it 'normal' to speak with a single European voice. EU socialisation can normally be expected to increase the EU's effectiveness in negotiations. Forming a strong and coherent block is likely to strengthen the EU's appearance. On the contrary, however, it could be argued that too much identification with the EU may lead to a feeling of self-righteousness or even 'group think' (Van Schaik, 2010), which could undermine effectiveness.

This paper will analyse these three aspects of actorhood – EU authority, preference homogeneity and EU socialisation – and see how they are related to the EU's effectiveness in the negotiations. The study's analysis and findings are based on interviews with approximately ten diplomats from EU member states working on the OPCW. To obtain an accurate insight, representatives from both larger and smaller EU member states were selected. To validate our findings, we also invited and received comments on earlier versions of this paper from EU member states' representatives. The current functioning of EU coordination and representation in the OPCW were questioned in the interviews: how common positions are decided and presented; how often member states gather to prepare; whether they always speak with a single voice; whether the EU uses the OPCW negotiations in a broader scheme; and whether an EU delegation in The Hague would be of added value.



### **3. EU Actorness: Always a Single EU Voice in the OPCW?**

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The EU's position in the OPCW is part of its striving for non-proliferation of weapons of mass destruction (WMD). This objective will only succeed if EU member states move in the same direction, preferably with the same commitment (Van Ham, 2011: 2). Most of the attention in the EU's official strategy against WMD proliferation (EU, 2003) is devoted to the fight against nuclear proliferation by states and to some extent threats of terrorism. The strategy points out that "while the international treaty regimes and export control arrangements have slowed the spread of WMD and delivery systems, a number of states have sought or are seeking to develop such weapons. The risk that terrorists will acquire chemical, biological, radiological or fissile materials and their means of delivery adds a new critical dimension to this threat" (EU, 2003: 2). The use of chemical weapons by states or terrorist groups is thus still considered an issue that deserves attention.

Nevertheless, the regime for chemical weapons seems to have attracted far less attention from the EU than the other international regimes – that is, the regimes for nuclear weapons and even that of biological weapons covered by respectively the (United Nations Review)

Conference for the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and its executing International Atomic Energy Agency (IAEA) and the Biological and Toxin Weapons Convention (BTWC). This is noteworthy since chemical weapons' stocks have not yet ceased to exist and the threat of them being reproduced by state or non-state actors continues. Several states have financial or administrative difficulties in implementing legislation related to specific chemicals, resulting in an enduring threat of the production and use of chemical weapons.

Officially, the OPCW is merely the implementing body of the CWC, which became effective in 1997 and aims to exclude all possibility of the use of chemical weapons. The CWC has been signed by representatives of 98 per cent of the world's population. The OPCW is, among other tasks, responsible for inspections of the destruction of chemical weapons. Its main governance bodies are the Executive Council, a two-year elected council of 41 member states working on implementation and compliance issues; and the annual Conference of the States Parties, composed of all 188 member states. The OPCW was never housed under the United Nations (UN) umbrella, but is recognised by the UN as an independent, autonomous international organisation dealing with the activities of chemical disarmament. The destruction of any declared chemical weapons' stockpiles by the states that signed the CWC should have been completed by 29 April 2007. This date was later shifted to 2012, and this year will have to be postponed again, with Russia and the United States (US) believed able to complete the destruction of their chemical weapons only by 2021 (Walker, 2010). During the transition period that lies ahead, the question remains of how the EU should organise itself optimally within the OPCW, with a view to maintaining pressure to succeed in the objective of destroying all chemical weapons, including those possessed by states that are not CWC signatories. The paper will now discuss EU authority, preference homogeneity and EU socialisation on OPCW matters.

### *EU Authority*

Since the entry into force of the Lisbon Treaty, the EU has been entitled to conduct external representation over issues that lie within the remit

of its CFSP. The important question is to what extent the issues on the OPCW's agenda fall under the CFSP. The problem here is that there is no clear-cut definition of issues falling within this category. According to article 24:1 of the Lisbon Treaty '[t]he Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security'. Most EU diplomats at the OPCW consider everything discussed at the OPCW as belonging to the CFSP, but during preparations for the 16<sup>th</sup> annual Conference of the States Parties (from 28 November–2 December 2011), the United Kingdom (UK) claimed that national competence prevailed on some issues. One issue concerned the OPCW's budget; another concerned the tenure policy for OPCW staff. According to the United Kingdom, the EU does not have exclusive competence over these issues and these items should therefore not be included in a statement made on the EU's behalf. Other EU member states opposed this view, but since consensus is required for CFSP positions, no agreement over the EU position could be reached without the UK. A compromise was eventually reached for the main statement (in general debate) to be made 'on behalf of the EU', covering most issues of the OPCW's agenda, and for the other two issues to be taken up by the coordinator (that is, the representative of the country holding the rotating EU Presidency) when they turned up on the agenda. The interventions on these issues were made on behalf of the EU and its member states.

The altercations between the UK and the other member states that took place during autumn 2011 in the OPCW resembled a more general dispute on the matter of EU authority over foreign policy. In May 2011, UK Foreign Secretary William Hague had sent a diplomatic cable to all British embassies, warning diplomats to look out for 'competence creep' by the EU, now that the EEAS was in place. Hague believed that the EU was increasingly speaking on the basis of EU statements at international forums, including on issues that he still considered belonged to national competence. Other EU member states and the EEAS were not amused. They viewed the UK's move as an illustration of its dislike for a common EU foreign policy and allowing the EEAS to craft it. It merely confirmed for them the earlier statements made by William Hague that the UK would not outsource its foreign policy to the EEAS and would defend its

own national interest in the world (Burke, 2012). After tough discussions among the EU member states, the matter was settled with the document 'EU Statements in Multilateral Organisations: General Arrangements' (EU, 2011), which provides arrangements for what to do in cases of conflict over EU competence. In the case of the OPCW, the question was raised as to whether the possibility for appealing to Brussels should be used, in which case the EEAS would consult the Brussels-based body of EU ambassadors – 'Coreper' (the Committee of Permanent Representatives) – something that eventually proved not to be necessary as the matter was resolved in The Hague.

For issues indisputably belonging to the CFSP, the High Representative is in charge of external representation (Treaty on European Union, Article 27: 2). A practical problem with regard to the EU's ability to execute this task is that the EU is not a member of the OPCW, because membership is a prerogative of states. In addition, there is no EU delegation to the international organisations in The Hague, the EEAS does not have the expertise to work on the OPCW, and it was decided not to allocate more resources to this matter. As a result, the EEAS has (only) informally approached the country holding the rotating Presidency to act as the 'coordinating country'. The coordinating country undertakes all of the preparations and coordination for EU speeches and meetings, as the Presidency did before. One interviewee confided that 'there was no alternative apart from accepting the invitation' to become the coordinating country as Presidency. In theory, the EEAS could ask any EU country's delegation to fulfil this role, but over recent years it has been the Presidency country that has been endowed with this task.

A *chef de file* system of motivated colleagues usually supports the coordinating country in The Hague in preparing EU statements, although most of the weight clearly lies on the shoulders of the coordinating country. As a result of the inability to become an OPCW member and in the absence of an EU delegation to international organisations in The Hague, the external representation of the EU in the OPCW runs almost completely through the EU member states that are present. A representative of the EEAS participates in the OPCW's annual

Conference of the States Parties, but only as an addition to the coordinating country's delegation, and just to read out the EU's statement.

### *Shared EU Preferences*

All of the interviewees underlined that EU member states have rather similar preferences. EU member states differ only very slightly in their opinions. All are developed, industrial countries and – from a military point of view – most are NATO members. The EU member states also share the same preferences on the OPCW's goals and future, which are in line with the CWC's implementation. According to a 2009 Council decision, through which the EU finances OPCW activities, '[t]he objectives of the EU Strategy [EU Strategy against Proliferation of Weapons of Mass Destruction] are complementary to the objectives pursued by the OPCW' (EU 2009: 96). In general, the three most important objectives on OPCW matters are: the destruction of chemical weapons; strengthening the quality and quantity of inspections; and the assistance of countries in regulating and awareness-raising to avoid chemicals being turned into weapons.

After the destruction of the last arsenals of chemical weapons that were declared to the OPCW, preventing the re-emergence of these weapons is a top priority of the shared EU agenda. The work is not over until the final eight countries – Syria, North Korea, Israel, Egypt, Somalia, Angola, Myanmar and South Sudan (the first four of which are in all probability possessor states) – have not only signed the treaty but also disposed of their arsenals. The relevance of this objective has recently increased with the possible use of chemical weapons by Syria against its own population. Even with this task in mind, the OPCW – considered a relic of the Cold War by some – can and probably will become smaller. At the moment, the OPCW counts 487 employees, including 200 inspectors. In the future there will be enough work on training, raising awareness and implementing legislation on chemicals. Now, however, only approximately 45 per cent of the countries that signed the CWC have



fully implemented the provisions in their national legislation to which they agreed under the CWC.

Although EU countries have a common agenda and share the same goals, there are differences. On the one side are smaller states that in some cases lack interest and do not have an OPCW agenda. On the other side are states that formerly possessed chemical weapons, or countries that continue to find chemical bombs from the First World War in their fields. They have a much stronger political will to ban these weapons. Another reason for an active approach to the OPCW is the industrial interests of states with a large chemical industry. They are, for instance, reminded from time to time by these industries that inspections of industrial sites should not be overly bureaucratic. This most likely explains why Germany has a relatively large staff of four persons working on OPCW matters in the German Embassy in The Hague. Despite these differences, it has proven to be quite easy to agree upon the substance of common EU positions. Official statements usually do not cover much new ground. The EU generally has a broad brush over all of the topics and keeps things relatively general, but the statements are strong enough to withhold most EU countries from making their own statement. Most of the interviewees felt that the impact of the broad but common statement is quite large. One even quoted: 'If other delegations are cross after the EU speech, it does say that it works'. Other respondents also indicated the impact of EU statements on other delegations.

The question remains as to whether the EU's position is more strongly represented through a single voice, or by means of several EU member states making similar statements. At least in speaking time, the EU is outnumbered in the annual Conference of the States Parties (CSP), having only one speech as a counterweight to two days of continuous speeches. On the positive side, the EU is usually allowed to be the first to make its statement, which indicates the combined weight of EU member states. In the different UN-styled country groups, the EU is split up: Cyprus is part of the Asian group; former Soviet countries are represented in the Eastern European Group (EEG); and the rest of the EU finds itself in the Western European and Others Group (WEOG). The

diplomats interviewed for this paper do not see any problem in the split, largely because the country groups mainly discuss procedural affairs. Some even considered it a plus, because it means that more EU countries can take seats in the (country group-based) Executive Council.

Preferences are shared among the EU member states, but the EU institution that is responsible for CFSP policy-making – the EEAS – is only marginally involved in shaping or channelling these preferences. Countries usually do not receive any EU proposals or agendas, and Brussels seems to have only been awakened to the OPCW by the most politically sensitive issues on the organisation’s agenda. Over recent years, incidental involvement could be noticed on major issues, such as the relatively large arsenals of chemical weapons that were found in Libya after the fall of Muammar Gaddafi, or the extension of the OPCW’s final destruction deadline.

In general, the member states’ OPCW representatives who were interviewed seemed to be slightly disappointed about the lack of interest and expertise on OPCW matters within the EEAS. Resources seem to be limited in Brussels, where the EEAS has no full-time position working on the OPCW at the moment, and a senior staff member of the EEAS came over for only half a day to read out the EU statement at the 2011 Conference of the States Parties. Interviewees partly blame their own functioning: ‘Because the OPCW is functioning quite well, they don’t even look our way’. Other reasons voiced for the disinterest are the EEAS’s choice to work first on more pressing EU foreign policy issues and the fact that the EU will not be able to join the CWC treaty and has little prospect of joining in the future.

The lack of interest may also be because the EEAS and several EU member states just do not consider the issues on the OPCW’s agenda to be relevant enough. One argument is that chemical weapons are no longer that big of a deal in the modern world. Few countries would ever consider using them and it seems that their irrelevance on the battlefield made countries ban them altogether in the first place. Because of the limited strategic value of these weapons, the EU should not prioritise playing a large role here. On the contrary, however, it can

also be argued that attention for the OPCW is on the rise, as debates in the organisation are increasingly politicised. This is because other countries, such as Iran, are paying more attention to discussions taking place at the OPCW, as they consider it a 'playground' for testing arguments on WMD, thereby refuting Western anti-Iranian non-proliferation statements on nuclear weapons.

Indeed, interventions made on behalf of the EU are important in this isolated arena, as discussions at the OPCW tend to have become increasingly political. This is caused by the general power struggle between the West and Asia, and takes place against the background of discussions on non-proliferation between Iran and the West. EU internal differences on matters discussed in the OPCW are not as pronounced as those regarding nuclear non-proliferation, where France and the UK openly take different positions on the issue of disarmament, but differences do exist at times. In order to gain ground, a good EU representative to the OPCW has to be able both to manage EU internal coordination and to respond to the political dynamics of the organisation, which are increasingly linked to more general debates on non-proliferation and the shifting tectonics of power constellations in today's world order.

### *EU Socialisation*

The delegations in The Hague continuously make EU statements, share EU plans, and even increasingly stop making their own statements. Candidate countries and potential candidates, but also Norway, Moldova, and even Georgia, Armenia and Ukraine, regularly align themselves with the EU statements that are made in the OPCW. The low number of statements in the OPCW that are made directly on behalf of one of the EU member states is a sign that representatives of EU member states increasingly trust that their interests are well represented in the EU statements and that they carry sufficient weight to be taken seriously by others. When national statements are brought forward, this is seldom caused by disagreement over the content, but merely reflects a desire by member states to illustrate their presence,

and sometimes also to illustrate that they challenge the EU statement on procedural grounds regarding the EU's authority.

Still, the interviewees all indicated that they do not consider themselves 'European representatives', but first and foremost representatives of their own country. This may have to do with self-preservation, as one interviewee answered firmly: 'If the EEAS sent an EU delegation that could actually replace the representation through member states, why would I be still here?' The independent status is confirmed by countries outside the EU that do not approach a country or even the 'coordinating country' as EU actors. Some were even surprised when major EU statements were presented by relatively small EU coordinating countries that held the EU Presidency at the time.

The Hague-based diplomats working on OPCW issues seem to operate largely in isolation from other international discussions. They meet, mutually, on a weekly basis in the country groups and EU coordination meetings are also organised with the same frequency. At home, The Hague-based diplomats are considered experts on the non-proliferation of chemical weapons. As a result, very few member states' OPCW representations receive instructions and (even less) a delegation from their capital to join the embassy in OPCW meetings. Countries that do send national delegations for OPCW meetings do not usually instruct their representations in The Hague either. This image of expertise and self-reliance is also confirmed by looking at the EU-OPCW relationship: decisions made by EU member states' diplomats in The Hague have never been changed in the Brussels-based Council Working Party on Global Disarmament and Arms Control (CODUN), where they are officially approved (or rather rubber-stamped). The OPCW is widely considered too technical, and the level of expertise that is needed to follow and understand OPCW discussions is not likely to decrease in the future.

In OPCW meetings, the comments made on behalf of the EU during discussions or interventions in response to other countries' statements are scarce. The person who led EU coordination and external representation during the Polish EU Presidency did receive a lot of

praise from our respondents for his interventions in OPCW meetings. However, interviewees point out that the quality of EU interventions, and whether they are made at all during the heat of negotiations, does strongly depend on the delegation formally representing the EU. This also explains why representatives of EU member states, particularly those of the large EU member states, at times still make national interventions or engage directly in the informal negotiations that take place behind the scenes. In addition, it provides an explanation for why many representatives of EU member states would welcome a permanent EU representative from the EEAS, since this could potentially strengthen the EU's presence during the formal and informal parts of OPCW negotiations. It would give the EU a clear face at the OPCW.

## **4. The EU's Actorness and Effectiveness in the OPCW**

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The involvement of the EU's new foreign policy actors on EU decision-making on positions for CFSP issues, such as barring the production and use of chemical weapons, should have been tightened after Lisbon, but not much really changed. This is partly because the EU has no active role in the OPCW and mainly because discussions taking place at the OPCW have not been high on the EEAS's agenda. This is understandable when looking at the low priority that is given to chemical weapons in the EU's security policy when compared, for instance, to the non-proliferation of nuclear weapons.

Even though it is not difficult – from a strategic or military perspective – to understand the lower priority that is given to chemical weapons, the lack of interest is still unfortunate in our view. The increased politicisation of discussions in the OPCW because of heightened attention given to the OPCW by the emerging economies, including India and China, which link the OPCW's debates to the West's ongoing discussions with Iran, are a cause for concern. Today's OPCW functions more and more as a mirror of its bigger non-proliferation brother in Vienna: the IAEA. When the US builds up pressure in the IAEA against

Iran's continuous nuclear progress, the Iranians boomerang the Americans in the OPCW, complaining about US delays in the area of chemical disarmament. The current uprising in Syria also illustrates the continued threat of the use of chemical weapons.

During the 16<sup>th</sup> annual Conference of the States Parties to the Chemical Weapons Convention convened at the OPCW, discussions on the proposed increase of inspections illustrated the signs of increased politicisation. The EU joined the table with a relatively strong position, but lost on the important issue of increasing the number of chemical site inspections. It was bypassed by its main WEOG partner, the US, in a late night deal that the US secretly made with India and China, behind the EU's back. Although the new-born coalition represented a very large share of the world's population, it is at least uncommon to leave the EU – representing roughly 38 per cent of the OPCW's budget – completely on the outside.

The agreement, which suggested a much more modest increase in the number of inspections, can be seen as a tactical last-minute decision by the US. Perhaps the US even used the OPCW negotiations in its broader search for a coalition in measures against Iran. Nevertheless, most EU member states in The Hague were not amused at being disregarded by their traditional ally. The situation clearly exposed the major tactical inequality between the US and the EU in these kinds of negotiations.

Discussions in the OPCW can evolve rapidly and the EU is often not flexible enough to react in those circumstances. It has a common position and first needs formally to consult its 27 member states if it wants to depart from this position. It is up to the EU's representative – in this case, the person from the coordinating country holding the rotating EU Presidency – to judge the flexibility of the EU's mandate and whether he or she feels comfortable enough to intervene on issues that are not fully covered in the EU's common position. Consulting all 27 EU member states has a time-consuming downside and neither delegations nor the EEAS have proven able to use negotiations in the OPCW in a broader, tactical scheme. Having the EU act as a bloc in OPCW negotiations even causes irritation. This is caused by outsiders not

understanding how the EU operates, other parties sometimes having to wait for EU coordination to be concluded, and the EU's representative sometimes being absent during the informal negotiations, where, at the end of the day, the really important issues are usually settled. These are recurring themes in other studies on the EU's actorness and effectiveness in international organisations (for example, Smith, 2010; Jørgensen *et al.*, 2011; Shahin, 2011; and Thomas, 2012). The described shortcomings, as far as they are systematic, would be addressed by the Lisbon Treaty abolishing the rotating Presidency system in the area of foreign policy, but this case illustrates that this has not happened so far.

The EU's principle body for external relations, the EEAS, does have the authority to take the driving seat on OPCW issues, since it falls under the CFSP. The EU's authority is only contested on budgetary and personnel issues by the UK. Including these matters in the EU statements as well would allow the EU to gain a stronger grip on all processes of the OPCW, even to the point where some member states might feel obsolete. The EEAS could take care of all the tasks for which it now calls in the role of the coordinating country. Approximately half of the EU member states are already confident that their interests and objectives would be well defended by the EEAS. With regard to preference homogeneity, all 27 EU member states share roughly the same ideas on the OPCW's future, with small differences with regard to the countries with chemical industries and their historical background with chemical weapons. Representatives of EU member states are preparing for the EU operating with a single EU voice and are nowadays used to EU coordination. The shared commitment of different embassies to work out EU statements and to function as a bloc is strong. Nevertheless, representatives still consider themselves to be primarily national representatives.

Even though EU member states agree fairly easily upon the statement that is made at the OPCW, the interviewees confirmed that changing decision-making on the common position from unanimity to majority voting would increase the EU's effectiveness. This would shorten the reaction time, speed up the process of making statements, and overall give the EU's representative more flexibility to work in this increasingly political organisation. EU member states have already accepted this far-



reaching change in competence on issues such as agriculture and trade, but on most issues of the CFSP no such agreement exists and it is unlikely that there will be one in the near future. The UK and France are the strongest opponents on this matter, since giving up their veto on CFSP would de facto dilute their veto in the UN Security Council, or at least reopen a debate on a single EU seat in this principal UN body where the most politicised questions of foreign policy are debated.

The diplomats who were interviewed in The Hague had very different ideas in general on higher effectiveness for issues where EU coordination is obligatory and a well-established practice. For instance, in the World Trade Organisation (WTO), where EU coordination is highly centralised, the EU is widely considered more than its parts, even though its effectiveness in this body seems to have decreased in the past decade (Young, 2011). It is not yet clear whether that will be the case at the OPCW in the future. If the EU spoke more solidly with a single voice and EEAS representatives indeed took over, the EU's effectiveness would, according to some, increase. Others consider that more involvement by Brussels would merely strengthen institutionalist debates. As one interviewee put it: 'The EU is just not clever, sleek and strategic enough and misses the stature to take over the embassies' roles'. What any EEAS involvement is likely to do is to take the whole EU-OPCW representation out of its friendly isolation.

## 5. An EU Delegation in The Hague?

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Under the Swedish Presidency in the second half of 2009, the way forward with regard to the implementation of the Lisbon Treaty was still sketchy. Back then, plans for a pilot scheme were developed for EU delegations in Geneva and New York to take over EU coordination and external representation at international organisations (Drieskens, 2012), but no such plans existed for The Hague. The Swedes concluded that until further notice there would be no change in the way that EU coordination worked at the OPCW, and that the responsibility for local EU coordination remained in the hands of the rotating Presidency. Today, the delegations in The Hague are still waiting for this notice from Brussels.

If the EEAS sends a delegation to represent the EU in The Hague in the near future, it would seem logical for it to take care of the EU's representation in all of The Hague's major international organisations: the OPCW; the International Criminal Court (ICC); and the international tribunals, of which the International Criminal Tribunal for the former Yugoslavia (ICTY) is the most important. The problem with the ICC is that member states' preferences are much more divergent and the EU coordination process is largely done in Brussels at the Council Working

Group on Public International Law (COJUR), which, by the way, is also still chaired by the rotating Presidency. The problem with the tribunals is that they are funded by the UN and work together directly with the member states instead of the EU.

Considering an upgraded EU representation in the OPCW will prove to be difficult as well. The CWC treaty that forms the foundation of the OPCW is signed between state parties. Changing the treaty for a possible EU accession to the OPCW will be a long shot. Establishing now an EU delegation in The Hague would technically only give access to EU diplomats when EU member states include them in their delegation to the OPCW, in a similar way to how the 'coordinating country' does today with the EEAS representative coming over from Brussels. Speaking from behind an 'EU nameplate' might still be a bridge too far, although an upgraded status in line with the recent resolution on EU representation at the UN General Assembly might be possible in the foreseeable future (UN resolution 65/276, cf. Drieskens, 2012; Grevi, 2011).

An EU delegation in The Hague would essentially take over the current tasks of the country holding the rotating Presidency. As most embassies in The Hague have only one or a few persons responsible for OPCW matters, the delegation could be small in size. Even one person could be enough for the coordination and representation. Coordinative tasks could go fully to the EU delegation and a better management of EU statements would help in gaining the maximum output. The EU could have a better-prepared coordination with one representative. The EEAS does not at this time have the expertise, but that could be built up by appointing a representative for OPCW matters. When the EEAS becomes more involved, step-by-step negotiations taking place in the OPCW could be placed in a broader scheme of negotiations on major global issues, including those on non-proliferation of nuclear weapons.

## 6. Conclusion

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This paper posed the question of how bad it is that 'Brussels' has still not arrived at the OPCW in The Hague. Research showed that, in the current situation, the EU is perceived as not operating terribly badly, but also not as effectively as might be possible, a finding that confirms other case studies on the EU's role in international institutions. The EU's newly established EEAS has obtained authority over at least most of the issues discussed at the OPCW since the entry into force of the Lisbon Treaty and the EU does by and large operate as one actor on the basis of a common position. However, its performance during negotiations taking place at the OPCW meetings depends greatly on the representative of the 'coordinating country', until now the half-yearly rotating EU Presidency, which formally takes care of this task under the auspices of the EEAS. The EEAS itself is hardly involved and EU discussions on the OPCW's agenda take place largely in isolation from other global debates.

Representatives of EU member states still consider themselves above all to be national representatives and not EU representatives. They also think that third countries do not approach them as EU representatives and observe that not all of them are keeping track of who is the EU's

representative at all points in time. On the substance of what is discussed at the OPCW, member states can agree fairly easily, but representatives do think that it would be much easier if majority voting was introduced to make it more possible to agree with common EU positions, while realising that this is unlikely to happen for CFSP matters. This would possibly also have eased the dispute with the UK on whether all items on the OPCW's agenda fall under the EU's authority and could therefore be included in a statement made on behalf of the EU. The time and energy devoted to settling this issue by making a second statement on behalf of the 'EU and its member states', and the EU almost having to enter the negotiations without a statement, undermined the EU's credibility.

In the 2011 Conference of the States Parties, the EU was overtaken by a secret deal made between the US on the one side and a number of Asian countries on the other. This illustrates that the EU is not being taken entirely seriously at all times. According to some representatives of EU member states, the EU's effectiveness at the OPCW could be bolstered by opening up an EU delegation to international organisations in The Hague. Being part of the EEAS, such a delegation could take up the coordination and external representation tasks that were delegated to the HR under the Lisbon Treaty. A precondition would be that delegation staff members have the right mandate and expertise to work on OPCW issues. In addition, practical but important issues such as the EU's current inability to join the states-based OPCW might have to be overcome, particularly in a longer-term perspective. Nevertheless, this paper recommends that the EU opens up a delegation in The Hague as it could make the EU a more credible, visible and effective actor, and would enable the EU to establish more coherence between what is discussed at the OPCW and in other international venues, for instance on the issue of non-proliferation in general.

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## List of Abbreviations and Acronyms

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WTO	World Trade Organisation
BTWC	Biological and Toxin Weapons Convention
CFSP	Common Foreign and Security Policy
CODUN	Council Working Party on Global Disarmament and Arms Control
COJUR	Council Working Group on Public International Law
Coreper	Committee of Permanent Representatives
CSP	Conference of the States Parties
CWC	Chemicals Weapons Convention
EEAS	European External Action Service
EEG	Eastern European Group
EU	European Union
HR	High Representative of the Union for Foreign Affairs and Security Policy

IAEA	International Atomic Energy Agency
ICC	International Criminal Court
ICTY	International Criminal Tribunal for the former Yugoslavia
NATO	North Atlantic Treaty Organisation
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
OPCW	Organisation for the Prohibition of Chemical Weapons
TFEU	Treaty on the Functioning of the European Union
UK	United Kingdom
US	United States
UN	United Nations
WEOG	Western European and Others Group
WMD	Weapons of mass destruction



# Clingendael Paper No. 7

This paper examines the status of the EU's representation in the Organisation for the Prohibition of Chemical Weapons (OPCW) in The Hague after the entry into force of the Lisbon Treaty. The paper concludes that although the EU has the authority to deal with OPCW issues and the 27 member states share roughly the same preferences, their representatives in The Hague still see themselves mainly as national representatives and work in relative isolation from other international debates. The rotating Presidency country takes the lead and the newly established European External Action Service is hardly involved and not very knowledgeable on the issues that are discussed at the OPCW. Opening an EU delegation to international organisations in The Hague, which is tasked with responsibility over EU coordination and external representation in the OPCW, could improve the EU's effectiveness, as it is likely to enhance the EU's visibility and coherence between what is discussed at the OPCW and at other international venues. However, an EU delegation would only be of added value if it operated with well-informed staff who quickly gain the confidence of the EU member states and are sensitive to the national sovereignty claims made by, for instance, the United Kingdom.

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