

Ireland's plan to resurrect the Lisbon Treaty to be unveiled at the Brussels summit

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Given the problems created by the failed Irish referendum on the Treaty of Lisbon for the European Union, it is a bittersweet irony that Ireland has been one of the member states hardest hit by the turmoil in global markets. The country's fiscal position has severely degraded and the Government has been forced to introduce austerity measures not seen for a quarter of a century. Now, in advance of the European Council's December summit, expectations are growing that the Irish Prime Minister (or Taoiseach) Brian Cowen will provide a clear roadmap for an Irish solution to the EU's constitutional dilemma and enable the EU to resolve the impasse created by the Irish electorate's rejection of the Treaty in June.

Against a backdrop of sustained economic retrenchment, the Dublin Government has worked hard to deliver a solution to the EU's constitutional imbroglio. A subcommittee of the European Affairs Committee of the Oireachtas (Ireland's national parliament) conducted extensive hearings into the failed referendum in October and November and produced a comprehensive report, designed both to guide the Government response to the European Council and – in the longer term – to overhaul the Oireachtas' role in EU policy-making. Whilst in some senses the subcommittee's work can be viewed as a pointless re-run of the Lisbon referendum campaign, it has also produced some very useful suggestions about the management of EU affairs within the Irish political system. The real locus of decision-making on how to proceed with the ratification process has, however, been a subcommittee of the Irish executive that has been meeting twice monthly since September. After extensive consultation with the Council of Ministers' legal services, details of the plan to save the Lisbon Treaty have emerged and Cowen has engaged in a bout of frantic shuttle diplomacy to brief his fellow heads of government on the content of the Irish proposals.

There are two core elements to the Irish plan, although there is still some uncertainty as to the precise *form* and *shape* these measures will take, and the degree of accommodation that will be offered by Dublin's EU partners. It is clear that an Irish re-vote is central to the effort to revive Lisbon, and Cowen is expected to outline to the European Council summit both the terms of the proposed constitutional amendment and a timeframe for the second referendum. The first element of the plan revolves around an alteration to the Lisbon Treaty's provisions on the composition of the European Commission. The post-referendum polling conducted for the Irish government demonstrated that one of the key reasons Irish voters rejected the Lisbon Treaty lay in concerns that Ireland's voice and representation within the EU institutions would be eroded, and, in particular, that the loss of a permanent Irish commissioner would deal a blow to Irish interests and influence in Brussels. In response to such concerns, Cowen has quietly pursued

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EU-wide agreement that would sanction a 'one member state, one commissioner' rubric, and Ireland would thus be allowed to retain a permanent place at the Commission's table. Indeed he has argued that a second referendum could not be seriously contemplated without such a change. Although this is not yet a done deal (and there remains significant opposition to it in some member states), all the signs indicate that the Brussels summit will agree to the Irish proposals and provide Dublin with some crucial room for manoeuvre as it embarks on a second referendum campaign.

The second part of the plan is for the EU to provide a series of specific declarations on some of the other issues deemed to be key concerns of Ireland's No voters. These include Ireland's position on abortion, European security and defence policy and corporation tax. But a key question that remains unanswered in the run-up to the Brussels summit is whether these declarations and clarifications are legally copper-fastened in a way that would convince Irish voters to perform a *volte-face* and accept the Treaty. The Irish approach has focused on the opt-outs secured by Denmark from the Maastricht Treaty in 1992, and Irish diplomats have engaged in close consultation with Copenhagen throughout the autumn. But it is unclear as yet whether this model will simply formally acknowledge the Irish right to decide policy for itself in these defined areas or reference specific opt-outs from EU policies *à la Denmark*. Indeed the sea-change in Danish thinking on the value of the opt-out model has given Irish policy-makers pause for thought as they contemplate a similar approach. In particular reservations continue to be expressed at ministerial level about the impact on Irish peacekeeping activities of voluntary exclusion from EU security and defence policy. In any event the Lisbon Treaty would remain unchanged; the binding declarations related to Ireland would most likely be given treaty status by way of being attached to the accession treaty for Croatia, when negotiations with that country conclude in 2009.

So what are the chances of a second referendum succeeding? It seems clear that a referendum campaign revolving around one or another of these specifically-defined amendments would make it much more difficult for the No side to distort and misrepresent the Treaty in a second campaign. It would focus attention on a much narrower range of concerns than was the case during the 2008 poll, and many wavering voters would no doubt be reassured by the formal legal guarantees attached to the constitutional amendment.

Equally a second referendum would likely bring back into play the significant economic dimension to Irish membership of the European Union, which has largely been absent from recent treaty debates. Ireland has benefited disproportionately from EU largesse over 35 years of membership, and, in 2007, was still receiving a net amount of €500 million from the EU budget. When voters are reminded of this fact and the potentially catastrophic cost of being excluded, not just from the Single Market area, but from the vital decision-making structures in the Council of Ministers and the European Central Bank, it emphasises what is at stake in a second referendum campaign. The recent turmoil in financial markets has only served to re-enforce this point: simply put, Ireland's economic future cannot be contemplated seriously outside of EU structures. Indeed Irish ministers have consistently argued that Ireland would have gone the way of Iceland in recent months were it not for Irish membership of the EU. The traumatic experience of other small states such as Hungary and Serbia provides a cogent reminder of the vulnerability of small states to exogenous economic shocks and the protection offered by eurozone membership from adverse international developments.

On the other hand, however, the economy might also present difficulties for the ratification process as the recession deepens. Economists expect output to contract by up to 4% in 2009 and the budget deficit to balloon to about 8% of GDP. The Irish property bubble has given way to a severe contraction whilst small businesses have been severely hit by the banking crisis and ensuing credit crunch. The hubris of the late Celtic Tiger years is now but a distant memory as unemployment soars and emigration resumes. A popular backlash against the recent budget serves as one indication of the grave difficulties Brian Cowen's government will face in 2009,

and opinion polls demonstrate a dramatic collapse in support for his Fianna Fáil party in particular. If this trend is sustained throughout 2009, it might well result in the electorate punishing an unpopular government by rejecting the Lisbon Treaty a second time.

Naturally enough the anti-European side expresses outrage at the idea of another poll. "The people have spoken. The Lisbon Treaty is dead" has been the most common expression coming from the No side as rhetorical skirmishing has resumed this autumn. Sinn Féin and other opponents of Lisbon continue to engage in delusional fantasies of a wholesale re-negotiation of the Treaty. The Irish Government counters that, in a context where each of the other 26 member states will have ratified Lisbon by early 2009, those states will have demonstrated that they accept the rules and procedures of the 'club'. If that is the case then a second referendum constitutes a perfectly valid response to the EU's ratification dilemma. Equally important, say proponents of a Yes vote, is the material threat to Ireland's national interests: the rejection of the Lisbon Treaty presented the Dublin Government with the most serious crisis in its external relations since the Second World War, and a second No vote would leave the country facing isolation and marginalization in Europe at a time when its economic fragility weighs heavily on policy-making.

At the very least Brian Cowen has delivered on his commitment to the European Council and produced a plan that has every chance of producing a Yes vote in a second referendum. The French Presidency of the EU will be satisfied that a solution to the Lisbon impasse is now within reach. But if the last few months have taught us anything, it is that contemporary politics is more than usually fraught with uncertainty. Thus the Irish Government's roadmap may have brought much needed clarity on the necessary steps to embarking on a second referendum campaign, but it remains to be seen whether these measures will be enough to convince Irish voters to endorse the Lisbon Treaty second time around.