The Grand Illusion Continues: What the Lisbon Treaty Means for the European Union and Its Global Role

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While the EU is as beset as ever by internal divisions, European elites' ambitions for strengthening integration now revolve around greater foreign policy engagement and effectiveness. This is the central paradox of the Lisbon Treaty: an arrangement supposed to legitimize further integration through foreign policy success at a time when Europe is sorely divided over domestic as well as foreign policy. What gave rise to this glaring disconnect between reality and ambitions and what is this likely to mean for the EU in the next decade?

The Origins of the Failed Constitution

The origins of the Lisbon Treaty, finally ratified by all EU member states at the end of 2009, lie in the Nice Treaty of 2001. This round of diplomatic negotiations was an acrimonious affair, especially over the recalibration of voting weights in the Council of Ministers, which determines how many states are needed to pass or block legislation. Yet the greatest failure of Nice was that it failed to streamline the functioning of EU institutions ahead of the planned 2004 "big bang" enlargement that would see the entry of 10 Central and Eastern European states. Consequently, EU elites launched a new procedure for determining institutional reform: the Convention on the Future of Europe. Meeting over the course of 2003-04, the Convention drew together national and European parliamentarians, bureaucrats and civil society representatives. Their mandate was threefold: to simplify the legal basis of the EU treaty system, enhance institutional efficiency, and democratize the decision-making process. No striking new policy idea was brought to the table.

Under the stewardship of former French President Valéry Giscard-d'Estaing – awarded this sinecure to keep him out of the 2002 French Presidential election – the Convention produced a

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Constitutional Treaty. This document, with certain modifications imposed by national governments, was signed by all EU member states in 2004, opening the way for twenty-five separate rounds of national ratification. A veritable doorstop, the text of the Constitutional Treaty ran to 500 pages. The reason for this prolixity was that it was not merely an enumeration of constitutional principles and institutional rules. In addition, since the Constitutional Treaty was to replace the existing legal apparatus, it had to define and articulate the bureaucratic functioning of the gamut of EU policies, such as the mandate of the European Central Bank, the Common Agricultural Policy or the rules governing the Common Fisheries policy. This was necessary in order to place these policies above ordinary EU law; the EU system guarantees the credible commitment of its member states by ensuring that major policy objectives cannot be changed except by unanimous agreement. Hence the constitutional terminology was a complete misnomer. There was very little provision for limiting the EU-level of government, separating powers vertically and horizontally and assigning political responsibilities to specific institutional actors. The emphasis, as ever, remained on producing consensual decision-making, whereby ultimately there are no genuine "constitutional" bounds on what the EU can do providing there is consensus among the member states.

The failure of the Constitutional Treaty to find a receptive audience in France and the Netherlands needs no elaboration here. The EU's response to the failure of referendums in both these countries was to insist that the 2004 enlargement was unworkable without institutional reform. Thus a slimmed down version of the Constitutional Treaty was hastily prepared – taking care to remove the constitutional rhetoric and the policy specifics to leave just the institutional modifications. This is the document known as the Lisbon Treaty, which modifies rather than supplants previous EU treaties. This plan B suffered an initial setback when rejected by Irish voters in 2008. However, the insidious EU pressure brought to bear on Ireland not to stand in the way of reform led the Irish government to pull out all the stops in a second referendum on the Lisbon Treaty that passed in October 2009.

The Lisbon Blueprint

The Lisbon Treaty's strategy for reform rests essentially on presidentialization for the sake of achieving foreign policy goals that can have a domestic payoff amongst European citizens. Of course, there are other institutional modifications, especially a new arrangement for allowing national parliaments to object to and potentially even countermand EU decision-making (although the latter is unlikely as it would entail a parliament overturning a decision already accepted by its own national executive). But the real institutional innovation is the creation of the new post of President of the European Council, the inter-governmental body that sets the EU's policy agenda. Hitherto, this role was fulfilled by each member state in a six-monthly rotation. This rotating presidency not only meant an absence of longer-term coordination but also hampered the efficient representation of EU interests abroad, as seen for instance during the Copenhagen Climate Conference where Denmark, Germany, France and Britain each tried to take the initiative.

The new EU president of the European Council, former Belgian Prime Minister Herman van Rompuy, is thus tasked with providing policy leadership and representing the EU abroad. Yet this position (not compatible with holding national office) carries no electoral mandate; the

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appointment, which lasts two-and-a-half years renewable once, was made in secret talks held between member states. The second new position created by the Lisbon Treaty further demonstrates the increased emphasis on foreign policy: the High Representative of the Union for Foreign Affairs and Security Policy. Better known as the *de facto* EU Foreign Minister, this post was given to the British life peer Lady Catherine Ashton, who will also assume the role of vice-president of the European Commission, the EU's unelected executive body. These two appointments reflect, as per the consensual division of spoils, the current political calibration of EU member state governments with the centre-right gaining the more senior position.

Ashton's job will be helped by the creation of the new European External Action Service, an umbrella organization intended to coordinate national foreign ministries and diplomatic corps in support of EU policies such as enlargement, development aid, civilian and military crisis management, as well as liaising with foreign governments when the EU negotiates bilaterally. On the ground, the new Foreign Minister and her service will take responsibility for the EU delegations now present in over 130 countries and which also represent the EU in international organizations such as various UN bodies or the Organization for Security and Cooperation in Europe.

Both the new roles involve personalizing EU foreign policy to enhance coordination as well as visibility, home and abroad. However, national state sovereignty continues to place considerable constraints on EU foreign policy autonomy. Besides having to rely on consensus, which often results in lowest common denominator policies, the EU is hamstrung on important matters such as bilateral treaties with third countries since these are negotiated under the EU banner but still subject to twenty-seven separate national ratifications. Foreign policy above all requires Franco-British-German coordination, a task that is complicated by the former two holding permanent seats at the UN Security Council, which makes a common European position at the UN a difficult proposition. In this context, the roles of President and Foreign Minister are intended to raise the political profile of EU foreign-policy by personalizing responsibility for negotiating with the outside world and justifying these actions to national politicians and publics. Yet a survey of current domestic and foreign policy cleavages within the EU suggests that this strategy of institutional efficiency through unelected presidentialization faces certain insurmountable obstacles.

Domestic Divisions

A widely noted trend in the past decade has been "enlargement fatigue." The political will to embrace new member states is lacking but this also – for perhaps the first time in the history of the integration process – corresponds with the absence of a major new policy initiative. Traditionally, enlargement and new policy programs have gone hand in hand. Now both have stalled. The last major policy initiative, besides institutional reform, was the so-called Lisbon Agenda of 2000, which has singularly failed in its aim of making the EU "the most dynamic and competitive knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion, and respect for the environment by 2010." Most worryingly, there is no single hymn sheet for the EU's domestic policy priorities.

In the economic and political doldrums, the United Kingdom faces a critical election by the middle of 2010. The front-running Conservative party of David Cameron, however, remains deeply torn over the relationship between Britain and the continent. The Conservative base is embittered by Cameron's reneging on a supposedly "cast-iron pledge" to hold a referendum on the Lisbon Treaty if elected. There are mutterings of repatriating powers from Brussels, notably over immigration and fisheries policy; whilst the prospects of joining the single currency zone, the Euro, appear slim as this would render impossible the "quantitative easing" the Bank of England is undertaking to refloat the economy.

Across the Channel, the Franco-German axis has noticeably failed to produce any new ideas for policy coordination. Although relations between Nicolas Sarkozy and Angela Merkel are more productive than the disastrous Chirac-Shroeder coupling, the former have failed to see eye-to-eye on much of importance. Most notably, the German leader has been rather reluctant to pursue what her government sees as fiscally irresponsible stimulus spending. The new Christian Democrat-Free Democratic Party coalition elected in 2009 is also far more reticent about regulating Europe's financial markets than the French President.

With the economic downturn that followed the global financial crisis, the EU economy has witnessed some spectacular reversals of fortune: double-digit falls in GDP in Latvia and Estonia, 20 percent unemployment in Spain, the downgrading of Greece's bond rating. In fact, under the effect of increased social spending and national governments' stimulus measures, the EU Stability and Growth Pact that is meant to coordinate national budget deficits and overall public debt has been jettisoned. This, alongside Greece's disastrous and downright mendacious public accounting has led to fears for the future of the Euro itself, at least as a non-reversible triumph. In this tough climate two major underlying policy issues will be particularly thorny to resolve: energy and the balance between market freedoms and social protection.

For the past thirty years, Europe's leaders have sought to create a common energy policy. Given Russia's recent interruptions of gas supplies, and with Germany promoting the Nordstream gas pipeline that would bypass Eastern Europe, the EU's most easterly countries resent the failure to leverage collective EU strength against Russia's energy preponderance. This makes it much harder to object in turn to the continued use of coal power stations and even decrepit nuclear plants in the impoverished East, both of which the EU seeks to regulate. Moreover, the fear of shortages and ever-increasing energy prices, has led to a re-examination of the atomic option in countries such as Italy, Germany and Sweden – an area where the EU has historically taken a back seat to national interests.

The balance between an EU that fosters an open market – to prevent national sovereignty acting as a cloak for rent-seeking — and one that protects the losers of openness through regulation and redistribution is at the heart of many EU policy debates. Yet in the absence of transparent mechanisms of representation and accountability, the inter-governmental bargains struck in this area lack legitimacy. Scholars of this process point out the game of "blame avoidance" pursued by national governments who refuse to take responsibility for EU decisions they accepted and helped devise. In the complex legal fabric of the EU, it is thus the courts that increasingly have to strike the balance between the market and social protection. For instance, the 2007 Laval case saw the European Court of Justice rule that labor union blockading action that prevented

Latvians working in Swedish construction, for wages lower than set by local collective bargaining, is illegal. Lawyers expect that the Court will face an increasing case load in this area, putting great political scrutiny on an institution that is filling in the gaps created by the inability of the EU system to attribute political responsibility for specific EU policies.

Foreign Policy Divisions

Despite the high hopes resting on the President and Foreign Minister, the foreign policy field has a surprising number of slow-burning issues on which the EU is chronically divided. Nowhere is the previously mentioned enlargement fatigue more obvious than in the case of Turkey's proposed membership. With Sarkozy and Merkel both opposed to opening the doors to Turkey, this issue is off the immediate agenda. By the time it reappears, as surely it must, Turkey may have re-oriented its foreign policy objectives eastwards – a path it appears to be embarking on today. The other persistent Eastern question is Russia, which still looms as a menacing presence in much of Eastern Europe. Unimpressed not only by the EU's handling of the gas crises but also its de facto acceptance of Russia's occupation of the breakaway Georgian enclaves, the newest EU member states fear a future of possible "Finlandization." This harks back to the limited foreign policy autonomy of Finland during the Cold War, a future many fear awaits candidate countries such as Ukraine and Georgia, whose desires for a formal path to membership have been unsuccessful.

Where the EU has devoted enormous resources to fixing a problem on its doorstep, namely Bosnia and Kosovo, the results are decidedly unspectacular. Both are EU protectorates, surviving on manifold illegal activities and awaiting eventual membership that will offer their citizens a legal exit option as well as new streams of public jobs and money. Neither is a flourishing model of inter-ethnic cooperation and forgiveness. Indeed, EU member states are in fact at odds over the legal status of Kosovan independence. Although Kosovo's status is strongly supported by France, Spain – fearful of regional secession – has joined forces with Russia in asking the International Court of Justice to rule Kosovo's self-declaration of independence illegal.

Finally, the Afghan quagmire poses serious questions about the nature and resources of EU military coordination. From the outset, it appears that national participation in the NATO effort was above all an attempt to curry favor with the US administration rather than as part of a coherent EU security strategy. Controversies over deployment and rules of engagement have undermined this collective enterprise. More worryingly, Germany's path towards a "normalized" foreign policy role that includes military deployment abroad appears to have suffered a significant setback. The political fallout from the September 4 aerial strike of two tanker trucks near Kunduz, ordered by German troops but with the loss of many civilian lives, is such that the deadline for announcing Germany's exit strategy looks likely to be brought forward with alacrity. That even a solidly centre-right coalition can be undermined in this fashion suggests inherent limitations for an EU security policy that requires strong German participation.

At the same time, the United Kingdom's increasingly costly Afghan mission is proving difficult to sustain both in public opinion and hard currency. Beyond mere revulsion at the death toll and casualty levels, the British public is – similar to its American counterpart – increasingly skeptical about the contribution this deployment makes to national security interests. With the prospect of

austerity budgets looming, the British government is seeking to preserve the Army's ability to keep waging this campaign by slashing air force and navy budgets at a time when defense spending already stands at a historic low of 3 percent of GDP. In a period when naval rivalries are re-surfacing in East Asia, the sacrifice of the Royal Navy bodes ill for the EU's already struggling power projection and crisis management capabilities.

Conclusions: A Self-Limiting Power?

EU member states are divided over crucial aspects of domestic and foreign policy. These countries are also increasingly divided societies. This can be seen from the continuing violence in the French banlieues, the hounding of African migrant workers in Southern Italy, the difficulty of merely constructing a government for Belgium, or the riots that erupted in the British town of Leicester following a radical Muslim protest against a parade of soldiers returning from Afghanistan. In this respect, the official self-congratulation that followed the ratification of the Lisbon Treaty after a fraught decade of attempted reform is highly misleading.

Although the new treaty emphasizes foreign policy, the reality is that the EU is likely to turn inwards. European electorates, who in any case do not have a say in the appointment of the EU's new foreign policy representatives, will expect problems closer to home to be prioritized. Not only are citizens more concerned than ever about integration and its impact on their lives, national elites are less and less able to sell the benefits of integration convincingly as shown by the referendum failures throughout the past decade. Thus the electoral constituency, economic resources and intellectual inspiration for an enhanced EU global role are all sorely lacking.

Twenty years after the fall of the Berlin Wall, therefore, the continent is wealthy but anxious. The lack of new policy ideas and the statesmen to carry them through is nowhere better reflected than in the creation of two weak new positions granted to lackluster political cadres. The biggest winner in this period is undoubtedly Germany, which has absorbed its poor Eastern lands whilst remaining a tremendous export machine cushioned by fiscal soundness. However, Germany remains a reluctant and self-limiting power, instincts that no doubt will be extended to the EU-level in the decade to come.