The Irish think again about the Lisbon Treaty

By John O'Brennan (China Daily)
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For months, the European Union has been battered by economic storms that now seriously threaten a protracted Europe-wide recession. But, although banking and finance have taken center stage, the EU's constitutional problem refuses to go away.

The Irish rejection of the Lisbon Treaty in June plunged the EU into a renewed period of uncertainty about the Union's future. Now, in the European Council summit yesterday and today, expectations are growing that Irish Prime Minister Brian Cowen will provide a clear roadmap for an Irish solution to the EU's constitutional dilemma.

Pragmatists acknowledge that the ratification crisis set in train by the Irish rejection of the Lisbon Treaty has grown into a wider European problem. The Irish "no" emboldened Euro-skeptics in other member states, not least the Czech President Vclav Klaus, who has signaled that he may refuse to sign the Lisbon Treaty until Ireland's ratification is secured.

With the Czech Republic set to assume the presidency of the EU on Jan 1, 2009, there is a distinct fear that Klaus will use his position as Czech head of state to try to sabotage efforts to rescue the Lisbon Treaty.

These concerns remain acute, even in the aftermath of the decision by the Czech Constitutional Court on Nov 26 that the Lisbon Treaty is compatible with the Czech constitution and can be ratified in the normal way by the Czech Parliament. But the current constellation of Czech political forces is finely balanced between pro-Treaty and anti-Treaty forces. So the inter-linkage between the ratification crises in Ireland and the Czech Republic is now explicit and threatens to spill over into the wider EU arena in 2009.

In contrast to the Czech Republic, there is clear agreement among political actors in Ireland about the need to ratify the Lisbon Treaty. The Irish problem remains how to convince popular opinion to accept a Treaty that was decisively rejected by 53.4 percent to 46.6 percent in the June 12 poll. The core elements of the Irish plan to "rescue" Lisbon have now emerged, and it is clear that a second referendum is central to this effort.

One reason Irish voters rejected the Lisbon Treaty lay in concerns that Ireland's voice and representation within EU institutions would be eroded, in particular through the periodic loss of Irish representation on the European Commission.

As a first step toward convening a second poll, Cowen has sought EU-wide agreement that, rather than reducing the size of the Commission, the provision of the Lisbon Treaty that allows for a "one member state, one commissioner" rule will be enacted, allowing Ireland to retain a permanent place.

Although this concession is not yet a done deal, there is increasing acknowledgment that it would give Dublin considerable breathing space to conduct a more effective second referendum campaign.

The second part of the plan is for the EU to provide the Irish with a series of clarifications on other key issues. These include Ireland's exclusive right to decide policy on issues such as abortion and corporation tax as well as participation in European security and defense operations.

The model for this approach is Denmark's attainment of legal opt-outs in defined areas. Political declarations on the issues outlined would be registered as international treaties at the United Nations to provide binding legal force. The Lisbon Treaty would remain unchanged.

The paradox of the Irish position is that opinion polls continue to demonstrate strong popular attachment to the EU. A total of 82 percent of Irish people surveyed earlier this year believed Ireland had benefited from EU membership, the highest score in Europe, where the average was 54 percent.

The most recent opinion poll on attitudes about the Lisbon Treaty also demonstrates a "bounce" in favor of the Yes side. But the problem for Cowen (and for the EU) is that this level of support does not seem to translate to the ballot box: the Irish rejected EU treaties on two of the last three occasions when they were asked to vote. The gap between the Yes and No sides remains within the margin of error and could easily reverse itself, as it did in the weeks leading up to the June referendum.

One positive development for Cowen is that a second referendum would most likely bring back into play the significant economic dimension of Ireland's EU membership. Ireland has been a major beneficiary of EU subvention since joining in 1973, and, in 2007, it was still receiving a net total of 500 million euros from the EU budget. Reminding voters of the potentially catastrophic cost of being excluded, not just from core parts of the Single Market, but from the vital decision-making structures in the Council of Ministers and the European Central Bank, reinforces what is at stake in a second referendum campaign.

The extraordinary implosion of global financial markets may also work to the advantage of the Yes side in a second referendum, because Ireland's economic future cannot be contemplated seriously outside of EU structures. Indeed Irish ministers argue that Ireland would have gone the way of Iceland in recent months were it not for EU membership and the protections afforded by euro-zone membership.

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