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Tools for a Greater Union: The Implications of the Lisbon Treaty for the European Union

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Tools for a Greater Union:
The Implications of the Lisbon Treaty for the European Union

by

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Undergraduate honors thesis under the direction of

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the Upper Division Honors Program.

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Table of Contents

Introduction.....	3
Chapter 1- The Lisbon Treaty.....	8
Chapter 2-The Lisbon Treaty and the Economic Crisis in Europe.....	18
Chapter3- The Lisbon Treaty and EU Climate Change Policy.....	33
Chapter 4- The Lisbon Treaty and the Iranian Nuclear Crisis.....	49
Conclusion.....	63
Post Script- The EU in the Libyan Crisis.....	70
Works Cited.....	73

Introduction

The Lisbon Treaty, which went into effect in December 2009, was created to respond to three main problems in European governance: lack of efficiency, a “democratic deficit,”¹ and a lack of cohesion in foreign policy. The treaty, according to some, is only a repackaging of the “European Constitution,” which, because of nationalistic concerns and oppositions to its proposal to combine European Treaties into one document, was rejected in 2004. While some changes were made to the Lisbon Treaty to ensure that this was not the case, there is no discounting the two documents’ similarities. Both seek to address the three primary issues of democratic deficit, efficiency and foreign affairs. Both provide for very similar institutional changes. However, because of the failure of the Constitution, the Lisbon Treaty had to abandon constitutional references such as a European seal and a *Minister* of Foreign Affairs. The question is, then, how did a concept that was rejected in 2004, find acceptance in 2009?

The Lisbon Treaty was the result of decades of political change, compromise and negotiation in Europe. It embodies long-held desires for European integration, but paradoxically, it also embodies an equally long-held desire to limit the power of the European Union over Member States. The ratification of the Lisbon Treaty was not easy. As the Irish rejection of the treaty in June of 2008 demonstrated, many Europeans did not fully understand the treaty, and were worried that it might undermine their national sovereignty. Ireland ratified the treaty in 2009 once its concerns were addressed, but the treaty continued to suffer from opt-outs by states like the Czech Republic and protests from various Member States due to the earlier Irish rejection.

The conflict between state and community interests exemplified by these rejections and opt-outs reflects a larger trend in European integration. The original reason for the creation of a European “community”² was Franco-German peace. Peace would theoretically result from economic cooperation, a common market, and lowered trade barriers between countries, as these

¹ The democratic deficit refers to the sentiment held by many Europeans that European institutions are too far away from them and their personal needs to properly tend to them.

² Earlier incarnations of the European Union operated under different names: European Coal and Steel Community, European Economic Community, and European Community.

would ensure both economic stability and economic interdependence in Europe³. Over the years—and particularly since the 1980s—the notion of security broadened to encompass more than just military defense, and global events enticed European nation-states to integrate to strengthen themselves.

Throughout its history, European integration was driven by a necessity to combine resources and work together to achieve common goals thereby ensuring Europeans' mutual security. However, paralleling this integration was both the reluctance by many Member States to cede power to a supranational institution, and the desire to forsake community objectives to work toward national goals. These contradictory tendencies have continually reappeared throughout the European Union's history. Nonetheless, the European Union went from being a loosely affiliated community of states to an entity with supranational institutions and laws. The Lisbon Treaty embodies the most recent major step in the ongoing history of European integration.

Literature Review

Because the Lisbon Treaty was only ratified a little over a year ago, there is little literature available that directly addresses the concrete changes that it brought about. Much of the literature available consists of theoretical explanations of what the treaty *would* do *if* it were ratified. These accounts are varied in their expectations, some having high hopes for the treaty and others claiming that it would only repackage old policies. Other accounts claim that the treaty would actually weaken the European Union.

There is a general consensus among European scholars such as Jonathan Bradbury (2009) and Sophie Vanhoonacker (1997), who promote the notion that Member States are the lead actors in European action and integration, that European Member States cannot reconcile their individual interests with the collective good. Bradbury goes as far as to say that this problem could inevitably render further integration nearly impossible.

Constanze Haug and Frans Berkhout, who in their article on Europe's environmental policy (2010) argue that Europe already had significant influence over Member States' national policies, agree to an extent. Though they view the European Union as having some degree of

³ The theory was that if European states were economically dependent on each other, it would be impossible for them to go to war against each other.

control over internal policy, they also cast doubt on how effective that influence is. They concluded that, as of December 2009, the European structure was not strong enough to create a cohesive Europe that could influence international relations.

Other scholars, such as, Ramses A. Wessel, who does not emphasize Member State control over EU politics, argue that the Lisbon Treaty has already made the European Union more efficient by getting rid of the “pillar system,⁴” thus clarifying Europe’s power structure. According to Wessel, this will significantly reduce debates between institutions and make governance more efficient.

Julia Schmidt, proposes a synthesis of these two extremes. Schmidt expected that the Lisbon Treaty would have a very limited effect on the governance of Europe. Schmidt, who in her article (2009) focuses mostly on the Common Foreign and Security Policy (CFSP), argues that Member States have technically given up some sovereignty to the EU, but that they do still retain the right to have their own national and foreign policies. She also argues that even with the Lisbon Treaty, Member States and not EU institutions would remain the primary actors in the CFSP, because they decide what is put on the agenda and provide the resources for the implementation of that agenda.

Finally, Maria Lee (2008) argues that the institutional changes prescribed by the Lisbon Treaty have the potential to affect the creation and implementation of EU policy, but that the treaty also gives the European Court of Justice the ability to check the legality of EU legislation—which can potentially call the Commission’s authority into question.

Due to the fact that the Lisbon Treaty has only been in effect for a little over a year, much of the research on which this paper draws is based on news articles and reports from the European institutions themselves. The information pertaining to the Lisbon Treaty that stems from the EU institutions has been overwhelmingly favorable towards the Lisbon Treaty. These sources generally claim that the Lisbon Treaty has provided the EU with the structure to be more efficient, cohesive, and perhaps more powerful. In a speech given in Brussels on March 26, 2010, José Manuel Barroso, President of the European Commission, argued when speaking of EU-US relations, that the Lisbon Treaty gives the EU power over economic regulation, justice,

⁴ The Pillar System was abolished by the Lisbon Treaty. In essence, the Pillar System divided competences of the EU into three pillars. In the first pillar was supranational, and gave a large amount of influence to the European Commission and the European Parliament. In the second two, the Council would have most of the power.

security, energy policies, development, and humanitarian aid. He, like Catherine Ashton and even Hillary Clinton, has stated that the Lisbon Treaty has given the EU a new face on the global scene, more efficiency and a greater capacity for implementation of its policies. David Daly (2010), the Head of the EU delegation to Australia, has agreed that the treaty makes the EU a stronger actor, but also stated that Europe was “still a work in progress.”

Purpose, Methods and Overview

This paper aims to analyze the actual impact of the Lisbon Treaty on EU effectiveness and cohesion in both internal and external action of the European Union. By looking at examples in three separate case studies, this paper will compare EU cohesion and efficiency before and after the ratification of the treaty. The paper begins with a chapter on the history of the European Union, in which the logic and necessity behind certain innovations in the Lisbon Treaty are explained. The subsequent three case-studies provide more in-depth analyses of the ways in which the innovations in the Lisbon Treaty have been implemented and combatted and of their actual effect on European action. The first case-study examines the way in which the Lisbon Treaty affected Europe’s response to the economic crisis. The second studies how the treaty affected Europe’s status as an actor in European and global environmental politics. The third case-study analyzes how the treaty has affected European action during the Iranian Missile Crisis. In each case, the report will keep in mind the basic expectations of the Lisbon Treaty and the context in which it was written, signed, and ratified. It will document European public opinion on the treaty and the EU Member States’ responses to its ratification in order to gauge how effective the treaty’s innovations will actually be.

Major findings

Although the Lisbon Treaty created the tools for a more integrated, stronger European Union, it is the Member States that continue to hold the power to use those tools. The Member States have proven reluctant to use the Lisbon Treaty’s innovations in any way that may cause a transfer of power from the Member States to the EU. Even from the first months after the Treaty was ratified, instead of appointing dynamic and experienced politicians to the posts provided for by the Treaty, national leaders exerted their power to appoint relatively inexperienced leaders who would be less likely to centralize and strengthen EU influence. In the first year that followed

the ratification of the Treaty, Member States have held to this reluctance. Although the Lisbon Treaty has made visible changes to the structure of the Union, EU institutions and Member States have used these innovations in different ways. While in some cases, the EU has made use of the structures put into place by the treaty to make their decision-making more efficient and more coherent, occasionally Member States have used the innovations to call into question the power of EU institutions over the Member States. In other instances Member States ignored and undermined the EU to pursue their own policies.

The Lisbon Treaty may not be something very unique or spectacular. It may just be another in a series of treaties and reforms. However it does mark a movement towards closer integration and further cohesion. It is imperative to note, however, that although the Lisbon Treaty created the foundation for a closer, more efficient and more democratic EU, it will require cooperation between European Member States and European institutions for the Treaty's innovations to truly work.

Limits of this paper.

This paper will not be able to observe all of the changes that the Lisbon Treaty has made to the construction of the EU. The EU is a very large and complicated entity, and therefore we have had to focus our attention on very specific aspects of its governance. Furthermore, as this study focuses on the first year since the Lisbon Treaty was ratified, many of the treaty's innovations have not yet been implemented.

It is important to look at the first year after the treaty's implementation because, although the Lisbon Treaty provided for certain changes, in many cases those innovations were open-ended and allowed EU leaders considerable latitude to flesh out the structure, function, and abilities of each institution or position. Member State and citizens' responses to the changes will have a large effect on how those changes will continue to be implemented. Furthermore, as several of the Lisbon Treaty's innovations, such as the creation of the High Representative and the President of the Council, were open-ended, the developments made in the first few months will have a substantial influence on how those positions will look and function in the future.

Chapter 1 - The Lisbon Treaty

This first chapter discusses the basic expectations of the Lisbon Treaty and the context in which it was written, signed, and ratified. It will begin by outlining the birth of the European Union and discussing the forces behind its evolution. It will then discuss the major institutional changes brought about by the treaty, the logic behind these changes, and the effects they are expected to have on EU action. Finally, it will analyze European public opinion which led to the rejection of the earlier Constitutional Treaty, and the eventual acceptance of the Lisbon Treaty.

History of the European Union

Although for centuries, Europeans have toyed with the idea of creating a unified Europe, the two World Wars and increasing global tension caused by the Cold War were the catalyst for finally taking this step. From the devastation of World War II, the embryonic European Union was born in 1951. It was called the European Coal and Steel Community.⁵ This was the first organization that required European states to cede any sovereignty to a supranational institution. Its goal was to ensure economic cooperation in order to revive the economies of its member states and ensure peace throughout Europe. By making the economies of each of the member states of this organization dependent on the others, it would make it impossible for those states to go to war with each other again.

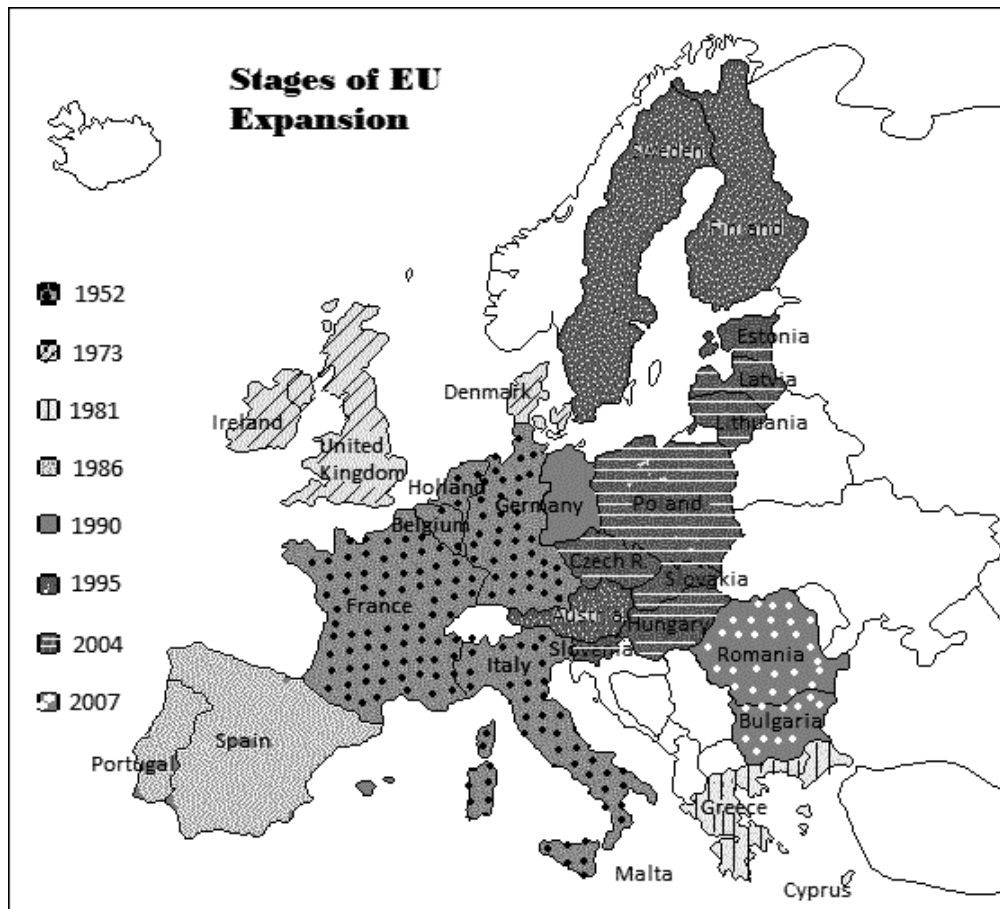
Over the years, The European Coal and Steel Community would grow and evolve. Its initial success enticed more states to join. The first European enlargement occurred in 1972, with the entry of Denmark, the United Kingdom, and Ireland. Between 1981 and 1995, six new states joined. Finally, after the end of the Cold War and the dissolution of the Soviet Bloc, the former communist states in Eastern Europe turned toward Western Europe.

The Union grew not only in size, but also in influence. Partially due to the influx of new states and their populations, the Union needed more efficient ways to govern. Treaties were signed, extending European control to more aspects of Member States' politics and further integrating the EU. There are two theories to explain this integration. The first is "intergovernmentalism." According to this theory, European Member States' governments took steps to further integrate the union. The second theory is "neofunctionalism." This theory

⁵ The six founding states of the European Coal and Steel Community were France, Germany, Italy, Belgium, the Netherlands, and Luxembourg.

explains that European integration is caused by a “spill-over” effect which is driven by economic momentum and a necessity to continue to integrate different sectors. Both of these theories have merit, and although neither completely explains European integration, it is clear that the EU has, since its origination, become significantly more integrated.

Image 1: Stages of EU Expansion



From its beginnings, the European Union, which has operated under different names throughout its history, was mainly concerned with economic stability and “security” (Cini; 2). However, over the years, particularly since the 1980s, the notion of security has broadened to encompass more than just military defense. Security began to mean anything from economic security, to protection against environmental change to security against terrorism. These increasingly important issues, along with such events as the end of the Cold War in 1989 and the terrorist attacks on September 11, 2001, have led to a gradually closer and more far-reaching integration. The European Union went from being a loosely affiliated community of states to a

close union with supranational institutions and laws. Its evolution is still ongoing.

Today the European Union is comprised of 27 countries. While the European Economic Community was characterized by lowered trade barriers and economic cooperation, sixty years and several treaties have turned this once simple economic community into a political union. The process of coming to this point was difficult, and each step along the way was met with more than a little dispute. Much of this dispute can be explained by the theory of “the tragedy of the commons” (“The Green Critique”). The tragedy of the commons refers to the situation that arises when individuals are required to make a sacrifice for the good of a group—the commons. Since all members of the group would not benefit equally from this sacrifice, each member is tempted to act in his own interests. In most policy areas, Member States have been guilty of trying to block the creation or implementation of policies—even if it would bring about a benefit for the whole of Europe—if that policy would cost the state politically or financially.

Nonetheless, the EU has come far from its humble origins as an economic community. Now, the EU has extended its influence over many areas of Member States’ affairs, and it is expected that the EU will become even more integrated in the future due to the more “European” sentiment of many young Europeans. Educational innovations such as ERASMUS⁶ have helped to create in younger generations of Europeans a better understanding of both the diversity and the similarity of European cultures, and have opened their minds to the idea of closer ties. The European Union that resulted from this slow integration is not a government, nor is it an international organization. It is a unique collection of states that operate under an institutionalized system of decision making and policy implementation. Though the states have diverse histories, languages and traditions, certain beliefs and values link them together⁷.

Europe’s example could be the result of a trend toward “post-nationalism”⁸. Due to the increasing interconnectedness of the world, problems that affect one country can frequently spill over into other countries. The international nature of these problems often requires international cooperation to resolve them. The world has begun focusing more on supra-national institutions

⁶ ERASMUS- a European program that facilitates and funds the education of European students in other Member States.

⁷ Currently, in order to join the European Union, states have to abide by certain rules and norms that range from ensuring equality for all people regardless of gender, race, or religion to the abolition of the death penalty (“The Euro. Who can Join and When”).

⁸ The term “post national” refers to the notion that with globalization, porous boundaries, immigration, and trends in supranational and transnational governance, the modern state is becoming obsolete.

and transnational accords to handle such global issues as the environment, trade, and defense. Many more people are referring to themselves as “world citizens.” Borders are becoming porous as trade agreements are made, tariffs are dropped, and people have multiple or shifting nationalities. Market capitalism and global trade are leading to the weakening of borders, as is evidenced by such things as multi-national companies, facilitated flows of illegal immigrants, and diasporic ethnic populations.

Entities such as the EU could represent a front-runner of a new style of governing. Efforts to respond to the economic crisis and climate change and efforts in international relations could all be benefitted from the kind of post-national approach that the EU is attempting. While Europe’s agreement began as a trade agreement, cooperation between European countries has “spilled over” into other areas, so now nation-states have lost some of the characteristics that have made them “states.” The people who live there are not all natives, and some of their native population is now residing in other states. Immigrant populations are changing the population of states, shaping ideas, and keeping links to their home countries. Supra-national institutions such as the European Commission have taken some of the Member State governments’ sovereignty and authority in certain areas, particularly borders. The nation-state is becoming less important because “nations” and their “cultures” are becoming “deterritorialized” and “reterritorialized” (Inda and Rosaldo; 12).

For decades, Europe has sought strengthened cooperation for the purpose of protecting the economies of the Member States and for protecting its interests internationally. Proponents of the EU have wanted for years to unite the Member States under the EU institutions, but this desire is not shared by all Europeans. European integration has appeared as a double-edged sword to many European citizens. While it brings economic prosperity and stability, some people also accuse it of replacing national identity and taking too much power from Member States. However, as new Member States have joined the union, further integrations and changes in the EU’s structure, institutions and governance became necessary. However, despite these improvements in EU structure, Europe has continued to face problems with cohesion, lack of policy implementation, and a “democratic deficit.”

Reason for the Lisbon Treaty

In order to address the problems that Europe faced, a European Constitution was created.

This constitution would create a European Union that was functional, cohesive, and efficient. It was designed to strengthen the EU both economically and diplomatically. It called for national governments to relinquish certain powers, but it would also potentially provide them with a better safety net in times of economic crisis and international conflict. Particularly, for the smaller countries, it would offer protection and a greater clout in international relations. This constitution was rejected by the French and the Dutch, however, and had to be redrafted before being voted on again. What resulted from this was the Lisbon Treaty.

The Lisbon Treaty was created to respond to three main issues. The first issue was the “democratic deficit.” European citizens often accuse the EU institutions of not being visible to European citizens and of not responding to their concerns. Some European citizens point to the limited visibility of the EU institutions as proof that the EU does not have real power. To solve the “democratic deficit”, the Lisbon Treaty gives European citizens more balanced representation in the European parliament. European citizens now have the power to petition the Commission to create new legislation. If a petition has one million signatures, the Commission is obligated to consider it.⁹ All of these innovations have been made in order to better take into account European citizens’ needs and opinions.

The second issue to tackle was European expansion. Currently, the European Union has 27 Member States. Though the Nice Treaty, signed in 2001, addressed European expansion to the East, it did not clear up all of the problems that came with a growing European population and an increasingly complicated European framework. The Lisbon Treaty more clearly demarcated the exclusive, shared, and supporting competences of the EU and its Member States. The treaty gives Member States new privileges. For instance, the Commission is now required to send Member State parliaments proposals for scrutiny. Member State parliaments then send the proposals back for further consideration if they think the proposal is not in compliance with the principle of subsidiarity. The treaty also affects the institutions themselves. Because of the Lisbon Treaty, the European Parliament (EP) now elects the President of the European Commission and is “of equal importance” as the European Council in making the majority of EU law (Daly; 281). Voting in the European Council will be simplified as well. With 27 Member States it has been at best difficult, and at worst impossible, to get a unanimous vote on legislation

⁹ The signatories of the petition must be from a “significant number of member states.” The subject of the petition must also be within the Commission’s powers to address.

in the European Council. The EU's ability to act in such foreign policy areas as freedom, security and justice will be facilitated by the extended "qualified majority voting" (QMV) system in the Council¹⁰. QMV voting requires a vote of only 55% of the Member States representing 65% of the EU population. This new QMV system will not go into effect until November of 2014.

The third issue was lack of cohesion in European external action. Europe had learned during the Balkan Wars of the 1990s that as long as the EU did not have a coherent stance or the right foreign policy tools to handle crises, it would be incapable of solving problems outside—and even inside—its borders. The creation of the Common Foreign Security Policy (CFSP) and European Security and Defense Policy (ESDP) during the 1990's was the direct result of Europe's failure in the Balkan wars. However these policies left gaps that hindered Europe's foreign policy cohesion, and it was these gaps that the European Constitution, and later the Lisbon Treaty would try to fill. Two of the Lisbon Treaty's main innovations for cohesion in foreign action were the creation of the High Representative of the Union for Foreign Affairs and Security Policy and creation of a European External Action Service.

According to the treaty, the High Representative would conduct the EU's Foreign Security Policy, chair the Foreign Affairs Council, and submit proposals to the Commission. On December 1, 2009, Catherine Ashton acceded to the position of High Representative. The treaty combined the offices of Vice-President of European Commission and High Representative into one position, and thus the High Representative was endowed with a wide range of powers. She would ensure implementation and consistency of foreign policy decisions, and in doing so enhance the EU's coherence and weight in international affairs. According to David Daly, the High Representative represents the EU in foreign policy matters at the "Foreign Ministerial level; she conducts political dialogue with third parties on the Union's behalf, and expresses the Union's position in international organizations and at international conferences" (282).

The European External Action Service (EEAS) became an operating "functionally autonomous body" on January 1, 2011 (Avery). Due to disagreements between Member States and EU institutions about the specific organization and functions of the EEAS, its implementation was delayed for an entire year after the ratification of the Lisbon Treaty. The

¹⁰ The policy areas to which QMV voting has been extended include combatting terrorism, energy policy, public health, climate change, research and tackling crime. For CFSP and defense issues, unanimous decisions are still required, but some actions can be taken by QMV.

High Representative will appoint the members of the EEAS¹¹ and will also have authority over the EEAS and the EU delegations in third countries and in most international organizations¹². The EU delegations, formerly under the Commission, will now be under the EEAS. The EEAS will work closely with diplomatic services of the Member States, and “play a supporting role as regards diplomatic and consular protection of EU citizens in third countries” (Daly 282).

The Lisbon Treaty makes several other important innovations. One of these was the creation of a legal personality. According to Julia Schmidt in her article “Common Foreign and Security Policy and European Security and Defence”, the fact that the EU now has a “legal personality” means that it is “independent of its members and acts through its organs.” The EU now has the power to create rights and obligations *on its own*, which means that the Member States must have transferred some of their power to the EU. The creation of a legal personality for the EU strengthens negotiating power and makes the EU more visible to third countries and international organizations.

Another major innovation is the creation of the function of the President of the European Council. The new presidential term would be for two and half years instead of the former rotating six month position, and thus will give greater continuity to EU action. On November 19, 2009, Herman Van Rompuy was elected as the first “permanent” President of the European Council. His job has been to work with the President of the Commission to ensure that the EU functions well and that its politics are continuous. The President also represents the EU on the global scene in some matters of Common Foreign and Security Policy.

There is some controversy behind the elections of Catherine Ashton and Herman Van Rompuy to the respective posts of High Representative and President of the European Council. Before their appointments, these two leaders were fairly unknown. Herman Van Rompuy was chosen over the former British Prime Minister, Tony Blair, who is known for his dynamic personality and strong drive. Catherine Ashton has little experience in foreign policy and few credentials for her position. The post of President of the European Council was ill-defined in the treaty, and therefore it would largely depend on the person appointed to the position to define its functions and limits. A strong politician like Tony Blair could have made the presidency strong

¹¹ Appointed members will be drawn from departments of the General Secretariat of the Council, of the Commission and of the national diplomatic services of the European Member States.

¹² Catherine Ashton and Herman Van Rompuy asked the United Nations to give the EU a position, and the UN refused. (Castle; “Ministers Seek”)

and prestigious on the global scene, and it would have risked outshining the Member States. Therefore the Member States chose Herman Van Rompuy, a leader who, though capable of bringing about consensus in difficult situations, would be pliable to the will of the Member States. Catherine Ashton's position, though better-defined than that of the president, would also be largely determined by the person who filled it. Instead of selecting a person who was knowledgeable, charismatic, skilled in diplomacy and a powerful figure, the Member States chose a person who, though qualified, was not likely to make decisions *for* the EU.

These two leaders were appointed to their positions, not because they were dynamic figures who would unify the EU, but because they were the opposite. It would appear that after ratifying the Lisbon Treaty, national leaders backpedaled on their ambition to strengthen Europe. In the year that would follow the ratification, Member States would continue to move tentatively toward greater cohesion, occasionally hesitating and even outright blocking measures, when a policy or action had the potential to cost the Member States power.

The Lisbon Treaty has brought with it the policy tools and the potential to create a dynamic, cohesive, efficient, and democratic union. Though it has made many major innovations, in some areas the changes have been more significant than in others. This is because earlier treaties focused more on some issues than on others, and because over time, the focus of European leaders has shifted. Whereas at the birth of the European Coal and Steel Community using economic cooperation to maintain peace in Europe was a major focus, now, the idea that France and Germany will go to war with each other seems far less likely than it did sixty years ago. This has allowed European leaders to consider other things, such as Europe's impact on global affairs and environmental policy.

The Lisbon Treaty makes substantial innovations in the area of European Foreign Policy, but this is partially because there was relatively little structure and coherence in European Foreign Policy to begin with. EU foreign policy was, from its beginnings, state rather than community-focused. Although throughout the years, new policies and new structures have been created to integrate foreign policy into the EU framework, EU foreign policy has remained a priority of the Member States, and focused on individual Member States' agenda, with very little concern for European agenda or interests.

As the European Coal and Steel Community was founded for economic cooperation, over the years, economic integration has been favored over other policy areas. Therefore, before the

Lisbon Treaty, there was already a good deal of economic policy in place. For this reason, while the Lisbon Treaty directly addresses European external action, it does not make any direct changes to economic policy.

Like economic policy, European environmental policy has been favored by Europeans as a community issue. In many ways, European environmental policy has been more successful than any other. Throughout the years, Europe has managed to create an environmental regime that coordinates states' environmental policies and regulates Europe's environment as if it were one single entity. The transnational nature of most environmental problems has undoubtedly helped the EU to consolidate control over environmental issues at the European level. Europe has also been relatively successful in implementing its environmental policy in the global arena, becoming what many people consider to be a leader in global environmental policy.

The effect of the Lisbon Treaty varies depending on the policy area in question due not only to evolutions in focus, but also the fact that leaders of Member States are more reluctant to hand over power in some areas than in others. Whereas economic and environmental cooperation and integration have been relatively successful, the European Union still boasts no military, and is still having a difficult time coordinating external action. For the leaders of Member States, particularly of the more powerful ones such as Great Britain and France, it is more difficult to imagine that giving up autonomy over their external action or their military could benefit them. To do so, would risk giving up sovereignty. However, giving up some power over their economy, trade, and environment to a supra-national entity has shown to offer benefits and provide stability. That is not to say that leaders of European Member States easily hand over power. This is not at all the case. European leaders have proven very reluctant to relinquish autonomy in almost every policy area. This has caused European integration to be a slow, gradual and occasionally painful process. Small changes have to be accepted before new changes can be even thought of, and compromise and naysayers can further slow down the process. However, as Europeans get more used to the idea of "Europe," and as new generations are increasingly accustomed to the idea of "Europeanness," integration may prove easier in the future.

Public Opinion and Ratification of the Lisbon Treaty

The Lisbon Treaty was rejected by a referendum in Ireland in 2008, delaying further EU

integration once again. The difficulty with which the treaty was ratified could be testament to the fact that Europeans are not yet comfortable with the idea of being “European.” The failed referendums in France and the Netherlands in 2005 and in Ireland¹³ in 2008 are clear evidence that another treaty was not welcome to everyone. However, the reasons for these rejections are unclear. Many attribute negative reactions by European citizens to the fact that they are not always well informed about the EU or what it does. Often, EU citizens’ main sources of information on the EU are their national governments and small wealthy anti-EU groups.

The Lisbon Treaty was not fully supported by many national leaders. The UK expressed opposition to the treaty both before and after it was ratified, with David Cameron campaigning on the basis of having a referendum to block its ratification. The President of the Czech Republic was opposed to the treaty but was eventually convinced to sign it. In Ireland, anti-Europe groups like Libertas sponsored by millionaire, Declan Ganley, spread misinformation about what the Lisbon Treaty would do.¹⁴ Anti-treaty groups also passed out flyers before the 2008 Irish referendum with the slogan “If you don’t know, vote no!” (Moravcsik 14). The failed referenda in Ireland, France, and the Netherlands were also the result of discontent with national politics. EU referenda such as the ones held for the Lisbon Treaty and the Constitutional Treaty were a way for citizens to vent their frustrations about national issues. At the time of the Irish referendum, corruption charges in the Irish government were causing the Taoiseach¹⁵ to step down.

Most people directly attribute the 2009 approval of the treaty in Ireland and its eventual ratification to the economic crisis of 2008. Ireland was one of the countries hardest hit by the crisis, and it received a substantial amount of financial aid from the EU. To stay in the good graces of the EU and to avoid losing further financial aid, the Irish voted for the treaty. In the Czech Republic, although the president, Vaclav Klaus, was not in favor of the treaty, the parliament had already voted ‘yes’ on it, and he was therefore obligated to sign. The Czech Republic, the last country to ratify the treaty, did so on November 3, 2009. The Lisbon Treaty entered into force on December 1, 2009.

¹³ Ireland had two referendums on the ratification of the Lisbon Treaty. The first, which took place in June 2008, rejected the treaty. The second, in October 2009, the Irish voted overwhelmingly in favor of it.

¹⁴ Among the misleading claims of Libertas was that the Lisbon Treaty would reinstate the death penalty, legalize abortion, draft Irish into a European army and make it possible to imprison children for educational purposes (Moravcsik 14).

¹⁵ The Taoiseach is the Irish head of government, or Prime Minister.

Chapter 2- The Lisbon Treaty and the Economic Crisis in Europe

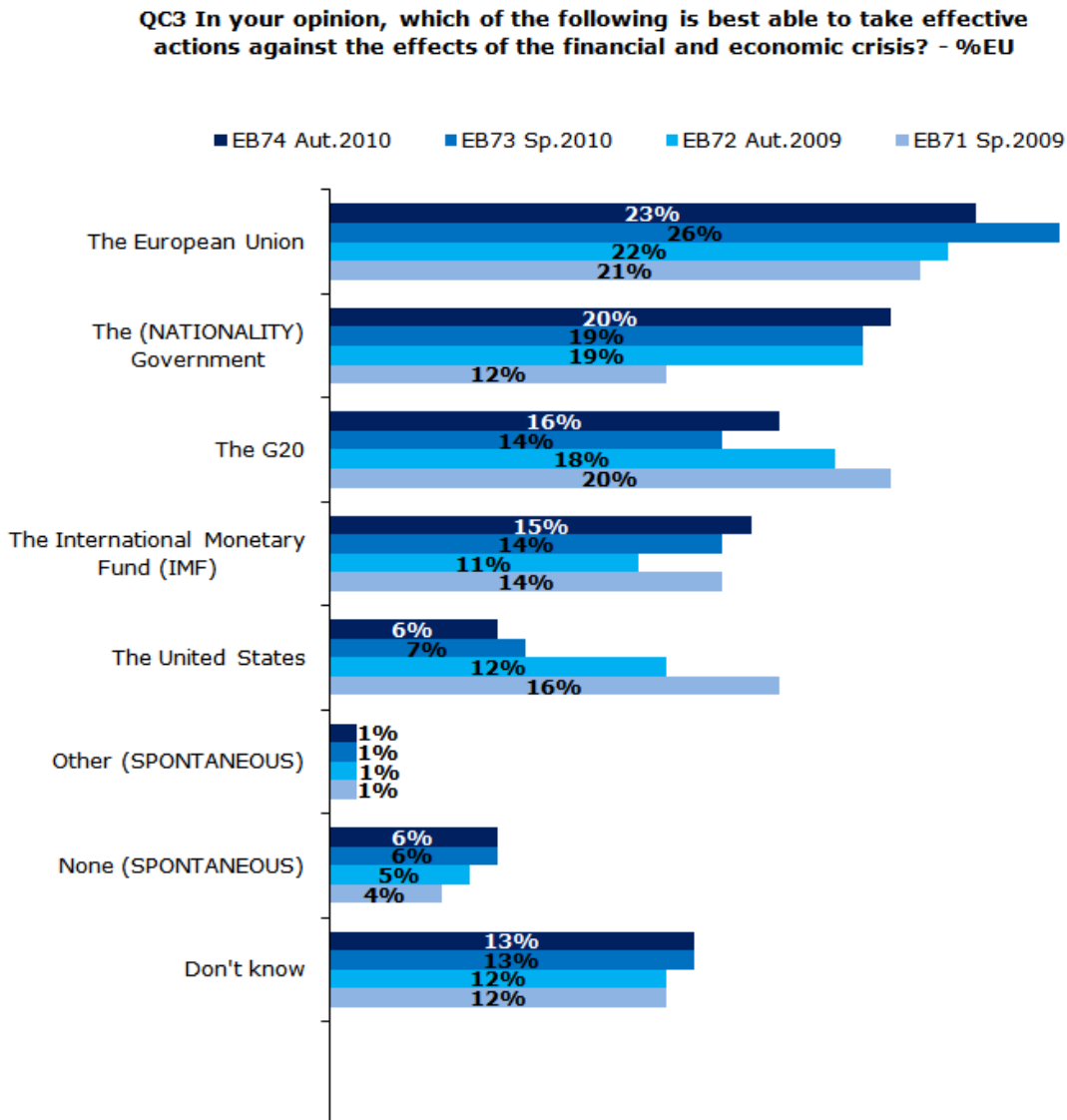
This segment will focus on the effect that the Lisbon Treaty has had on Europe's response to another crisis. The global economic crisis that shook the world began in 2008—the result of an economic recession in the United States. The crisis soon spread throughout the world affecting multiple economic sectors and levels of society in almost every country. It caused unemployment to rise, home-sales to plummet, and entire economies to collapse. However the effects have not been equal in every country. Even within the European Union, different countries have felt the effects of the crisis in different ways, and have thus come up with unique ways of dealing with them. In Latvia, Greece, and Ireland, for instance, the crisis had a devastating effect. However, France and Britain, whose economies before the crisis were fairly stable, were relatively sheltered from the worst effects of the crisis.

If the effects of the crisis have been different in each country, how could the European Union be expected to respond? This is a tricky question, particularly since the effects of the crisis have continued to evolve. In Ireland, for example, the global economic crisis led to a monetary crisis which caused a housing crisis, which finally resulted in a large government debt. Some countries have been reluctant to accept aid from the EU, and others have been reluctant to give it. This makes a European response all the more difficult. Europe's problems do not stop there. Although the EU was first created as an economic community that would ensure the economic stability of its Member States, and although it later gained power to exert control over the finances of European Member States, Europe's control over Member States' economies are not always as significant as European officials would like. There are various areas, such as taxes, where the EU exerts no control at all. Furthermore, even in areas where the EU is supposed to have influence, Member States have often combatted the European Union in their own self interest. It is the tragedy of the commons all over again.

However, while the EU's power may be limited, there are also many areas where the EU is best situated to cope with the effects of the crisis. Because of the global nature of the economic crisis and because the economies of European countries are tied together, a response that surpasses nations and their individual interests is the most sensible solution. Many governments around the world responded to the crisis with economic bailouts, austerity measures, and government programs that would stimulate employment and growth. Although, the EU does not have the power to do all of these things, setting limits on national deficits and government debt

and enforcing those limits with penalties are well within Europe’s authority. These powers are pivotal in redeeming Europe’s economic strength.

Graph 1: Changes in Public Opinion regarding proper actor to respond to economic crisis.¹⁶



The role of the European Union in handling the economic crisis is not to be underestimated. In the 2010 Eurostat poll, 23% of Europeans polled believed that the EU was in the best position to handle the economic crisis (“Economic Governance in the European Union”). Although this percentage dropped three points from the 2009 poll—incidentally before the

¹⁶ European Union. European Commission. *“Economic Governance in the European Union”* Autumn 2010 ed. Vol. 74. Brussels: TNS Opinion & Social, 2010. Print. Standard Eurobarometer. p10.

Lisbon Treaty went into effect—when compared to the support given to national governments, the EU is still the favored entity. It is important to note, however, that in this poll, Europeans were spread across the board with nearly 20% claiming that the G20 and the IMF are best suited to handle the crisis. As the chart (above) shows, for the past two years, the European Union has remained the favored actor in resolving the credit crisis. Perhaps more importantly, national governments seem to have lost influence in the eyes of their citizens in this area.

This chapter addresses the way that the Lisbon Treaty affected the EU's ability to respond to the global economic crisis. To do this, it will first discuss the history of the European Union as an economic community. It will outline the powers that the EU held before the Lisbon Treaty and the motives behind the creation of those powers. Then, it will discuss what innovations, if any, in the Lisbon Treaty may have an effect on Europe's economic governance. Finally, in analyzing some of the major events in the EU during the crisis, it will try to pinpoint concrete examples of instances in which these changes have had some effect on Europe's governance.

History of the EU's Economic Governance

To understand the innovations in the Lisbon Treaty, it is first important to understand the fundamental role that the economy has historically played in bringing cohesion to the European Union. The EU was originally formed in the 1950s as an economic community. Its main purpose was to help Europe recover from the devastation of the Second World War and to create an economic interdependence that would make it impossible for its Member States to go to war with one another again.,.

The structure of the EU has changed dramatically since its establishment. These structural changes have mirrored changes in the EU's objectives as well as changes on the global scene. Over the years, the union has become more integrated, and the European institutions have come to have a stronger influence over more aspects of Member States' policies. Perhaps the area where Europe can boast the most successful integration is its economic and marketing sphere. Incidentally, this is one of the areas where the EU's influence has grown significantly as well.

Over the years, as markets have integrated, the EU has had to implement certain standards to ensure that the quality of goods and services throughout the EU was the same. The

EU was also responsible for such things as ensuring that external tariffs were abided by in each state. One of the most important steps in integration was the creation of the Economic and Monetary Union in the 1970's. According to the scholar Amy Verdun, the Economic and Monetary Union (EMU) is "a union in which participating countries have agreed to a single monetary policy, a single monetary authority, a single currency and coordinated macroeconomic policies" (Verdun; 325). These four elements have proven to be very important in both Europe's cohesion and its economic governance.

The first element, monetary policy, is conducted by the national governments and by the European Central Bank (ECB). Monetary policy aims to set interest rates and ensure that money supply and credit conditions remain within certain limits. Following this policy, Member States that use the Euro must yield to the authority of the ECB, when printing new Euro notes to avoid causing the Euro to lose value.

The second element of the EMU, a single monetary authority, is embodied in the ECB. The ECB was established in 1991 by the Maastricht Treaty which made the European institutions primary actors in the economic sphere. According to the Maastricht Treaty, in the EMU, national central banks would become "branches" of the ECB. Besides being responsible for the formulation of monetary policy, the ECB is responsible for setting short-term interest rates, and monitoring the money supply and the Euro. In some cases, further coordination of economic and financial policies is handled by an informal group of ministers of finance and economics.

The third element of the EMU is the single currency, the Euro. Though not all European Member States use the Euro as their currency, the Euro is nonetheless important, and even necessary, to ensure the success of the EMU. The Euro, which was initiated in 1999, became the legal currency in twelve EU Member States on January 1st 2002. The Euro is currently the legal currency in seventeen of the EU's 27 Member States¹⁷. Two countries, Denmark and the United Kingdom, opted out of the Euro, and many others have not yet reached the standards¹⁸ required to adopt the Euro. To ensure that the Euro stays stable, the EU has found it necessary to create rules to limit Member States' budgetary deficits and public debts. This policy is outlined in

¹⁷ The collection of Member States that use the Euro as legal currency is most commonly called the Eurozone. It is officially called the Euro Area.

¹⁸ The standards for adopting the Euro, called the Maastricht Criteria, are put forward by the Maastricht Treaty. They are (1) a controlled inflation rate, (2) a national deficit at or below 3% GDP, (3) a public debt at or below 60% GDP, (4) participation in the Exchange Rate Mechanism (ERM II) for at least two years to ensure a stable exchange rate, (5) a low long term interest rate. ("The Euro. Who Can Join and When")

Article 104 of the Treaty establishing the European Community (Verdun; 326).¹⁹

The fourth element of the EMU, coordinated macroeconomic policies, has proven to be the most difficult to achieve. In the 1980s and 1990s the EMU, despite being a well-developed monetary union, lacked the cohesion that would make it a successful economic union. Although the EU had penalties in place for neglecting to adhere to limitations on national debt and GDP, until recently it did not have any economic aid for countries that could not pull themselves out of debt. Furthermore, even the penalties were not always implemented. In 2003, for instance, France and Germany, who were to be penalized for having too much fiscal debt, persuaded the other Member States to block those penalties. Since this incident, the EU's economic policies have been "loosely interpreted" and most countries have outright disregarded them. Eurostat data shows that in 2009, of the 27 Member States, only five had deficits that *did not* exceed the 3% limit (Eurostat, 2010). This is likely due to the global economic crisis, but, as later became evident, many Member States were indeed responsible for "cooking the books."

The lack of implementation of European economic policy would become a major issue during the economic crisis that began in 2008, and many have held it directly accountable for the financial crises in countries like Greece and Ireland. Although the European Union—and specifically the Eurozone—created rules for EU and Eurozone financial policy, most of the time, the EU did not have enough control over Member States' finances to ensure that those rules were abided by. Because many Member States did not want sanctions to be

Table 1: Adoption of the Euro in EU Member States

Adoption of Euro in EU Member States	
State	Year Adopted
1. Austria	1999
2. Belgium	1999
3. Cyprus	2008
4. Estonia	2011
5. Finland	1999
6. France	1999
7. Germany	1999
8. Greece	2001
9. Ireland	1999
10. Italy	1999
11. Luxembourg	1999
12. Malta	2008
13. Netherlands	1999
14. Portugal	1999
15. Slovakia	2009
16. Slovenia	2007
17. Spain	1999

¹⁹ Article 104 of the Treaty establishing the European Community (TEC) requires Member States to avoid excessive debt, and endows the Commission with the responsibility of monitoring Member States' budgets and debt.

applied against themselves, they blocked EU sanctions altogether or simply hid the conditions of their finance. This made the EU economic policies ineffective.

Economic Crisis before Lisbon

The economic crisis that began in the fall of 2008 in the United States soon made its way to Europe, and in 2009, Eastern Europe became the first part of Europe to fall into an economic recession. Eastern Europe is composed mainly of ex-communist countries and, due to their history and the already existing weakness of their economies, these countries proved to be more vulnerable than Western European nations to the economic crisis. Most of these countries were not yet accepted members of the Eurozone, which pointed to already existing weaknesses in their economies. It also meant that their currencies were not stabilized by the Euro, leaving them even more vulnerable to fluxuations in the global economy.

The economic crisis in Eastern Europe led to unemployment, the collapse of entire industries,²⁰ governmental instability, and even—in the case of Latvia—the collapse of the government. Despite the serious nature of the recession in Eastern Europe, however, the European response to it displayed a lack of cohesion between Member States, and a lack of guidance by the EU. Though the recession caused widespread suffering in many Eastern European states, Western Europe proved reluctant to provide aid. Because damaged economies in non-Eurozone states did not affect the value of the Euro, Eurozone states had little incentive to give aid—particularly when the amount requested was €190 billion²¹. Germany, Europe’s largest economy, rejected appeals for a bailout of Eastern Europe, thereby depriving Europe of solidarity in the face of the crisis. In an allusion to the old East-West communist divide in Europe, spectators of the crisis declared that there was a wall being built between the East and the West of Europe again.

EU institutions were unable to provide much assistance. At the time of the recession in

²⁰ The automobile industry in Sweden collapsed during the 2009 economic recession (Lyll “Sweden Says No”).

²¹ Prime Minister Gyurcsany of Hungary requested an EU bailout of 190 billion or \$241 billion (“Germany Rejects E. Europe Bailout”).

“Under the current rules, euro zone countries can eventually be fined up to 0.5 percent of their G.D.P. each year if it is agreed to by a majority of ministers. Such a fine has never been imposed.”

The commission is considering sanctions for the countries whose debt ratio (debt/GDP) is more than 3%. Sanctions include withholding “structural and cohesion funds.”

Eastern Europe, there was no institution or policy in place capable of responding to the crisis. Because of this, as *The New York Times* would later report, Europe was making things up as they went along (Thomas and Castle). This resulted in politics more than policy and the economy driving the effort to pull Eastern Europe out of the recession. With no central European institution to create a strategy, the heads the Member States had to work out a solution on their own, and Europe was thrown back into a history of self-centered logic.

That is not to say that Europe failed to react to the recession in Eastern Europe. When Eastern European countries asked the EU for economic bailouts, Western European states did provide some. By March 2009, according to *The New York Times*, “EU governments [had] already spent 300 billion euros in bank recapitalizations and put up 2.5 trillion euros to guarantee loans of many banks in the EU and neighboring states” (“Germany Rejects”). The European Member States were not the only ones to provide aid. The European Bank of Reconstruction and Development, the European Investment Bank and the World Bank jointly agreed to provide €24.5 billion in emergency aid to rehabilitate the economies of Eastern European states.

Though Eastern Europe eventually recovered from the worst of its recession, it was a long, hard road. The crisis in Europe seemed to reveal Europe’s division and lack of cohesion—a lack that the Lisbon Treaty, which was signed a few months later, was designed to remedy.

Economic Crisis after Lisbon

Europe’s solidarity would be tested a second time in 2010, as members of the Eurozone began to succumb to the economic crisis. Time would show that Europe’s response to this second “crisis” proved to be different than to the first. There are several reasons for this. First, perhaps in the case of the economy, the element that could produce the most solidarity among European Member States would be the Euro. Because the value of the common currency affects many states, it became necessary to intervene when a Eurozone member state was in jeopardy—not only to protect the economy of the country in danger, but to protect the economy of all Eurozone states. Second, after responding to economic recessions in Eastern Europe, Europe was perhaps better prepared to face similar events the second time around. Finally, perhaps the ratification of the Lisbon Treaty in December 2009 provided new innovations which would make solidarity among Member States easier to achieve.

At first glance, it appears that these first two reasons are the most likely to explain

Europe's changed behavior. Although the Lisbon Treaty was ratified during the economic crisis, it was written years before it. Therefore it can be considered somewhat outdated in regards to the economic crisis. The Lisbon Treaty does not specifically address any changes to Europe's economic governance. It does not create any new institutions or offices specifically to improve Europe's economic governance, and it does not change Europe's economic policy itself.

However, there are a few innovations in the treaty that may prove to have an effect on Europe's economic governance. One such innovation is the provision concerning the solidarity clause. According to this clause, if one Member State is in any sort of crisis, the other Member States must act jointly to provide aid. A second innovation, the creation of the position of President of the Council, may also help to produce solidarity among Member States, because the President has the power to preside over Council meetings. Furthermore, this post is still ill-defined, leaving the current president, Herman Van Rompuy, a lot of room to try to carve out a larger niche for himself in European policy. Finally, the Lisbon Treaty extended Qualified Majority Voting (QMV) to more important issues in the Council. Although many less important decisions were made by QMV voting before the treaty, since unanimity is no longer necessary for many decisions, passing legislation should become easier.

Though in 2009, Europe was focused on bailing out Eastern Europe, in 2010, its attention turned to Greece, Ireland, Portugal, Spain and Italy—all members of the Eurozone, whose finances proved to be very unstable. According to *The New York Times*, "in 2007, before the financial crisis, Spain had a budget surplus of 2 percent of G.D.P. Ireland had a balanced budget. Portugal's deficit of 2.6 percent was well within the euro area's accepted limits" ("Europe's Bailout"). By 2010 however, the global collapse had caused the economies of these states to regress dramatically. Economic activity dwindled, unemployment rose, and governments were pressed to intervene. In a press release, Olli Rehn, the Commissioner for Economic and Monetary Policy said this of Europe's response to the crisis:

The euro has brought the benefits of macroeconomic stability, low inflation and deeper economic and market integration. In the current crisis the euro has acted as a protective shield from the worst exchange rate turbulences and interest rate turmoils. However, the crisis has also amplified some of its challenges. Peer pressure has lacked teeth to ensure timely and effective action. Member states did not use the good times to reduce the public debt. Macroeconomic imbalances were neglected (European Commission "Olli Rehn").

The economic crisis clearly showed that Europe's economy was closely interconnected. It also showed, however that the EU needed to strengthen both economic policy and the implementation of that policy. Even from the beginning of the crisis, the EU began proposing better ways to survey national budgets, and to make European goods more attractive to both European and foreign consumers. Many European officials, Olli Rehn included, have stated that the Lisbon Treaty would make European Economic governance easier. However, this has been debated. Some critics claim that the Lisbon Treaty will have no effect at all and that it has done nothing more than repackage old policies.

The economic crisis in Greece, which followed on the heels of the recession in Eastern Europe, made headlines worldwide and led many to question the true influence of the European Union over its Member States. The Greek economic meltdown was the result of what many people called "cooked books"—that is to say, the Greek government lied about the state of its finances. In fact, it was revealed shortly after the recession began in Greece that the Greek debt was three times the amount that the former government had reported. The economic recession in Greece led investors to demand higher interest rates and lowered the chance that Greece would be able to repay its debts, making the situation even more critical.

As of February 2010, two months after the ratification of the Lisbon Treaty, and in the midst of the economic recession in Greece, there was no structure in place to handle a threatened default within the sixteen-nation Eurozone. European officials were still searching for ways to prevent future economic meltdowns and to resolve the one occurring in Greece. As with the earlier recession in Eastern Europe, the result was that politics as much as policy and economics guided the response to the Greek crisis.

In February of 2010, shortly after the ratification of the Lisbon Treaty, it was again the Member States that negotiated Greek bailouts and crisis relief politics, however, there was a new major actor: the President of the European Council, Herman Van Rompuy. After coming into his new position, Herman Van Rompuy played an active role in trying to resolve the problems caused by the economic crisis and in slowing down the recession by uniting European leaders, pushing for the creation of new organizations and institutions, and by submitting proposals for improvements to European economic governance.

In a Council summit in February, EU leaders, led by Herman Van Rompuy, began not only negotiating a Greek bailout, but hashing out a plan for stricter European economic

governance. According to the British newspaper, *The Telegraph*, “Herman Van Rompuy, the EU's new president, has submitted a text calling for the creation of an ‘economic government’ that shifts responsibility for economic planning from national authorities to the ‘EU level’” (Evans-Pritchard). The Commission’s President, José Manuel Barroso, defended this proposal by arguing that the Lisbon Treaty allows for such a move, since the state of the economy affects not just individual states, but Europe as a whole.

The February 2010 Council summit was successful in that it got European leaders to agree on a bailout. With the knowledge that if Greece had asked the IMF for help, the Euro would have lost prestige, and Europe would have been shown to be incapable of sorting out its internal problems, the EU Member States decided to stand behind Greece during the crisis. The French and Germans, whose economy has fared much better than other Member States during the crisis agreed to encourage their banks to buy Greek debt. However, as it had during the Eastern European recession, Germany remained opposed to the plan until the bloc agreed to pressure Greece to impose stricter austerity measures.

To an extent, European Member States also saw the value of a larger EU role for Europe’s economic governance. During the crisis, a new policy called the Europe 2020 Strategy, was implemented²². This strategy fixed a goal for crisis recovery by the year 2020. In a speech on April 15, 2010, the European Commissioner for Economic and Monetary Policy, Olli Rehn, promoted the Europe 2020 strategy and described it as follows:

In a nutshell, Europe 2020 is about getting out of the crisis mode and building foundations for sustainable growth and jobs. Its underlying principle is to mobilise growth drivers in order to modernise our social market economies. It calls for improving the productivity by investing in education, innovation and research, and by addressing structural weaknesses of our economies (European Commission “Olli Rehn”).

According to the Europe 2020 strategy, the Member States themselves decide on the goal, which means that the result would not be devoid of vested interests. However, the European Commission will monitor the progress toward these goals in accordance with the change that the Lisbon Treaty made to Article 121 on the Treaty on the Functioning of the

²² The Europe 2020 strategy was created through the normal European decision-making procedure. That is to say that it was proposed by the Commission, voted on by the Parliament, and fleshed out and put into effect by the Council.

European Union (TFEU), a change which states that the Commission may issue warnings to Member States when it suspects that those Member States are not adhering to European economic policy (*Co Eur 4 Concl 1*). The European Council will make annual assessments of both EU and national progress toward the goals set by Europe 2020.

Another step toward better economic governance was the creation of the European Economic Task Force at the suggestion of Council members²³, and under the guidance of Herman Van Rompuy. Van Rompuy used his position and privileges to unite leading figures in European economic governance into one “task force,” thus facilitating the recovery process. The Task Force consisted of representatives, mostly Ministers of Finance, from the 27 Member States; Olli Rehn, the Commissioner for Economic and Monetary Policy; President Trichet from the European Central Bank; Prime Minister Juncker from the Eurogroup; and Herman Van Rompuy, the President of the European Union who presided over the Task Force as chairman (“EU Ministers”). May 21, 2010 marked the first meeting of the European Economic Task Force.

The Task Force was created to identify problems and come up with ideas for resolving those problems. Its four main objectives were to “achieve greater budgetary discipline,...reduce the divergences in competitiveness between the Member States,...[create] an effective crisis mechanism in order to be able to deal with problems such as those we see today in the Eurozone,...and strengthen economic governance...” (“Remarks by Herman Van Rompuy...”). The Task Force’s proposals, which were later endorsed by the European Council, will strengthen the economic pillar of the EMU.

Another institution, in which Van Rompuy was active, was the European Financial Stability Facility (EFSF). The EFSF was a temporary institution created in May 2010 following a meeting of the Economic and Financial Affairs Council (Ecofin). According to its website, the EFSF is owned by the Eurozone Member States. The EFSF became fully operational in August 2010, and in September, it used funds from Eurozone states and the IMF to finance bailouts. In November, it was decided that Herman Van Rompuy would submit a proposal to the Council to create a permanent replacement for the EFSF, which would be called the European Stability Mechanism (ESM). The proposal, which included amending the Treaty on the Functioning of the EU to include the ESM, was accepted. The ESM will replace the EFSF in 2013.

²³ The suggestion was made in a March Council summit, and asked the President of the Council to create a task force with the tools to resolve the crisis, better survey the budget and reinforce European economic governance.

In May 2010, Europe's leaders implemented a nearly \$1 trillion bailout package to keep Greece from defaulting on its debt and to keep the crisis from spreading to other vulnerable European countries such as Portugal, Spain, Ireland, and Italy. The bailout had a near immediate effect and helped to reduce the financial turmoil. Despite the bailout, however, Greece's economy was still predicted to continue to shrink over the next few years, and there was no certainty that Greece could repay its debts even with its deficits slashed. The European Commission, the ECB, and the IMF negotiated a plan for Greece to reduce its deficit of 13.6% to 3% by 2014, and "remain current" on its debt service payments. However this plan was criticized for not being "fiscally possible" ("Europe's Bailout")

By August 2010, Europe's intervention in the Greek crisis would prove to have been successful, not only in aiding Greece's economy, but in building momentum toward a more cooperative effort to avoid future economic crises. The EU, and notably Herman Van Rompuy, used this momentum, to create more institutions that would improve EU economic governance. Having learned their lesson from the Greek recession, even countries that were reluctant to provide financial aid to those in dire straits—France and Germany in particular—called for stricter rules, and closer surveillance to avoid another crisis. On September 9, 2010, the Commission adopted an EU economic governance reform package.

According to the EU's website, *Europa.eu*, the EU's national governments, the ECB and the Commission worked closely together when drafting it. The package was created to respond to the economic crisis by fostering growth and employment, ensuring financial stability, and creating better economic governance. Part of the package was the creation of the European Semester, which, according to the Commission, is an Annual Growth Survey that would coordinate macro-economic, budgetary, and structural reform of Member States. At the end of each year, the Commission will evaluate the growth and drawbacks of each semester and make recommendations to Member States to resolve them. The first European Semester began in January 2011. In December, the EU passed legislation to create the European Systemic Risk Board which would be an "independent EU body" composed of several institutions. It also came into being in January of 2011, and is now responsible for overseeing the EU's financial system, and helping prevent economic crises.

In November of 2010, Ireland took center stage, as its economy was revealed to be in a deep recession. European response to this crisis was quicker than for other countries, as there

were already institutions in place, among them the European Financial Stability Facility. The Irish government requested financial assistance from the EU and the IMF, and in December, the European Council, IMF and ECB agreed to give financial aid. The contributions would come from Eurozone Member States. There would also be bilateral contributions from select European countries, and also from the IMF and the European Union.

Since the ratification of the Lisbon Treaty, Herman Van Rompuy and the Commission have played increasingly active roles in resolving the problems brought on by the economic crisis. Although, some EU national governments have criticized the EU both for being too overbearing and for being ineffective, European citizens have come to recognize that the EU has a large influence over their lives, and that the EU is a major player in handling the economic crisis.

Recognition of the EU's role in European economic governance was demonstrated in September of 2010 when, for the first time, a European-level protest took place in Brussels. Around 50,000 workers from across Europe travelled to Brussels to stage a protest at the Schuman area, where many EU institutions are located. These workers were protesting both the austerity measures in place in many European countries and the proposals from the European Commission to impose fines on Eurozone members that do not improve their finances. Some Member States criticized the protest, saying that the EU had no real power. However, it is interesting to note that many EU citizens do not appear to share that opinion.

Conclusion

As the European response to the economic crisis has shown, EU Member States still have a considerable amount of power over European economic governance. It is difficult for European institutions to enforce policies because Member States block them. European institutions cannot finance bailouts without Member State permission and funds, and when the EU does set economic targets, Member States still have the final say over if and how they will abide by them. This has the potential to reduce EU cohesion, particularly since individual Member States are continuing to think more of their own benefit than of the benefit of the EU as a whole, and are reluctant to create any new policy or treaty that could potentially give the EU even more power.

However, despite the fact that the EU still does not have enough power to force some Member States to bail out others and cannot enforce sanctions without the Member States'

support, there is evidence that during and after the Greek recession the European Union began to act with considerable solidarity. Increased solidarity after the ratification of the Lisbon Treaty could be attributed to various factors. First, the increased level of collaboration is undoubtedly in part due to the fact that the economic recessions after the ratification of the Lisbon Treaty tended to happen in Eurozone states, thus necessitating cooperation. Furthermore, as Europe had already dealt with similar problems before the Lisbon Treaty, it was therefore more experienced in handling them.

However, European institutions are arguably best situated to respond to economic crisis, and to an extent this has helped them to cooperate on the EU level to find a response to the recent recession. The solidarity clause in the Lisbon Treaty provides that the EU and Member States act jointly if a Member State is in crisis, but enforcing this clause has proven difficult. However, although national governments are reluctant even nominally to cede power to the EU, European citizens are recognizing the EU's strengthened position. In fact, there were several innovations in the Lisbon Treaty which did indeed strengthen the EU's economic governance.

The Commission now holds greater power to ensure that Member States adhere to European economic policy. Furthermore, the Lisbon Treaty also established the position of a "permanent" President of the European Council. The new President, Herman Van Rompuy, who is renowned for his ability to broker consensus among vastly different parties, was very much involved in negotiations between Member States and in creating new institutions and policies to better handle the recession. Herman Van Rompuy took center stage during this crisis, using his position and his power to coordinate action among Eurozone members. The better coordination between Member States that was displayed after the Lisbon Treaty ratification was achieved in large part through the new institutions and programs which he promoted, chaired, and even established.

Although the Lisbon Treaty has created new actors and arguably influenced the creation of new institutions, these actors and institutions only go so far. Although the EU has the ability to better coordinate Member States and has a president that can use his power to unite Member States to discuss important issues, the fact remains that the Member States have the final say over whether they want to act in solidarity. Although the European Union does have a considerable amount of influence over economic governance, at this point it seems unlikely that the Lisbon Treaty has given the Union the power to *ensure* cohesion within the union. The

Lisbon Treaty has merely provided the tools with which to create a more cohesive union. It is up to the Member States and the EU leaders to decide how these tools will be used.

Chapter 3- The Lisbon Treaty and EU Climate Change Policy

The Lisbon Treaty has not had a substantial impact on Europe's environmental governance. The changes in EU policies and legislative process appear to be more the result of politics than the treaty. As the world becomes increasingly concerned with the environment and climate change, it is not surprising that more environmental legislation is being created and passed. However, although the Lisbon Treaty has not to date had a large effect on EU internal governance, it has arguably had some small effect on the EU's ability to enact its agenda abroad.

Though at its birth, the European Union had no environmental policy and no idea of ever creating a way to govern each Member State's emissions and environmental policy, over time, the EU has developed such a focus on environmental issues that now it is sometimes referred to as an "environmental governance" (Benson and Jordan; 359). In fact, according to David Benson and Andrew Jordan, the EU's climate control policy is "arguably *the* most dynamic and high-profile area not only of environmental policy but of EU integration as a whole" (Benson and Jordan; 368). Its environmental policy controls a number of aspects ranging from carbon emissions to dumping to protecting endangered plants and animals.

That is not to say that the road to a unified environmental policy has been smooth. There were moments of disagreement and fracture in the history of European environmental policy just as in other aspects of European policy. However, the relative ease with which Europe centralized its environmental policy is notable, especially when taking into account the reluctance of many Member States to relinquish power and authority to Europe. As a policy area, environmental issues differ greatly from issues such as the economy or foreign policy. Europe shares an environment, and Europeans generally understand that issues related to the environment, particularly clean air, global warming, and clean water are things that require global cooperation. In other words, the first step for every state to protect its own environment is to cooperate with other Member States in order to ensure that they protect it as well. Because of the early success of Europe's environmental policy, however, there was less room for improvement than in other policy areas. This means that the changes brought on by the Lisbon Treaty are, if not less significant, at least less easily distinguishable than in other policy areas.

This chapter will address the way that the Lisbon Treaty has affected Europe's environmental policy. It will start by discussing the history of European environmental policy. Then it will analyze European internal and external climate change policy before the ratification

of the Lisbon Treaty. Next the paper will explain the innovations in the Lisbon Treaty that could have an effect on EU environmental policy. Finally, it will assess the actual effect of those innovations on EU environmental policy.

History of European Environmental Policy

To understand the effect that the Lisbon Treaty would have on European environmental governance, and particularly on climate change policy, it is necessary first first establish an understanding of the birth and evolution of Europe's environmental policy. This will help to explain changes made in European environmental governance and distinguish between European environmental governance before and after the treaty.

European environmental policy emerged in 1972 with the request by Member States that the Commission create a statement of environmental policy. 1972 proved to be a watershed year for global environmental consciousness, bringing with it not only the birth of European environmental policy but also the UN Conference on Human Environment in Stockholm. As a result of this awakened interest in the environment, the First Environmental Action Programme was adopted by the EU in 1973. At first, European environmental policy was focused on responding to pollution and threats to citizens' health, but over time it expanded its focus to include other issues.

As the Commission is the European institution responsible for the governance of Europe without bias to any Member State, it seemed logical to entrust to it the governance of Europe's environment. After getting its foot in the door, the Commission became the driving force behind the centralization of European environmental policy. The EU's control over environmental policy continued to grow over the next few years, although it never grew to control every aspect of environmental policy. In 1981, a Directorate-General for the environment (DG environment) was created. In 1991, sustainable development and environmental policy integration became central objectives of the EU. In 2002, an Environmental Action Programme was adopted to make EU environmental policy more binding on Member States. Despite the progress made, EU environmental policy is not dominated by the EU. Competences for environmental policy implementation are held at EU, national, regional, and local levels of Europe (Inglis 267).

While the EU's influence over internal environmental policy grew substantially, especially in the 2000's, the EU's weight in external environmental affairs grew as well.

Beginning in the 1990's, the European Union began establishing itself as a leader in global environmental governance by leading at UN Framework Conventions on Climate Change and other negotiations. It also used its influence to try to enact its policy abroad—though this saw only limited success. As EU institutions were until recently not very coherent, it was difficult for the EU to effectively exert pressure abroad. For example, before the Lisbon Treaty went into effect, environmental law was a competence of the first pillar where the Commission had most of the influence, while most control over external action was a second pillar competence held by the Council members. Member States have continued to hold most of the power when negotiating abroad, and this often led the EU to appear fragmented both in its external policy and at summits and negotiations. Even when European leaders went into international negotiations with a common stance, it was not unusual for those same leaders to disagree during the negotiations. However, its drive to protect the environment and its success in implementing its policy—while limited—led the EU to be named a leading figure in environmental governance.

To date, EU climate change policy has been fairly successful, especially when compared to other policy areas such as the economy and external action. As such, the Lisbon Treaty, as the Nice Treaty before it, does not contain a substantial amount of content relating the environment. According to Hans Vedder, the treaty contains several clauses that aim to integrate environmental policy and to give the EU more control over environmental policy. However these clauses are remarkably similar, if not identical, to articles in the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) and serve only to put more emphasis on them (Vedder; 3). Vedder also states that environmental legislation will be passed in the same manner as before.²⁴ However, as the European Commission has gained the power to take EU Member States to task for infringements on EU policy, implementation of EU environmental policy may become easier and more effective than it was before (Vedder 7). With the Lisbon Treaty, the principles and objectives of EU environmental policy, and the legislative procedure for adopting measures remain about the same as before. One of the main reasons for this is that most of the questions about environmental policy were settled in the 1990s, and Europe's environmental policy was considered to have already been functioning fairly smoothly at the time that the Lisbon Treaty was negotiated.

²⁴ Standard environmental legislation will be enacted by Qualified Majority Voting (QMV). Legislation that involves the economy or affect limited resources will be subject to a unanimous vote following a consultation with the European Parliament. (Vedder 6)

Climate Change and Emissions

As the reality of climate change has grown in human awareness, Europe has adopted measures to control climate change, particularly by limiting CO₂ emissions. Climate change has proven to be one of the most important issues in EU environmental policy. The European Union has tried both to regulate Member States' actions that affect climate change and to become a world leader in combatting climate change.

The EU's climate change policy started in 1989, while the EU was preparing for the Earth Summit in Rio de Janeiro. From the beginning, regulating CO₂ emissions was at the forefront of this policy. In October 1990, the EU's, then the European Community's (EC), energy and environment ministers concluded that if other countries committed to reducing their CO₂ emissions, the EC would be willing to stabilize the CO₂ emissions of the EC Member States at their 1990 levels. The EC also proposed a tax on fossil fuels. During the Rio Summit, which occurred in 1992, the twelve Member States of the European Community unanimously agreed to reduce their carbon emissions (Peeters 43).

Though it is clear that even as far back as 1992, the European states recognized the need to cooperate to reduce climate change, practice did not always match theory. Member States did not always agree on how climate change should be addressed, and even when they did, they often proved reluctant to comply with the policy they had approved. The Convention on Biological Diversity²⁵, for example, which was opened to signatures during the Rio Summit, was only signed by the UK at the last minute, which implies that the Member States of the EC were not bound to any unified logic or policy in their national environmental policies at that time.

The first Community measures adopted to regulate CO₂ emissions occurred in 1993 after the conclusion of the United Nations Framework Convention on Climate Change (UNFCCC). However, these measures proved to be largely symbolic. The Member States ratified the convention, but at the time they lacked a tangible internal policy to implement it. The proposal that the Commission submitted to the Council shortly after the UNFCCC would have placed a tax on CO₂ emissions and energy, and would have resulted in significantly reduced emissions from EC Member States. The CO₂ tax was never adopted, and emissions reduction programs remained a state-dominated policy. A later Council Directive 93/76/EEC, also called the SAVE

²⁵ The Convention on Biological Diversity was a legal document drawn up by a United Nations Environment Programme (UNEP)- sponsored group of experts. The document provided a plan for the conservation and sustainable use of biological objects.

Directive,²⁶ required states to reduce CO2 emissions by such things as creating more efficient technologies and having more regular inspections of facilities. However, there were no specific limits for energy consumption, and the Member States were to use their own discretion to determine the scope and form of the programs.

Despite its setbacks, the EU's climate change policy strengthened over time, and with its own environmental quality mostly ensured, the EU turned its focus to global environmental policy. The EU believes that it played a leading role in creating an international climate policy through the UN Framework Convention on Climate Change and the Kyoto Protocol of 1997. The promise that this regime seemed to show raised the EU's prestige both domestically and internationally. The EU's position in environmental affairs was further advanced by the United States' withdrawal from the Kyoto Protocol in 2001. With the apparent disinterest of the US toward global environmental governance, environmental affairs became an area where it was possible for the EU to become the global leader (Haug and Berkhout; 22).

Unlike other countries where passing emissions-limiting legislation can cause the government to lose support, for Europe, becoming a world leader in any policy area had the potential to strengthen support for the EU at home and also internationally. For supporters of the EU, the success of EU climate change policy became a legitimization for EU action and rationale for continuing European integration. Although the EU's emissions-reducing policies did not yield as many results as Europe may have wished, at least in the arena of domestic climate control policy the EU became the leader among the developed nations (ibid.). The EU, unlike many other countries, maintained itself well within the limits of its Kyoto Protocol target partially due to the creation of the European Union's Emissions Trading Scheme (ETS). According to the European Environment Agency, "between 1990 and 2007, emissions per unit of gross domestic product (GDP) decreased in the EU-27 by more than a third" (Martin and Henrichs; 28).

The EU Emissions Trading Scheme was created at the time of the Kyoto Protocol, when there were only fifteen Member States in the EU. Because EU Member States agreed during the Kyoto protocol on measures that were stricter than what the Kyoto protocol called for, it was necessary for the EU to create a sort of market for greenhouse gas emission allowances. The ETS was designed to keep the net European emissions level in range of the Kyoto Protocol while

²⁶ The Directive was proposed by the Commission and was designed to promote energy efficiency in the EC.

promoting green technology in individual Member States and accommodating differences in Member States' situations. Because the EU set penalties for surpassing EU emissions limits, Member States were—and are—allowed to trade their emissions allowances and buy extra allowances²⁷ to avoid being penalized (Carson; 162).

The ETS has three phases. Phase 1, which lasted from 2005 to 2007, only involved CO₂ trading, and permitted many allowances. Phase 2, from 2008-2012 reduced allowances of CO₂ emissions and increased the penalty for non-compliance. Phase Two also allows “banking” or “rollover” allowances, and requires Member States to submit National Allocation Plans (NAPs). Phase 3, which is planned to be similar to Phase 2, starts in 2013 and ends in 2020.

Since 2004, the EU has made major strides in creating coherence in matters of climate change policy and in addressing more areas of Member States' activities that have an effect on climate change. In late 2005, the European Parliament passed a resolution that made CO₂ emission standards for such industries as the automobile industry mandatory. A year later, the Commission began working on a proposal for legally binding requirements for CO₂ emissions from cars. The proposal was adopted in 2007.

However, despite great strides forward, there have been some setbacks in EU climate change policy. One of the main problems that the EU encountered was that EU emissions standards occasionally hurt the finances of certain Member States and that these states were finding ways to avoid EU regulations. In 2006, because of the limit that the Commission placed on carbon emissions, Poland was faced with the choice of either buying emissions allowances, or buying natural gas from Russia. Either way it was a large expense. Poland did not have a natural gas supply to rely on, and it did not want to continue to incur a debt by purchasing allowances. Therefore, it submitted a National Allocation Plan²⁸ that projected an increase in emissions. The European Commission rejected the plan and gave Poland an ultimatum. If Poland consented to a decreased amount of emission allowances, Poland's plan would be accepted. If Poland refused to decrease the projected amount of emissions allowances, the Commission would reject the plan. Poland refused this alternative and asked the Court of First Instance for the Commission's decision to be overturned. The court sided with Poland, and ruled that the Commission had

²⁷ An “emissions allowance” is equivalent to one ton of CO₂ during a certain period of time (Carson 162).

²⁸ National Allocation Plans are essential elements of the EU ETS. These plans, drawn up by the Member States themselves, take into account the state's economy, technology, and GDP, and then set an emissions allowance requirement. The plan is submitted to the Commission which then evaluates the plan's compatibility to the EU ETS Directive and Kyoto Protocol targets.

exceeded its power. The Court also judged that putting strict guidelines on carbon polluters was beyond the Commission's power (Carson; 172).

The backlash against this incident is still ongoing. While, immediately, the court's decision showed that the Commission's power over Member States' environmental policy was more limited than once was thought, in the long run, the ruling has the potential to destroy the EU ETS. The Court's ruling that the Commission overstepped its authority for some is a welcome declaration. Many Member States' national governments felt that the Commission often tried to exert power over more areas than is legally allowed. However, some argue that the ruling has the potential to damage the Commission's ability to combat climate change. The ruling has caused many people to doubt the EU program's success, and some even say that the Commission should have had more authority than the Court decided. Either way, in giving one Member State the power to maneuver around a Commission's ruling, the Court has essentially given all Member States the ability to cheat the system. Interestingly, the Lisbon Treaty did not provide a solution to this problem, most likely because Member States were very careful not to give the Commission more power during the negotiation of the Treaty.

Since 2008, the EU has established a policy framework to achieve its objectives of a 20% reduction in emissions and has made commitments to financing low carbon technologies. The EU has increased its control over the enforcement of European environmental policy as well. However, there is evidence of the EU Member States' disunity as recently as the 2009 Copenhagen Summit. For many, the 2009 UN Framework Convention on Climate Change (UNFCCC) in Copenhagen represented a failure of EU policy and raised doubts over whether the EU was capable of creating a strong and legally binding global climate change "regime" after 2012. This was despite the relative progress that the EU had made compared to past negotiations in preparing and finding a consensus.

Before the Copenhagen summit, the EU was already having troubles enforcing the protocols made at Kyoto. These problems were so difficult that some people began questioning whether the EU was capable of environmental governance at all. Earlier troubles in EU environmental governance, including the Court's ruling in favor of Poland several years earlier may have caused Member States to start focusing more on their individual interests than on the good of the community.

Though initially, the 27 Member States entered the Copenhagen Summit with a unified

idea of what “Europe” aimed to accomplish, at one point in the summit the EU began speaking with many voices. The “failure” of Copenhagen seemed to challenge Europeans’ attitudes toward climate change policy and undermined European leadership. At Copenhagen, Europe pushed for a global treaty that would build on earlier treaties and scientific expertise, would be fair to all nations, and would regulate and reduce emissions—particularly from developed nations. The treaty, which Europe hoped to put into effect January 2013, was not adopted. The only result of the conference was an accord negotiated by a small group of states that, instead of setting an agreed-upon limit for emissions reductions, called for each state to propose its own reduction plan.

The disunity of the EU at this conference has also affected the EU’s international influence. Whereas the EU still remains a global leader in the internal implications of climate change policy, particularly emissions reduction, its status as a global leader of climate change was seemingly proven to be only nominal. For international climate change policy, despite the EU’s efforts to raise awareness and alarm among nations, the apparent improvement in its organization, and its efforts to prepare its case, the Copenhagen summit did not result in the changes the EU hoped for. Some claim that the failures at Copenhagen were the result of the weak Danish government, and Swedish EU presidency. Another problem was the EU’s lack of negotiating leverage and other states like the US and China being unwilling to reduce emissions rates. Despite the fact that there was some progress made, the Copenhagen summit showed that Europe was not quite the global leader that it thought it was.

Lisbon’s effects on Climate Change Policy

Though the Lisbon Treaty did not bring many large changes to Europe’s environmental policy, it did implement measures that can affect EU environmental policy indirectly. The most direct change that the Lisbon Treaty made to European environmental policy was in labeling combatting climate change and promoting sustainable development as EU objectives. Environmental impact must now be considered when negotiating or implementing any EU policy, and the toppling of the pillar system means that it will be easier to coordinate environmental policy with other areas of European policy. The treaty also acknowledges the EU as a global leader in environmental affairs.

It is easier when evaluating the impact of the treaty on EU environmental policy, to focus

on the impact on internal policy and external relations separately. This is because, while the EU presents possibly the most effective environmental regime in the world, its impact abroad has, until now, often been hampered by its lack of cohesion in foreign affairs and its lack of political weight.

Internally, despite the increased focus on the environment, the Lisbon Treaty makes few changes. It does not prescribe any policies or guidelines for approaching the issue of climate change, which means that the EU's internal environmental policy manifests in different ways. One of these ways is by focusing on public participation in its environmental governance. By increasing awareness of environmental issues among its citizens, and emphasizing the global nature of environmental issues, the EU is ensuring that the environment is perceived—at least by EU citizens—as being an important aspect of EU policy. Though this may not ensure a better protection of the environment, it may raise citizens' interest in the environment, and ensure that environmental protection remains an important topic in EU governance.

A Lisbon Treaty innovation which could potentially have a large effect on EU policy-making is the extension of Qualified Majority Voting (QMV) to more issues in the Council. Starting in 2014, the Council will vote on the majority of its legislation by QMV, which means that approval from 55% of the EU Member States representing 65% of the EU population will be required to pass legislation. The EU now has an “integrated” environmental policy—which means that consideration of the environment must be taken when creating and implementing any EU policy. However, as the change to QMV will not go into effect until 2014, it is impossible to know with certainty how this might affect European policy making.

Another important change brought about by the Lisbon Treaty is the new jurisdiction given to European Court of Justice (ECJ) over the principle of subsidiarity, a principle which states that affairs not specifically attributed to the EU by a treaty remain in the hands of the Member States. As there has recently been controversy over the principle of subsidiarity as it relates to environmental policy, this new jurisdiction could have important results for European climate policy and could potentially cause EU institutions—notably the Commission—to relinquish authority to Member States.

The new powers given to the ECJ are of such importance that some time should be taken to analyze them. The ECJ, which has long held the power to put sanctions on countries that are not in compliance with EU law, now has the power to ensure that legislation created by the

Commission is in line with the subsidiarity clause. Before the Lisbon Treaty, the principle of subsidiarity was controlled by the European institutions. However, the Lisbon Treaty now requires draft legal acts of proposals drawn up by the Commission to be sent to the ECJ. The ECJ will then have to check that the draft acts are in line with the subsidiarity clause and approve them. Each national parliament has the opportunity to submit an opinion on the draft act. If an opinion is submitted, the European Parliament is required to take the opinion into account.

With this new protection of states' rights in place, the procedure for creating and implementing environmental policy is fairly straightforward. The European Commission regulates the emissions of Member States, and when Member States do not comply with EU regulations, the Commission has the ability to refer the Member States to the ECJ. However, the Member States also have the right to solicit the ECJ if they believe that the Commission is overstepping its legal bounds—a right which the Member States arguably had before the Lisbon Treaty was ratified.

European internal policy after the Lisbon Treaty would be tested in 2010 when Poland was yet again charged by the Commission with failing to reduce emissions rates. In September of 2010, five EU Member States,²⁹ including Poland, failed to reduce emissions of PM10³⁰ particles to acceptable levels. According to EU policy, states that do not adhere to the standards³¹ set out in Phase 2 of the ETS will be fined. The European Commission announced that it would give these five states two months to meet EU standards or else they would be referred to the ECJ. This event was part of a long exchange between the Member States and the Commission that dates back to 2009, and there were similar incidents dating back to 2006.

Several of the states in non-compliance submitted requests to the Commission for extensions on the time limit, but these requests were more often than not rejected because minimum standards required for the granting of an extension, which include a demonstration of effort toward reaching EU standards, were not met. In April, after Poland submitted a request for an extension, the Commission replied requesting more information from Poland in regards to the state of its emissions-reduction policy. Poland replied with more information on May 4 and 11, and on September 21, 2010 (“Commission Decision;” 3). Poland’s compliance with EU emissions regulations has been notoriously tricky, and the Lisbon Treaty has done little to make

²⁹ Germany, Slovakia, Poland, Czech Republic, Austria.

³⁰ PM10 refers to particle matter of less than 10 micrometers in diameter.

³¹ The standards were set out in Directive 2008/50/EC.

either compliance or the appeals process any easier. Poland is dependent on imported energy and an industrial economy. Its topography is also problematic. The fact that many Polish cities are located in mountain and river valleys means that often harmful emissions are not able to disperse, and instead linger in the cities. It is notable in this case, that while the Commission was firm in its dealings with Poland, there were no accusations that it overstepped its limits of power.

Although Poland did succeed since September in reducing its emissions and coming more into line with the EU's policy, it struggled to do so. Poland is still dependent on non-green technology, and the transition to green technology would be a large burden on Poland's economy. Therefore, when in December 2010 the Commission drew up a plan to limit EU emissions allowances in Phase 3 of the Emissions Trading Scheme, which is set to begin in 2013, Poland tried to block the plan. This is reminiscent of Europe before the Lisbon Treaty, and even appears to be a step backwards for the EU. While the European Parliament is designed to address citizens' concerns and the Council is designed to address concerns of Member States, the Commission is supposed to promote the welfare of Europe as a whole—without bias toward any Member State. Poland's reversion to self-centered policy aims is contradictory to the function of the Commission.

The example of Poland's recent interaction with the Commission shows that despite changes in the relation between EU institutions, enforcement of EU environmental policy is largely the same as it had been before the Lisbon Treaty. While the Commission must now be careful to keep its policies in line with the principle of subsidiarity, it is still too early to see any real difference that the Lisbon Treaty may have made in the creation or implementation of EU environmental policy internally. This is because while the treaty may have given the EU new policy tools, it is still up to the Member States and EU institutions to determine how they will be used.

This example also displays the continuing lack of cohesion between Member States. Whereas Member States are often willing to comply with EU standards, and the method of enforcing EU policy seems to be functioning fairly smoothly in creating EU policy, Member States are still often looking out for their own interests at the expense of the interest of Europe as a whole.

While the EU's internal policy appears to have undergone very little change due to the Lisbon Treaty, in its external affairs the case has been slightly different. The EU's ability to

negotiate externally was improved by the Lisbon Treaty. The creation of a European legal personality strengthens negotiating power. The new posts of High Representative of the Union for Foreign Affairs and Security Policy and the President of the European Council, both of which represent the EU abroad, may have helped the EU to gain a larger international presence. These new positions have the potential to influence EU policy, because environmental protection policy functions best when it is coordinated with other policy areas, and is not its own isolated ‘special interest’ (Lee 134).

The heightened importance of the environment in EU policy as well as the EU’s new provisions for foreign affairs can perhaps be evidenced by the EU’s relations with third countries. The EU has recently been trying to pressure third countries to comply with EU standards for environmental policy and to invest in greener technology in their own countries. In October of 2010, the European Union sectors for transportation and environment collaborated to try to put pressure on the United States to reduce greenhouse gas emissions. These pressures began two years before, when the EU decided to implement measures to coerce third states to implement green policies, but they reached a new level in October.

The EU claims to have jurisdiction over American airplanes that land within European territory, and argues that these airplanes should comply with EU emissions standards. However, the EU agreed to overlook the airplane emissions if Washington reduced emissions in the US. Regardless of the outcome of this scuffle, the fact that the EU is coordinating multiple sectors and using its weight to achieve its policy aims—something that is helped by the Lisbon Treaty’s provision that all sectors of EU policy should look out for Europe’s environmental welfare—shows that it has grown as a political entity.

However the EU did encounter opposition to this policy. According to *The New York Times*, in December 2009, the Air Transport Association of America, with the support of three major American airlines³² filed a lawsuit against the EU. The policy was criticized for its unilateral nature, for being against the principle of sovereignty over airspace, and for demanding an “improper” tax (Kanter “Airlines”). The case was referred to the European Court of Justice in May 2010, but the Court announced that it could take as long as two years to find a verdict. As the ECJ does now have the power to declare that European institutions overstepped their bounds, this could present a very real concern for Europe. It is important to note however, that while the

³² American Airlines, Continental Airlines, and United Airlines.

United States government and many US airlines opposed Europe's sanctions, these same airlines, and many other airlines around the world began switching to greener technologies and fuels because of the EU's pressure (Kanter "U.S. Steps Up")³³.

While Europe seems to have become more capable of getting its way in relations with foreign companies, other aspects of its external action were tested during the 2010 UN Framework Convention on Climate Change (UNFCCC). This convention, which took place in December 2010 in Cancun, Mexico, was a chance for the EU to test the new powers and structures given to it by the Lisbon Treaty on enforcing environmental policy abroad. The Lisbon Treaty has not given the EU exclusive competence over external negotiations. On the contrary, the EU continues to share competence with the Member States in multilateral negotiations such as the UNFCCC. However, this conference was a chance for Europe to redeem itself after being sidelined during the conference at Copenhagen, and it was considered by many to be a test of the Lisbon Treaty's ability to create a stronger Europe.

From the start of the Cancun conference, the EU appeared remarkably cohesive and coordinated. The EU apparently learned its lesson from the failed Copenhagen summit, and instead of trying to give incentives to reduce emissions, the EU tried to use its weight to coerce other states to comply with reductions. The EU decided that trying to go beyond the 20% emission reduction without support from other countries would only place a burden on Europe's economies. Leaders of EU Member States agreed in late October 2010, that the EU would only agree to a second phase of the UN climate treaty, the Kyoto Protocol, if other large economies committed to reducing greenhouse gases as well. Knowing that the EU had a significant weight in relations if and only if it was coordinated and cohesive, EU leaders made a greater effort to speak with one voice at the conference.

In contrast to the Copenhagen conference, which is widely regarded as a failure, after two weeks of negotiations, the Cancun conference produced an environmental protection package that would keep global temperature rise below 2 degrees C (3.6F) and which also took into account financial aid for poorer nations in developing green technology and reduction of deforestation. In addition, the conference provided for new institutions that would make global environmental governance more effective (Krukowska "EU Says"). The EU has been praised for

³³ The EU standards are set to take effect in 2012. If they go into effect, any emissions that exceed EU limits will have to be bought on the EU ETS market. This would cost the airline industry an annual excess of approximately \$3 billion (Kanter "U.S. Steps Up").

making a substantial contribution to the negotiations in Cancun because of the “active and unanimous position” that it took (“New Step”). This unity was facilitated—though not necessarily caused—by Lisbon Treaty innovations such as the creation of a President of the European Council who remains for two and a half years and whose purpose is to lead and coordinate the Council.

However, that does not mean that the Lisbon Treaty was responsible for the success of the conference, nor does it mean that the EU was represented throughout the entire process as one single entity. Although Member States were held together by a common stance and common goals, they still represented themselves. The UK government, for instance, was praised for leading efforts during the Cancun conference toward finding an agreement on a new period for the Kyoto Protocol (“Cancun Climate”). Furthermore, success at a single conference cannot prove that the Lisbon Treaty has made a decisive impact. Europe was a leading figure in many conferences during the 1990s and 2000s. However, though the EU was often a leader with words during these past two decades, it generally lacked the power to back up and promote its stance.

It must also be said that the change in the EU’s coherence is not the only factor that caused the UNFCCC in Cancun to succeed. The dispositions of the other nations at the conference cannot be overlooked. The Mexican hosts played a large role in leading the negotiations toward a successful conclusion. A major change in the Cancun conference, which must be taken into account as well, was the willingness of the US to cooperate. After the failure at Copenhagen, the European Member States were not the only countries to see the necessity of coming to the next UNFCCC better prepared and ready to negotiate.

Although all accounts of changes in European policy dating after the ratification of the Lisbon Treaty can obviously not be attributed to the treaty, there is evidence that the treaty has given the EU better tools to implement its policy—at least abroad. In international news, the European Union is frequently mentioned in conjunction with global environmental policy. More than any other actor, barring perhaps the US and China, the European Union is mentioned as an important player in climate talks and climate actions. Statements made by the President of the European Council, Herman van Rompuy, regarding climate change policy are also often mentioned in the news. As the EU scholar Kristyn Inglis argued, the EU has emerged as a “maker” of climate change policy (265).

Conclusion

The example of the Lisbon Treaty's effect on European environmental policy is decidedly less conclusive than on other sectors of EU policy. Many of the same problems have carried over since before the enactment of the Lisbon Treaty, and with these problems the same ways of solving them have carried over as well. Changes that the treaty could have on the EU's environmental governance are not all visible at this time due to the fact that this paper is written so soon after the Lisbon Treaty's ratification, and not all of its innovations have gone into effect. Furthermore, very few direct changes were made to the EU's environmental policy itself. However, certain Lisbon Treaty innovations such as the expansion of the ECJ's jurisdiction over the Commission and the establishment of a President of the European Council, as well as the abolition of the pillar system, appear to have brought about some modest changes.

The abolition of the pillar system combined with the EU's increased focus on environmental affairs has facilitated the coordination of environmental consciousness with such policy areas as transportation and foreign affairs. Increased coordination and cooperation between Member States, which is facilitated by a President of the European Council with augmented powers and longevity, increases continuity of EU action as well as the ability to exert pressure abroad. However, Member States still hold a lot of influence over EU institutions and it is still the decisions of the leaders of the Member States that hold the greatest weight in the EU. The choice of a relatively weak President of the European Council has likely hindered the EU from becoming as cohesive as it could have been. New institutions have succeeded in bringing EU leaders together and making the EU more cohesive and confident in its actions. However, the recurring theme in EU policy of a lack of cooperation between Member States has not been abandoned because of the treaty. Where EU Member States find that an EU policy, while good for Europe as a whole, is against their own state's interests, they do not hesitate to block it.

The changes that the treaty makes to institutions, though few, are significant as well. The Lisbon Treaty has given the ECJ the power to check the Commission's actions and policies. This could potentially cause the Commission—the European body responsible for the advancement of the interests of Europe as a whole—to lose power. While this poses a danger to the EU as a union, in that it could potentially cause a decentralizing effect on the EU, it has given the Commission the incentive to tread more carefully in its implementation of policy. However, the real effects of this change, such as the effects of the extension of QMV voting in the Council, are

not yet visible.

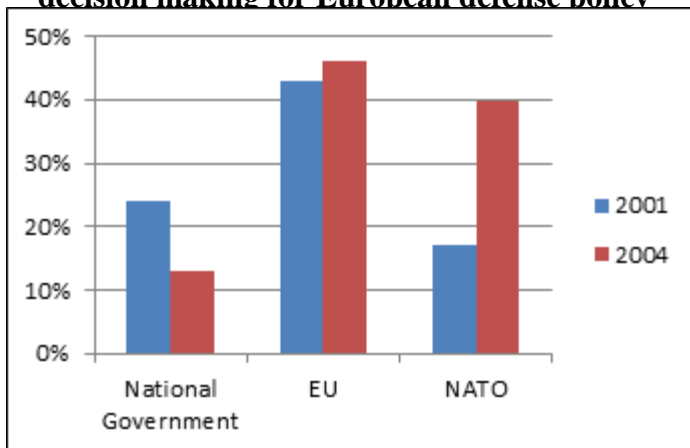
The true extent of the changes established by the Lisbon Treaty in environmental policy will only become evident in the years to come when the innovations of the treaty have all been put in place. To date, the extent to which the EU's environmental governance was already unified and successful has often caused the changes brought on by the Lisbon Treaty to seem paltry and unimportant by comparison. However, the integral first year following the implementation of the treaty is still important to observe. Although Europe's internal environmental policy appears to have been left largely unchanged, the EU seems to have found a greater capacity for cohesion. This appears to have made it more capable and confident in implementing its external environmental policy aims—whether that be negotiating at the UN FCCC or pressuring American airlines to adopt greener technologies.

Chapter 4- The Lisbon Treaty and the Iranian Nuclear Crisis.

Perhaps the area where the Lisbon Treaty had the most potential for change was in external affairs. Of the three main goals of the treaty which were discussed in the introduction of this paper, one was to unify European external action. Historically, European External Action and Foreign Policy have been undoubtedly some of the most difficult things for the European Member states to compromise on. However, the Lisbon Treaty has made major strides in giving a single voice to the EU—particularly in matters of foreign affairs.

One of the most important issues facing the EU during the past decade has been the Iranian Nuclear Crisis. Europe has been involved in this crisis in different capacities since the early 2000's. Although, initially, it was the individual EU Member States that began the intervention, over time the EU institutions and the EU's High Representative of Common Foreign and Security Policy³⁴ would become involved as well. This Lisbon Treaty would give the EU new policy tools for intervening in these types of crisis. However, although these tools did improve EU coordination and international visibility to an extent, unwillingness by EU Member States to cede influence to EU institutions would hinder the EU from reaching its full

Graph 2: European Opinion regarding level of decision making for European defense policy



potential in foreign affairs.

Support for a common defense and security policy has remained above 70% for the majority of the period since the beginning of the 1990's. Interestingly, in 2001, 24% of Europeans believed that decisions pertaining to European defense should be made at the national level, compared to 43% who believe that they should be taken at the EU level and 17%

by NATO³⁵. In 2004, the percentage of Europeans in favor of European defense policy being

³⁴ The High Representative of Common Foreign and Security Policy, the predecessor to the High Representative of the Union for Foreign Affairs and Security Policy, was created by the Treaty of Amsterdam which came into effect in 1999.

³⁵ Nearly half (47%) of Europeans believed that, although decisions should be made at the EU level, only states prepared to send troops should be able to vote on the issue. This is compared to 11% who believed that the vote should be taken unanimously by all Member States, and 17% who believed that it should be taken by a majority vote of all Member States.

made at the national level dropped to 13%, while that of the EU rose slightly to 46%. In 2010, when NATO was not a survey option, 31% percent of Europeans supported making EU defense policy decisions on the national level compared to 65% for the EU level (“Eurobarometre 73”; 216).However, it is important to note that the percentage varies by country. For instance Italy and Cyprus tend to be in favor of decision-making at the EU level, whereas the British tend to be in favor of a national response.

In this chapter, we will observe the changes that the Lisbon Treaty made to European external action. In order to do this, we will first examine the history of EU foreign policy in order to pinpoint some of its characteristics, strengths and weaknesses. Next we will observe the functioning of EU foreign policy before the ratification of the Lisbon Treaty. Then we will take note of the innovations in the Lisbon Treaty that can have a large effect on European external action, bearing in mind the context of these innovations. Then I will try to assess the actual impact of these policy changes on Europe’s external action. In order to make this clearer, I have focused specifically on the evolution of European action in one particular issue: the Iranian Nuclear Crisis.

History of EU Foreign Policy

To understand why some of the innovations of the Lisbon Treaty seem so revolutionary, it is first necessary to look at the beginnings of “European” foreign policy³⁶. As early as 1947, pacts and treaties existed between Member States of the EU to ensure their military cooperation and mutual protection. In 1970, the European Political Cooperation (EPC) was created by the Member States of the European Union’s predecessor, the European Community. However, because the Member States did not want the Commission to have any control over their foreign policy, this agreement was intentionally created to be separate from the European Community. It was not until 1987 that the Single European Act made the EPC part of the European Community³⁷. Since then, European cooperation in foreign policy has undergone a number of changes. In 1992, for instance, the Maastricht Intergovernmental Conference established the Common Foreign Security Policy (CFSP). The Maastricht Treaty implemented the practice of all

³⁶ Here “European” does not mean only the European Union, but rather both the union and the Member States that comprise it.

³⁷ The Single European Act incorporated the European Political Cooperation (EPC) into the European Community (EC), but not into regular community procedures.

foreign policy and external economic and developmental policy being filtered through the COREPER II, a council of Ambassadors of the Member States who met on a weekly basis in Brussels. The COREPER II was responsible for ensuring coherence in the EU's external relations. However, the Maastricht Treaty failed to create a unified foreign policy.

Decision-making in the arena of foreign policy remained in the hands of the Member States. However, Member State governments did see the necessity of coordinating their foreign policy, and so over time more and more foreign policy decision making began to take place in Brussels³⁸. The European Commission, the European body responsible for ensuring the collective benefit of the European Union without bias to any individual Member State, was still not included in the foreign policy making process. Over time, foreign policy and external affairs became more incorporated in the framework of the European Union, but power over these two areas remained mostly in the hands of Member States.

In 1993, the Eurocorps, a military corps consisting of the combined resources of France and Germany, was created. Over time, other EU Member States joined as well. The Eurocorps was adopted by the EU in 1999 and remained a force at both NATO's and the EU's disposal to handle crises. It does not involve all of the Member States of the EU. However, over the years, the Eurocorps has acted under NATO and the EU in regulating several crises.

The Amsterdam Treaty, signed in 1996, gave the Commission a larger role in foreign policy decision making, while retaining the intergovernmental framework. In 1999, the European Security and Defense Policy was created to allow the EU to be more active in operations conducted both within and outside of NATO. It would have the function of ensuring the smooth operation of European Common Foreign and Security Policy (CFSP), and managing EU intervention in foreign crises³⁹. The ESDP was reliant on the resources of the EU's CFSP to pursue its aims, as it did not have its own instruments. ESDP missions were required to be in accordance with the overall goals and principles of the CFSP.

The Nice Treaty, ratified in 2001, provided for the creation of an EU military capacity and permanent political and military structures. In 2002, the EU finally engaged in post-conflict reconstruction and crisis-management. However, as was evidenced in 2003 by the US-UK led

³⁸ The Council of the European Union, which is comprised of ministers of the European Member States, and the European Council, which is made up of heads of states of the European Member States, are responsible for most of the decisions regarding European external action.

³⁹ These crises include humanitarian aid missions, peace-keeping missions and rescue missions.

invasion of Iraq against the wishes of France and Germany, military action was still uncoordinated.

Despite EU strides toward greater cohesion, Member States have generally remained reluctant to relinquish control of their foreign policy to the EU. To do so, in the opinions of most national leaders, would mean relinquishing sovereignty. Though Member States have been willing to relinquish control in certain policy areas such as peacekeeping and development missions, they have been much more reluctant with issues concerning armaments and war.

There have been two currents of thought among EU member states in regards to foreign policy. For larger, more powerful countries such as France and the United Kingdom (UK), who have nuclear capacities and a seat in the United Nations Security Council, military policy is considered too sensitive an issue to allow the EU to control. These countries are against majority voting in matters of foreign policy and insist on unanimous voting. On the other hand, such countries as Germany, Italy and the Benelux group consider the current intergovernmental approach to be only an intermediary phase. For this second group of countries, the only way to have a fully functioning CFSP is to make decisions by Qualified Majority Voting (QMV) (Vanhoonacker; 3).

It is interesting to note that while many national governments are skeptical of a Europeanization of foreign policy, citizens of the EU have generally been in favor of an EU military and defense policy. A special Eurobarometer survey conducted in 2001, concluded:

More than four Europeans in ten (43 %) are of the opinion that decisions concerning European defense policy should be taken by the European Union...Only 17 % thought it should be NATO and 24 % the national governments.⁴⁰ (Manigart; 11)

However, the survey also concluded:

Nearly one European in two (47%)...believes that it is up to the governments prepared to send troops to decide. The option which, in the question, represents the most "federalist" solution - namely, a binding majority vote - comes last, with just 7 %. In other words, there is still a not inconsiderable gap between the vague desire for a European defense and making such a policy operational. (Manigart; 13)

Throughout the years, the unwillingness of Europeans to cede power over military policy

⁴⁰ According to the article, only one response was allowed.

has hindered the ability of the CFSP to function effectively. Because any decision made needed a unanimous vote, it was difficult for the CFSP to act in a timely and effective manner—if at all. Though the Maastricht Treaty, which went into effect in 1993, created the possibility of joint action by a “special QMV”, this option was rarely, if ever, used. Therefore, European foreign policy has remained decentralized.

One of the main obstacles for European foreign policy was the pillar system. When the pillars were still in effect, the decision-making process for external policy was different depending on whether the issue had to do with the economy⁴¹ or foreign policy⁴². This made decision-making complicated and confusing, with overlap in jurisdiction between the pillars. This has also made it difficult for third countries to interact with the EU, as they did not know to whom to address their questions. It was this complicated decision-making process that the Lisbon Treaty set out to rectify.

Europe and the Iranian Nuclear Crisis before the Lisbon Treaty

Although the true extent of the changes made by the Lisbon Treaty will undoubtedly take years to see, it is already possible to see evidence of the treaty’s influence. Studying the European intervention in the Iranian Nuclear Crisis gives an insight into the late evolution of EU intervention in international affairs, and highlights some changes brought about by the Lisbon Treaty. This “crisis” is ideal because Europe has been continually involved in negotiations with Iran regarding the crisis since 2003.

Iran’s nuclear program began in the 1960s, but was abandoned after the 1979 revolution. It was recommenced in the 1990s. Almost since its recommencement, it has aroused suspicions in Western countries. In 2002 documents surfaced revealing that Iran had been lying about its program and that it was actually operating a clandestine nuclear program. According to the *BBC*, although there has never been any decisive proof that Iran was creating nuclear weapons, the fact that Iran hid a nuclear enrichment program for eighteen years has caused the world to doubt its peaceful intentions. The technology used to enrich uranium for peaceful purposes such as nuclear power can also be used to enrich uranium for creating nuclear weapons. The Nuclear Non-

⁴¹ Economic affairs at the time were in the jurisdiction of the European Community—the first pillar of the pillar system. In this pillar, issues were dealt with using supranational methods.

⁴² Foreign policy was under the second pillar—the CFSP. In this pillar, issues were dealt with through intergovernmental cooperation.

Proliferation Treaty (NPT), which came into force in 1970, was created for the purpose of promoting the peaceful enrichment of uranium, while encouraging nuclear disarmament. The treaty allows its signatories to enrich uranium for peaceful purposes only, but requires these states to undergo periodic inspections by the International Atomic Energy Agency (IAEA),⁴³ the agency established to supervise and promote peaceful nuclear programs. Iranian President Ahmadinejad has repeatedly denied the creation of nuclear weapons in Iran. There is little doubt, however, that Iran is capable of making a nuclear bomb. According to US CIA estimates made in June 2010, Iran could make a workable nuclear weapon in two years (“Q&A: Iran Nuclear Issue”).

As the EU’s dealings in the Iranian Nuclear Crisis demonstrate, independence of Member States in foreign policy tends to be the rule. This meant that, despite several treaties that aimed to unify EU foreign policy, Member States have continued to act in their own interests in most matters of foreign policy. Even today, each Member State still has the capacity to join or leave international organizations such as NATO or the IAEA and each country still has the capacity to create international treaties, although they are constrained by EU guidelines on the content of those treaties. However, the European agenda has historically not been considered very important by Member States. Member States’ foreign policy aims and actions have generally been at the discretion of said Member States, and several Member States are involved in disputes around the world while others are not. European Member States are also allowed to become involved in third countries’ crises and wars.

Throughout the years, EU external action has generally been restricted to humanitarian and development aid missions due to limits on its resources and mandate. The European Union is considered a “civilian power” because, although the EU has been involved in peacekeeping and humanitarian projects for years, it has found it difficult to engage in crises. Innovations in the Lisbon Treaty, such as the creation of a President of the Council and a High Representative of Foreign and Security Policy, theoretically clarify EU diplomacy and facilitate external action. However, despite the ratification of the Lisbon Treaty, the EU still does not have any military power, and continues to rely on Member States to provide civilian and military capabilities to implement European security and defense policy. Furthermore, although the new High

⁴³ The IAEA was established in 1957 and functions as an independent international organization regulated by a special agreement with the UN.

Representative position has the potential to bring about a stronger, more coherent EU foreign policy, it can only do so with the approval of the Member States. As history has frequently shown, Member States are often reluctant to give this approval.

A striking example of the European Union's impotence relative to its Member States is demonstrated by the E3+3⁴⁴ involvement in the Iranian Nuclear Crisis. Thanks to their status as the three most powerful European Member States, France, the UK and Germany have taken on the task of solving the problem of Iran's nuclear program. The E3 is a semi-uniform entity that was created to negotiate with Iran in order to keep Iran from developing nuclear weapons. The cooperation between these three countries started in 2003, with the idea that bilateral exchange with Iran would create a more amiable relationship between Europe and Iran. Later, the US, Russia and China joined to create the E3+3. In 2004, the European Union joined the E3 as a partner, and since then has aided in negotiations between Iran and the E3+3.

Despite E3+3+EU policies, Iran continued its nuclear program with little transparency or cooperation with the rest of the world. Although the early focus was on negotiation, the E3+3 now uses economic and political pressure to coerce Iran into keeping its nuclear program within IAEA standards, UNSC Resolutions, and the Treaty of Non Proliferation.

Between September 2009 and January 2010, the E3+3 conducted as much as or more negotiations with Iran than the European Union did. While statements made by the E3+3 countries frequently made headlines, statements by the EU High Representative were only occasionally mentioned in international news media. For instance, on September 25, 2009, the presidents of France and the US as well as the Prime Minister of the UK criticized Iran's non-transparent nuclear policy at the G20 summit. They also asked for Iran to comply with IAEA standards. What is interesting about these speeches is that, although Germany was mentioned as a supporter of these declarations, the EU was not.

On October 1, 2009, shortly before the ratification of the Lisbon Treaty, the E3+3 and the High Representative of the EU for Common Foreign and Security Policy, at the time M. Javier Solana, met with the Secretary of the Supreme Council of Iran's national security, Mr. Saeed Jalili, to discuss nuclear energy in Iran. Here, although the EU was present, the E3 Member

⁴⁴ E3 stands for "European three." It is also sometimes seen written EU3. E3+3 refers to the three most powerful European states, France, the UK, and Germany, as well as the United States, Russia, and China. This collaboration is also referred to as the P5+1, as it is composed of the five permanent members of the United Nations Security Council and Germany.

States were also present representing themselves and their own interests. The members of this summit made three accords (Erlanger; 2009).

- In a second meeting the members of the summit would discuss nuclear issues such as the propositions made by both sides at earlier occasions, and global affairs that the members would like to regulate.
- Iran would cooperate with the IAEA and would allow the IAEA to inspect its nuclear centers.
- Low-enriched uranium would be transported to third countries for the enrichment and fabrication for Tehran's Research Reactor (which produces isotopes for medical applications).

Though over time the EU came to participate more and more in negotiations with Iran, its participation continued to have short-comings. E3 countries continued to have a monopoly on intelligence in Iran. On October 2, 2009, the Institute for Science and International Security publicized extracts of an IAEA report that shows that messages from a woman with ties to German intelligence gave important information to the United States⁴⁵. Reports published the next day by France and the UK showed that these two countries had similar estimates of Iran's nuclear capabilities based on their own intelligence. The information apparently bypassed the EU.

The Lisbon Treaty's Effects on European Foreign Policy

The Lisbon Treaty, which went into effect in December 2009, aimed to streamline decision-making and make the EU more cohesive abroad. Two issues of major concern during the negotiation of the Lisbon Treaty were terrorism and the conflicts in the Middle East. The Lisbon Treaty provides for a common response in the event that any Member State is the victim of a terrorist attack. However it was not good enough just to promote cooperation among Member States. EU leaders wanted to give more power to EU institutions in order to ensure the promotion of the common good, and they also wanted to make it easier for the EU to act on the global scene.

⁴⁵ The information said that Iran had "sufficient information to be able to design and produce a workable implosion nuclear device" (Philip; 2009).

To achieve these goals, the Treaty makes several important innovations. Perhaps the most significant is the creation of the High Representative of the Union's Common Foreign and Security Policy. Because it is extremely important, some time should be taken to analyze this new position and how it will affect the EU's ability to conduct foreign affairs. The High Representative, Catherine Ashton, serves both as the head of EU foreign policy and as the Vice President of the Commission. She is responsible for presiding over the Foreign Affairs Council, for coordinating and ensuring the coherence of EU external action, for conducting political dialogue and negotiations with third parties on behalf of the EU, and for speaking on behalf of the EU in international organizations and at international conferences (Daly; 281). Though the Lisbon Treaty states that it is still the Council's responsibility to define the objectives and strategic interests of EU foreign policy, the High Representative and the Commission can now submit joint proposals concerning foreign policy to the Council for consideration. This innovation causes the economic and foreign policy sectors of the EU to converge and thus renders making decisions that involve both of these sectors simpler and more efficient.

The second major innovation of the Lisbon Treaty is the provision for the creation of the European External Action Service (EEAS). The EEAS is charged with working with the diplomatic services of the Member States to assist the High Representative in her obligations. According to David Daly, head of the EU Delegation to Australia, the EEAS will be made up of "officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States" (Daly; 282). The Council, after coordinating with the High Representative, the European Parliament, and the Commission, finally approved the organization and function of the EEAS in June 2010 ("A New Step"). The EEAS came into being on December 1, 2010, a full year after the ratification of the Lisbon Treaty. Staff transferred from the Council and the Commission made it fully functional on January 1, 2011⁴⁶. The organizational structure set up by the Council will be "fine-tuned" in the following years to work out any problems it may face.

The Treaty also gives the EU certain new powers. The EU now has a "legal personality," meaning that it is capable of acting through its own institutions and not only through Member

⁴⁶ The transfer of staff will cause certain changes within the Commission. The staff taken from the Commission includes the entire Directorate General for External Relations (DG RELEX). DG RELEX will therefore cease to exist. Staff will also be taken from DG Development (DEV), whose remaining members will be merged with DG External Cooperation Programmes (AIDCO) to create DG Development Cooperation (DEVCO). ("A New Step.")

States. It is capable of creating treaties and accords with third parties, which seems to indicate that the Member States must have transferred some of their power to the EU (Schmidt; 244). It is important to note that the principle of subsidiarity is not affected by the Lisbon Treaty. Now as before, competencies of the Member States will remain with the Member States unless explicitly conferred on the EU in treaties. However, the legal personality along with the innovations of the High Representative, the EEAS, as well as the creation of the post of President of the European Council, gives the European Union a face, principles, and presumably more coherence on the international scene.

Along with the innovations that it put in place, the Lisbon Treaty lays more emphasis on the already existing foreign policy as well as the binding nature of EU foreign policy. Now, as before, when a foreign and security policy issue that concerns the union arises, Member States are obligated to consult each other in the forum of the union in order to ensure common action. Furthermore, states' national policies and external action must be in accordance with European common security policy. Even if a state policy existed before the EU policy was enacted, the Member State must change its policy to be in accord with EU policy. Article 24 of the Lisbon Treaty obligates Member States to be "loyal" and "cooperate." The Article forbids Member States to act against the interests of the union or to do things that will contradict EU action. The Lisbon Treaty emphasizes that this clause is valid for external and security policy.

However, the Treaty has been the object of criticism. While many Member States condemn it for having taken too many powers from the Member State governments, other critics claim that the Lisbon Treaty did not bring any substantial changes to Europe at all. There may be some truth to this claim. The Treaty does not give many new powers to the Commission or to the European Parliament over foreign security policy. Even though Qualified Majority Voting (QMV) is extended to votes on implementation of foreign policy in the Foreign Affairs Council, unanimity is still required for major decisions (Daly; 282). Furthermore, even in votes that are made by QMV, there is a loophole that allows any Member State to refer the issue to the Council for a unanimous vote if there are "vital reasons" for doing so (ISIS; 4).

However, some scholars argue that instead of creating new policies, the Lisbon Treaty only added emphasis to the old ones. These critics claim that the Lisbon Treaty did not create the EU's legal identity, but only formalized it (Schmidt; 245). They point to several international agreements that the Council concluded before the Lisbon Treaty which provided for the

contribution of personnel or assets and the exchange of information in European Security and Defense Policy (ESDP) issues.

The Lisbon Treaty also contains several loopholes that allow Member States to act in their own interests. Article 28 of the treaty, for instance gives Member States the ability to pursue their national foreign policy without consulting the EU, if the action is deemed immediately necessary. In the event of an emergency,⁴⁷ the Member State can take action and then immediately inform the Council—instead of waiting for the Council’s approval.

It is also notable that Member States have retained substantial control over EU external relations. Although they are constrained by EU policy, it is the Member States that create that policy. Since voting on foreign policy issues generally requires unanimous approval in the Council, Member States can block the passage of a policy that would place constraints on their own national foreign policy.

The innovations in the Lisbon Treaty pertaining to foreign action were realized slowly and tentatively. The relatively weak political figures that have filled the new posts of High Representative of Foreign Affairs and the President of the European Council highlighted the hesitancy of Member State leaders to make any significant commitment to unifying their foreign action. Furthermore, the delay in establishing the EEAS was due to continued disagreements between Member States on the form and function of the institution.

Despite its slow start, however, the new High Representative, Catherine Ashton, and the President of the European Council, Herman Van Rompuy, whose positions were created by the Lisbon Treaty, have been active in the Iran crisis. After being appointed in December of 2009, Ashton repeatedly called for talks with Saeed Jalili. Although it is true that Ashton’s predecessor, Javier Solana, also conducted talks with the E3+3 and Iran, Ashton seems to have found herself in a better negotiating position. The Lisbon Treaty not only created Ashton’s post and provided for an external action service, but also combined the position of the High Representative with that of the Vice President of the Commission⁴⁸. The linkage of economic and foreign affairs that was provided for in the treaty has shown results.

However, there have been some setbacks. The United Nations refused to give Van Rompuy and Ashton greater roles in the General Assembly, and there is still no headquarters

⁴⁷ What constitutes an “emergency” is not clearly defined in the Lisbon Treaty.

⁴⁸ The European Commission is the European institution responsible for implementing and monitoring European policies.

building for the European External Action Service. Furthermore, the credit crisis has damaged Europe's credibility worldwide. To make matters worse, EU Member States, the UK and France, were key in blocking any EU position in the UN Security Council. Although these states eventually compromised to allow Catherine Ashton to address the General Assembly, the EU has mostly maintained an observer status in the UN. However, in February 2011, Ashton was allowed to speak in the UN Human Rights Council on the topic of the developments in Iran.

Although the leaders of the EU Member States have shown reluctance to cede power to the new EU leaders, by June 2010, it appeared that they were more willing to cooperate in the Council to solve their external problems. This is possibly due to the new "permanent" President of the Council, Herman Van Rompuy, who despite his lack of flair, is known for his ability to find a consensus between parties with vastly different aims. When stricter sanctions were imposed on Iran in June 2010 by the United Nations Security Council, the European Council agreed to even harsher sanctions against Iran, and even specifically targeted certain sectors of Iran's economy. This degree of cooperation is unusual among EU leaders, who generally find it hard to come to a unanimous consensus even on general subjects. Despite reservations from several EU states, notably Germany, Cyprus, and Sweden, the EU—including all 27 Member States—signed off on the sanctions.

These sanctions did indeed slow Iran's nuclear program, but they did not make Iran any more willing to comply with the IAEA. After months of stalling, Iran agreed to meet with Catherine Ashton, who would be representing the E3+3. The talks took place in Istanbul in January 2011. Although the talks were inconclusive, Ashton, along with the other leaders, were firm in their stance that sanctions would not be removed until Iran complied with IAEA standards. Ashton also met with the new Foreign Minister of Iran, Mr. Salehi, in Geneva.

However, the Lisbon Treaty did not cause the European Union suddenly to become the primary actor in European Foreign Policy. Although Ashton was in fact the head of the E3+3 delegation to Iran, even in this meeting it was clear that it was the E3—and not the European Council or European Union—that was negotiating. Although Ashton is generally included in E3+3 meetings, it is not unheard of for the E3 to draft a statement without her input. Even as recently as February 2011, the E3 delivered a joint statement on a foreign policy crisis in the Middle East two days before European ministers were scheduled to meet to draft a unified statement on the crisis (Erlanger; 2011).

Such occurrences can most reasonably be explained in two ways. The first explanation is that the High Representative has not yet adapted to her role. Ashton has been criticized for being too slow to respond to crises, for being absent during Commission meetings, and for not taking a firm stance on important issues. In February of 2011, a reporter for *The New York Times* commented on her situation (Erlanger; 2011).

She must maneuver among the 27 member states — all with their own foreign ministers — as well as the European Union bureaucracy and the European Commission, run by José Manuel Barroso, who has foreign policy aspirations of his own. She is still struggling to build a staff and a new European diplomatic corps, and she must cobble together money and agreed positions from all the members.

Finally, European Member States have not yet adapted to a “collective” mentality. Member States still continue to look out for their individual interests rather than the interests of Europe as a whole. As the events of the first year after the ratification of the Lisbon Treaty reveal, EU Member States have continually backpedaled on EU policies. In a perfect example of this, shortly after harsher sanctions were placed on Iran, an article in *The New York Times* reported that EU Member States were considering exerting pressure on the EU to block these harsher sanctions to protect their trade.

Conclusion

The Iran crisis seemed to show that while the Lisbon Treaty has given the EU new policy tools for creating a more cohesive and stronger foreign policy, the hesitation of the Member States to cede control to the EU level has hindered EU foreign policy from becoming as effective as it could be. The selection of two relatively weak leaders to fill the two new top EU positions has kept the EU from becoming a world leader in its own right. Although the EU has gradually begun to play a larger role in the politics of the E3+3, EU Member States are still the primary actors in EU foreign policy. It is true that the creation of the High Representative for Foreign Affairs has seemingly given the EU a more prominent face on the global scene. However, while these new positions and a legal personality undoubtedly would benefit the EU in external action, the choice of a High Representative who will not take the initiative in promoting a European policy hampers the spirit of the innovations. While the EU appears to have a greater presence on the international scene, it does not seem to have a greater weight.

The institution of a president that holds the position for two and a half years instead of six months has helped to bring continuity to EU action. The new President of the Council, Herman Van Rompuy, has helped the European Council to find a consensus more easily. However, being the weak political figure that he is, his appointment as President demonstrates a hesitation on the part of the Member States to create a strong EU.

It is the Member States and not EU institutions that remain the dominant actors in European foreign policy, because they can influence what is put on the agenda and they still have control over civilian and military power. Julia Schmidt, a scholar on the European Union, seems to have predicted this. She argues that the Lisbon treaty does not clarify where the line between states and the Union ends (Schmidt; 2009). According to Schmidt, Member States have technically given up some sovereignty to the EU. However they do still retain the right to have their own national foreign policies, continue to act in their own national interests, and still exert control over EU policy. It is clear that while the Lisbon Treaty has the potential to make the European Union more powerful and cohesive, it can only do so with the approval and the cooperation of the Member States.

Conclusion

To the question” did the Lisbon Treaty make the EU stronger?” there is still no clear answer. The actual effects of the Lisbon Treaty on European governance will undoubtedly take years to manifest. Given time, it will perhaps be easier to find a more satisfying answer. However, at this point, it is already possible to see several trends in the effect the treaty has already had. These trends are important in assessing the influence that the Lisbon Treaty will have in the future.

The effect of the Lisbon Treaty has proven to vary depending on the policy field in question. As different policy areas functioned with different degrees of coordination before the implementation of the treaty, it is to be expected that there would be more room for improvement in some areas of policy than others. In foreign policy, for example, Member States have historically been unwilling to cede power to the EU level. The Lisbon Treaty made several important provisions for improving European cohesion in foreign policy, including creating a High Representative for Foreign Affairs with clout in the Commission. On the other hand, EU environmental governance has been surprisingly cohesive and efficient for the past decade, and therefore the Lisbon Treaty made no direct changes to EU environmental policy.

It was important to look at the first year after the ratification of the treaty because many of the changes to policies, positions and institutions that were prescribed by the treaty were brought to fruition during this first year. The Lisbon Treaty often did not prescribe specific, solid changes to EU structure and function. Instead, it provided for new institutions and policies, but left them ill-defined. This meant that after the ratification of the treaty, it was up to the European leaders in office to decide what forms and functions these institutions would take. The first year after the ratification of the treaty was integral to determining what positions such as the President of the European Council and institutions such as the European External Action Service would come to look like. It was also significant in setting a precedent for how Member States and EU institutions would act within the new structures put in place by the treaty.

The Lisbon Treaty has indeed given the EU the tools to be more cohesive, efficient and democratic. However, after the ratification of the Lisbon Treaty, these new policy tools have been used in different ways. In determining the actual effect of the treaty on EU governance, it would be easiest to look at the way that the treaty responded to the three issues that it set about to remedy: the “democratic deficit,” lack of efficiency, and lack of cohesion in external action.

Efficiency and Unity

The Lisbon Treaty proposed several innovations designed to make the EU more cohesive and efficient in its operations. One of its major innovations was to change the balance of power between EU institutions. The Lisbon Treaty did away with the old pillar system, which had divided EU competences into categories and made communication between institutions difficult. It has created stronger links between institutions, and has given the Commission—the EU institution designed to draft legislation and to operate in the interests of the union as a whole—a stronger position in such policy areas as foreign affairs and internal policy implementation. In combining the position of the Vice-president of the Commission with the High Representative of Foreign Affairs and Security Policy—who, as head of the new European External Action Service, will coordinate EU foreign action with that of Member States—the Lisbon Treaty has facilitated the coordination of national policy, EU internal policy, and EU external policy.

The Commission was given greater power by the treaty to ensure that Member States adhere to EU policy. This has had an effect on the implementation of EU policies in areas such as environmental policy, where the Commission has ensured that the EU Member States adhere to the emissions limits. This innovation also had an effect in EU economic policy. During the economic crisis, the Commission negotiated debt reduction plans in Member States hit hard by the economic crisis. The Commission also used its ability to refer Member States to the European Court of Justice to ensure that European Member States were remaining within debt and deficit limitations.

However, the Lisbon Treaty has limited the Commission's power as well. The treaty gives the European Court of Justice (ECJ) the authority to check the Commission's actions and policies to ensure that they are in line with EU subsidiarity policy. Member States are also given the right to check Commission draft proposals and submit questions on them if they believe the policies to be against the subsidiarity policy. Although this, if abused, has the potential to cause a decentralizing effect on the EU, these policies ensure that the Commission does not overstep the limits placed on it by European treaties. This brings added legitimacy to the policies that the Commission does propose and enforce.

The creation of the position of a “permanent” President of the European Council was apparently successful in bringing greater unity to the European Council. As a person renowned for his ability to bring conflicting parties to a consensus, Herman Van Rompuy managed to unite

EU Member State leaders on several important issues. He was particularly important in bringing about the creation of several new institutions to alleviate the effects of the economic crisis and to make EU economic governance more efficient. Although Van Rompuy is a less than dynamic figure and has failed to emerge as a real leader of the EU, he has been successful in uniting Member States on many issues.

Other Lisbon Treaty clauses that provided for a greater unity among Member States have been less successful. The Solidarity Clause in the Lisbon Treaty provided that EU Member States act jointly to aid a Member State in crisis. Although it appeared that after the Lisbon Treaty was ratified, EU Member States did act with more unity than they had before, there is no conclusive evidence that this is due entirely to the Lisbon Treaty. In the case of the economic crisis which caused severe recessions in several Member States, it was shown that despite the Solidarity Clause, there was no mechanism for *ensuring* that Member States acted in solidarity. It was entirely up to the Member States to decide if they would aid the state in crisis and the form that the aid would take.

It is important to note that the Lisbon Treaty has not succeeded in making the EU more *consistently* unified and efficient. New institutions and structural changes have succeeded in bringing EU leaders and institutions together to make the EU more efficient and confident in its actions. However, the recurring theme of a lack of cooperation between Member States has not been abandoned because of the treaty. When EU Member States find that an EU policy, while good for Europe as a whole, is against their own state's interests, they do not hesitate to block it.

Cohesion in Foreign Affairs

In many cases, increased internal unity and increased weight in foreign affairs have gone hand in hand. Although it is likely true that, had more charismatic, experienced and dynamic leaders been appointed to the two new top European positions, the EU could have greatly increased its internal cohesion and weight on the international scene, that does not mean that the two figures who *were* chosen for these positions were entirely ineffective. Herman Van Rompuy did succeed in bringing about greater cohesion in EU action and, as he will remain in power for longer than the former six-month term, he will likely bring more continuity to EU action as well. Catherine Ashton succeeded in giving a face to the EU in global affairs and has represented the EU in several high-level meetings—including negotiations with Iran and at the UN.

However, the appointment of Catherine Ashton to the post of High Representative of the Union for Foreign Affairs and Security Policy was evidence of the Member States' unwillingness to place charismatic leaders in the EU's top positions. Although Ashton was not wholly unqualified, she was not the experienced, dynamic diplomat that would have lent authority to her new position. In her first year as High Representative, Catherine Ashton was criticized for being too slow to respond to crises and for not being sufficiently forceful in her stance. Furthermore, Member States occasionally took advantage of her indecision to implement their own foreign policies without waiting for a European stance to be taken.

Although Catherine Ashton's inexperience and lack of firmness have played a part in limiting the effectiveness of EU foreign policy, she is not fully to blame. There were several other factors that impeded increased cohesion as well. The failure of the EU to obtain any sort of position in the United Nations was a major setback, both for the EU's international influence, and for its prestige. The fact that two EU Member States⁴⁹ were key in opposing an EU position in the UN not only highlights the continuing rift between the EU level and the Member States in foreign policy, but discredits the cohesion of the EU.

Throughout the first year after the ratification of the Lisbon Treaty, the apparent unwillingness of EU Member States to abide by all of its reforms—particularly in foreign policy—prevented the Lisbon Treaty from being as effective as it could have been. Throughout negotiations with Iran, several EU Member States continued to represent themselves in negotiations with Iran, and even on occasion shared information with the United States before sharing it with the EU. This demonstrates not only the incoherence in Europe, but also highlights the lack of faith in the EU's ability to make concrete changes on the global scene.

However, while EU Member States remained hesitant to cede power to the EU on matters of defense during the year after the ratification of the Lisbon Treaty, the EU also displayed a remarkable degree of coordination in external affairs in other policy areas. The European Council agreed to increase economic pressures on Iran—something which, although not necessarily due to the influence of Herman Van Rompuy, had never happened before. However, shortly after these new sanctions were implemented, several Member States expressed the desire to pressure the Council to drop the sanctions. Long considered a world leader in environmental policy, the EU also displayed an increased coordination and confidence in implementing its

⁴⁹ France and the United Kingdom

external environmental policy after the ratification of the Lisbon Treaty. At the 2010 UN Framework Convention on Climate Change, the EU effectively represented itself as a union and used its unified weight and influence successfully to negotiate a climate change package. It also used its weight to press its environmental objectives abroad. It coordinated several sectors and successfully pressured American airline companies to abide by EU emission standards.

The Lisbon Treaty has given the EU the tools to create a more effective foreign policy. The EU now has a face abroad, a strengthened more continuous leadership in the Council, a legal personality to make international agreements, and less barriers to hinder coordination of policy areas. However, these new policy tools are frequently put into the hands of Member States, who often find it in their interests to maintain the status quo at its pre-Lisbon state or even to find ways to reduce the EU's influence.

Democracy

The Lisbon Treaty provides measures to make the EU more democratic. It rebalances the members of the European Parliament to take better account of the populations of the Member States. It has a provision that ensures that if one million EU citizens submit a petition to the Commission, the Commission is obligated to consider it. The treaty also changes voting in the council. Starting in November of 2014, Qualified Majority Voting will be extended to more policy areas. Most of these changes have yet to come into force, and therefore this paper cannot discuss their concrete effects.

However, while this paper cannot fully address European citizens' direct input on EU policy, it can discuss the influence of Member States. One issue that has repetitively come to the fore is the fact the Lisbon Treaty left an extraordinary amount of power in the hands of the Member States. According to the principle of subsidiarity, Member States retain all rights and privileges that are not conferred on the EU by a treaty. As the ECJ now ensures that Member States' privileges are not unduly ceded to the Commission, Member States are free to practice their own policy goals in areas where there is no EU policy. In some cases, even when the EU has a policy in place, it is up to the Member States to decide how the policy will be implemented.

Member States continue to be the dominant actors in foreign policy. They still hold power over economic and military resources, and continue to pursue their own foreign policies. Furthermore, Member States are now involved in more areas of policy creation, Along with their

traditional power to decide whether proposals, if passed by the Parliament, are adopted into the European framework, Member States now have the power to comment on proposals submitted by the Commission to the Parliament. Although Qualified Majority Voting would make a single-state veto of a policy impossible, Member States can combat a policy while it is still being drafted. This privilege has already been demonstrated by Poland's reluctance to submit to increased emissions reductions during the third phase of the Emissions Trading Scheme.

Member States continue to have control over their own resources. Therefore, any policy or crisis that involves Member States' resources requires Member States' approval before a response can be enacted. For instance during the economic crisis, as Member States provided the majority of the funds for an economic bailout of Greece, it was the Member States that decided whether or not a bailout would take place. They also decided on the amount of funding that would be given, and the conditions that Greece had to fulfill to receive the bailout.

Summation

While the Lisbon Treaty has the potential to make the European Union more powerful and cohesive, it can only do so with the approval of the Member States. The Lisbon Treaty has created new actors and institutions. It has also facilitated cooperation between different policy areas and institutions. However, the policy tools granted to the EU by the Lisbon Treaty are not consistently used by the EU and its Member States. Member States still have a significant amount of control over the usage of those new policy tools, and occasionally, they prefer not to use them due to national interests.

For the most part, the dispositions of European leaders during the first year after the ratification of the Lisbon Treaty showed hesitancy and unwillingness to cede power to the EU level—even occasionally when powers had already been attributed to the EU by the Lisbon Treaties or earlier treaties. By choosing an inaugural president who was pliable and not a dynamic figure in his own right, EU Member States ensured that the definition of the presidency of the European Council was that of a person who coordinated and facilitated decision-making in the Council but did not make decisions *for* it. In selecting a High Representative, Member States were cautious as well, choosing a figure who could organize and unify EU foreign policy, but who was again too inexperienced and uncharismatic to be capable of making foreign policy decisions *for* the Member States.

However, despite their hesitancy in giving power to EU leaders, Member States have shown stronger unity in policy negotiation and implementation. New relationships between institutions brought legitimacy and effectiveness to EU governance. The new leading figures in EU governance as well as the removal of barriers between policy areas and institutions helped the EU to act more efficiently and with greater unity. EU Member States united to put sanctions on Iran when Iran did not adhere to IAEA guidelines. They came together to implement an economic bailout of Greece when Greece's economy was in recession. They also unified to represent EU environmental policy abroad, both at the UN Framework Convention on Climate Change held in Cancun in December 2010, and in dealing with American airline companies who did not adhere to EU emissions standards.

In conclusion, the Lisbon Treaty did not make the European Union more powerful, but it did provide the policy tools to make it more cohesive and efficient. While we can unfortunately not decisively answer whether the EU as a whole is stronger, we can find decisive answers for several other key questions. To one of these questions, "did the Lisbon Treaty do what it was intended to do—that is, to make the EU more efficient, democratic, and effective on the international scene?" we can give a clearer response. The Lisbon Treaty gave the EU the tools to be more efficient, cohesive and democratic. When these tools are used, the EU has proven to be a more effective actor both in its own internal governance and on the world stage. How the EU makes use of these tools in the future will determine how successful the Lisbon Treaty will ultimately be.

Post Script - The EU in the Libyan Crisis

During the course of writing this paper, certain events in the Middle East and Northern Africa have proven to be worthy of mention. The European Union was greatly affected by the unrest in Northern Africa in February of 2011. This was particularly true of the crisis that erupted in Libya on February 16. On February 16, 2011, in several of Libya's major cities, demonstrators flocked to the streets to protest against the chef d'état, Col. Muammar Qaddafi.

Qaddafi seized power in a coup in 1969. Since then, he has been continually suspected of a dismal human rights record. For decades, Qaddafi has quashed all forms of protest and kept a firm grip on the media. The protests that began in February 2011, despite being influenced by the successes of similar revolts in other North African countries, were mainly in response to Qaddafi's arrests of several human rights advocates. Although it is true that the protesters were not entirely peaceful, setting fire to government buildings and a police station, Qaddafi's response to the protests was unduly harsh. Soon after protests began, Qaddafi sent the military to quash them. Only three days into the protests, already at least forty citizens had been killed (Shadid "Clashes in Libya").

Libya holds different amounts of importance for EU Member States. For most Member States, Libya's reserves of sweet crude oil, which are used to make diesel, are important resources. Prolonged instability in Libya would cause the price of diesel to rise in these states. However, for other EU Member States, particularly Italy, Libya's former colonial master and geographically the closest Member State to Libya, the crisis in Libya is hitting much closer to home. On February 22, in fact, Qaddafi reached out to Italian Prime Minister Silvio Berlusconi ("Italy Says"). The influx of refugees into southern countries, particularly Italy, risks putting a strain on both the economy and society.

Europe has responded to these problems in different ways. Although EU Member States recognized early on the need for the EU to present a unified stance, realizing this goal was much more difficult. EU states handled evacuation of their citizens on their own, sending ships and providing passage on airlines. According to *The New York Times* "European countries were not of one mind" about the seriousness of the situation and the necessity to evacuate citizens (Donadio and Sebnem). At the beginning of the crisis, some countries urged their citizens to leave Libya, but others did not. Eventually, as the situation deteriorated, all EU countries would

move to pull their citizens out of Libya. According to *The Guardian*, by mid-March, the EU aided in evacuating over 100,000 refugees (Seale).

However, it was not only European citizens who were fleeing to Europe. Americans, Africans, and Asians were all leaving Libya for the protection of the EU. On Wednesday, February 23, in response to fears of as many as 300,000 refugees arriving in Europe—mostly in Italy and Greece—the Italian foreign minister, Franco Frattini, urged the EU to “assume its duties” in dealing with the “economic and social burden of an immigration wave” (Goodman). On the issue of refugees, the EU tried to find a consensus in the European Council. During this session, six southern EU Member States,⁵⁰ including Italy and France, asked the EU for a special “solidarity fund” to handle the expense of the refugees (Goodman and Kanter). Some countries, such as the UK were hesitant to provide such a fund.

The EU proved to be less cohesive, as can be expected given its track record, in the area of foreign and military policy. During the Libyan crisis, EU Member States continued to conduct their own foreign policies, often with little regard to European consensus. France, for instance was very active during the crisis. On February 25 during a visit to Turkey, the French President, Nicolas Sarkozy, called for Qaddafi to step down (Arsu and Erlanger). He also declared that Qaddafi should face charges before the International Criminal Court for his response to the demonstrations. France began providing medical aid and doctors to the protestors. On March 10, France recognized a Libyan opposition group as the legitimate government of Libya. France’s decision was taken without conferring with other EU Member States.

In late March, due to internal pressures, Germany decided to abstain from participating in the sanctions and embargo imposed on Libya. This is somewhat reminiscent of Germany’s refusal to bail out European countries in debt, and its recent move away from nuclear power, which put strains between it and France. As *The New York Times* stated “The decision made the idea of a united European foreign policy seem further away than ever” (Erlanger and Dempsey).

One may ask where Catherine Ashton was during the crisis. During the European Council session in March, Ashton led the negotiations to find a consensus on the Libya conflict. She also challenged the British and French idea of establishing a no-fly zone over Libya. Although she succeeded in creating a European consensus that did not mention a no-fly zone, her challenge to

⁵⁰ Cyprus, France, Greece, Italy, Malta, and Spain.

the UK and France led these two countries to speak out against EU foreign policy. A no-fly zone was declared over Libya with French and British support.

Catherine Ashton and the EU were criticized for being too slow to respond to the situation in Libya. It was perhaps because of this that EU Member States took it upon themselves to conduct their own policies without waiting for the EU to come together to respond. Although EU Member States did make efforts to coordinate their foreign policy in the Council, unity remained hampered by national interests.

Other organizations such as the United Nations and NATO came to the fore in leading the campaign in Libya. On February 26, the UN Security Council put sanctions on Libya and forbade all members of the UN to supply weapons to Libya. A no-fly zone was declared over Libya as well. The only EU Member States that supported this no-fly zone were the UK and France. NATO took over the campaign in Libya in late March, but the EU was split over certain issues to do the campaign. While Italy and Norway wanted NATO to be in complete control, France wanted to be a leader of the operation. French and British planes conducted assaults on pro-Qaddafi forces around Libya (Erlanger and Schmitt). Even within NATO, allies were split as to whether the end goal was to get rid of Qaddafi or to force Qaddafi to talk to Western powers.

Again, the European response to the events in Libya reflects the Member States' preferred focus on national rather than community concerns, as well as the Member States' recourse to EU institutions, when an EU response would benefit the Member State. The example of France, which called on the EU for financial support while ignoring calls for a common European approach to the crisis, seems to epitomize the general situation of the EU.

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