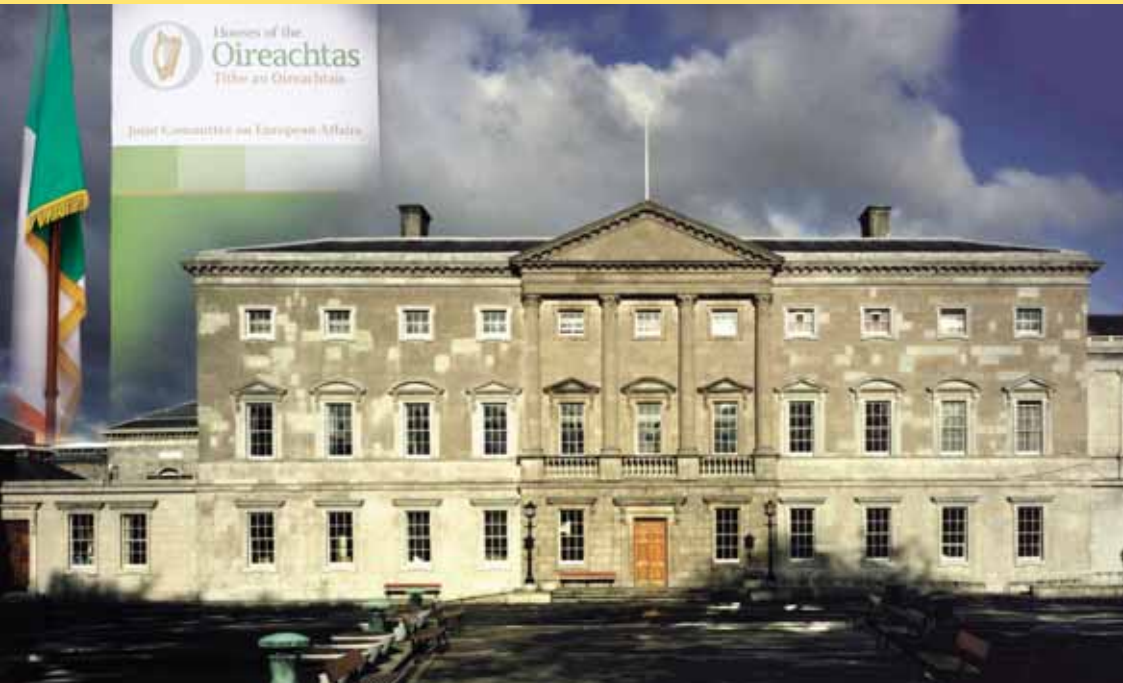


Houses of the Oireachtas
Joint Committee on European Affairs

THE LISBON REFORM TREATY



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FOREWORD

On behalf of the Joint Committee on European Affairs I am pleased to present this Final Report on the Lisbon Reform Treaty to both Houses of the Oireachtas.

The Report derives from a series of meetings which the Committee held both in Leinster House and at various venues throughout the country in recent months. These were designed both to enable its Members to hear the views of the general public on the contents and import of the Treaty and to stimulate public debate prior to the Referendum on June 12.

The Committee also took into account the views of Irish MEPs, the Government White Paper, material published by the Referendum Commission, views expressed at the National Forum on Europe, and the stances taken by various permanent and ad hoc organisations and groups active in the debate on either side.

The Committee began by inviting the Social Partners to present their views and to have an exchange with its Members. The Committee also benefited from presentations by the Ministers for Foreign Affairs, Mr. Dermot Ahern T.D., and Mr. Micheál Martin T.D., and the Minister of State with Special Responsibility for European Affairs, Mr. Dick Roche T.D. The Committee is grateful for these contributions which enabled it to compile its Reports on the Treaty. The Committee's Interim Report on the Treaty was published on 27 February 2008.

At that time the Committee announced its intention to undertake a tour of the country to obtain the views of the general public. All political parties in the Oireachtas were invited to send representatives. The Committee visited six cities and towns throughout Ireland. This was the first time that an Oireachtas Committee held formal sessions outside of Leinster House. Concurrently, it continued its meetings on the Treaty in Leinster House with representatives of various organisations and with Irish MEPs. All in all the Committee met with twenty groups. Of the main organisations active in the debate only Libertas declined the Committee's invitation to contribute.

The Committee heard a broad range of views which are assessed in this Final Report. It is grateful to all those organisations and individuals who contributed to our debates, which I hope have enabled participants to reach a balanced decision on the Treaty.

Having weighed up all the arguments which were presented to it, the Committee is of the opinion that the Lisbon Reform Treaty is a timely and necessary contribution to the evolution of the European Union, that it poses no threat to essential Irish interests and that it merits the support of the Houses the Oireachtas and of the Irish people.

Bernard Durkan, T.D.
Chairman
29 May 2008

EXECUTIVE SUMMARY

In order to inform itself on the details of the Treaty and to obtain the views of a broad range of Irish organisations and of the general public on the likely impact of the Treaty on Ireland, the Committee held a number of meetings in Leinster House, as well as in several cities and towns throughout the country.

A complete list of all organisations which made submissions to the Committee at its meetings in Leinster House is contained in Appendix I. The schedule of regional meetings held in locations throughout the country is set out in Appendix II. Full transcripts of all meetings are available on the Committee's website, www.euaffairs.ie.

In the course of these meetings a wide range of opinions was expressed concerning the conduct of the debate on the Treaty to date. Some complained of scaremongering and misrepresentation by both pro- and anti-Treaty supporters, particularly as regards the consequences of a 'Yes' or a 'No' vote. There were also concerns expressed about the complexity of the Treaty and the dearth of quality information about its contents and its implications for Ireland.

The majority of the concerns and opinions expressed during the Committee's discussions with Irish organisations and members of the public can be grouped into the following areas:

- Impact on Sovereignty
- Democratic Accountability
- Social and Public Policy Implications
- Foreign, Defence and External Relations Policy, including Development and Trade Policies

- Justice and Home Affairs
- Economic Affairs including Taxation Policies

A number of issues were introduced in the debate which were not directly connected to the purpose and content of the Lisbon Reform Treaty. These included the state of Ireland's health services, water charges in schools, lack of access to broadband and VRT on motor vehicles. While the Committee acknowledges that these concerns may be valid, it would caution against mixing problems which are ultimately national issues that need to be addressed in a national context with the debate on the merits or otherwise of the Lisbon Reform Treaty.

The Committee has listened carefully to the opinions and concerns of all those who contributed to its detailed examination of the Lisbon Reform Treaty. It has also been guided by the advice of Irish MEPs, the views of pro- and anti- groups as well as the publications of the Government, the Referendum Commission and the National Forum on Europe.

The Committee has come to the conclusion that the Lisbon Reform Treaty achieves its objectives of enhancing the efficiency, democratic legitimacy, transparency and accountability of the enlarged Union, as well as the coherence of its external action in order to allow it to respond to the needs of its citizens as they face the challenges of the 21st century. It protects Ireland's vital interests and it allows Ireland to remain at the heart of the EU, thereby ensuring that we continue to benefit from our membership of the Union.



Members of the Committee following publication of the Committee's Report on the Lisbon Reform Treaty

European Scrutiny, responsible for day-to-day monitoring and evaluation of all proposals for EU legislation, EU policy development and initiatives and action at EU level. Its membership is drawn from across the political spectrum in both Dáil Éireann and Seanad Éireann. Irish MEPs (and Northern Ireland MEPs) and members of the Irish delegation to the Parliamentary Assembly of the Council of Europe may attend and participate at meetings of the Committee.

In particular, the Committee considers that the Treaty will enhance democratic control of the EU decision-making process by strengthening the role of National Parliaments, while at the same time promoting the directly-elected European Parliament to the role of co-legislator with the Council of Ministers.

The Lisbon Reform Treaty was signed by the leaders of the 27 EU Member States on 13 December 2007 in Lisbon. Before it can enter into force on schedule in January 2009 it must be ratified by each Member State according to its own constitutional or legal requirements. In Ireland it will be voted on in a referendum on June 12. A number of EU Member States have already ratified the Treaty through their National Parliaments.¹

The Committee is satisfied that Ireland's red lines on corporate taxation, foreign policy and defence are secure, and that the opt-out/in arrangements the Government obtained in the criminal justice area are satisfactory. Furthermore, it accepts that unanimity will continue to be required for any future Treaty changes and that these will remain subject to ratification by each Member State in accordance with its own constitutional requirements.

In order to inform itself on the details of the Treaty and to obtain the views of a broad range of Irish organisations and of the general public on the likely impact of the Treaty on Ireland, the Committee held a number of meetings in Leinster House with the social partners, subsequent to which it issued an Interim Report. It then conducted six regional meetings which represented a historic 'first' in the exercise of democracy in Ireland insofar as it was the first time that an Oireachtas

In its overall opinion, the Committee endorses the Lisbon Reform Treaty and commends it to the people of Ireland.

INTRODUCTION

The Joint Committee on European Affairs, together with the Joint Committee on

¹ As of 27 May 2008, 14 Member States have ratified the Treaty: Hungary, Slovenia, Malta, Romania, France, Bulgaria, Poland, Slovakia, Portugal, Denmark, Austria, Latvia, Lithuania and Germany.

Committee had held formal sessions beyond the confines of Leinster House.

For the Committee to be permitted to sit outside Dublin, an Order of both Houses of the Oireachtas was required in accordance with Article 15.1.3° of the Constitution. The Houses of the Oireachtas made such an Order on 8 April 2008 permitting the Committee to hold formal sittings in the cities of Galway, Cork and Limerick and the towns of Dundalk and Athlone.

The regional meetings initiative can be seen as a two-pronged exercise in democracy. On the one hand it contributed to the public debate on an issue which is of crucial importance

both for Ireland and for the future of Europe as a whole; on the other, it involved taking part of the national parliament out of Leinster House and giving people throughout the country the opportunity not only to observe but to participate in the political process in a very direct way.

A complete list of all organisations which made submissions to the Committee is set out in Appendix I to this report. The schedule of regional meetings held in locations throughout the country is set out in Appendix II. Full transcripts of all meetings are available on the Committee's website www.euaffairs.ie. The objective of this report is to assess the views and concerns expressed during these



The Committee held a number of meetings on the Lisbon Reform Treaty in Leinster House with the social partners and a broad range of Irish organisations

meetings regarding the implications of the Treaty for Ireland and the EU as a whole. Matters of particular concern raised and debated during the meetings related to:

- Impact on Sovereignty
- Democratic Accountability
- Social and Public Policy Implications
- Foreign, Defence and External Relations Policy, including Development and Trade Policies
- Justice and Home Affairs
- Economic Affairs including Taxation Policies

In addition, a wide range of opinions was expressed concerning the conduct of the debate on the Treaty to date. Some complained of scaremongering and misrepresentation by both pro- and anti-Treaty supporters, particularly as regards the consequences of a ‘Yes’ or a ‘No’ vote. There were also concerns expressed about the complexity of the Treaty and the dearth of quality information about its contents and its implications for Ireland.

Another noteworthy feature of the consultations was the number of issues introduced in the debate which are not directly connected to the purpose and content of the Treaty. These included the state of Ireland’s health services, water charges in schools, lack of access to broadband and VRT on motor vehicles.

Having weighed up the many views expressed and particular concerns raised, as well as advice and information from Irish MEPs, the publications of the Government, the Referendum Commission and the National Forum on Europe, the Committee sets out its formal opinion.



The Committee held a number of regional meetings throughout the country in order to obtain the views of the general public on the contents of the Lisbon Reform Treaty.

THE COMMITTEE'S ASSESSMENT

A common feature of all meetings was the belief that the Treaty is too complex and unreadable. A number of speakers argued that the Treaty was deliberately drafted in this way. The Committee points out that the Treaty is a legal text which represents a compromise agreement between 27 sovereign Member States. It aims to be as specific as possible in order to avoid possible future differences of interpretation of its content and to offer certainty. Due to the fact that the Treaty reflects the objectives of all 27 Member States and serves to protect the interests and sovereignty of each Member State, including Ireland, it is inevitably a detailed and legalistic document. The Committee also notes a number of publications on the Treaty which are publicly available and free of charge such as the Government’s White Paper, the National Forum on Europe’s Summary Guide and the Referendum Commission’s guide which has been sent to every household in the country. All of these publications provide more simplified explanations of the Treaty’s key articles. The Committee rejects claims that there was some type of conspiracy among the national governments to agree to hide the issues from the public.

A number of contributors also claimed that the Treaty is simply the rejected

Constitutional Treaty under another name and in that respect it deserves to be put to all the people of Europe in a referendum. The Committee acknowledges that the Lisbon Reform Treaty is very similar in content to the Constitutional Treaty. However, it is different in a number of significant respects, notably the enhancement of the role of National Parliaments.

The Committee maintains that it is not for Ireland to impose on the sovereign, democratic constitutions of other Member States and dictate that they must hold a referendum. The Committee also rejects the argument that Ireland should vote 'no' out some vague notion of solidarity with French and Dutch voters who rejected the Constitutional Treaty.

As regards the conduct of the debate to date, the Committee urges all sides to base their arguments on the facts of the Treaty. Misrepresentation of the facts and taking articles of the Treaty out of context do not serve the public in coming to an informed position on the Treaty. In this context the Committee notes as a demonstrable fact that all the dire predictions made in the past regarding previous Treaties have not come to fruition, notably with regard to Ireland's sovereignty, neutrality, legal system, legalisation of abortion and employment.

CONCERNS EXPRESSED DURING THE COMMITTEE'S CONSULTATION

Turning to the actual contents of the Lisbon Reform Treaty, the following themes reflect the main concerns expressed during the Committee's consultation:

Impact on Sovereignty

The Committee heard a number of concerns regarding fears that if the Treaty were ratified,

Ireland would lose power because of a move towards federalism or an EU Super-State. These fears referred to a number of provisions in the Treaty, including establishing the EU as a legal entity, the primacy of EU law over national law and the establishment of a new double majority voting system within the Council. The reduction in the size of the European Commission would, it was claimed, also mean Ireland losing its permanent representative and therefore its voice in the legislative process. It was also argued by some that the Treaty would make EU citizenship superior to national citizenship and that Irish citizens would be deprived of voting on future Treaty changes as the Lisbon Reform Treaty would be 'self-amending'. There were also concerns raised that the appointment of a President of the European Council and a High Representative for Foreign Affairs and Security Policy proved that the EU is moving towards a federal state.

The Committee agrees that the Treaty will give the European Union a legal character that will enable it to enter into legally binding agreements, such as the European Convention on Human Rights. The Committee points out, however, that this provision is a technical necessity since the Union's predecessors enjoyed the same status. It represents no threat to Ireland's legal system.

This Committee welcomes the fact that, for the first time, Article 2 of the Treaty on the Functioning of the European Union defines in a very precise way the division of powers between the EU and the Member States. It sets out clearly those policy areas which are the exclusive competence of the EU and those which are shared competences with Member States. Article 3(b) clearly states that competences not conferred on the EU by the

Member States in the Treaties will remain with the Member States. The Committee reiterates that EU law has always been accorded primacy over national law in areas where exclusive competence has been conferred by the Member States on the EU.

Furthermore, no new exclusive competences are created by the Treaty. While it creates a limited number of new areas of EU responsibility, such as energy and climate change, this responsibility will be shared with Member States. The Committee believes that the creation of these areas of new responsibility are important if the Member States are to be effective in pursuing their common interests in meeting the challenges of today's globalised world.

The Committee finds the argument that the Treaty will place EU citizenship above national citizenship to be a misrepresentation of the facts. It points to revised Article 17 of the Treaty on the Functioning of the European Union which states that EU citizenship 'will be additional to' national citizenship. There is no question of it being superior.

The Committee also firmly rejects the argument that the Treaty is self-amending. Article 48 provides for Member States to ratify Treaty changes 'in accordance with their respective constitutional requirements'. In Ireland's case, this would require a referendum. Under the Simplified Revision Procedure, the European Council can decide, acting unanimously, to move from unanimous decision-making to qualified majority voting in a specific policy area. However, the Committee underlines the provision that any single National Parliament can block such a decision.

As regards the switch to a double majority voting system within the Council, the Committee finds arguments that Ireland will lose influence to be unfounded. The double majority voting system requires decisions to be adopted by the Council with 55 per cent of Member States and 65 per cent of the EU's population. Currently, Ireland has three votes out of 87. Under the new system, Ireland will have one vote out of 27 although it has less than one per cent of the EU's population. The double majority requirement means that the largest Member States cannot push through a decision without the support of a number of smaller Member States.

The Committee accepts that, if the Treaty is ratified, Ireland would not be able to nominate a Member of every Commission. However, it notes that the Nice Treaty already provided for a reduction in the number of European Commissioners once the number of Member States reached 27. Ireland will retain its right to nominate a Commissioner for 10 years out of every 15. The Committee rejects the charge that Ireland would thereby be put at a disadvantage as the Treaty ensures that all Member States would be treated equally on the basis of strict rotation. Moreover, the five largest Member States, which used to nominate two Commissioners each prior to 2004, would in fact lose even greater influence than smaller countries. The Committee also believes that a Commission which does not contain Members from all countries at any one time would help overcome the acknowledged problem of 'national' Commissioners, i.e. those who do not always subscribe to the Commission's obligation to act in the EU interest rather than the narrow national interest.



The Committee held a Press Conference to publish its Report on the Lisbon Reform Treaty

Democratic Accountability

A number of participants in the Committee's meetings argued that the EU would continue to lack democratic accountability and decisions would continue to be taken by an unelected bureaucracy. They claimed that increased powers for National Parliaments envisaged by the Treaty were simply cosmetic, as was the right of a number of citizens to petition the European Commission to take certain action.

The Committee heard arguments that the positions of the President of the European Council and the High Representatives for Foreign Affairs and Security Policy could constitute the first steps down the road of a federal Europe. However, the Committee points to the fact Article 9(b) of the Treaty clearly demonstrates that the President will have no executive powers. The President will simply chair periodic meetings of the European Council, ensure continuity of its work, facilitate consensus among the Member States and represent the EU abroad.

The High Representative will be a member of the European Commission, as well as being directly answerable to the Council of Ministers, thus providing day-to-day coherence between external policy-making and its implementation. He/she will contribute to policy-making along with the Member States who act, in the main, unanimously in the area of the common foreign and security policy. His/her role in implementation of these policies will be subject to the control of the Member States. The positions of European Council President and High Representative will allow the EU to be represented coherently on the world stage, thus enhancing the EU's influence to match its economic weight.

The Committee points to the fact that while the unelected Commission has the right to initiate EU legislation, the final decision on its adoption is taken by the Council of Ministers and the European Parliament. The Council of Ministers is made up of elected Ministers from each Member State, while the European Parliament is directly elected by the people of Europe. The Treaty will, additionally, extend the decision-making powers of the European Parliament to a significant number of policy areas, meaning that around 85 per cent of all policies will be decided by the democratically-elected European Parliament together with the Council.

The Treaty also stipulates that, for the first time, Council meetings will be held in public when the Ministers are debating or deciding upon EU legislation. In addition, the European Parliament will gain more powers over the EU budget and it will elect the President of the European Commission, as well as giving its assent to the whole Commission.

The Committee rejects suggestions that the increased powers accorded to National Parliaments are not real or substantial. The Treaty contains a new title on democratic provisions which will, for the first time, give

National Parliaments a formal standing within the EU's institutional architecture.

According to Article 5, National Parliaments will become the guardians of the principle of subsidiarity, which is formulated to ensure that the EU only acts within the limits of the powers conferred on it by the Member States. This new power for National Parliaments is spelt out in detail in a Protocol to the Treaty. Under it, one third of the National Parliaments – in some cases a quarter – can oblige the European Commission to re-think its proposal and, with the support of the Council of Ministers or of the European Parliament, can actually defeat a proposal from the Commission.

National Parliaments will also be accorded a role in any future proposals for Treaty change, including the power to block certain proposals, and will be involved in the oversight and evaluation of the implementation of the EU's policies in the area of freedom, security and justice. The

Committee considers that these new provisions are one of the outstanding features of the Treaty because, for the first time National Parliaments will be accorded a formal role in the EU decision-making process.² The Committee does not accept that the right of 1 million citizens to petition the European Commission is inconsiderable. It would not be difficult to assemble the required signatures via the internet, as has been demonstrated by groups which have already done so in anticipation of the Treaty coming into force. This new mechanism, taken together with the measures on increasing the powers of the European Parliament, injecting more transparency into the work of the Council and the new powers afforded to National Parliament, leads the Committee to conclude that the Treaty does more than any of its predecessors to enhance the democratic accountability of the EU.

Social and Public Policy Implications

A number of contributors to the Committee's meetings were concerned that the Treaty would dilute the social dimension of the current Treaties. Some contended that it represented the final victory of economic neo-liberalism over social values and argued that the overwhelming thrust of the Treaty was pro-business. Others claimed that the Treaty opened the way for the privatisation of Ireland's public services and that services such as healthcare and education would become subject to unbridled competition from abroad.

The Committee believes that the Treaty will, in fact, result in the strengthening of the EU's social dimension. In this regard, the



National Parliaments will become the guardians of the principle of subsidiarity under the Lisbon Reform Treaty.

2. The Committee refers the reader to the Joint Committee on European Scrutiny's *Special Report on the Enhanced Role for National Parliaments in the Lisbon Reform Treaty*

Committee points to the Charter of Fundamental Rights and also the Treaty's social clause. The social clause states that 'in defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health'. The Committee, therefore, believes that the Lisbon Reform Treaty does more than any other previous Treaty to promote a social dimension to all EU policies.

The Committee is satisfied that the Treaty fully protects Member States' rights to make their own arrangements in order to fulfil their public service responsibilities, such as education and health. In addition, the Treaty includes a Protocol (No. 26) which explicitly recognises the essential role and wide discretion of national and regional authorities in providing, commissioning and organising services of general economic interest as close as possible to the needs of users. Furthermore, the Charter of Fundamental Rights states that the EU recognises and respects access to services of general economic interest as provided for in national laws and practices.

Foreign, Defence and External Relations Policy, including Development and Trade Policies

A major concern among a large number of contributors to the Committee's meetings was that the Treaty would bring an end to Ireland's neutrality. In particular, they pointed to Article 28(a) which they considered to be 'a mutual defence clause' that would facilitate the EU's eventual takeover of NATO. Some were concerned that the Treaty obliges Member States to progressively improve their military capabilities and saw this as another

sign of the increasing militarisation of the EU, along with the establishment of the European Defence Agency. It was also claimed that the Petersberg tasks, which define the objectives of the EU's Common Foreign and Security Policy, had been qualitatively extended by adding peace-making to peace-keeping, and that the introduction of the possibility of 'permanent structured cooperation' between Member States was tantamount to the creation of an EU army.

Other participants in the debates were concerned that the Treaty does not do enough to mainstream development co-operation policy and humanitarian assistance into the EU's policies. They were concerned that the EU's Common Commercial Policy, dealing with trade, adopted a neo-liberal approach that would only serve to undermine the development of the world's poorest countries. Also on the trade side, but from another perspective, concerns were expressed that the EU could undermine the vital interests of Ireland, especially in the agriculture sector.

The Committee notes that the Treaty, for the first time, clearly defines the objectives of the Common Foreign and Security Policy (Article 10(a)) which include safeguarding the values of the EU, supporting democracy and human rights, to preserve peace and prevent conflict in accordance with the UN Charter, as well as to support sustainable development and promote an international system based on stronger multilateral cooperation. These objectives are in line with Ireland's own foreign policy priorities.

The Committee is satisfied that Ireland's neutrality is protected by the Treaty. It notes that this view is supported by the Referendum Commission. Article 28(a) which, while

stating that Member States will have an obligation of aid and assistance to another Member State which is the victim of an armed aggression, also states that this will 'not prejudice the specific character of the security and defence policy of certain Member States'. This is a direct reference to Ireland and other neutral EU Member States. In addition, all issues relating to defence must be decided unanimously by the European Council. Thus, Ireland retains its veto on any common defence measure. Ireland's neutrality is also protected by the Irish Constitution which, since the Nice Treaty and Seville Declaration, stipulates that if the Irish Government ever wished to join an EU common defence policy it would have to be approved by the people in a referendum. Furthermore, the Committee points out that the so-called 'triple lock' is recognised and protected by the Lisbon Reform Treaty. The 'triple lock' mechanism does not allow Ireland to participate in an EU military mission without a UN mandate and the prior approval of both the Government and Dáil Éireann.

The Committee believes that Article 28(a) cannot be construed as abolishing the distinction between the EU and NATO. It regards such a clause as a natural corollary of the interdependence and solidarity of the Member States, and notes that each country would be free to decide on a case-by-case basis what contribution it felt it could make to a general assistance effort.

The Committee rejects any assertions that the Treaty will lead to the militarisation of the EU. While Article 28(a) states that Member States 'shall undertake progressively to improve their military capabilities' no mechanism is provided to oblige any Member State to achieve a certain level of expenditure.

The Committee pointed out during its meetings that the EU, in the Balkans and more recently in Chad, was severely handicapped by its lack of capacity to respond rapidly to crisis situations. Improved military capabilities are to be made available exclusively to fulfil the Petersberg tasks including peace keeping, conflict prevention and humanitarian assistance. The decision to conduct a military mission is also governed strictly by key democratic and rule of law principles and must be in accordance with the UN Charter. The Treaty also makes it clear that troops and their military equipment are to be supplied by the Member States on a case-by-case basis for Petersberg missions, so there is no question of the creation of an EU army.

The Committee notes that the European Defence Agency already exists and Ireland is already a member. Its main role is to improve the cost-efficiency of Member States' procurement policies regarding military equipment.

The Committee also notes that 'permanent structured cooperation' only applies to Member States with highly-developed military capabilities which wish to pool their resources in order to maximise their contribution to EU humanitarian missions. Furthermore, the Treaty states that such missions must be carried out in conformity with the UN Charter and international law. There is absolutely no obligation on Ireland to join such an arrangement.

On the EU's other areas of external action, the Committee does not agree that the Treaty neglects development co-operation policy and humanitarian assistance. In fact, the Treaty for the first time clearly states that the reduction and eradication of poverty is the primary objective of the EU's development

policy (Article 188(d)) and also creates for the first time a legal base for EU humanitarian aid (Article 188(j)). The objectives of the policy are clear and the humanitarian principles of impartiality, neutrality and non-discrimination are put to the fore by the Treaty. Article 188(d) also states that the EU 'shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries'. This would include the EU's trade policy. The Committee notes that the EU is the largest aid donor in the world, providing more than 50 per cent of total global development aid. Increased use of qualified majority voting will speed up the granting of financial aid. It also notes that the EU has granted tariff-free access to its markets for all products, including agricultural products, coming from 50 of the poorest countries in the world.

With regard to the EU's Common Commercial Policy, the Committee notes that while the Treaty establishes qualified majority voting as the standard decision making mechanism in relation to international trade agreements there are some important qualifications with decisions affecting trade in services, intellectual property as well as social, education and health and some other services being governed by unanimous decision-making. The Committee accepts the reassurances of the European Commission in this regard and its commitment not to commit the Union to any draft WTO agreement without the prior approval of all Member States. In other words, Ireland would retain the right to exercise its veto in the event of an unsatisfactory outcome to the current Doha Round.

The Treaty also makes clear that the exercise of the EU's competence in the area of the

common commercial policy cannot affect the division of competences between the Union and the Member States. That said, the Committee believes that, it will remain important for the Government to remain vigilant in order to protect Ireland's vital economic interests in the context of the current negotiations for a new world trade agreement, especially in the agricultural sector.

Justice and Home Affairs

Concerns were raised regarding the EU's policy area of Freedom, Security and Justice. Some were concerned that Ireland's common law system would be undermined and that the fundamental freedoms of citizens could be interfered with. Others did not agree with Ireland's decision to secure an opt-out from these provisions, believing that they are required to deal with cross-border organised crime.

The Committee agrees with the extension of EU co-operation into areas of border control, police co-operation and crime prevention as it will equip the EU with the means to deal with issues such as drugs, human trafficking and cross-border crime. It will also enable the EU to develop a more coherent common policy to address the issue of irregular migration.

The Committee is satisfied that Ireland's criminal law system will be properly protected with the securing of a Protocol which allows Ireland to opt-out of policy initiatives on a case-by-case basis. The Committee welcomes the declaration by the Government, which will be appended to the Treaty, that Ireland will endeavour to opt into these policies as much as possible. It also welcomes the fact that, in order to opt into a policy in the area of freedom, security and justice, prior approval of both Houses of the Oireachtas will be required.



The Committee's regional meetings represented a historic 'first' as it was the first time that an Oireachtas Committee held formal sessions outside the parliamentary precincts.

Economic Affairs, including Taxation Policy

Economic issues, in particular taxation, the Treaty's impact on Foreign Direct Investment (FDI) and the consequences for industrial relations were to the forefront of many contributors' concerns. Some argued that the Treaty would lead to the forced abolition of Ireland's low corporate tax rate, thereby seriously endangering Ireland's capacity to attract FDI. Others argued that the Treaty's provisions on the Common Commercial Policy would prevent Ireland developing its own favourable policies to attract FDI. Concerns were raised about recent judgments of the European Court of Justice which appeared to undermine the rights of workers and prioritise the needs of big business. It was argued that the Treaty would facilitate a 'race to the bottom' because ensuring flexibility in the labour market would take precedence over the need to protect workers' pay and conditions. The Committee is satisfied that Ireland's

corporate tax rate will be protected if the Treaty is ratified. It noted that this view is supported by the Referendum Commission. It acknowledges that an initiative to harmonise some corporate tax rules is being developed at EU level, the so-called Common Consolidated Corporate Tax Base (CCCTB). However, it is crystal clear that the Treaty maintains unanimous decision-making in all cases relating to direct taxation. The much cited Article 113 only refers to indirect tax, and not direct tax such as corporation tax, and introduces no new measures. Therefore, Ireland retains its veto over taxation policy. The Committee also found no logical reason why the Government or Irish business would accept or seek to disguise any move which might threaten to abolish such a competitive advantage as Ireland's low corporate tax rate.

The Committee also finds concerns regarding FDI to be unfounded. The Committee points to revised Article 188(c) of the Treaty which clearly states that, for the negotiation and conclusion of international agreements in the field of FDI the Council will act unanimously. There is nothing in the Treaty that will prevent Ireland continuing its current policies.

Regarding workers' rights and, specifically, recent European Court of Justice (ECJ) judgments in the *Laval*, *Viking* and *Rüffert* cases, the Committee believes that these require urgent clarification. While they confirm workers' right to strike and to collective bargaining, they could be interpreted as giving more weight to an EU company's right to freedom of establishment in another Member State. Accordingly, the Committee recommends that the European Commission and the Member States examine the need to revise the Posting of Workers Directive.

The Committee believes that, the Treaty is not the cause of this problem and that if it had been in place at the time of the judgments the outcome might have been different. It bases this view on the fact that the Treaty will give legal effect to the Charter of Fundamental Rights which will, for the first time, legally protect workers' rights at EU level.



At its regional meetings, members of the public were invited to put questions to the Committee and guest speakers in order to inform themselves on the content of the Lisbon Reform Treaty.

CONCLUSION

The Committee has weighed carefully all the concerns, opinions and arguments presented to it by both groups and individuals who attended its meetings both in Leinster House and at regional venues around the country. It has also been guided by the advice and information provided by the Irish MEPs and the publications of the Government, the Referendum Commission and the National Forum on Europe.

The Committee has come to the conclusion that the Lisbon Reform Treaty achieves its objectives of enhancing the efficiency, democratic legitimacy, transparency and accountability of the enlarged Union, as well as the coherence of its external action in order to allow it to respond to the needs of its citizens as they face the challenges of the 21st century. It protects Ireland's vital

interests and it should allow Ireland to remain at the heart of the EU, thereby ensuring that we continue to benefit from our membership of the Union.

In particular, the Committee is satisfied that Ireland's national position on corporate taxation, foreign policy and defence, including its neutrality, is not affected by the Treaty. The opt-out/in arrangements the Government obtained in the criminal justice area are also satisfactory. The Committee notes that each Member State will nominate a Commissioner for 10 out of every 15 years. In other words, all Member States, large and small, will be treated on the basis of strict equality. The Committee is satisfied that this is a fair arrangement that will contribute to improving the efficiency of the Commission. Furthermore it underlines the fact that Commissioners are appointed to represent the general EU interest rather than their countries of origin.

The Committee accepts that unanimity will continue to be required for any future Treaty changes and that these will remain subject to ratification by each Member State in accordance with its own constitutional requirements i.e. by referendum in Ireland. The Treaty is therefore not a self-amending Treaty.

*The Committee in particular welcomes-
The enhancement of democratic accountability and transparency of the EU institutions resulting from:*

- The extension of the co-decision powers of the directly elected European Parliament;
- The strengthened role of National Parliaments in the scrutiny of all EU legislative proposals;
- The possibility for National Parliaments acting together to reject a proposal on the

grounds of a breach of the principle of subsidiarity;

- The area of freedom, security and justice becoming subject to greater parliamentary scrutiny;
- The meeting of the Council in public when it debates and decides upon EU legislation;
- The election of the President of the Commission by the European Parliament, on a proposal from the European Council, taking into account the result of the elections to the European Parliament;
- The procedure for the revision of the Treaties being more open and democratic as the Convention will include members of the European Parliament and the National Parliaments, together with the Commission and Member State governments;
- The right of the citizens to petition the Commission directly to bring forward legislation in a particular policy area.

The strengthening of the rights of citizens and a social dimension with:

- The inclusion of the EU Charter of Fundamental Rights, setting out a complete list of up-to-date civil, political, economic and social rights, becoming legally binding and ensuring legal certainty for citizens;
- Enabling the EU to accede to the European Convention on Human Rights so that the EU will be subject to the same external review as any Member State regarding the obligation to respect citizens' rights;
- The insertion of a new social clause ensuring the promotion of a high level of employment, guaranteeing adequate social protection and a high level of education, training and health;

- The Protocol on services of general interest recognising the discretion of Member States to provide general economic services as they see fit.

The greater effectiveness and efficiency of the EU institutions by means of:

- A new system of double majority voting, which will be both fairer and will facilitate reaching decisions in the Council of Ministers;
- The European Council becoming a fully-fledged institution of the EU and a President of the European Council, elected by the Member States for up to five years, thereby allowing for more coherence and continuity in its work;
- The Commission being reduced, from 2014, to two thirds of the Member States (currently 18), making it easier for the Commission to act and underpinning the principle that Commissioners are primarily representatives of EU interests and not exclusively those of their countries of origin;
- The merging of the High Representative and the Commissioner for External Relations into one post of the High Representative for Foreign Affairs and Security Policy, thus ensuring more coherence in foreign policy making and implementation;
- The abandoning of the pillar structure of previous Treaties, thus promoting simplification, greater understanding and clear lines of action;
- The clear definition of the EU's objectives and competences in the fields of climate change, justice, children's rights, humanitarian aid, energy, space, research, sport, tourism, public health and civil protection.

OPINION OF THE JOINT COMMITTEE
ON EUROPEAN AFFAIRS

having regard to the Treaty of Lisbon, also known as the Reform Treaty, amending the Treaty on European Union and the Treaty establishing the European Community, signed on 13 December 2007,

having regard to the Laeken Declaration of 15 December 2001 on the Future of Europe and the mandate of the Inter-Governmental Conference agreed on 11 July 2007,

recognising the need to reform and strengthen the structures of the European Union in order to consolidate its achievements to date and to improve the capacity of the European Union of 27, and potentially more, Member States to function effectively so as to face the common challenges of the 21st century and to be the subject of greater democratic accountability,

recognising that Ireland's membership of the European Union has brought huge benefits to our economy and society and our general well-being,

having regard to the concerns, views and opinion expressed by the Social Partners, NGOs, pro- and anti- Lisbon Reform Treaty Groups, the Government, the European Commission, the European Parliament and, most importantly, the citizens,

concludes that the Lisbon Reform Treaty achieves its stated objectives of enhancing the efficiency and democratic legitimacy of the enlarged union, as well as the coherence of its external action,

concludes that the Lisbon Reform Treaty protects Ireland's vital interests, including maintaining our veto over taxation policy as well as security and defence policy and that it protects Ireland's neutrality,

endorses the Lisbon Reform Treaty and *commends* it to the people of Ireland.

APPENDIX I

Organisations which made Submissions to the Committee on the Lisbon Reform Treaty at its meetings in Leinster House

Date	Organisation
15 January 2008	<ul style="list-style-type: none"> • Irish Business and Employers Confederation • Irish Congress of Trade Unions
17 January 2008	<ul style="list-style-type: none"> • Chambers Ireland • Irish Small and Medium Enterprises Association
29 January 2008	<ul style="list-style-type: none"> • Irish Co-operative Organisation Society • Irish Creamery Milk Suppliers Association
19 February 2008	<ul style="list-style-type: none"> • Irish Farmers' Association
11 March 2008	<ul style="list-style-type: none"> • Irish Countrywomen's Association • Union of Students in Ireland
8 April 2008	<ul style="list-style-type: none"> • VoteNo.ie • People's Movement • Peace and Neutrality Alliance
13 May 2008	<ul style="list-style-type: none"> • Irish Alliance for Europe
27 May 2008	<ul style="list-style-type: none"> • Trócaire • Concern • Dóchas

APPENDIX II

Schedule of the Joint Committee's Regional Public Meetings on the
Lisbon Reform Treaty

Date	Town/City and Venue	Guest Speakers
Thursday 10 April	Dublin Venue: Dublin City University	Mr. Brendan Kiely Director of Irish Alliance for Europe Mr. Roger Cole Chair of Peace and Neutrality Alliance
Thursday 17 April	Galway Venue: Harbour Hotel	Mr. Barry Finnegan Lecturer and Senior Course Tutor Journalism and Media Faculty Griffith College Dublin Researcher with the <i>Campaign Against the EU Constitution - Vote No to Lisbon</i> Dr. Laurent Pech Jean Monnet Lecturer in EU Law, National University of Ireland Galway Author of <i>The European Union and its Constitution: From Rome to Lisbon</i>

Date	Town/City and Venue	Guest Speakers
Thursday 24 April	Cork Venue: University College Cork	<p data-bbox="514 225 904 312">Dr. Piaras MacEinri, Lecturer in the Department of Geography, University College Cork</p> <p data-bbox="514 352 1037 408">Member of the teaching team in UCC's interdisciplinary programme in European Studies</p> <p data-bbox="514 448 960 536">Mr. Joe Noonan Solicitor Noonan Linehan Carroll Coffey Solicitors, Cork</p> <p data-bbox="514 576 1005 667">Expert witness in the <i>Crotty case</i> on the legal implications of the provisions on foreign and security policy under the <i>Single European Act</i></p>
Thursday 1 May	Dundalk Venue: Fairways Hotel	<p data-bbox="514 707 773 794">Dr. Kieran Allen Senior Lecturer in Sociology University College Dublin</p> <p data-bbox="514 834 960 890">Editor of the <i>VoteNo.ie</i> website and author of the <i>The Case Against the Lisbon Treaty</i></p> <p data-bbox="514 930 818 1018">Dr. Gavin Barrett Senior Lecturer in European Law University College Dublin</p> <p data-bbox="514 1058 1037 1149">Editor of <i>National Parliaments and the European Union: The Constitutional Challenge for the Oireachtas and other Member State Legislatures</i></p>

Date	Town/City and Venue	Guest Speakers
Europe Day Friday 9 May	Athlone Venue: Radisson Hotel	<p>Mr. Matt Dempsey Editor and Chief Executive of the <i>Irish Farmers Journal</i></p> <p>Dr. Andy Storey Lecturer School of Politics and International Relations, University College Dublin</p> <p>Board member of the NGO <i>Action from Ireland (Afri)</i></p>
Thursday 15 May	Limerick Venue: Limerick Institute of Technology	<p>Professor John Maguire Emeritus Professor of Sociology University College Cork</p> <p>Co-author of <i>Maastricht and Neutrality</i>, and published <i>Defending Peace: Ireland's Role in a Changing Europe</i>; also a Patron of The People's Movement</p> <p>Professor Nicholas Rees Vice President for Research National College of Ireland</p> <p>Former founding Dean of the Graduate School at the University of Limerick; Expert in EU affairs, with particular interests in EU regional policy, external relations and UN peacekeeping activities</p>

THE JOINT COMMITTEE ON EUROPEAN AFFAIRS

The Joint Committee on European Affairs is appointed under Sanding Orders of Dáil Éireann and Seanad Éireann to:

consider such matters arising from Ireland's membership of the European Communities and its adherence to the Treaty on European Union, as it may select; and shall report thereon to both Houses of the Oireachtas

The work of the Committee is largely determined by the policies and proposals which emanate from the EU Institutions. In general the Committee is required to monitor, review and report on the likely implications of EU policies for people in their daily lives and for the longer-term future of Ireland and Europe.

MEMBERSHIP

The Joint Committee is made up of 17 members drawn from Dáil Éireann and Seanad Éireann. The Minister for Foreign Affairs (or Minister of State nominated to act in his or her behalf) is an *ex officio* member of the Committee.

The Committee is appointed for the life of the Parliament and re-established after each parliamentary election. The Chairman and Vice-Chairman are elected from among the Committee's members. Irish MEPs (and Northern Ireland MEPs) and members of the Irish delegation to the Parliamentary Assembly of the Council of Europe may attend and participate at meetings of the Committee.

MEMBERS OF THE JOINT COMMITTEE

DEPUTIES*

Pat Breen (FG)
 Joe Costello (Lab)
 Lucinda Creighton (FG)
 Timmy Dooley (FF) Vice-Chairman
 Bernard Durkan (FG) Chairman
 Michael McGrath (FF)
 Michael Mulcahy (FF)
 Mary O'Rourke (FF)
 Billy Timmins (FG)
 Noel Treacy (FF)

SENATORS

Déirdre de Búrca (GP)
 Paschal Donohoe (FG)
 John Hanafin (FF)
 Terry Leyden (FF)
 Phil Prendergast (Lab)
 Feargal Quinn (Ind)

FURTHER INFORMATION ON THE COMMITTEE

Publications of the Committee and other information about its ongoing work can be accessed on the Committee's website www.euaffairs.ie.

CONTACTING THE COMMITTEE

Correspondence should be addressed to:
 Clerk to the Joint Committee on
 European Affairs,
 Houses of the Oireachtas,
 Leinster House,
 Dublin 2
 or by email to: eu.committee@oireachtas.ie

*Mr. Barry Andrews T.D. (FF) served as a member of the Committee from its establishment in November 2007 until his appointment as Minister of State with special responsibility for Children and Youth Affairs on 7 May 2008

MEMBERS OF THE JOINT COMMITTEE
ON EUROPEAN AFFAIRS



Pat Breen



Joe Costello



Lucinda Creighton



Déirdre de Búrca



Paschal Donohoe



Timmy Dooley
Vice-Chairman



Bernard Durkan
Chairman



John Hanafin



Terry Leyden



Michael McGrath



Michael Mulcahy



Mary O'Rourke



Phil Prendergast



Feargal Quinn



Billy Timmins



Noel Treacy

