**Institut d'Etudes Européennes
et Internationales du Luxembourg**

**Luxembourg Institute for European
and International Studies**

EXECUTIVE SUMMARY

Conference on

Beyond the Lisbon Treaty: Ensuring the long-term viability and vitality of the European Union

12-13 July 2008
Palazzo Mundell, Santa Colomba (Siena)

Introduction

The Luxembourg Institute for European and International Studies (LIEIS) held a two-day conference on 'Beyond the Lisbon Treaty: Ensuring the long-term viability and vitality of the EU' on 12 and 13 July 2008 at the Palazzo Mundell in Santa Colomba, near Siena. This meeting was the third in a series of conferences as part of a multi-annual project on the EU jointly conceived by Robert Mundell, Professor of Economics at Columbia University and 1999 Nobel Laureate in Economics, and Armand Clesse, Director of the LIEIS. The first in this series of seminars took place in Schengen on 2 and 3 December 2006 and the second in Santa Colomba on 2 and 3 June 2007.

The 2006 Schengen conference was entitled 'Possible political structures for the EU' and focused on the following three questions: the fundamental challenges facing the Union, potential finalities or purposes of the EU, and ways or means of achieving them.[1] The 2007 Santa Colomba conference was entitled 'Searching for a new political dispensation for the EU' and revisited the question of the key challenges which the EU confronts, outlining rival scenarios for the year 2057. It also discussed the case for the *status quo*, for more integration and for less integration.[2]

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[1] An executive summary of the proceedings, including the programme and list of participants, can be found online at http://www.ieis.lu/CONTENT%20of%20new%20Website/NEW%20Executive%20Summaries/PDF-Format/exs%2016,%20Possible%20Political%20Structures%20for%20the%20EU.pdf
[2] An executive summary of the proceedings, including the programme and list of participants, can be found online at http://www.ieis.lu/CONTENT%20of%20new%20Website/NEW%20Executive%20Summaries/PDF-Format/exs%2015,%20Searching%20for%20a%20new%20political%20dispensation.pdf

Based on these two meetings, the 2008 Santa Colomba conference shifted the focus from more general themes towards a series of more specific conceptual questions (such as the divergence or convergence of the twin objective of viability and vitality), policy issues (including the EU's role in the world), as well as constitutional and institutional problems (like the possible need for a 'constitutionalising' process or the fusion of the Commission with the Council Presidency).[3] In line with the earlier conferences, the objective of this latest meeting was, first of all, to address questions and problems that are not dealt with sufficiently in academic research and official debate and, second, to combine conceptual insights with empirical description in order to formulate both new ideas and concrete policy recommendations. Beginning with the causes and consequences of the Irish No and ending with questions of constitutional change and institutional reform, the six sessions were designed to cover both current concerns and long-term challenges.

In his introductory remarks, Armand Clesse, Director of the LIEIS, wondered whether the whole process of integration and enlargement is stuck. Is the EU capable of moving at all? Or can it not even agree on minor reforms of its institutions? Is it appropriate to speak of both enlargement and integration fatigue? Is the Union condemned to muddle through, unable or perhaps even unwilling to change its present trajectory of stagnation and regression?

I. Implications and Consequences of the Irish Referendum

The first part of the conference was devoted to the causes and consequences of the Irish No. The discussions were introduced by four short presentations.

Referring to a recent opinion article of his,[4] Larry Siedentop set out his analysis of what has gone wrong and how the EU can hope to connect with its citizens. He began by conceding that there was something of a nationalistic reaction on the part of the Irish. But in this as in other cases, the referendum is defending representational government against the lack of representation at the EU level. At the heart of the European integration process lies a paradox – the loss of national parliamentary legitimacy without a concomitant gain of legitimacy by the European Parliament. As a result, we are seeing a weakening of national democratic cultures in the absence of a strengthening European-wide culture of democracy. As L. Siedentop writes, ''there is now a widespread impression across Europe – and especially among the young – that it is in danger of offering pseudo-democracy, remote bureaucratic government thinly disguised by a European parliament''.

Those who dismiss the result of the referendum ignore the fact that the No vote was about defending representational government, democratic legitimacy and citizenship. To treat the Irish with contempt only reinforces the sense that Europe's elites are devoid of any idealism and have embraced a cynical politics of short-term calculation. In short, the fundamental weakness of the entire European undertaking is that the existence of the European Parliament has provided national governments and national political classes with the excuse to distance themselves from the European project, leaving the EU in limbo. Rather than perpetuating this

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[3] The discussions were coordinated by A. Clesse.
[4] Larry Siedentop, 'Europe is failing to restore idealism', *The Financial Times*, 2nd July 2008, available online at http://www.ft.com/cms/s/0/f887c1ec-477d-11dd-93ca-000077b07658.html

predicament, the Union as a whole should re-engage national parliaments and strengthen their role in the policy- and decision-making process. Only then is there any hope that the EU might be able to replace the founding idealism of European integration – absence of war through reconciliation – with ''the idealism that can be generated by self-government'', L. Siedentop concluded.

According to Jan Rood, a more democratic and legitimate EU has been debated at the official level for some time, at least since Joschka Fischer's speech at the Humboldt University on 10th May 2000. However, the past eight years have been little more than a litany of failures – from the Convention, the ICG and the draft Constitutional Treaty via the French and Dutch No and the so-called 'period of reflection' to the second ICG, the Lisbon Treaty and the Irish referendum. What has emerged during this time is the growing gap between the ruling elites and the populace, both at the national and the EU level. Indifferent to protest and critique, the Brussels machinery proceeds apace with more regulation and common policies – a behemoth that is increasingly hard to reform.

As the Union considers different options to deal with the latest crisis, it should remember why the Dutch rebuffed the Constitutional Treaty. Their No was mainly about the context of European integration, not the text itself. The Yes campaign should have been helped by economic conditions which at the time of the referendum in 2005 were still largely favourable. Now that the economic outlook is deteriorating, it will be much more difficult to achieve consensus. It is therefore far from certain whether the Lisbon Treaty will be ratified by Ireland in a second vote. Nor it is clear that Lisbon is desirable: some argue that it would make the functioning of the EU more complicated than at present: the High Representative would concentrate a lot of power in his hands, and policy on the Union's external relations would be awkwardly divided between the High Representative, the new EU President and the Commission President (as well as the Commissioner for enlargement). Even if Lisbon entered into force, there would be many outstanding issues: fiscal harmonisation, family law, defence identity, etc. In conclusion, J. Rood argued that a quick fix won't work and that the EU needs a long-term strategy to address the fundamental problems that beset the twin integration and enlargement process.

Michel Foucher began his remarks by saying that the Irish result is the third No on essentially the same treaty. This raises the question of further integration, rather than the issue of the entire European political architecture (*la construction politique de l'Europe*). Looking at the figures, it is clear that the domestic reasons for the No vote prevailed. Out of 42 Irish constituencies, 32 voted No and 10 voted Yes. The Yes was concentrated in urban areas that have experienced a sustained economic boom, but not everywhere in Dublin. One important factor was the lack of information: polls and surveys suggest that not just the young but even ministers from the ruling government had failed to read the Lisbon Treaty. As a result, the No campaign could put forward a false interpretation of the new provisions. What is more, the No got away with little explanation and little scrutiny, whereas the Yes had to be justified and argued for. Another important factor was that those who were in favour of Lisbon could not appeal to Ireland's past and current benefits because gratitude has no currency and the young generation has no sense of history. Finally, the British-based Murdoch press played a key role: with no referendum in the UK, a number of influential British newspapers promoted the No, a move that was really aimed at Prime Minister Gordon Brown.

Where does the Irish No leave the EU? For <u>M. Foucher</u>, there are four implications. First, 21 countries have already ratified the treaty and this process will go on. The Czech Republic will have to decide before taking over the Presidency in January 2009, and in Poland President Lech Kaczynski's refusal to sign the treaty into law is a domestic problem between him and Prime Minister Donald Tusk. Second, the French President Nicolas Sarkozy is flying to Dublin to find out whether, how and when the Irish can have a second referendum, perhaps after modifying the Lisbon Treaty, including the issue of a Commissioner for Ireland. But the French Presidency thinks that the main reasons which prompted the Irish to vote No are unrelated to Lisbon itself. Third, Sarkozy is a business lawyer by training and believes that everything has a price and can be negotiated. He has said that the Nice Treaty is only suited for a Union of up to 27 member states: if there is to be any further enlargement (e.g. Croatia), the Lisbon Treaty will be needed. Fourth, in any case, the Union can press ahead on the following issues without treaty reform: the re-launching of a European defence identity; the creation of an EU-wide diplomatic service; the preparation of further rounds of enlargement.

According to <u>M. Foucher</u>, the EU has the choice between the following options. Re-opening Treaty negotiations for all 27 member states is unlikely. Continuing the ratification process and holding a second referendum in Ireland is much more probable, perhaps even with a different question: does Ireland want to be part of the EU of 26 based on Lisbon Treaty? The answer to this question is not Yes or No, but whether Irelands wishes to be in or out. If this option fails, a multi-speed Union will become reality. In turn, this would alter not only further integration but also the substance of the *construction politique* itself.

In the final presentation on the Irish No, <u>Charles Ferdinand Nothomb</u> argued that referenda are much more widespread than both politicians and pundits suppose. Thus, it is hard to dismiss such votes as irrelevant to the Union as a whole. Moreover, the Irish No is the latest confirmation that the European integration process still lacks solid popular and logical foundations. He illustrated this point with the following example: when the first European Parliament was elected in 1979, the members of the European Movement in Belgium (founded in the post-war years) were so enthused and optimistic that they dissolved the movement, believing that it had fulfilled its mission. A mere ten years later, the European Movement was re-created because there was in 1989 another need for explanation than after the Second World War. For <u>C.F. Nothomb</u>, we are now in a situation where we must rebuild the image of the European Union, today more powerful than earlier, not in opposition to the nation states but in harmony and cooperation with them. Each and every country, as well as the European institutions, plays an active part in this construction, we could call it a new federalism of cooperation. It is the best way forward after the Irish and the other No.

The discussion that followed these four presentations focused on the following issues:

(a) further reasons for the Irish No and the implications of a possible second Irish referendum for the Union as a whole

(b) the gap between the ruling elites and the citizenry

(c) the changing dynamics of the European integration and enlargement process

(d) what might happen? What could or should be done? Is the EU heading for a two- or multi-speed union?

On the first issue, Adrian Pabst disagreed with the view that the Irish No was an expression of Euro-scepticism. Paradoxically, the No vote in Ireland is pro-European. Like the Dutch and the French in 2005 (when both rebuffed the Constitutional Treaty), the Irish support a wider political project – they just want a Union different from the one currently on offer. The two main concerns that prompted a clear majority of Irish voters (53.4%) to reject Lisbon were, first of all, an increasingly remote and unaccountable Union and, second, an economic model that combines centralized bureaucratic regulation with the extension of the unfettered free market. According to post-referendum polls, many Irish voters said No because the proposed reforms would do little to reduce the distance between the EU institutions and the people they are supposed to represent. Ireland's citizens feel that the Union in its present configuration is increasingly self-serving and out of touch with ordinary people – a project devised by elites for elites. Moreover, fearing an EU-wide privatization of public services and a curtailing of workers' rights and pension entitlements, the electorate in rural and urban working class areas across Ireland voted massively against the new treaty.

At a time of growing pressure from globalization and a slowdown of economic growth, the Irish – like other Europeans – are looking to the Union for protection and stability. Instead, neo-liberal structural reforms at the level of the European single market undermine economic security and social cohesion. This is achieved by a downward legal harmonization that aims to increase efficiency and enhance competition by imposing a centralized regulatory regime. It is precisely this narrow economic and legalistic vision of Europe advocated by the political and business establishment that has been rejected by Ireland. What the Irish demand is a clearer structure of governance that involves the citizenry more often than a simple vote for the European Parliament every five years, said A. Pabst.

Gerhard Michael Ambrosi questioned this analysis, saying that the claim about Irish support for a further pooling of sovereignty is not borne out by statistical evidence. Much rather, what seems to have driven the Irish No is an anti-colonial undercurrent. Ireland is characterised by a strong anti-imperialist sentiment that has its origins in the long history of British domination and control. Rightly or wrongly, the EU superstructure is seen as imperialist and the Irish refuse to surrender their hard-won sovereignty to a centralized Brussels-based diktat. Zaki Laïdi also rejected A. Pabst's account, arguing that there is no single explanation for the referendum results. Moreover, whether in Ireland in 2008 or France in 2005, it is not clear that there is demand for more integration. In any case, it seems impossible to establish clearer structures of EU governance and to create greater proximity vis-à-vis the citizens because the European system represents more than inter-state cooperation but less than a fully-fledged super-state. One can improve the functioning of the machinery but not change it fundamentally. Because there is no European demos, it is impossible to know what exactly the citizens of Europe would find desirable and acceptable.

On the related issue of whether to hold a second referendum in Ireland, it was said that this could amount to bullying tactics on the part of the other EU member states and blackmail by the French Presidency (A. Clesse). In relation to M. Foucher's comment about turning a second vote on the Lisbon Treaty into a referendum about Irish membership of the EU, it was pointed out by several participants that such a choice would be illegal (Stefano Bartolini, Christian Franck). It is true that the Spinelli Report envisaged a two-third majority for treaty ratification, but this proposal was never adopted. One possible option is to put a double question to the Irish: do you wish to adopt or reject the Lisbon Treaty and do you want to

belong to the EU as full member? (<u>C. Franck</u>). In any case, re-voting has many precedents, not least in the case of Ireland in 2001, but ex-post referenda give countries a strong incentive to bargain for concessions. More generally, there is a fundamental difference between Treaty ratification by unanimity and EU policy-making by qualified majority vote or QMV (<u>S. Bartolini</u>).

On the second issue of a growing gap between ruling elites and the citizenry, <u>Charles Maier</u> argued that this is a problem that besets both national political systems and the structures of global governance. Despite the process of primaries, the USA is by no means exempt from this trend. Nor is this crisis confined to questions of political institutions or parties. Rather, we are dealing with a cultural malaise that is affecting a wide range of countries and reshaping the nature of politics and society. Other participants concurred, saying that political systems can hardly be described as efficient if they fail to mobilise the citizenry (<u>L. Siedentop</u>). Yet others blamed national leaders and MEPS for a lack of leadership (<u>M. Foucher</u>).

There was a longer discussion on the third issue – the changing dynamics of European integration and enlargement. <u>Mario Hirsch</u> claimed that the Nice Treaty provides enough instruments for the EU of 27 to function properly. Faced with the Irish No, the member states should abandon the 'bicycle metaphor', according to which the Union needs to be constantly moving forward in order not to jeopardise the process of deepening and widening. Indeed, over the last 50 years or so, the member states and the Community institutions have repeatedly modified not just the speed of integration but also the approach to closer cooperation, e.g. by emphasising the principle of subsidiarity. As the then Commission President Jacques Santer said, 'less is more'. Now that the Union is in a period of soul-searching, it could do worse than to remember its own history. <u>Robert Mundell</u> disagreed, arguing that once the EU discards the 'bicycle metaphor', it might be hard to start again. This is particular dangerous at a time of growing inter-dependence and the need to coordinate in a wide array of policy areas. Moreover, the idea of steady progress fits economic, social and political dynamics and the ensuing energy is crucial for the continued and successful functioning of the Union as a whole.

Other participants objected to the 'bicycle metaphor' on different grounds. For <u>C. Maier</u>, to get on a bicycle implies knowing where to go, so is not the real question about the EU's finality? The trouble is that Europe has not had a Dionysian moment where politics is not exclusively determined by national interest or rational calculation but also by non-rational, non-cerebral, emotional dimensions. By contrast, America has had such moments and they have been instrumental in the formation of a discourse on the goal of the United States, as evinced by different types of collective participation in the 1770s and 1780s.

According to <u>A. Clesse</u>, Europe never really recovered from the failures in the early 1950s – the twin rejection of the European Defence Community (EDC) and the European Political Community (EPC). Since then, the European integration process has been little more than narrowly economic and functionalist. Has the EU lost its illusions and ambitions? This raises a number of conceptual questions: almost 60 years after the Rome Treaty, do the institutions that were devised in the late 1950s still make sense? Is not the Lisbon Treaty, like its predecessors, fundamentally flawed because it is grounded in a logic of incremental change, a homeopathic dose for a largely anaesthetised entity? Is there not a bias towards rubber-stamping the treaties at the expense of any genuine substance? What institutions would meet

contemporary challenges? How can the EU address and overcome the lack of trust and confidence which it faces?

These questions led to the final issue of the first part of the conference proceedings – what might happen, and what could and should be done? According to Alfred Steinherr, one conclusion from the discussion thus far is that the No votes in various countries underline the public's reluctance to sign up for more integration. The loss of influence and sovereignty is not the main problem; what is needed is a European-wide referendum, counting the votes on an aggregate level whereby minorities cannot expect special treatment. If necessary, there will be a two-speed Europe, with Ireland excluding itself.

However, other participants disagreed: if full membership becomes extra-legal, then there is a risk of turning Europe into an ideology, 'with us or against us' (L. Siedentop). Rather than persisting in the present trajectory, the EU needs to move from an opaque system of governance to a clear structure of government, where the Commission ceases to be the executive and reverts to its historical mission of a high-level civil service (the High Authority) that supports the work of the elected legislature and a newly elected executive. The latter could be composed of a President elected by universal suffrage and a cabinet that consists of ministers drawn from the national government, so as to establish a link between the national and the EU level. Finally, the Commission should stop over-regulating and opt for more selective intervention, devolving a wide range of issues such as product standards to lower levels that are more efficient and accountable (A. Pabst).

But this analysis was contested. The Euro-Barometer shows that there is popular demand for more, not less, regulation from the EU, e.g. in areas like health and safety. Moreover, the public also supports the application of the precautionary principle in the WTO negotiations and a large mandate for the Trade Commissioner, all of which goes against the idea that the citizenry is weary of the Commission and wants a more political Union (Z. Laïdi).

II. Conceptual Questions

The second part of the conference proceedings focused on a series of conceptual questions. First, which model for the EU? Adopting the US or the Swiss model? Developing a model *sui generis*? Second, are the twin objectives of long-term viability and vitality convergent or divergent? Third, is the idea of 'political contestability' relevant for the future of the EU and, if so, how?

1. Which model for the EU? Adapting the US or the Swiss model? Developing a model *sui generis*?

Herbert Grubel argued that based on his interpretation of the Irish No, the EU should reform its basic governance structure in line with the Swiss Model, especially the centrality of the principle of subsidiarity – a position recently advocated by Romano Prodi. Subsidiarity was enshrined in both the Maastricht and the Lisbon Treaty but its effectiveness is endangered by provisions that would allow disagreements over the operation of subsidiarity to be settled by EU institutions, without involving voters at the national level. By contrast, in Switzerland disputes over the proper assignment of responsibilities at each level of government are not

decided by political elites, but by the people as a whole through the use of direct democracy and referenda (for which the signatures of 50,000 voters are needed). The possible recourse to referenda and the regular holding of such votes has limited centralisation and suited the interests of Swiss citizens. Moreover, the history of Switzerland highlights the ability of this model to produce political stability and economic success. Comparing Switzerland and Sweden shows that both countries had per capita incomes at the very top of the OECD countries after the Second World War. After Sweden centralised its government and adopted socialist policies, it dropped to 16th in the ranking of OECD countries. At the same time, Switzerland's continued economic prosperity took place under a much less powerful central government: in terms of several indicators of well-being, Switzerland ranks first or second. H. Grubel suggested that the chances of getting a future treaty draft accepted by the voters in the EU member-states would be greatly enhanced by the ability of proponents to point to the way in which it enshrines and protects the maximum level of local sovereignty through the exercise of direct democracy. The prospect of paving the way for stability, peace and prosperity as has been enjoyed by Switzerland must be welcome by all people of the EU.

The subsequent discussion was lively and controversial. Rolf Weder said that subsidiarity is written in the Swiss constitution and that there are well-established mechanisms for its application, all of which is supported by an overwhelming majority of the country's citizens. There are nonetheless central standards, in the areas of social security, health and education. Swiss people have in the past voted in favour of higher taxes and centralisation in the field of education. It is therefore not appropriate to conclude that the case of Switzerland is an example of low social standards and low central government involvement in all policy areas as interpreted by some. C. Maier argued that subsidiarity originated in Catholic social teaching and that it cannot be appropriated by either liberals or conservatives or social-democrats. The US does not have a stable allocation of functions between central and state governments. In both the 1860s and the 1960s, America embarked on very active national or central policies to enforce civil rights for African-Americans and forcibly overrode state rights. Washington also has had to impose central welfare policies in the 1930s (and then again in the 1960s) because state policies were inadequate. Washington clearly overrides subsidiarity in times of crisis. I don't think this is excessive centralisation; it seems highly appropriate behaviour. But it does mean that the EU should not simply adopt subsidiarity in the belief that it always prevails in the United States.

Similarly, S. Bartolini sought to dispel the myth according to which direct democracy has prevented the centralisation of Switzerland: in 1846/7, Switzerland was constituted in its modern form to avoid a civil war, and this settlement involved a central, federal government with historically unprecedented powers. Moreover, other European countries have had debates about the limits of central, executive power for centuries – the history of statehood in Europe shows that there are no simple answers to complex problems. Ironically, the EU is profoundly liberal, and certainly much more so than many of its member states, including those who have done well such as Spain, Greece and (formerly also) Ireland. It seems therefore bizarre that H. Grubel describes the Union as socialist or social-democratic.

This provided the transition from the Swiss and the US model back to the EU. Z. Laïdi argued that tax harmonisation requires unanimity. In consequence, Brussels cannot impose any uniform tax regime on dissenting countries. What is more, no one has argued for full harmonisation: in fact, tax competition can under certain circumstances be positive. The

discussions at the EU level have revolved around the basis on which to determine tax rates. This was confirmed by C. Franck who suggested that the only form of tax harmonisation concerns sales tax (VAT). Moreover, the Lisbon Treaty has new provisions on ensuring the use of subsidiarity within the Union. Apparently, this has prompted the Commission to delay many hundreds of new initiatives for proposed regulation.

C.F. Nothomb added that in fact many EU regulations dismantle national regulations and help competitivity through the market, e.g. the case of Alitalia includes deregulatory dynamics that have improved competition, quality and prices within the Italian market. Finally, R. Mundell argued that the question of whether there is too much or too little centralisation should be a matter for the populace, not governments at any level. Is it not envisageable that 5 million – the equivalent of 1% of the 500-million strong EU population – could demand the holding a referendum on a certain issue. Is there a place for referenda in the EU in order to overcome the democratic deficit?

(2) The twin objective of long-term viability and vitality – convergent or divergent?

In his brief presentation, M. Foucher argued that EU enlargement and the territorial expansion which it implies is seen as a sign of vitality. Referring to Kant's conception of the knowability of the categories of space and time, he said that we know the EU's temporality but not its spatiality: the permanent expansion via enlargement and the similarly permanent extension of the EU's sphere of influence via association (but also hybrid arrangements that are more than association but less than integration) has blurred the Union's geographical identity. By 2025-2050, the borders of the EU could coincide with the countries that are members of the Council of Europe (except for Russia). The EU's appeal lies in the promotion of democracy, the rule of law, stability, solidarity and security (geo-political, but also economic and legal such as the security of contracts).

There are several forces that are in favour of enlargement. First, market forces in general and the forces of the common market in particular support the accession of new countries. Second, the political elites in Brussels view enlargement as an efficient way to spread stability and implement reform (e.g. vis-à-vis Serbia). As such, the EU has both normative and transformational power. Third, the EU's current geo-strategic approach was fashioned in Washington and promotes US interests. All of which implies that there is little, if any, room for public debate – the borders of the EU will be known when they are reached.

M. Foucher concluded his remarks by briefly addressing the question of viability. He spoke about the core-periphery model and the dynamics that this might have for the viability of both integration and enlargement. Viability is not limited to the EU and its policies but also relates to the statehood of candidate countries: before any country can become an EU member, they need to have a viable state, something that at present cannot be said of Bosnia or Kosovo. Finally, the question of viability also raises the problem of NATO and the ill-defined relations between the EU and NATO. Will President Sarkozy's initiative make any difference in this respect? In sort, the EU's vitality is linked to enlargement which, in turn, risks having an adverse effect on the Union's viability by making the enlarged EU less manageable.

C. Maier was similarly critical, saying that the EU faces Augustine's dilemma: stop building the Roman Empire or let the dynamic continue? In 50 years or so, there will be a number of

blocs: a US/North American bloc, a Russian space, a Chinese 'empire' and the EU. In the face of global competition and a battle of ideas and influence, the question is whether the Union will benefit more from further deepening or further widening, or a combination of both. A. Steinherr was more outspoken in his criticism. The EU has already offered extraordinary achievements, starting with peace between France and Germany and most recently the inclusion of the East. But now Brussels must confront the facts, namely that a country's eagerness to reforms drops dramatically after accession. How many more 'rotten' countries can the EU take in such as, for example, Romania? It would be advisable to stop enlargement until the mess is cleaned up. H. Grubel was even more scathing, claiming that the two dominant trends of our age are demography and migration. With birth rates in Italy, Spain and Greece standing at a mere 1.3, one-quarter of the Italian population will be lost over the next 20 years. In that process the country will be deprived of the popular cultures and the social mores that are so distinct about Italian civilisation. Coupled with mass migration, what will this do to European civilisation as a whole?

By contrast, A. Clesse questioned the liberal-conservative consensus around the conference table and in Brussels. Seen from a critical left-wing perspective, the EU's success story sounds hollow. If there are so-called rotten apples in the EU, then we must be more serious and consistent and also talk about contagion from Brussels to the member states, e.g. the intensification of corruption in Greece and Romania as a direct result of EU membership and the methods of the Brussels bureaucratic tyranny. Far worse than this financial corruption is the moral bankruptcy in relation to minority rights and the Copenhagen criteria. The treatment of the Roma in Central and Eastern European countries, but also in Italy, is absolutely appalling and it dwarfs almost anything since the Second World War. Given that European studies depend on EU funds and are therefore corrupt, little wonder that no one within the field of European studies is raising this kind of scandals.

M. Foucher briefly responded to all these comments by arguing that the EU's strength within (based on compromise and informal deals) is its weakness outside. Rather than accepting the false choice between indiscriminate enlargement or nothing, the EU must finally define its mission and specify its interests. What is needed is more realism.

(3) 'Political contestability' and the future of the EU

R. Weder introduced this part of the proceedings with some short remarks based on a paper.[5] The EU, so his argument went, is not only defined by openness and economic competition but also in terms of political stability and (the need for) 'political contestability'. It is widely held that the EU has an institutional problem – a lack of democracy and a bias towards excessive centralisation. This is the result of at least three factors: first, the Commission has the power of initiative but tends to be bureaucratic; second, the flexibility cause allows the EU to become active in any policy area; third, the passerelle clause can be used to switch from unanimity to majority voting rules. It seems that competition is limited to the single market However, the economic realm that is so central to the EU provides the conceptual link for Weder's argument: the concept of contestability originates in economics – markets are contested. In such markets, competition depends in large part on the possible entry of firms,

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[5] Rolf Weder, 'Political Contestability' and the Future of the EU', paper prepared for this conference, available online at http://www.ieis.lu

and a monopoly – the incumbent – will change its behaviour if it is threatened by market entry (because it would drive down prices and thereby reduce the profit margin). In EU policy-making terms, one potential entrant is the citizenry or the voters who support their elected representatives. So under conditions of direct democracy, each decision depends on the citizens' vote. By contrast, in a representative democracy, citizens vote in periodic elections but do not participate otherwise.

Thus, the EU would be well advised to augment its representative democracy with elements of direct democracy, e.g. referenda. Indeed, the threat of referenda itself affects politicians: if enough signatures to hold a referendum are collected, then this threat becomes a reality. Numerous questions remain, including how many EU citizens would have to sign a petition for a referendum. If (like in Switzerland) the threshold were 0.7% of the population, then 3.1 million Europeans would be required in order to challenge proposed legislation. If (again like in Switzerland) the threshold were 100,000 or 8 cantons, that would represent 7.2 million Europeans or nine member states in order to propose new legislation.

In the subsequent discussion, A. Steinherr remarked that Switzerland is small and fairly homogeneous and so its experience is quite specific and perhaps not applicable to larger countries. For example, in Germany, referenda are forbidden for historical reasons. In any case, the framing of questions is absolutely crucial. The demand for referenda at the EU level is understandable insofar as the distribution of competencies is unclear and inefficient: for example, development aid has been duplicated and is now incoherent.

More specifically, S. Bartolini voiced concern about the modalities of R. Weder's scheme. First, the European Court of Justice seems strangely absent. Should it not decide whether any popular referendum is in line with treaty provisions? Second, what if all signatures were collected in a single member-state? Third, is the referendum a majoritarian (or plebiscitarian) method or can it be likened to something like minority rule? C. Maier also cautioned against the naïve use of referenda, saying that there is a risk of mobilising minorities, fuelling the flames of populism and denigrating the contestable political realm. Other participants such as R. Mundell and H. Grubel defended the practice of holding referenda, saying that in California referenda have helped add a participatory dimension to politics and stressing that in Canada, the Supreme Court can strike down a referendum.

In his comments, C. Franck sought to correct the view that within the EU governance the Commission is all-powerful. In fact, the Commission's exclusive power of initiative is limited to 10% of all legislation. Another 10-15% is required by the treaties, a further 10-20% is proposed by the Council or the European Parliament, and the remaining 40% are 'requested' by lobbying and pressure groups. Indeed, Art. 235 of the Treaty includes an explicit competence and flexibility clause. Moreover, the passerelle clause is traditionally associated with the increased efficiency of decision-making, e.g. VAT harmonisation.

The discussion also touched on more fundamental questions of democracy. L. Siedentop interjected that economic theories treat preferences as given, but political theory suggests that preferences change and are shaped by institutions and practices. As a result, the EU needs to be more responsive than it currently is. J. Rood questioned the premise of this argument, saying that the EU system is more open than is commonly supposed and perhaps more so than national systems, not least because of the presence and activity of a wide array of interest

groups. A. Pabst argued that citizens are not sufficiently involved in the EU political process and that representative democracy is in crisis – the membership of political parties is in freefall and voter turnout tends to decrease as well. Referenda are no panacea because they can be hijacked by the forces of populism. What is preferable is to reduce the competences of the Commission and to promote local democracy, such that people have a greater say over what happens in their locality. Here the example of participatory democracy in Brazil is instructive: in town hall meetings, the local population can express its preferences about public spending on housing, education, transport or health, and the municipal government has to take this into account.

In response to these comments and questions, R. Weder contended that the EU is not entirely closed, but that there seems to be a lack of democracy and excessive distance and detachment. While the flexibility and passerelle clauses are debated by economists, there is nevertheless a growing danger that centralisation will become an even bigger problem in future. More specifically, facultative referenda on proposed legislation in Switzerland are meant to protect minorities. By contrast, initiative referenda, proposing new legislation, involve a double majority – the majority of the population and of cantons. Populism is a risk, but people are more mature than they are given credit for.

III. Policy Issues

In the third part of the conference proceedings, the focus shifted to a range of policy issues, including the EU's role in the world, the possible need for a European cultural policy and the basis of the much-vaunted European social models and policies.

(1) The EU's role in the world – political-military bloc, 'soft hegemon' or civilian power?

The discussions were introduced by two presentations. First, Z. Laïdi made the case that the EU does not qualify as a state actor, but instead is in search for the status of a global player. In interacting with a world that is becoming less European, the EU is also discovering itself. Indeed, the 1957 Rome Treaty was signed and adopted only one year after the so-called Suez crisis, which marked the end of European colonial history and Europe's global hegemony. Since the 1980s and 1990s, the process of globalisation has forced the EU to be more outward-looking, exploring new markets and increasing its share of trade with non-EU countries (to the point where the overall trade balance is shifting from intra-EU to trade with the outside world). This increasing dependence on the rest of the globe poses problems. For example, if the Union does not want to be at a disadvantage, its high product and trading standards need to be accepted or shared by others. But within the WTO, the European Common Agricultural Policy has to be in conformity with the liberalisation of world trade. The question is not so much whether to export values and norms but how to make EU standards acceptable to ensure the viability of the European quality of life.

Moreover, as Z. Laïdi argued, the EU seems to have three main social preferences. First, there is a refusal or denial of *realpolitik*. The Union has (to have) an anti-Schmittian bias, based on the assumption that in an increasingly interdependent world, power politics is becoming less relevant. But the question is whether it is possible to escape from power politics in a context of the rise of new powers. Second, there is a strong belief in the socialising effects of trade

through interdependence. This is the EU's Kantian dimension, an emphasis on multilateralism which is more developed than anywhere else in the world. However, this gives rise to a divergence of perceptions: at the national level, the EU is often seen as liberalising and deregulatory, whereas at the international level, the EU is seen as bureaucratic and over-regulated. Third, there is a marked preference for non-market values. European societies are risk-adverse and demand more regulation, e.g. GM food. The implication of these three social preferences is that the EU is a *kratos* without a *demos*. Thus, the Union as a whole exhibits contradictory strategic and policy preferences: for instance, what is meant by foreign, security and defence policy varies widely across Europe.

In his presentation, Christopher Coker agreed with Z. Laïdi that the EU is not a political-military bloc but rather a civilian power. He added that following the late Roman Empire and Italian city states, the Union is the third civilian power in the history of Europe. The story that underpins the EU's civilian identity is the Battle of Verdun, which was neither a French victory nor a German defeat. Instead, Verdun embodies the European catastrophe – total war and utter annihilation. Contrary to the ideology of positivism, myths matter because they have strong symbolic power apart from and outside any truth claims. The dominant myth is that Europe is a post-national community that guards the peace and doesn't wage war. Today, there is no European army, only a gendarmerie. This corresponds to Jürgen Habermas' account of European cosmopolitan 'law-fare' (rather than US warfare) and Michael Ignatieff's idea that Europe speaks 'a language of ultimate causes and minimal risks'.

After 9/11, Javier Solana argued that the EU needed to underwrite civilian power with military capability. But the EU has not even started doing it: to do so would, according to Jean-Paul Sartre, be 'bad faith'. There are therefore at least three fundamental differences with the USA. First, America has an old-fashioned political class, whereas the EU has created a sort of meritocracy that is embarrassed by war. Second, the USA has a war class and caste, whereas the EU does not. Third, America has an ideology of war and a messianic ideal – before the onslaught of Falludja, US Marines were described by their commanders as tools of God's mercy.

The trouble is that after defeat in Afghanistan, NATO needs a new security concept. Paradoxically, NATO needs to come home and become a European organisation again, otherwise it has no future. Since the end of the Cold War and even more since 9/11, Washington has degraded NATO to a minor organisation that is barely good enough for peace-keeping missions. Beyond NATO, the other problem which the EU must confront is that it is not Europe and does not speak for it. The Union is only one of many Europes. Indeed, Albert Camus said in the 1930s that without the 19th-century Russian novels, he could not have written anything at all. So what does Brussels do with a country such as Russia that is an integral part of Europe, but finds itself excluded from both the EU and NATO? This is not to call for an essentialist vision of Europe. As Denis de Rougemont argued, to be properly Europe is not to look for a fixed identity but instead to go on a quest for Europe – a process of dynamic becoming rather than a static essence of being.

Z. Laïdi disagreed, saying that the EU does not claim to speak on behalf of the whole of Europe (but C. Coker pointed out that over Kosovo, the EU purported to defend Europe's universal values and practices). Moreover, Russia doesn't want to join the EU and Russian membership would destroy the Union as a political entity. What is needed is a working

relationship. In any case, the EU already has different relations with different neighbours. More fundamentally, the EU will not be a hard power because it refuses to embrace a Schmittian logic of friend and foe. Like Hans Kelsen, the EU rejects Carl Schmitt's model of territoriality and state sovereignty and instead follows the Kelsenian elevation of norms over sovereignty. In addition, like Immanuel Kant and Adam Smith, the EU believes in the socialising effect of trade and prefers economic cooperation to geo-politics.

Following the two presentations and the exchange between C. Coker and Z. Laïdi, the discussions touched on a variety of issues, beginning with the question as to whether the EU need a narrative or perhaps even an imperial plot. According to M. Hirsch, countries in Central and Eastern Europe, both inside and outside the Union, claim that such a plot exists – the EU is recovering lost territory. Thus, it would seem as if Europe has still not digested its imperial past or abandoned its colonial instincts. A. Pabst suggested that any EU narrative about its role in the world requires a *telos* and that the Union can no longer afford to eschew a proper public debate about its goals and finalities. But the refusal even to acknowledge its Christian heritage shows that the ruling elites are historically illiterate and politically gutless.

For M. Foucher, federalism provides a narrative, which is American in origin, but continues to have strong appeal in Europe, where Valéry Giscard d'Estaing has repeatedly made references to a United States of Europe, the Federalist papers, a European President, etc. But participants such as L. Siedentop argued that in M. Foucher's account, there is a tension between the lack of borders (or the US obsession with frontiers) and knowledge of Europe's identity and interests. Likewise, R. Weder said that there is a contradiction between M. Foucher's distinction between the already existing political community and further integration, and the EU's practice of basing enlargement upon the acceptance of the *acquis communautaire* and not on geographic boundaries.

R. Mundell took a different line. First, Suez was not about Europe, but about Britain and France, so the European project was not – and is not – fatally undermined by this event. Second, the EU is becoming a colossus – an almost irresistible pole of attraction for North Africa, the Middle East, etc. If there is a certain identity that binds together the Union's members, how could shared ideas and norms translate into institutional changes, reforms and more effective action? Similarly, C. Maier wondered which policy conclusions emerge from C. Coker's picture – a working relationship between NATO and the EU? Or a separation of interests from values? Why would NATO be able to forge better relations with Russia? Why could not the EU build up a separate defence structure? Why would the EU want to put all its eggs in one basket? Washington's dubious intentions in relation to the anti-missile shield and the *de facto* encirclement of Russia should give Brussels pause for thought. A. Clesse concluded this part of the proceedings by saying that in a sense Europe has always pursued and still is pursuing an imperialist and colonialist policy with the addition of other means, both before and since 1956.

(2) Does the EU need a cultural policy?

During a brief session, the conference discussion turned to the question of whether the EU needs a cultural policy. This session proceeded on the basis of some very short remarks by C. Maier. He spoke about the impact of migration, the lack of integration, the importance of language and the centrality of education. Even if the EU lacks a coherent narrative about its

foundations and finalities, Europe shares a wide range of cultural practices, from music via sport and cuisine to architecture. Moreover, these and other 'European values' are more widely shared across the world than our age of Americanisation perhaps recognises. But just as Europe requires a clearer sense of its borders, so perhaps it needs a better self-understanding of what it stands for, vis-à-vis all Europeans but also the rest of the globe. One way of launching such a debate is to ask what the Europeans themselves want from the community, and the problem of deficient integration should not only be discussed at the national level but also at the European level.

According to G.M. Ambrosi, the main problem is that Europe does not know what it is integrating people into? There are plenty of national myths, but the supranational dimension is currently devoid of any symbolic appeal. In the beginning of the European integration process, Charlemagne served as a model – the combined territory of the EEC of 6 corresponded approximately to the reach of Charlemagne's conquests. But as the EEC expanded, the limits of this model became apparent – with the Holy Roman Empire excluding Britain, Greece, Spain, Portugal and, (perhaps) crucially, Turkey. Thus, the Europe of Constantine the Great provides a compelling alternative, both in terms of its historical extension but also its potential to serve as an 'imagined community' (Benedict Anderson).

H. Grubel reiterated his earlier point that immigration is the single greatest threat to the identity of Europe. He conceded that migration is a constant feature of history and that it has had positive effects for both migrants and recipient countries in Europe. But the current level of immigration is historically unprecedented and unsustainable. Coupled with low birth rates, it has unleashed a dangerous dynamic. All of which is contributing to the sense that Europe lacks any shared culture. But A. Clesse disagreed vehemently: European immigration policy is profoundly unjust and brutal because it is highly selective, based on skills, and exploits migrant workers. Given its treatment of asylum seekers, refugees and the Roma, how can the EU even pretend to defend a superior civilisation against what some see as forces of barbarism?

For C. Coker, the main problem is that there is neither a European *demos* nor a European 'social imaginery' (Charles Taylor), thus depriving the EU of a collective and binding narrative. However, the answer is not to try and emulate the USA, which remains a work in progress (S. Sontag). What Europe requires is a distinct discourse that offers a people a sense of direction. *Pace* Jeremy Rifkind, thus far there is no European dream: people are pushed into the EU because of jobs, whereas they are pulled into the USA because of a lifestyle they embrace. Contrary to a widely held view, Europe and America could hardly have be more different, so the idea that further Americanisation will help Europe forge a collective cultural identity is deluded – people tend to ignore the copy in favour of the original.

A. Pabst argued that a common politics involves mutually recognised standards of rationality and shared – though contested – norms. If this is true, then it is clear that a purely secular account of Europe can no longer be defended. Secularism asserts that reason is purely instrumental and that the only valid norms are enshrined in the constitution and in positive law. However, as the 2004 debate between Jürgen Habermas and the then Cardinal Joseph Ratzinger highlighted, the Enlightenment claim that religion was doomed to disappear and that progress and secular values would prevail has proven wrong. Rather, politics requires pre-political moral foundations – a framework of values governed by the good and a transcendent

standard of justice that exceeds the 'play of majorities' and the tyranny of utilitarianism. Moreover, in his Regensburg address, Pope Benedict XVI showed that the Enlightenment is problematic because it equates rationality with a narrow form of rationalism that not only excludes faith but also deprives human reason from the import of the senses and judgement. Thus, if Europe wants to broaden its account of the origins and finalities of European culture, it could do worse than to recover its Christian legacy and the synthesis of reason and faith.

(3) Which basis for Europe's social models and policies?

Another short session addressed the question about the basis for Europe's social models and policies. A. Steinherr initiated the discussions by saying that the process of integration has complicated the social dimension of Europe: from free trade via the customs union to the single market and finally the monetary union – Robert Mundell's paradigm of the free flow of the factors of production has had profound implications for social policy-making. The free movement not just of goods and capital but also of persons poses problems to provisions such as social security, health care coverage and pension entitlements. Moreover, free and fair competition raises the controversial issue of fiscal harmonisation, a problem that had already been recognised in the Werner Plan of 1970/1971. The much-vaunted European social model is at the heart of these issues, e.g. whether pension entitlements are transferable and how national differences are compensated for. Within the single market, there is a clear need for common standards across member states. In terms of immigration, there is too much unskilled labour already in the EU, so it would be preferable to take the best and keep out the rest.

According to G.M. Ambrosi, there is no single European social model or policy – there are many different approaches with little substance in common. However, one feature that has proven to be instrumental to economic growth and societal stability is the importance of social partners and social dialogue, both at the national and the EU level, where trade unions and employers' associations regularly interact. Moreover, the EU engages indirectly in social policy via the Community budget: less than half (and a shrinking share) of the Community budget is devoted to agriculture and another quarter to regional and structural funds, but both constitute in fact enormous social transfers. M. Hirsch asked whether the EU and its member states can afford to maintain the current levels of income support. C. Maier warned about false ideas of the US immigration system (which suffers from many contradictions) but suggested that some European fears are unfounded: portable pension system can solve the problem of a highly mobile work force. In response, S. Bartolini said that social policy is and remains predominantly national: virtually all aspects are organised, funded and managed at the national level. So within a single market, the free movement of people creates a host of tensions, especially in the area of health care which is financed through state taxes.

IV. Constitutional and Institutional Questions

In the final part of the conference proceedings, the discussions focused on constitutional and institutional questions, in particular the modalities of a 'Commonwealth of Europe' (R. Mundell), the possible need for a process of 'constitutionalisation' and the idea of merging the Commission with the Council Presidency.

(1) The Commonwealth of Europe

In his power-point presentation, R. Mundell presented a revised version of his 2007 proposal to create a Commonwealth of Europe broadly based on the US federal model.[6] He began by saying that the US system goes back to the British system, which it updated by introducing a written constitution. As such, one of the most important foundations of a future Commonwealth of Europe is in fact European in origin. Moreover, the idea of a separation of powers can be traced both to the British *Magna Carta* and to Montesquieu. Likewise, the election of the President is a feature of both the US and the French model. Among the most important features of the revised proposal, there is, first of all, a more fully developed concept of a European Senate with 128 members and, second, the possibility of having recourse to popular referenda, with the support of 2% of the EU's population or 10 million signatures necessary to force a vote.

In the discussion, the questions revolved around the feasibility of such an ambitious plan. L. Siedentop asked about how the Europeans get from here to there. R. Mundell responded by saying that this should of course be up to the Europeans themselves but that the EU is in need of a clear roadmap. There were also a series of questions about EU-wide referenda. First, A. Steinherr wondered whether it would make sense to hold a referendum across the Union on the same day, with a simple question: are you in favour or against the creation of a Commonwealth of Europe that will be established in 30 years? Second, Jean-Claude Muller raised the problem of small countries such as Malta, Luxembourg and Cyprus and their lack of weight in determining whether referenda are held.

In conclusion of this short session, L. Siedentop argued that the EU has suffered from a lack of ideas and debate. Driven by a bureaucratic civil service and focused on narrow policy outcomes that do nothing to inform the public, the Union has failed its most basic democratic duty of accountability and transparency vis-à-vis the citizenry. To address this failing seems to be the most urgent task. In a similar vein, C. Maier said that there was a pressing need to draft something quickly, usual after an intense crisis, and to unlock the impasse before it condemns the Union to long-term stagnation.

(2) Does the EU require a process of 'constitutionalisation' before it can have a constitution?

S. Bartolini began his introductory remarks by stating the argument of a paper he has previously presented.[7] This argument can be summarised as follows: debates about the EU suffer from a growing gap between the nature of the Union's institutional architecture and our verbiage about it. Unless and until this gap is closed, the EU will not be able to overcome its present predicament. The treaties that are at the basis of the EU are completely devoid of constitutional elements and lack any such norms. As a result, to speak of legitimacy, democracy or constitution is to commit a category error. The use and abuse of these terms

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[6] See also article in German by Wolf von Leipzig, „Konföderationsmodell für Europa", Luxemburger Wort, 26. Juli 2008, available online at http://www.ieis.lu

[7] Stefano Bartolini, "Taking 'Constitutionalism' and 'Legitimacy' seriously", paper published at: http://www.connex-network.org/eurogov/pdf/discuss_paper_01_2008.pdf.

exacerbates the already flawed debate about what Europe is and what it could or should be – federal, confederal or intergovernmental, etc.? Euro-scepticism is the other face of this confused constellation. As long as we cling to these illusions, we will be the prisoner of our own construction.

L. Siedentop largely agreed with this thesis. He said that the only way forward for the EU is to be more explicit and not to generate false expectations. Indeed, the process of premature 'constitutionalisation' has proven disastrous for Europe, as evinced by the Convention and the draft Constitutional Treaty. In general, representative government always suffers from a democratic deficit and lacks legitimacy because there are restrictions on majority rule. Andrew Moravcisk and those who defend intergovernmentalism make the mistake of denying the import of a constitution and other mechanisms and reducing cooperation to merely technical transactions. So both crude federalism and narrow intergovernmentalism miss the point. But can we create a *demos*, in a minimal sense? There is a simple scheme that might be worth trying. We need a minimal constitution with the following features. First, to introduce a right of exit from the EU (unlike the USA which after the civil war was no longer a voluntary association of states). Second, to curtail the rights-based culture (which generates excessive judicial activism) by drafting a short Charter of Fundamental Rights. Third, to establish a parliamentary system of bicameralism: because the population/majority principle and the state/territoriality principle come into conflict with one another, they need to be brought together in a European Parliament that consists of a lower house and a senate.

At this point, A. Clesse mentioned Carl Friedrich's idea of bringing about a federal dispensation by a constitutional revolution, which contrasts with Amitai Etzioni's incremental, sociological approach. Both S. Bartolini's and L. Siedentop's approach seems more gradual than revolutionary. S. Bartolini partially concurred, saying that the Spinelli Project draws a clear distinction between organic and normal law. In order to dissipate the prevailing confusion, the EU would benefit from a clean start on a new basis.

But a number of participants questioned this account. First, C. Coker said that there are very different constitutional traditions in Europe, including the British, the French, the German and the Russian. Nor is the discourse on values and rights in Europe confined to the liberal universalism of Habermas or the liberal interventionism of Blair. Indeed, Chirac's pan-European community of values is distinctly communitarian. The problem is not so much premature 'constitutionalisation' as the lacunae – in the case of the EU, the obsession with rights at the expense of duties and wrong (i.e. what is and what is not acceptable European behaviour).

Second, A. Pabst wondered whether it is realistic to try and reduce the EU to a set of international treaties. With political integration and judicial activism, the EU institutions and member states constitute more than just another international organisation – though less than a super-state – because European law takes precedence over national law and as such the treaties have a constitutional character. So rather than attempting to undo 50 years of political cooperation, would it not be more sensible to eliminate the confusing language about constitutionalism and replace the opaque structures of governance with a proper government that consists of an elected President and a cabinet drawn from national governments or the ranks of the European Parliament and accountable to it?

Third, M. Hirsch said that at present the European Court of Justice is a constitutional court without a constitution and that European norms wield supremacy. The Union does not need a fully-fledged written constitution, but it cannot be treated like any other international body either. Fourth, C. Maier suggested that there are three ways to look at the EU. Either there is no constitution, so it is best not talk about it and instead get on with managing common policies. Or if there is no constitution, then perhaps it is necessary to draw one up and formalise the current arrangements. Or else the member states recognise that there are shared norms, and they try to make them work in the absence of a constitution.

Finally, C. Franck argued that the discussions fail to draw a clear distinction between the legal and the political. On most accounts, European law is quasi-federal, but at the same time, EU politics is mainly confederal. The challenge is therefore to keep together the Union and the member states: a single EU government risks devaluing national governments. The European Court of Justice only has the power conferred to it by the treaties which are negotiated and approved by the sovereign member states, so it is wrong to paint the Court as some subversive agent. Whatever its limits and shortcomings, the Convention which produced the draft Constitutional Treaty was an extraordinary transversal assembly whose political significance cannot be easily dismissed.

In his short response to these comments, S. Bartolini reiterated his principal argument that the use of the term constitution is legally mistaken and politically irresponsible. Instead of trying to mend what is already broken, it is best to go back to the intergovernmental level and rebuild a proper project based on a new foundation. What is crucial for such an undertaking is political education, of both the elites and the citizenry. Only then is there any hope that the EU might at some point in the future be a clear and coherent Union.

Conclusion

At the end of the conference, C. Franck very briefly addressed the question of whether the Union could and should create an EU government by fusing the Commission with the Council Presidency. The Lisbon Treaty would have created some new roles, including the President of the Council, a position which is different from the EU President who would serve for 2 and a half years. The question which this configuration raises is about the power and competences of the head of state or government of the country in charge for 6 months? In short, the EU is increasingly a hybrid system with all sorts of overlapping functions. At present, we can at best speak of a structure of governance, not a proper system of government. Thus, the Union might benefit from fusing the Commission with the Council Presidency in order to reduce the complexity and streamline the decision-making process.

Finally, there was wide agreement among the participants that this third conference was a success in that it tied together fundamental conceptual questions with empirical issues and addressed both current problems such as the Irish No and longer-term challenges like a coherent foreign policy vision and a proper 'constitutionalising' process.

One possible project that emerged out the discussions is to commission papers from participants in preparation for another meeting in 2009, for example in Luxembourg or at the Château du Pont d'Oye in Habay-la-Neuve in Belgium (this was proposed by C.F. Nothomb whose family has ties with this castle). The focus of such a fourth meeting could be to revisit theories of regional integration and to chart possible ways out of the current impasse.

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Research Fellow
LIEIS 18 July 2008

Luxembourg Institute for European and International Studies

Conference
Beyond the Lisbon Treaty: Ensuring the long-term viability
and vitality of the European Union

12-13 July 2008
Palazzo Mundell, Santa Colomba (Siena)

Programme

Saturday, 12 July 2008

09.00 – 09.15 Welcome remarks by Robert Mundell and Armand Clesse

A quick glance at the two previous meetings (Schengen, December 2006; Santa Colomba, June 2007) by Adrian Pabst

09.15 – 10.45 **Session 1: Implications and consequences of the Irish referendum**

Introductory remarks: Larry Siedentop, Jan Rood, Michel Foucher, Charles Ferdinand Nothomb

10.45 – 11.15 Coffee break

11.15 – 13.00 **Session 2**: **Conceptual questions**

The twin objective of long-term viability and vitality – convergent or divergent?
Introductory remarks: Michel Foucher, Jan Rood

Which model for the EU? Adapting the US or the Swiss Model? Developing a model *sui generis*?
Introductory remarks: Herbert Grubel

'Political contestability' and the future of the EU
Introductory remarks: Rolf Weder

13.00 – 14.30 Lunch

14.30 – 16.00 **Session 3**: **Policy issues**

Which basis for Europe's social models and policies? Individualism, corporatism or personalism?

Introductory remarks: Alfred Steinherr, Gerhard Ambrosi, Mario Hirsch, Adrian Pabst

16.00 – 16.30	Coffee break

16.30 – 18.00   **Session 4**: **Policy issues** (ctd)

Does the EU need a cultural policy?
Introductory remarks: Charles Maier

The EU's role in the world: political-military bloc, 'soft hegemon' or civilian power?
Introductory remarks: Zaki Laidi, Christopher Coker

Sunday, 13 July 2008

09.00 – 10.45   **Session 5**: **Constitutional and institutional questions**

Does the EU require a process of 'constitutionalisation' before it can have a constitution? Or should it 'de-politicize' cooperation?
Introductory remarks: Stefano Bartolini

Could and should the Union create an EU government by fusing the Commission with the Council Presidency?
Introductory remarks: Christian Franck

10.45 – 11.15   Coffee break

11.15 – 13.00   **Session 6**: **Constitutional and institutional questions** (ctd)

The power of the European Parliament and the European Court of Justice
Introductory remarks: Larry Siedentop

Conclusions. Outlook.

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List of participants

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Clesse, Armand, Director, Luxembourg Institute for European and International Studies

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Foucher, Michel, Professor, Ecole Normale Supérieure; Member of the Council of Foreign Affairs, Paris

Franck, Christian, President, Institute for European Studies, Catholic University of Louvain; Professor at the Diplomatic Academy, Vienna

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Hirsch, Mario, Director, Pierre Werner Institute, Luxembourg

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von Leipzig, Wolf, Journalist, "Luxemburger Wort", Luxembourg

Maier, Charles S., Leverett Saltonstall Professor of History, Harvard University

Muller, Jean-Claude, Cultural Historian; First Government Counsellor, Ministry of State, Luxembourg

Mundell, Robert, University Professor of Economics, Columbia University, New York

Nothomb, Charles Ferdinand, former Minister of State, Belgium

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Rood, Jan, Director, European Studies Programme, Clingendael Institute; Professor in international political economy and European integration, University of Utrecht

Siedentop, Larry, Emeritus Lecturer in Political Thought; Emeritus Fellow of Keble College, University of Oxford

Steinherr, Alfred, Professor of Economics and Finance; Head, Department Macro-economic Analysis and Forecasting, German Institute for Economic Research, Berlin

Weder, Rolf, Professor of Economics, University of Basel