Conclusion

Institutions and institutional change have been necessary to the functioning of the EU since the outset in the 1950’s. Without those institutions the original common market could not have been achieved. And without changes to these institutions the creation of the single market which brings massive benefits to Europe’s citizens, would not have been possible. The process of institutional evolution accelerated the successive rounds of enlargement which have taken Europe from six to twenty seven members and helped to anchor democracy and free markets all over central, eastern and southern Europe. The common foreign and security policy which underpins the fragile security of the Balkans; and a single currency among the member states are also the landmark features of institutionalism in European Union.

There have been relatively few major institutional reforms since the Common Market was established in 1957. One of the main early reforms was the establishment of a single institutional structure for the three distinct Communities in July 1967 i.e. the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community. This provided a common structure for the hitherto separate Councils and Commissions (or their equivalents) for the three Communities.

Another significant reform was the introduction of the co-operation procedure, the dramatic increase in Qualified Majority Voting (QMV) and the reduction of unanimous voting in the Council of Ministers as a result of the Single European Act in 1987. This made it possible to adopt some 280 measures required for completion of the single market in 1992, which might otherwise have been impossible or considerably delayed because of the application of national vetoes. Other major reforms have concerned the role of the European Parliament (EP). These include the introduction of direct elections in 1979 and the increase in the powers of the EP in legislative decision-making procedures in 1987, 1993 and in the Amsterdam Treaty.
Other reforms have been made to internal institutional practices and procedures that have not required Treaty amendments, but have been effected by changes to the Rules of Procedure of the institutions, and, increasingly, by means of Codes of Conduct and Inter-institutional Agreements. Examples include the Inter-institutional Agreement of 13 October 1998 on the legal bases and implementation of the budget; the Inter-institutional Agreement of 29 June 1998 on budgetary discipline and improvement of budgetary procedures and the Inter-institutional Agreement of 20 December 1994 on an accelerated working method for official codification of legislative texts. There is currently a draft Inter-institutional Agreement concerning internal investigations by the Fraud Prevention Office.

These reforms were largely an attempt to remedy the so-called “democratic deficit” in EC law-making procedures. At the IGC that led to the adoption of the Treaty on European Union (Maastricht Treaty) in 1993, the complicated co-decision procedure was introduced which gave the EP an ultimate right of veto in certain circumstances. The "democratic deficit" was taken up again at the 1996-97 IGC. Again the EP benefited from the reforms in so far as the Treaty now allows for a number of new areas of Community competence that include a greater role for the EP. It also replaces almost all decisions made under the co-operation procedure with a simplified co-decision procedure.

The Maastricht Treaty of 1993 substantially increased the role and influence of the Parliament. The treaty introduced the co-decision procedure by virtue of which the Parliament gained equal law making weight as the Council of Ministers in crucial areas as transport, environment and consumer protection. The Treaty further ‘enabled’ the Parliament by granting it the right to ask the European Commission to propose legislation. The President of the European Commission would also be elected by Parliament although with the candidate proposed by EU member states.

The supervisory power of the Parliament has also increased substantially following the Maastricht Treaty. In particular it now has the right to set up its own committee of
enquiry. Parliament could also elect the ombudsman, who investigates administrative failings in the EU.

Like national parliaments, the European Parliament has three fundamental powers i.e. legislative power, budgetary power and supervisory power. The role of the European Parliament ranges from cooperation, consultation to co-decision depending on the legislative procedure as defined in the Treaties. It may perform a purely advisory function or a role where it amends or rejects legal instruments. However, unlike most national parliaments, the European Parliament has only a very limited right of legislative initiative. It can ask the Commission to put forward a proposal, but not elaborate proposals of its own.

The co-decision procedure allows decision-making power to be shared equally between the Parliament and the Council. In the years after Maastricht the European Parliament’s power has further strengthened and expanded. The co-decision procedure for instance now applies to an increasing number of areas. The Amsterdam Treaty extended the co-decision procedure from 15 areas to 38, the Nice Treaty from 38 to 43. Since European Parliament is where the supranational and federal element of the EU is reflected and the Council is where the national interests reign it would be worthwhile to investigate what this means in terms of European Union’s supranational character.

Apart from legislative powers the European Parliament exercises considerable power vis-à-vis the Commission. The European Parliament and the Council are the two arms of the budgetary authority. The Parliament must approve the EU budget proposed by the Commission and may insist on changes to it, in line with its own political priorities. Parliament has the last word on most of the expenditure in the annual budget, such as spending on the less prosperous regions, spending on training to help reduce unemployment, etc. (the so-called non-mandatory expenditure). But in the case of agricultural expenditure and other so-called compulsory expenditure, though the Parliament can propose amendments, the Council has the final say, being able to reject European Parliament’s amendments by qualified majority. Parliament can also reject the
budget in its entirety if it believes that it does not meet the needs of the Union. The budgetary procedure then starts all over again. The European Parliament is also responsible for granting formal discharge for the Commission’s budget management for the previous year. The Commission in other words disburses the Community budget but the parliament has the right to decide or agree that the Commission has satisfactorily completed the task. The Parliament’s threat to exercise this power in 1999 had led to the resignation of the Commission en masse. Although the Parliament had not actually sacked the Commission it demonstrated that it could hold the Commission accountable.

By absolute majority the European Parliament can block the Council’s proposal, send it for reconsideration or reject it. If the Council does not accept parliamentary amendments then a Conciliation Committee made up of 27 Members of Parliament and 27 representatives of the Council sets to negotiate a settlement with the help of the Commission. If this conciliation does not result in an agreement, the proposal is deemed as not accepted, and the legislative process is at an end. The co-decision procedure also creates a strong incentive for close cooperation between the Parliament and the Commission the two supranational institutions, as the Council can adopt parliamentary amendments that are not accepted by the Commission only by unanimity. The Parliament thus has a strong interest to get the Commission on its side in order to lend weight to its arguments.

Ironically, institutions and institutional changes have also been at the heart of many of the problems the European Union has had and of several of its most serious setbacks. This was true in the 1960’s when an institutional crisis almost shipwrecked the Community in its infancy; and it is true now with the rejection of the Constitutional Treaty by the referendums in France and the Netherlands in 2005. Why should this be so? Firstly because European governments and the leaders of European institutions have done a poor job of explaining to their peoples the relevance of institutions and institutional change to the achievement of the broad objectives of peace and prosperity to which everyone subscribes; and they have done an even worse job of explaining the work of those institutions in a comprehensible and politically appealing manner. But secondly because
there has been an unresolved tension between those who pursue institutional change as part of a grand design to create some sort of a federal Europe and those who accept institutional change where it is functionally necessary to achieve agreed policy objectives but who do not subscribe to those grand designs.

But does that mean that the European Union has reached the end of the road on institutional change? No. International institutions, like national institutions, which lack the capacity for adaptation and change, for introducing new methods and new processes for dealing with new situations and challenges, are doomed. And so far the European Union has been successful at overcoming crises, even acute institutional ones, and moving ahead with new policies which genuinely benefit all its citizens. Many of the innovations in the Constitutional Treaty were genuinely valuable and were based on real, functional needs. That was surely true of moving away from the present system of rotating six month presidencies which would only come round every thirteen years or so; of unifying and strengthening the Union’s machinery for dealing with foreign policy issues and giving the member states an enhanced role and status.

The constitutional treaty proposed a real check and balance on new legislation so that what could be done better at national or regional level was not subjected to “one size fits all” rules. For the better enhancement of institutional process the provision of constitutional treaty was in favour of having a longer term chair of the European Council who could provide a better focus for impartial and unbiased deliberations for equal grievances of all the citizens of the European Union. In European Parliament level the institutional structure of EU can be more transparent and more vibrant having as much majority voting as possible without trespassing the economic rights of the new member states on such areas as tax and financial resources. The weighting of qualified majority votes which is based on population and national economy giving the larger member states greater influence can be balanced by giving importance to small states irrespective of their population and economic condition.
It is a lot less easy to defend the use of the word constitution for what was not in fact a constitution at all; or the attempt to re-package the non-legally binding charter of human rights in a Union where all are in any case bound by the Council of Europe’s Convention; or the consolidating third part of the treaty which was largely a re-hash of existing Union policies.

The EU Member States are committed to tackling institutional reform in three main areas: the future size of the European Commission, the weighting of votes in the Council of Ministers and the use of Qualified Majority Voting (QMV). The 1996-97 Intergovernmental Conference (IGC) negotiations aimed to find a satisfactory solution to these issues and various proposals were submitted to the Conference. The IGC did not in the end resolve the vexed questions of the future size of the Commission and weighted voting in the Council of Ministers, although the Treaty of Amsterdam records in a Protocol on the Institutions with the Prospect of Enlargement of the European Union two temporary reform measures. The Protocol also provides for a future IGC to consider more extensive reforms to the Commission and Council.

The extension of QMV in the Council was also discussed at the 1996-97 IGC and a number of areas that had been decided by unanimity were made subject to QMV under Amsterdam. Other items were dropped from the final negotiations and might be taken up again in the continuing debate on QMV and unanimity. On 16 March 1999 the European Commission resigned as a body following the publication on 15 March of a report by a Committee of Independent Experts on fraud, mismanagement and nepotism in the Commission.

This has precipitated the rapid conclusion of a Commission reform programme that was already in progress and has highlighted the general need for internal reforms to make the EU’s institutions more democratic, transparent and accountable. The European Parliament (EP) and the Council have also been criticised for their lack of openness and democracy. Internal reforms have been proposed to remedy these shortcomings in both institutions and are in the process of being finalised.
Over the years the European Parliament has established a track record of responsible behavior in examining, amending and sometimes rejecting European legislation. It plays a crucial role in monitoring the EU budget and in scrutinizing the actions of the European Commission. Deputies now work in tandem with the Council of Ministers to make laws on issues as diverse as accounting standards, waste disposal and the limits of stem-cell research. If deputies and the Council cannot reach agreement on the provisions of a new law the Parliament can veto legislation.

No doubt there will be some lively disagreements over how precisely to frame a new institutional body, about what should be in and what should be out. The future size of the Commission and the need to avoid any further fragmentation of too many and too small portfolios is likely to be particularly difficult. Some MEPs will want to further enhance the powers of the European Parliament.

There will be those who will argue that without a further extension of QMV it will be impossible for a Union of over 27 states to reach agreement in important areas of policy. The best way forward must be to adopt an evolutionary approach and to concentrate on changes where a clear functional need can be demonstrated and accepted by all. Political leaders will have to do a better job in explaining why change is necessary to their electorates; they will find this easier if they can show that institutional change reflects real need rather than the pursuit of visionary ideals.

The Treaty of Lisbon (initially known as the Reform Treaty) is an international agreement that amends the treaties governing the European Union (EU). The Lisbon Treaty was signed by the EU member states on 13 December 2007, and entered into force on 1 December 2009. It amends the Treaty on European Union (more commonly known as the Maastricht Treaty) and the Treaty establishing the European Community (the Treaty of Rome). In this process, the Rome Treaty was renamed to the Treaty on the Functioning of the European Union (TFEU).

Prominent changes included the move from required unanimity to double majority voting in several policy areas in the Council of Ministers, a more powerful European Parliament
as its role of forming a bicameral legislature alongside the Council of Ministers becomes
the ordinary procedure, a consolidated legal personality (law to have the status of the
person) for the EU and the creation of a long-term President of the European Council and
a High Representative of the Union for Foreign Affairs and Security Policy. The Treaty
also made the Union's bill of rights, the Charter of Fundamental Rights, legally binding.

There will remain the vexed question of the method of ratification. That will have to
remain a matter for each Member State. Some will be required by their constitutions to
hold referendums. Others may choose to do so. There is nothing inherently more
democratic about approval by referendum than approval by parliament. Are we seriously
suggesting that Germany which has set its face firmly against referendums and which
approved the Constitutional Treaty by a massive vote in parliament was not acting
democratically?

How will all this fit in with everything else the European Union will need to do in the
years ahead? The EU must respond to climate change, to continuing world trade
liberalisation, keep its door open to new members, rise to the challenge of globalisation,
cope with illegal immigration and deal with several difficult foreign and security policy
problems.

The answer has to be that institutional change must support that wider agenda and not
drive it. A refusal to contemplate any institutional change will damage those other
policies and perhaps frustrate them entirely. But so will an excessive concentration on
institutional change for its own sake and a failure to address the policy issues which
directly affect people's everyday lives. It should be possible to steer a course between
those two extremes and to do so in a way which increases public support for a Union
whose future success is essential to all of us.