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Discussion Paper
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**A brief discussion of the Impact of the *Treaty of Lisbon*
on EU's policy towards Taiwan**

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On 13 December, 2007, the heads of state or government of the 27 European Union's member states along with the President of the European Commission gathered at Lisbon and attended the signing ceremony of *Treaty of Lisbon* hosted by the rotating Presidency of the EU, the Portuguese government. The Treaty is aimed to replace *The Treaty Establishing a Constitution for Europe*. Based on the Treaty, all the member states should complete their ratification procedures based on their own legislative procedures before the end of 2008. Once it is completed, the Treaty will become effective on 1 January 2009.¹ Although there are many in-depth research and discussion on the Treaty in the academia, especially on the EU's common foreign policies,² the research on the impacts of this new treaty on the EU's policy towards Taiwan is relatively absent. This essay aims to fill this gap and provide some initial thoughts.

I.

Without question, the Treaty has a significant influence on EU's common foreign and security Policy (CFSP). Firstly, the establishment of the Fixed President of European Council could promote the internal coordination in the decision-making of CFSP and ensure the consistency of the Council's decision-making. So far, the European Council enforces a rotating presidency system, which has been considered as the factor causing the inconsistency and incoherency of the decision-making process of EU's foreign policy. Especially, after the EU's enlargement to 27 countries, the increasing numbers of small countries makes issues more complicated, because every member state, including small members, could take up the 6-month rotating presidency according to the current system. The setting of the fixed president of European Council could better avoid that the presidency member state adopts a foreign policy in its own interests, while ignoring to adopt the union's common foreign policies.

Secondly, the establishment of the High Representative (HR) for the CFSP could play a better coordinating role between the European Council and the European Commission (hereafter called 'the Commission') on foreign affairs. As the Article 9E of the Treaty stipulates,

The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the High

¹ Currently, only Ireland will decide the Treaty on public voting. Austria, Bulgaria, Denmark, France, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania and Slovenia have completed their procedures. The Parliaments of Germany and Slovakia have already approved the Treaty and are waiting for the ratification procedures. The Parliaments of the Netherlands and Britain are preparing for debating on the ratification issue. Thus, the probability that the Treaty of Lisbon will enter force is very big.

² Please refer the Special collections on EU's Constitution in *European Studies* (in Chinese) 2008 No.2.

Representative of the Union...the High Representative shall be one of the Vice-Presidents of the Commission...He shall be responsible within the Commission for responsibilities incumbent on its in external relations and for coordinating other aspects of the Union's external actions.³

Clearly, the HR will play a central role in CFSP. It can promote the European's common foreign policies at a supranational level and strengthen its consistency. The double identity of the HR could also overcome the inherent conflicts between super-state power and intergovernmental power to some extent, and ensure the achievement of the EU's diplomatic objectives.

Thirdly, the Council of the European Union underscores the function of the Central Affairs Council, which is constituted by the foreign ministers of each member state. Meanwhile, the Council of Foreign Ministers, presided by HR, becomes independent and takes in charge of the overall planning of the CFSP. Such arrangement has altered the structure of the Council and will promote the EU's CFSP at an operational level.

Lastly, the Treaty has set up a European External Action Service. The establishment of this new institution can promote the implementation of common foreign policy, assist the mutual coordination and compromise among the European Council, the Commission and the member states. In particular, it is favourable to the coordinative relations between the big and small countries on common foreign affairs, thus enhancing the efficiency of the EU's common foreign policy.

Just because the Treaty affects the CFSP on the above four aspects, it will play an immediate and positive role in the EU's policy on Taiwan in the future. First, it will be more coordinative on the formulation and implementation of the policy on Taiwan between the Council and the Commission. Second, it will be more unified on the Taiwan issue decided by the Council, the Commission and the member states. Third, it is easier to unify the position on Taiwan issue between the big and small member states under the coordination of the EU. Fourth, individual member states' influence on the EU's common policy on Taiwan will be reduced significantly.

Take the former Yugoslav Republic of Macedonia as an example. It is a small country located in the South of Europe. On 27 January 1999, it established 'so-called' diplomatic relations with Taiwan. Consequently, the Chinese government declared to stop the diplomatic relations with Macedonia on 9 February. It was not until 18 June 2001 when Macedonia declared to break 'diplomatic relations' with Taiwan formally that China-Macedonia relation returned normal. The two countries signed the joint Communiqué of the PRC and Macedonia Republic on normalization of relations. Currently, Macedonia is a candidate country of the EU. Therefore, the articles of the Treaty on CFSP will play a significant role in

³ Available at: <http://eur-lex.europa.eu/JOhtml.do?uri=OJ:C:2007:306:SOM:EN:HTML>

avoiding EU member states to establish diplomatic relations with Taiwan in the future.

Currently, the EU's policy on Taiwan is reflected in the following three documents: (I) *EU-China: Closer partners, Growing responsibilities*⁴ passed by the Commission; (II) the *Joint Statement* published after the 10th China-EU Summit on 28th November 2007⁵ and (III) the *Declaration by the Presidency on behalf of the European Union on Cross-Strait Relations*⁶ released after the end of Taiwan's "presidential" election on 22nd March 2008. The first document states:

The EU has a significant stake in the maintenance of cross-straits peace and stability. On the basis of its One China Policy, and taking account of the strategic balance in the region, the EU should continue to take an active interest, and to make its views known to both sides. Policy should take account of the EU's: opposition to any measure which would amount to a unilateral change of the status quo; strong opposition to the use of force; encouragement for pragmatic solutions and confidence building measures; support for dialogue between all parties; and, continuing strong economic and trade links with Taiwan.

The second document emphasizes:

The EU reaffirmed its commitment to One China policy and expressed its hope for a peaceful resolution of the Taiwan question through constructive dialogue. The EU reiterated its concern over the intended referendum on UN membership in the name of Taiwan as this could lead to a unilateral change of the status quo across Taiwan straits to which the EU is opposed.

And the third document puts:

The EU recalls that it does not support Taiwan's formal membership of international organizations where statehood is required. In the framework of its One China Policy, the EU will continue to support Taiwan's practical participation in specialized multilateral fora where statehood is not a requirement, especially where Taiwan's participation directly affects its people and is important to the EU and global interests.

Based on the above documents, after the ratification of the *Treaty of Lisbon*, the European Council, the European Commission and the member states, regardless their respective size, will reinforce the coordination on the CFSP. And the EU's policies on Taiwan are subject to the CFSP. Thus, the parties mentioned above will uphold its basic policies on Taiwan, which will be more consistent and unified. Clearly, the Treaty will have a positive influence on the development of China-EU relations in terms of Taiwan issue. However, it does not mean that the

⁴ Available at: http://ec.europa.eu/external_relations/china/docs/06-10-24_final_com.pdf

⁵ Available at: http://www.eu2007.pt/UE/vEN/Noticias_Documentos/20071202CHINA.htm

⁶ Available at: http://www.eu2008.si/en/News_and_Documents/CFSP_Statements/March/0322MZZ_Tajvan.html.

Treaty has only positive impact on EU's Taiwan policy. Negative influence also exists.

II.

According to the articles of the Treaty, the legislative power of the European Parliament (hereafter called 'the Parliament') will be actually increased. Although the Parliament will not become a legislative and decision-making authority after the ratification of the Treaty, it has obviously gained more weight in the legislative and decision-making process. Although according to the Treaty the Parliament will participate in the legislative procedure in EU's policy making, it won't be expanded to the level of CFSP as the Treaty stipulates that European Council and the Council of Ministers still maintain the decision-making right on this aspect. However what should be noted, by cancelling the 'compulsory expenditure' and 'non-compulsory expenditure' in the EU budget, the Treaty expands the Parliament's authority in the revision and the controlling power on the EU's budget. At the same time the Treaty also expand the Parliament's power in selecting the President of European Commission because according to the Treaty the Parliament will elect the President nominated by the Council instead of consenting on the nomination. Moreover, the Parliament will even be endowed with proposal right of amending EU treaties. All these changes will have significant impact on the EU's common foreign policy which covers its Taiwan policy. With the increasing powers by the Treaty, the Parliament will undoubtedly exert more influence on the policy on Taiwan than before.

It is well-known that the Parliament does not have a good record on China and the development of China- Europe relations especially on the Taiwan issue. In 2003, the Parliament decided to invite Chen Shuibian, "the president" of Taiwan region, to give a speech at its meeting on 26 March. Such invitation clearly violated the 'One China' Policy followed by the EU. The issue was appeased because the Belgian government refused to grant Chen Shiubian a visa. In 2007, when Chen Shuibian's authority put forward a proposed referendum on UN membership, members of the EP-Taiwan Friendship Group in the Parliament advocated to support the Referendum. By advertising on *European Voice*, the Group published a petition on supporting Taiwan to join the UN signed by the members of the Parliament. On 13 September, Chen Shuibian spoke to the Parliament through a video link and called for support. Less than 10 days later, on 24 September, 84 parliament members across parties made a joint statement and appealed the European countries for Taiwan's application to the UN. This statement declares:

Taiwan has never been under the ruling of the People Republic of China. Taiwan is a democratic country governed by law and with the

full respect of human rights. Thus, there is a clear mistake and injustice for Secretary-General, Pan Ki-moon, to say Taiwan is a part of the PRC.⁷

Although such measure does not directly affect the EU's overall policy on Taiwan, it did cause some visible damages. The High Representative of the EU, Javier Solana, made a statement on behalf of EU countries opposing Taiwan authorities' attempt to hold a referendum to apply for UN membership under the name of Taiwan. He also emphasized that the Taiwanese authority might pay a high price for this move because it made harder for Taiwan to enjoy the pragmatic participation, which the EU supports, in the activities of specialized multilateral fora.⁸ On the following declaration of the 10th China and EU summit, the EU reaffirmed its 'One China' policy and opposed to the Referendum.

However, the key issue is that the Parliament will gain more weight on the Taiwan issue with the endowment of the Treaty. According to history, the Parliament often voiced a different position from the Council, the Commission and the governments of the EU member states. This implies that the EU's One China Policy will be challenged by the Parliament when the Treaty becomes effective. The Council will be restrained and pressured by the Parliament on the Taiwan issue. In this way, the Treaty has negative influence on the formulation and implementation of the EU's policy on Taiwan in general.

According the Treaty, the decision-making right of the CFSP is still under the authority of the Council and the Commission. Hence, the EU's policy on Taiwan will not change in a significant way after the ratification of the Treaty although the Parliament will have more influence on the Taiwan issue. However, the fact of having two different voices in EU on this issue will question the reliability and credibility of its policy on Taiwan especially with the increasing status of the Parliament.

III.

From the above analysis it can be concluded that if the Treaty will be ratified by the EU members it will have both a positive and negative influence on the EU's policies towards Taiwan. In general, the decision-making institution of CFSP is the Council and the executive institution is the Commission. Once the Treaty becomes effective, the Troika made up by the fixed President of the European Council, the President of the European Commission and the High Representative on the CFSP will coordinate better on CFSP. In this sense, the Treaty has a positive influence on the policy to Taiwan. In other words, the EU will uphold the

⁷ EU Concerning Taiwan's Referendum on UN Membership, Calling on Both Sides not to Change the Status Quo (In Chinese), http://www.stnn.cc/euro_asia/200710/t20071030_657406.html.

⁸ *Ibid.*

‘One China’ policy under the leadership of the European Council, to safeguard and promote the stability of cross-strait relations in the future.

Nevertheless, attention should be also paid on the negative impact although it is not the dominant issue. First, the pro-Taiwan EP members could influence or exert pressure on the Council and the Commission, to waver the principle of ‘One China’ policy in a silent fashion, to stimulate them to enforce policies preferred by the Parliament by applying its increasing authority empowered by the Treaty. Obviously, if this turns into reality, it will have negative influence on the development of the China-EU policy.

Second, even if the Council and the Commission continue to uphold the ‘One China’ policy, and EU Member States follow the same common foreign policy, the different policy towards Taiwan followed by the Parliament will lead to conflicting voices in the EU lasting for some time, and the denying voice of ‘One China’ will be louder with the increasing power of the Parliament. Perceptibly, this will weaken the will of the EU to carry forward the Taiwan policy based on the ‘One China’ policy. And the frictions and mistrust between China and Europe will increase sharply and even be strengthened.

Third, if there is no improvement of the two different voices on Taiwan issues within the EU, it is not possible for the EU to play a more important role on the Cross-Strait issue. Some European scholars argued:

The fact that Europe has less involvement or less conflict in this region makes the EU a more reliable third party than the American. Whilst the US is more aggressive to pursue its interests and always takes a more compulsory and contradictory measure on its policy and security actions on China and Taiwan, hence, the US is not suitable for playing a role as a mediator.⁹

Yet, if there are always two contradictory voices within the Europe on Taiwan, and such conflicts will be inevitably elevated after the ratification of the Treaty, then how could the EU be a more reliable third party on Taiwan than the America?

Finally, the conflicting position held by two opposite parties will hurt the ‘model’ image of the EU. The Treaty will not resolve the inconsistency issue on the CFSP, but also intensify the trend of unification and conflict of the EU. In this way, the EU’s image is hurt further. Although the EU will participate in the international affairs as a legal entity of international system with the ratification of the Treaty, there is no coherent voice between the Council, the Commission and the Parliament. The EU’s image as a single legal entity will be discounted. On the other hand, the Parliament will deny the EU’s ‘One China’ policy often, facilitated by the Treaty. Such actions will become more prominent and not easy to be regulated by the Council and the Commission. Thus, this will make the Chinese

⁹ Cabestan, Jean-Pierre and Vernander, Benoit, 《两岸关系 1949-2005——欧洲学者的眼光与分析》蔡玫芳译，巴黎、台北利氏研究报告，利氏学社，2006 年 12 月出版，第 248 页。

people as well as elites believe that the EU is merely displaying rhetoric on its policy towards Taiwan. In other words, the EU generally sticks to 'One-China' position in formality, but, on the specific issues, it enforces a different policy. Although the decision branch and executive branch may not be rhetorical, the experience tells Chinese that such rhetoric does exist in the EU's policy on Taiwan issue. In international relations, the perceptions on an issue and its development sometimes are more important than the fact of the issue and its development. In this way, the EU's image is more dependent on the perceptions, not its objectivity.

What should be acknowledged is that the main reason of the incoherent voices within the EU is the incompleteness of the EU's integration mechanism. However, the Treaty promotes the EU's CFSP to a higher level; it has not improved its coordinative mechanism on the common foreign policies between the Parliament and the Council /Commission. The reason could be that decision-makers believe that the key of formulating and implementing the CFSP is on the hands of the Council, the Commission and the member states. Thus to strengthen the coordinative relations between the above three is emphasized, but the coordinative relations between the Council, the Commission and the Parliament is not. However it is just on the Taiwan issue that the experience demonstrates that this link should not be neglected. Under the integration mechanism of the EU's foreign policy, the coordination of the Council, the Commission and the Parliament on the Taiwan issue should be enhanced. Although the Treaty is unlikely to be reviewed in the near future, we still can provide some recommendations for the improvement of the coordination between European Council/Commission and European Parliament in terms of EU's Taiwan policy:

1. The Council and the Commission must uphold the 'one-China' policy, and not be affected by pro-Taiwan EP members. Meanwhile, it is necessary to make it clear to the Parliament that there is no leeway on the basic principle of EU's policy on Taiwan, i.e. the 'One China' Policy.
2. Once the fixed President of the European Council and the High Representative of EU's foreign policy are finalized, together with the President of the European Commission (the Troika), the institutionalized communication channel between the Troika and the Parliament will play an important part in promoting the EU's CFSP, including the EU's policy on Taiwan.
3. If the Parliament could make consultation and coordination with the European Council, the Council of Foreign Ministers, and the European Commission before launching the new policies on Taiwan, a better understanding on relevant policy suggestions from the Parliament by the decision-makers of the CFSP would be established while the Parliament will receive correct policy guidance from the decision-making institutions in EU.

4. If the newly established institution, the External Action Bureau, would have a better communication and cooperative relations with the Parliament, it will play a stimulating role on the consistency of the EU's policy on Taiwan.
5. To the Chinese, it is suggested to strengthen the communication with the Parliament, especially with those pro-Taiwanese EP members. There is a debugging process after the new leadership came into power normally. If the Chinese government could take this opportunity to facilitate such exchange, a better outcome could be achieved.

In general, after the ratification of the Treaty, China and the EU should seek for a more constructive means to handle the Taiwan issue with a renewed vision. It seems that the EU should make more contributions. This is due to the fact that China has been consistent on the issue. In contrast, different voices always exist in the EU.