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Stavros Afionis

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# EUROPEAN UNION COHERENCE IN UNFCCC NEGOTIATIONS UNDER THE NEW TREATY OF LISBON (REFORM TREATY)

by Stavros Afionis\*

## INTRODUCTION

The historic December 2008 European Council meeting in Brussels resulted *inter alia* in the endorsement by European Union (“EU”) leaders of a plan to revive the Lisbon Treaty, following the treaty’s rejection by the Irish people in June 2008. Both the 2005 European Constitution and its successor, the 2007 Lisbon or Reform Treaty,<sup>1</sup> are aimed at improving lingering shortcomings in the institutional operation of the EU in a number of policy fields.<sup>2</sup> To this end, the EU’s Member States had decided *inter alia* to appoint a full-time European Council President,<sup>3</sup> promote a clearer and fairer voting system in the Council of Ministers,<sup>4</sup> create a more powerful EU High Representative for Foreign Affairs and,<sup>5</sup> finally, introduce majority voting on a number of internal security policy areas.<sup>6</sup>

This article focuses exclusively on the extent to which this new amending treaty will have an improving effect on the EU’s performance when negotiating in the context of the United Nations Framework Convention on Climate Change (“UNFCCC”). Authors have been unanimous in identifying the rotating Presidency system, the predominance of environment ministries in climate change negotiations, and the complexity of internal EU coordination, as being the three main causes undermining the negotiating performance of the EU in international climate talks. Following an analysis of the climate-related changes instituted by the Reform Treaty, this article concludes that it will not significantly improve the current situation, as EU leaders proved largely unwilling to weaken the powers of the Member States vis-à-vis the Community in that particular policy area.<sup>7</sup>

## BACKGROUND

On December 13, 2007, the heads of government and state of the EU Member States signed the Treaty of Lisbon (also known as the Reform Treaty) at a summit in Lisbon, Portugal. Expected at the time to enter into force sometime in 2009, this

new treaty amended the existing treaties of the EU by carrying out most of the reforms previously proposed in the rejected European Constitution. The Constitution, signed in October 2004 and ratified by eighteen Member States, was prevented from entering into force by its rejection in referenda held in France and the Netherlands in May and June 2005 respectively. The resulting ratification crisis led to a period of “reflection, clarification

and discussion,”<sup>8</sup> ending only when the European summit held in Brussels in June 2007 abandoned the idea of a European Constitution and decided to replace it with a new amending treaty in the manner of previous treaties (i.e. the Single European Act, the Maastricht or Nice treaties).

Unexpectedly, Ireland—the only Member State to hold a referendum—turned its back on the Lisbon Treaty and voted it down in June 2008. This unexpected development prompted the vast majority of journalists<sup>9</sup> to prejudge the “death” of the Lisbon Treaty, followed by

Václav Klaus, the president of the Czech Republic and the only EU leader to state that “the Lisbon project is finished.”<sup>10</sup> However, this pessimism was not shared by other European leaders who, following the initial shock, initiated negotiations on how to bypass the Irish problem. As a matter of fact, one of the top priorities of President Nicolas Sarkozy for the French Presidency of the EU (France took over the six-month rotating presidency on July 1, 2008) was to come up with a plan for somehow salvaging the Lisbon Treaty.<sup>11</sup>

The European Council met in Brussels on June 19–20, 2008 and decided to delay any decision until the next summit in October 2008.<sup>12</sup> As a result of the unexpected financial meltdown, the issue of the treaty was pushed to the sidelines, as Europe’s leaders had far more pressing and urgent concerns to occupy their attention during October’s European Council summit. Decisions

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\*Stavros Afionis is a Ph.D. candidate at Keele University’s Research Institute for Law, Politics, and Justice.

were postponed for the next Council meeting in December 2008, where European governments eventually approved a package of concessions to Ireland, aiming at addressing the concerns about sovereignty that led Irish voters to reject the Lisbon Treaty.<sup>13</sup> It is of interest to note that the EU Presidency had, from the very outset, the firmly expressed commitment of the Irish government to producing a plan that would facilitate a “Yes” vote in a future second referendum.<sup>14</sup> These concessions were offered with the proviso that Ireland would ratify the Lisbon Treaty by October 2009. Of course, it remains to be seen whether these measures will be enough to convince the Irish people to endorse the Lisbon Treaty a second time around. In any case, at the time of writing, the Lisbon Treaty is far from dead and may soon be a reality in the lives of European citizens. It would therefore be of usefulness to academics, policy-makers, and all interested parties to be aware in advance of what this treaty actually entails for Europe.

The main objectives of both the European Constitution and the Reform Treaty that replaced it were *inter alia* to establish simpler and clearer rules for decision-making in a continuously enlarging EU of (currently) twenty-seven Member States and to “ensure that the EU’s institutions operate in a more effective and efficient manner.”<sup>15</sup> The present study focuses only on one particular policy area, investigating specifically the extent to which the new Reform Treaty will ensure a more effective and efficient operation of the EU when negotiating in the context of the UNFCCC. The relevant EU climate policy literature has long ago identified a number of problematic features in the EU’s climate decision-making machinery and has offered possible remedies. Groundbreaking as they were, European leaders proved unwilling to incorporate the bulk of these remedies in the 2007 Lisbon Treaty.

### CRITICISMS OF THE CURRENT INSTITUTIONAL SET-UP

Unlike other areas, such as trade, water quality, or hazardous waste disposal, where competence<sup>16</sup> lies with the Community, climate change is an area in which a situation of “shared competence” pertains. In international climate change negotiations, therefore, common EU positions have been agreed upon in advance “by the Member States, with the participation of the Commission. The country holding the Presidency of the EU—a position that rotates every six months—coordinates the members and presents the EU position at the international negotiations.”<sup>17</sup> In other words, the Presidency, assisted by the previous and next Member State to hold that position (the “troika”), has assumed the leadership role.

There exist a number of problems that result from the EU’s current institutional set-up, which involves too many actors in the whole climate change negotiation process (currently the twenty-seven Member States plus the Commission). The first problem is the system of the half-yearly rotating presidency. Authors argue/criticize that not only does it not allow for continuity in the EU’s negotiating strategy and the formulation of a long-term strategic perspective, but that it also results in a loss

of “institutional memory.”<sup>18</sup> As Van Schaik and Egenhofer note, “since the Presidency is changing every half year, there is a relatively high chance of inconsistencies in performance and actual positions. This semi-annual change in leadership can also be a constraining factor regarding the formulation of a long-term strategic perspective.”<sup>19</sup>

A second complication confronting the EU during the course of international climate change negotiations is known as the “EU Bunker.” Changing positions and agreeing on new proposals by other international actors requires the assent of the majority of Member States. This, however, is very difficult to achieve during the course of the negotiations and it can be a “major source of delay and frustration, with endless co-ordination meetings and the inflexibility of Council Mandates.”<sup>20</sup> Investing much (precious) time in bridging internal differences may also result in EU Member States being practically unable to react to outside developments. Creatively put, the amount of time and diplomatic effort that is required for these intra-bloc negotiations often means that the EU is conducting “a conference within a conference.”<sup>21</sup>

It is well known, for example, that in the final dramatic night at Kyoto the EU ministers “were still locked in internal consultations while the plenary was in session: Chairman Estrada gavelled through the critical text on the Clean Development Mechanism (“CDM”) while EU ministers were still trying to establish a common position in another room.”<sup>22</sup> When they informed the Chairman of their opposition to the pre-budget crediting of emission reductions, the decision had already been made and could not be reopened.<sup>23</sup> The same situation recurred during the sixth Conference of Parties (“COP”) at The Hague in 2000, when EU ministers were still debating amendments they wished to propose to Chairman Pronk’s compromise paper after amendments from all the other groups, even the much larger and under-resourced Group of 77 (underdeveloped countries) plus China (“G-77/China”), had been circulated and the final night’s crucial negotiations had begun.<sup>24</sup>

Finally, a third problem relates to the predominance of environment ministries and the under-representation of economics and trade ministries in climate change negotiations. Several authors agree that climate talks have somewhat “outgrown” the environmental ministries, as they involve not only environmental but also—and increasingly so—economic, trade, development, energy, and transport issues and concerns.<sup>25</sup> It is thus felt that closer cooperation between the environment, trade, and economic ministries “would do more justice to the economic realities of climate change policy.”<sup>26</sup> In the United States, for example, it is the State Department that takes the lead in the negotiations, with the Department of Commerce being responsible for the overall coordination of the U.S. position.<sup>27</sup> Following the flawed performance of the EU at The Hague COP in 2000, the EU did try to address this issue by allowing for greater flexibility in the common position, strengthening the role of the Committee of Permanent Representatives (“COREPER”), and having economic, trade, and foreign ministries more involved in the whole process.<sup>28</sup> These changes did lead to improvements

in the performance of the EU in COP-6bis (Bonn) and COP-7 (Marrakech), but did not “fundamentally alter the way the EU position [was] formulated.”<sup>29</sup>

### SUGGESTIONS FOR IMPROVEMENT

Commentators over the years have made a number of proposals aiming at improving the EU’s operational functioning. It has been widely suggested, for instance, that the performance of the EU would improve dramatically if the Member States allowed the European Commission to take over the coordination of the EU negotiating position from the Presidency.<sup>30</sup> This, however, is a highly unlikely future prospect, as several Member States (i.e. the UK) are vehemently opposed to any further expansion of the competencies of the Commission.<sup>31</sup> As we shall see, such a prospect becomes even slimmer now with the new Reform Treaty.

Another proposal, by Lacasta et al., involves delegating authority to a number of “lead countries” that would prepare, in close cooperation with the Commission, “draft common negotiating positions to be decided by the Council.”<sup>32</sup> Grubb and Gupta share this proposal, noting in turn that such a move would “reflect the nature of the EU as a strong intergovernmental rather than supranational institution.”<sup>33</sup> These “lead countries”—or the Commission in the first case—would also be responsible for the formulation beforehand of commonly agreed “fall-back” positions that would allow for greater EU flexibility in the decisive phases of UNFCCC talks.<sup>34</sup> Currently, the inflexibility of the Council mandates results in the EU having neither such fall-backs nor the necessary mechanisms for coming up with them in the midst of the negotiations.<sup>35</sup> However, given the political and economic implications of climate change, the extent to which some Member States would be willing to allow for decisions to be taken for them without their express approval and input is subject to debate.

Finally, regarding the issue of the predominance of environment ministries, a possible suggestion by some authors provides for climate policy to become part of the EU’s Common Foreign and Security Policy (“CFSP”), thereby bringing “diplomatic muscle (and, hopefully, finesse) to the Community actions.”<sup>36</sup> Similar is one of many proposals by Van Schaik and Egenhofer, who propose that the Foreign Affairs Council would be responsible for the formulation of climate policy, thus “offering a possibility for more integration of the EU’s position in climate

negotiations with other external policies of the EU.”<sup>37</sup> In this case, Environment Ministers, whose expertise is deemed essential, could second their Foreign Ministers during sessions of the Foreign Affairs Council in which external climate policy negotiating positions are debated.<sup>38</sup> Another option in this regard would be for Foreign and Environment Ministers to hold joint meetings, for instance every half a year.<sup>39</sup>

### CHANGES INSTITUTED BY THE REFORM TREATY

Before attempting to explain the benefits the Reform Treaty will have for the EU’s performance in UNFCCC negotiations, a symbolic comment should be made. The new treaty, in the amended Article 174, states that one of the aims of EU environmental policy will be to promote “measures at [the] international level to deal with regional or worldwide environmental problems, and in particular combating climate change.”<sup>40</sup> It is the first time the term “climate change” appears in the text of an

EU treaty. Provided that it enters into force, the Reform Treaty will introduce, as already discussed, a number of institutional changes meant to improve the efficient running of the EU. How then, would this new treaty strengthen EU performance in international climate change negotiations?

To begin with, the European Parliament (“EP”) will be able to veto international agreements, including climate change-related ones. Until now, the Council only consulted the EP and could ignore its judgement if acting unanimously. Pursuant to the Reform Treaty, the consent of the EP (as the

“voice of the people”) would be required for the ratification of international environmental (including climate) agreements, enhancing therefore the democratic legitimacy of the EU.<sup>41</sup> The EP might never actually vote down an international environmental agreement, but it may become more demanding and insist that its viewpoints on climate change issues be taken more seriously into consideration.<sup>42</sup>

Continuing on with the Presidency, the rotating system will remain largely the same. Even though the European Council will have its own President (in office for two and a half years), the chairmanship of the other councils, except foreign affairs, will continue to rotate every six months. The efficiency of the Presidency, however, is expected to improve significantly with the introduction—already in operation since 2007—of a new enhanced “troika-like” system, known as the “triple presidency.”

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According to the Treaty Establishing a Constitution for Europe, which never came into force, the Presidency would continue to rotate every six months, but every eighteen months the three Presidencies due to hold office would negotiate a common agenda and work together over this one and half year period to accomplish its objectives, always led by the Member State holding the presidency at the time. Even though the aforementioned treaty is not legally binding, the September 2006 Council of the European Union decided to adopt the concept of the presiding trio.<sup>43</sup>

This development will allow for greater coordination and continuity, as it will put an end to the practice exercised up to 2006 of every successive Presidency re-writing the agenda every six months in accordance with its own priorities. In the context of climate politics, the new “troika-like” system will enable Member States with a greater interest in this policy area to relieve smaller ones of the burden of conducting negotiations in which they have no actual interest. As is obvious, not all Member States are usually active in a particular policy area. In most Multilateral Environmental Agreements (“MEAs”), less than half a dozen positions are likely to emerge, as most small Member States do not have a particular line to push. Luxemburg, for example, cannot employ more than a handful of its officials to specialize in any MEA when it holds the presidency.<sup>44</sup> To give another example, the Presidency during 1996—one year prior to Kyoto’s crucial COP-3—had been held by Italy and Ireland, two countries known for their lack of a progressive stance on climate change. The position of the EU had remained practically unchanged since Berlin’s 1995 COP-1, and it would not have been a hyperbole to suggest that it had virtually stagnated.<sup>45</sup> It is for cases such as this that the Reform Treaty’s new presiding Trio concept could prove a far more workable system. Of course, as promising as it may seem, only time will demonstrate the extent to which this new arrangement will indeed be an improvement.

A final related innovation is, as already mentioned, the establishment by the Reform Treaty of an EU Minister for Foreign Affairs (the High Representative for Foreign Policy and Security)—merging the existing roles of High Representative for Common Foreign and Security Policy and the Commissioner for External Affairs. The role, if any, of the High Representative for Foreign Policy and Security in international climate change negotiations is as yet unclear.<sup>46</sup> According to Van Schaik and Egenhofer, involvement of the Foreign Minister in EU activities in the UNFCCC could “advance the integration of climate change with other policy areas, notably with other external policies.”<sup>47</sup> Such involvement, however, even if it does occur, will likely remain limited or auxiliary, as only officials of environment

ministries command the immensely specialized knowledge on technical aspects of the climate change policy area.<sup>48</sup> Given that the EU “Foreign Minister” will be mainly responsible for the EU’s CFSP, Environment Ministers will in all probability remain largely responsible for the formulation of the EU’s position on climate change, aided on occasion by their economic, trade, and foreign counterparts. In other words, the current system is not expected to be altered significantly.

## CONCLUSION

To conclude, despite the explicit acknowledgement of climate change in the Reform Treaty, actual climate-related changes in the Treaty are limited. National governments prove to be adamant in their insistence to maintain control over their energy policy, a key element of national security in the view of many sovereigns. When it comes to energy, major disparities exist within, between, and among the nations of the EU. Given their vast differences in economic development, these twenty-seven

Member States have, in most cases, widely different energy matrices, greenhouse gas emission, and energy consumption patterns. Internal EU negotiations for agreeing a common climate policy, therefore, are quite strenuous and time-consuming, as different Member States are more willing and/or capable to reduce their emissions than others.<sup>49</sup> Closely related to this is the Euro-scepticism of some Member States (e.g. the United Kingdom) who are unwilling to expand the competencies and

reach of the EU’s governing bodies. The Commission’s 1990s proposal for an energy/carbon tax serving in this case as a prominent example.<sup>50</sup>

The extent, therefore, to which the new treaty would benefit the performance of the EU in UNFCCC negotiations is likely narrow. Contrary to expectations, the Reform Treaty does not sufficiently address any of the three problems affecting the negotiating ability of the EU tentatively outlined earlier. The “EU bunker” will continue to afflict the EU, as will most of the problems associated with the predominance of environment ministries. The same largely applies to the rotating Presidency, but in this case the new enhanced “troika-like” system will definitely result in some meaningful improvements in the current situation. Undoubtedly, the big question remains whether the new EU Foreign Minister will become involved in EU climate activities and what will be his/her exact role. As seen, such an involvement—in all probability one of limited importance—can only benefit the EU. In any case, such a discussion is highly hypothetical and the questions posed will only be answered following the potential entry into force of the Reform Treaty in 2009 or 2010. Several authors have advocated a reform of EU institutions as the only

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practical solution for dealing with the current shortcomings of the EU as a negotiator in policy areas of “shared competence.” Unfortunately, such a reform of institutions—as far as climate

change policy is concerned—was not carried out by the Reform Treaty, as it presented a choice not politically acceptable to the majority of EU Member States.



## Endnotes: European Union Coherence in UNFCCC Negotiations Under the New Treaty of Lisbon (Reform Treaty)

<sup>1</sup> Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, O.J. (C 306/01) opened for signature Dec. 13, 2007 [hereafter Reform Treaty].

<sup>2</sup> For more information on both the Constitutional & Reform Treaties, see generally Sebastian Kurpas, *The Treaty of Lisbon – How much ‘Constitution’ is left? An Overview of the Main Changes* (CEPS, Policy Brief Series No.147, 2007) available at [http://shop.ceps.eu/BookDetail.php?item\\_id=1568](http://shop.ceps.eu/BookDetail.php?item_id=1568) (last visited May 30, 2008).

<sup>3</sup> See *id.* at 4 (stating “[o]n paper the European Council President only has limited powers of a mostly procedural nature (e.g. chairing European Council meetings), but much will depend on the personality that fills the position.”).

<sup>4</sup> See Reform Treaty, *supra* note 1, art. 1(9c). Under the Reform Treaty, a measure will pass the Council of Ministers if it is backed by 55 percent of the member-states (currently 15 out of 27), provided they represent at least 65 percent of the EU’s population.

<sup>5</sup> See Reform Treaty, *supra* note 1, art. 1(9b). The new post of “High Representative for Foreign Policy and Security” is created. As things currently stand, the EU has both the Council’s High Representative (currently Javier Solana) and the Commissioner for External Action (currently Benita Ferrero-Waldner). As co-operation between the two foreign policy figureheads is often problematic, the Reform Treaty merges the two posts. The High Representative will *inter alia* chair the meetings of EU foreign ministers, coordinate the EU’s foreign policy agenda, and be in charge of the EU’s external relations budget.

<sup>6</sup> See, e.g., Reform Treaty, *supra* note 1, art. 1(28B). The new treaty does away with national vetoes in about fifty areas. The most radical shift concerns decisions on EU co-operation for fighting terrorism, crime, and illegal immigration, or what officials refer to as Justice and Home Affairs (“JHA”). On the insistence of the UK, it was decided that if a dissenting country cannot reach a compromise with its EU partners, it is free to opt out of the measure.

<sup>7</sup> Unlike trade or agriculture, where exclusive Community competence is expressly provided by the Treaty of Rome, climate change talks involves restricted Community competence with the EU operating “at 28”, with the Commission involved alongside Member States, but with the leadership role being taken by the Presidency.

<sup>8</sup> Press Release, Luxembourg Presidency of the Council of the European Union, Jean-Claude Juncker states that there will be a period for reflection and discussion but the process to ratify the Constitutional Treaty will continue with no renegotiation (June 17, 2005), available at <http://www.eu2005.lu/en/actualites/communiqués/2005/06/16jclj-ratif/index.html> (last visited Feb. 16, 2009).

<sup>9</sup> See David Sharrock & David Charter, *Irish voters sign death warrant for EU’s Lisbon treaty*, THE TIMES, June 14, 2008, available at <http://www.timesonline.co.uk/tol/news/world/ireland/article4134077.ece> (last visited Feb. 26, 2009); Benedict Brogan, EU treaty “dead” after Irish voters reject it in referendum victory for “no” campaign, THE DAILY MAIL, June 16, 2008.

<sup>10</sup> David Pryce-Jones, *Before the Revolution: Europe’s governors refuse to listen to the governed*, NAT’L REV., July 14, 2008, at 8.

<sup>11</sup> See Ian Taylor, *Sarkozy pledges to restore trust in EU as France takes over presidency*, THE GUARDIAN, July 1, 2008, at 19.

<sup>12</sup> Presidency Conclusions, Brussels European Council (June 20, 2008), available at [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/101346.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/101346.pdf) (last visited Feb. 26, 2009).

<sup>13</sup> See Judith Crosbie, *Ireland to hold second referendum*, EUROPEAN VOICE.COM, Dec. 12, 2008, <http://www.europeanvoice.com/article/2008/12/ireland-to-hold-second-referendum/63417.aspx> (last visited Feb. 26, 2009). “Brian Cowen, Ireland’s prime minister, has pledged to hold a second referendum on the EU’s reforming Treaty of Lisbon” but only after securing legal guarantees that Ireland would not lose its membership in the European Commission and its military neutrality, as well as certain Irish constitutional provisions. *Id.*

<sup>14</sup> John O’Brennan, *Ireland’s plan to resurrect the Lisbon Treaty to be unveiled at the Brussels summit 1-3* (CEPS Commentary, Dec. 4, 2008) available at [http://shop.ceps.eu/BookDetail.php?item\\_id=1763](http://shop.ceps.eu/BookDetail.php?item_id=1763) (last visited Dec. 7, 2008).

<sup>15</sup> Richard Whitman, *No and after: options for Europe*, 81 INT’L AFF. 673, 674 (2005).

<sup>16</sup> Competence is the EU term for “powers” or, in other words, who has authority to undertake negotiations and initiate policy (the Commission, the Member States, or both). See John Vogler, *The European Union as an Actor in International Environmental Politics*, ENVTL. POLITICS, Sept. 1999, at 24-48.

<sup>17</sup> SEBASTIAN OBERTHÜR & HERMANN E. OTT, *THE KYOTO PROTOCOL: INTERNATIONAL CLIMATE POLICY FOR THE 21<sup>ST</sup> CENTURY* 14 (Springer 1999).

<sup>18</sup> HOUSE OF LORDS, *THE EU AND CLIMATE CHANGE* 56 (House of Lords Paper 179-I Session 2003-04).

<sup>19</sup> Louise Van Schaik & Christian Egenhofer, *Reform of the EU Institutions: Implications for the EU’s Performance in Climate Negotiations* 4 (CEPS, Policy Brief Series No.40, 2003) [hereinafter *Climate Negotiations*] available at <http://shop.ceps.eu/free/1060.pdf?> (last visited Feb. 26, 2009). This is to a great extent remedied by the Council is the WPCC (called until 1999 the Ad Hoc Group on Climate Change), a body under the EU Environment Council, which prepares EU negotiation positions on various issues. Established after COP-1 in Berlin in 1995, it is further divided into a number of expert groups that deal with and prepare reports (so-called “submissions”) on several technical issues (e.g. sinks, technology transfer, national communications, etc). It should also be noted that most EU submissions to the UNFCCC originate from the WPCC and, as mentioned above, small Member States holding the Presidency tend to rely extensively on the assistance and expertise of the WPCC. See Louise Van Schaik & Christian Egenhofer, *Improving the climate: Will the new Constitution strengthen the EU’s performance in international climate negotiations?* 7-8 (CEPS, Policy Brief Series No.63, 2005) available at [http://shop.ceps.eu/BookDetail.php?item\\_id=1198](http://shop.ceps.eu/BookDetail.php?item_id=1198) (last visited Feb. 26, 2009).

<sup>20</sup> See John Vogler, *The External Environmental Policy of the European Union*, YEARBOOK OF INTERNATIONAL CO OPERATION ON ENVIRONMENT AND DEVELOPMENT 2003/2004 65, 70 (Olav Schram Stokke & Øystein B. Thommessen eds. 2003).

<sup>21</sup> R.P. BARSTON, *MODERN DIPLOMACY* 87 (2006).

<sup>22</sup> Michael Grubb & Farhana Yamin, *Climatic collapse at The Hague: what happened, why, and where do we go from here?*, 77 INT’L AFF. 261, 274 (2001).

<sup>23</sup> OBERTHÜR & OTT, *supra* note 17, at 90.

<sup>24</sup> Grubb & Yamin, *supra* note 22, at 274.

<sup>25</sup> *Climate Negotiations*, *supra* note 19, at 3.

<sup>26</sup> Christian Egenhofer & Jan Cornillie, *Reinventing the Climate Negotiations: An Analysis of COP6 9* (CEPS, Policy Brief Series No.1, 2001) available at <http://shop.ceps.eu/free/102.pdf?> (last visited Feb. 26, 2009).

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**ENDNOTES: EUROPEAN UNION COHERENCE IN UNFCCC NEGOTIATIONS UNDER THE NEW TREATY OF LISBON  
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- <sup>27</sup> *Id.*
- <sup>28</sup> *Climate Negotiations*, *supra* note 19, at 1-2.
- <sup>29</sup> *Climate Negotiations*, *supra* note 19, at 4.
- <sup>30</sup> Egenhofer & Cornillie, *supra* note 26, at 9. *See also* Nuno S. Lacasta et al., *Consensus Among Many Voices: Articulating the European Union's Position on Climate Change*, 32 GOLDEN GATE U. L. REV. 351, 413 (2002); Grubb & Yamin, *supra* note 22, at 275.
- <sup>31</sup> This was convincingly demonstrated by the CO<sub>2</sub> energy/tax debate in the early 1990s.
- <sup>32</sup> Lacasta et al., *supra* note 30, at 414.
- <sup>33</sup> Michael Grubb & Joyeeta Gupta, *Implementing European Leadership*, in CLIMATE CHANGE AND EUROPEAN LEADERSHIP: A SUSTAINABLE ROLE FOR EUROPE? 303 (Joyeeta Gupta & Michael Grubb, eds., 2000).
- <sup>34</sup> Lacasta et al., *supra* note 30, at 414.
- <sup>35</sup> Grubb & Gupta, *supra* note 31, at 303; Vogler, *supra* note 20, at 70.
- <sup>36</sup> *See* Grubb & Gupta, *supra* note 31, at 306.
- <sup>37</sup> *Climate Negotiations*, *supra* note 19, at 9.
- <sup>38</sup> *Id.*
- <sup>39</sup> *Id.*
- <sup>40</sup> *See* Reform Treaty, *supra* note 1, art. 2(174).
- <sup>41</sup> *Climate Negotiations*, *supra* note 19, at 4.
- <sup>42</sup> *Id.* at 7.
- <sup>43</sup> EU CONSENT, INSTITUTE FOR EUROPEAN POLITICS, EU-25/27 WATCH No. 5 at 12-13 (2007), available at [http://www.eu-consent.net/library/eu25watch/EU-25-27\\_Watch\\_No5.pdf](http://www.eu-consent.net/library/eu25watch/EU-25-27_Watch_No5.pdf) (last visited Feb. 26, 2009).
- <sup>44</sup> CHARLOTTE BRETHERTON & JOHN VOGLER, THE EUROPEAN UNION AS A GLOBAL ACTOR 97 (2006).
- <sup>45</sup> OBERTHÜR & OTT, *supra* note 17, at 90.
- <sup>46</sup> *Climate Negotiations*, *supra* note 19, at 7.
- <sup>47</sup> *Climate Negotiations*, *supra* note 19, at 6.
- <sup>48</sup> *Id.*
- <sup>49</sup> Lacasta et al., *supra* note 30, at 367.
- <sup>50</sup> *See id.* at 382-83. The United Kingdom was opposed to the use of fiscal mechanisms at EU level as a matter of principle. It was vehemently opposed to any European intervention in tax matters, invoking the subsidiary principle. For more on the carbon/energy tax. *See id.*
-