

## CIDOB INTERNATIONAL YEARBOOK 2009

### KEYS TO FACILITATE THE MONITORING OF THE SPANISH FOREIGN POLICY AND THE INTERNATIONAL RELATIONS IN 2008

The Year of unanswered questions. Evolution  
of european integration.

Piotr Maciej Kaczyski

# The year of unanswered questions.

## Evolution of European integration

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The evolution of European integration took a few interesting turns in the course of 2008, but the process did not bring any significant answers. On the contrary, in fact, there are more questions on the European table today than there were twelve months before. Three main topics dominated the debate: 1) the future and fate of the attempts at treaty reform; 2) the EU presidencies, which received a new spin in the second half of the year; and 3) the increasingly vocal question about European leadership.

The Treaty of Lisbon was supposed to enter into force in January 2009, but since the process is being delayed, the important events of 2009 will face major challenges. In June 2009 the new European Parliament will be elected, but the final number of MEPs will not be determined until the new treaty enters into force. Another unknown piece of information relates to the European Commission. A new College of Commissioners should take office following the EP elections, but in the absence of a treaty, the size of the Commission is unknown. The possibility of an interim Commission between November 2009 and the treaty's entry into force was debated during the French Presidency, and there are other issues related to this topic, such as the new distribution of powers among the institutions, as well as within them.

The two EU Presidencies in 2008 could not have been more different. The small, new member state of Slovenia valiantly struggled with carrying out its responsibilities. It clearly was a lower-profile Presidency. Then the French turn was the opposite, as one of the largest, richest and most influential member states took over for the 12<sup>th</sup> time as head of the EU. It was also a time of a very high-profile Presidency. The ultimate new question related to those two examples is which one will become dominant in the EU of 27 member states, especially in the light of establishing a future permanent President of the European Council – would this post have more of Mr. Janša or more of Mr. Sarkozy?

The French Presidency also re-awakened the debate on European leadership, the need of which became very clear during a period of permanent and multiple crises. This discussion is not limited to who would take what functions, but it relates also to several important unanswered questions: Under the new treaty, what is, what should be and what will be the inter-institutional balance in the EU? Is the European Union capable of returning to a stronger and more dominant position for the European Commission? Is the intergovernmentalisation process unavoidable and what are its positive and negative consequences?

These are a few of the new questions that were posed in the course of 2008.

### Institutional Reform, continued

After many years of struggling with the adoption of a new European treaty, the year 2008 was supposed to bring a finalisation to the process. By 1 January 2008, the Lisbon Treaty – signed just a few weeks before – was already ratified in the Hungarian Parliament. The Hungarians rushed to win the prize for being 'the first'.<sup>1</sup> This was characteristic of the entire Lisbon Treaty ratification process: European leaders decided to ratify as fast as possible in order to avoid any potential problems. In doing so they also succeeded to avoid public debate. The entire plan was for the new treaty to enter into force by 1 January 2009, but this target was probably overly-ambitious, as most of the recent European treaties (also on enlargement) took longer than 12 months to be ratified by all member states.

Initially the ratification process continued according to the plan. Countries ratified the document one by one without any problems, without much debate and without much attention. By June, Austria, Bulgaria, Denmark, France, Germany, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia and Slovenia finished their parliamentary procedures. The culmination of votes took place on 11 June on the eve of the Irish referendum when Estonia, Finland and Greece also agreed to the document.

**TABLE 1. TIME ELAPSED BETWEEN SIGNING AND RATIFICATION OF EUROPEAN TREATIES (1993-2009)**

Treaty	Date signed	Entered into force	Ratification time	Number of ratifications
Maastricht Treaty	7 Feb 1992	1 Nov 1993	21 months	12
Amsterdam Treaty	2 Oct 1997	1 May 1999	19 months	15
Nice Treaty	26 Feb 2001	1 Feb 2003	23 months	15
Accession Treaty 2003 <sup>2</sup>	16 Apr 2003	1 May 2004	12,5 months	25
Accession Treaty 2005 <sup>3</sup>	25 Apr 2005	1 Jan 2007	20 months	27
Lisbon Treaty	13 Dec 2007	1 dec 2009	22,5 months	27

Source: Comisión Europea [http://ec.europa.eu/index\\_en.htm](http://ec.europa.eu/index_en.htm)

*"The French Presidency showed probably for the first time in a long time that crisis management should lie at the core of every Presidency"*

The question on holding referendums on the Lisbon Treaty has been posed in a number of countries. Clearly the ambition was to avoid as many popular votes as possible. In one case it proved impossible: Ireland. The Irish constitutional situation made it necessary to organise a referendum. The decision to organise a vote was taken in the spring; the referendum took place on 12 June 2008. The Irish campaign was dominated by the wide coalition of the 'no' camp, who attacked the document from various angles. The pro-treaty campaigning

came late, when the public debate was already framed by the other side. The government and all parliamentary political parties (but one – Sinn Féin) supported the document. At the same time many politicians did not know the provisions of the treaty.<sup>4</sup> The pro-Treaty camp was also damaged by the Prime Minister's corruption scandal which

forced Bertie Ahern to step down just a month ahead of the vote. The 'yes' campaign was based on the premise that the nation trusts its leaders and hence would support the document.<sup>5</sup>

At the same time the 'no' camp was gaining momentum. The creation of a wide coalition from the extreme left through labour unions to a new business group called Libertas allowed for clear victory. On 12 June 2008, the Irish rejected the Treaty of Lisbon with 53.4% of voters against the document and 46.6% in favour. What came as a surprise to the 'yes' camp was that this result came with a high turnout of 53.1%.<sup>6</sup> After the vote there was a major report published in Ireland explaining the outcome of the vote (Post..., 2008). In general, the public did not understand what the Treaty was about and decided to vote against the unknown.

The Irish referendum completely changed the dynamics of the ratification process elsewhere in Europe. Timely entry into force of the Lisbon Treaty was threatened. As the results from Ireland were coming

in on Friday, June 13<sup>th</sup>, Europe faced the danger of a repetition of the 2005 divisions that developed after the failed French and Dutch referenda on the Constitutional Treaty. The biggest threat in June was not that the Treaty of Lisbon would not enter into force. The risk was that individual countries would discontinue the ratification process. By so doing, they would put the document in a legal limbo without a clear indication of what was to happen next.

This consternation did not last long. Unlike 2005, in 2008 governments confirmed one by one their will to pursue the ratification process despite a negative Irish vote. The most important message came from London, where Prime Minister Gordon Brown firmly stood by the continuation of the process and opposed motions for a British referendum on the subject. Six days after the Irish vote, the House of Lords approved the Lisbon Treaty. The following day the Royal Assent was granted and the ratification process in the United Kingdom ended. The subsequent European Council confirmed this approach despite some opposition from Czech Republic (Council of the European Union, 2008).

Once the immediate threat to the process was over, new problems occurred. Legal challenges to the Lisbon Treaty were tabled and accepted for consideration in the Czech Republic and Germany. In November 2008, the Czech Constitutional Court gave a green light for ratification in this country.<sup>7</sup> The German court did not conclude its deliberations by the end of December. Political difficulties appeared in Poland and the Czech Republic. In Poland the President Lech Kaczyński stated that he will not complete the ratification process until the Irish have reconsidered because he was against "cornering the Irish". In the Czech Republic the process has been significantly delayed as both parliamentary chambers have postponed their votes pending the Court's decision. They have initiated the ratification process only after the Court ruling has been given. Apart from the legal and parliamentary difficulties, the Czech President Václav Klaus also opposed the document.<sup>8</sup>

The December European Council for the first time examined the issue of how to legally address a potential

second referendum in Ireland. The meeting concluded that there is a call for “necessary legal guarantees” to be given to Ireland in the areas of 1) taxation, 2) security and defence as well as 3) the right to life, education and family (Council of the European Union, 2009). The nature of those necessary legal guarantees has not been determined and the final decisions were left to be taken in the course of 2009.

Therefore the Treaty of Lisbon, which was supposed to enter into force as the year 2008 ended, has still not been ratified in four countries. Until Ireland, Czech Republic, Poland and Germany deposit their materials in Rome, the document is not legally binding. Nevertheless, the prospects for the Lisbon Treaty looked better in December than six months earlier. Firstly, public opinion in Ireland seemed to begin to change its opinion about the document. In November, the first opinion poll since the referendum was published indicating that a majority of respondents said they would back the document.<sup>9</sup> Secondly, in the Czech Republic a first hurdle (the Court) was just overcome. Simultaneously, by late November (after partial elections) the Czech Senate became a more treaty-friendly chamber than before as some of the treaty-opposing senators lost their seats and pro-treaty candidates were elected. Both Czech and Polish presidents, regardless of their reasons for objecting to ratification, seemed prepared to sign the ratification documents once the second Irish vote was positive. The year ended with a cautious approach that the treaty *might* be implemented and there was a chance that the Irish would reconsider.

### The evolving nature of EU presidencies

The European Union’s rotating presidencies have taken place since 1958. Every six months, another EU member state undertakes the task of chairing hundreds of meetings in the Council, as well as representing the Union in the external affairs. In January 2008, Slovenia took the 101<sup>st</sup> EU Presidency; and France served as the 102<sup>nd</sup> rotating head of the EU. For Slovenia, it was its first undertaking of this scale. France held its

12<sup>th</sup> mandate. The lifespan and importance of any EU Presidency is extremely short. Half a year is too short for legislative innovations; most European legislation takes years before it is adopted. During 6 months, an EU Presidency cannot develop any significant dialogue with a third partner— each time the American or Russian leader meets his European counterpart, he meets a different person. The EU Presidency however, is not about pursuing a different agenda or developing new processes only for the purpose of 180 days of the Presidency. The system functions so that each country holding the rotating chairmanship has an incentive to try to move the European integration closer to its national agenda. At the same time it forces European leaders to cooperate more closely with other preceding and succeeding presidencies in order to carry on processes and dialogues.

EU Presidencies are also short-lived politically. The preparations of each member state to hold the term begin months (at least 12), and often years ahead. Yet the political focus on the Presidency ends either on 30 June or 31 December each year. Retrospectively, out of 100 EU Presidencies between 1958 and 2007 very few, if any, left office with a significant longer-term legacy.

The primary function of any EU Presidency is to chair hundreds of working groups and the Council and the European Council proceedings. The Presidency does not have any executive function; it cannot take any legally binding decisions on its own. Therefore the country holding the Presidency is only *primus inter pares* among other nations. Another function is to represent the EU vis-à-vis third parties and the citizens. Due to those limitations there are numerous examples of ambitious objectives of some Presidencies never having been accomplished; the states, which held this – in fact ungrateful – position, did not possess any particular advantages with the exception of knowing the procedures and possessing experienced negotiation skills.

Yet many European leaders who hold the rotating Presidency still try to use this tool for different objectives, such as the promotion of national political interests, or the socialisation of their national administration with EU affairs, or promoting EU issues

TABLE 2. EU PRESIDENCIES 2007-2009

EU Presidency	EU Presidency holding nation	Which EU Presidency is it?	Recent experience
2007– 99 th	Germany	12 th	1994, 1999
2007– 100 th	Portugal	3 rd	1992, 2000
2008– 101 th	Slovenia	1 st	–
2008– 102 th	France	12 th	1995, 2000
2009– 103 th	Czech Republic	1 st	–
2009– 104 th	Sweden	2 nd	2001

domestically, etc. 2008 was a year full of interesting new developments in this respect. First, Slovenia was the first country of the 2004 'big-bang' enlargement to take up the job. Just three-and-a-half years since EU accession, the two million Slovene citizens had to face probably the biggest logistical and political challenge in their history: to lead, for six months, political entity of half-a-billion people. Second, France offered a spectacular comeback to European politics after a period of certain ambivalence following the referendum in 2005. Nicolas Sarkozy's style gave a new look at how an EU Presidency could be used to push an ambitious agenda, take on unexpected endeavours and gain support domestically and respect abroad.

In the first half of the year, the Slovene Presidency's main success was that it managed to survive until the end of the term without a major setback. The self-assessment of the country's performance was rather high (Kajnc, 2008), yet the struggle with the capacity was quite apparent. There were even some statements arguing that the Slovenians managed only because of the structural support coming from the General Secretariat of the Council and from other members of its

***"In its actions in Georgia the EU surprised Russian counterparts who probably for the first time recognised the EU as a political entity in hard security matters"***

trio-presidency (especially Germany). The six-month period was marked by two events: in February Kosovo unilaterally declared independence and in June the Irish rejected the Lisbon Treaty. Kosovo's independence declaration was especially unfortunate for the Presidency. Slovenes were supposed to be the ones in

the EU with enough expertise on the Western Balkans to deal with the region's problems. In political terms it meant that Kosovo was a test for Slovenia – should it be able to maintain EU unity on the issue, it would keep the clout for its other projects. EU internal divisions brought a sudden political end to Slovene leadership. Institutionally they chaired the meetings for the remaining months, but on all other points on the agenda that spring, the key stakeholders were not in Ljubljana. It is notable that when the Irish voted down the Lisbon Treaty, all the eyes were focused on what the upcoming French leaders had to propose, not the incumbent Slovene chairmanship.

In the second half, the French presidency took over with an enormously ambitious programme, which they largely succeeded in implementing. The most important elements were the European Pact on Immigration and Asylum, as well as the climate change package of legal instruments. The most visible exceptions where the French gave up during their term were the har-

monisation of the corporate taxation base and cooperation on defence matters. Both issues were dropped due to the results of the Irish vote, although the defence debate is expected to be relaunched in 2009, following France's return to the military structure of NATO.

Yet it was not the ambitious agenda that made the front pages of the European press in the second semester of 2008. Conflict resolution became the Presidency's brand. The French Presidency showed probably for the first time in a long time that crisis management should lie at the core of every Presidency. It was an experienced and a big country Presidency that did not avoid high expectations. Quite to the contrary, it provoked many of those expectations. In July 2008 the French took over the works of the Council in a situation of very high agricultural world prices and a similar development occurred with energy resources prices. In some countries outside of Europe, this led to riots and raised questions about the stability of those states. Then in August the Georgian-Russian conflict over South Ossetia erupted, which overshadowed the issue of global prices. The fate of the Lisbon Treaty was also present following the earlier Irish vote. In the fall the financial markets crisis began, followed by economic recession. Among other problems were i.e. relations with China marked by controversies over the Olympic Games in August and the cancellation of the EU-China summit in December due to meeting between Nicolas Sarkozy and the Dalai Lama.

In most of those situations, the French President and French diplomacy showed deep engagement and dedication. The truce and beginning of negotiations of the final status of South Ossetia and Abkhazia in Geneva in October – though without any spectacular results by the end of the year – coupled with the opening of negotiations with Russia of a new framework agreement, have to be perceived as a step forward. In its actions the EU surprised Russian counterparts who probably for the first time recognised the EU as a political entity in hard security matters.<sup>10</sup> The Lisbon/Irish debate was much more delicate to tackle and could not be fully addressed during the French term. The economic crisis showed how apparent was the lack of European leadership; yet proposals for European debate on the situation came primarily from Paris (and London).

In 2008 a new institutional formula was tested. The first of trio-presidencies, which began in 2007, has ended. German-Portuguese-Slovenian cooperation was rather smooth and unproblematic. Cross-cutting issues were addressed (e.g. climate change and the Treaty of Lisbon) throughout the three mandates. Simultaneously each of the Presidencies showed specialisation in some areas (in foreign affairs, e.g., the Germans tried a new opening to Central Asia, the Portuguese promoted relations with Africa and within the Mediterranean ba-

sin, and the Slovenes focused on Western Balkan issues). The countries however did not have a point of historical reference, so only their experience can be used for comparisons with the following trio presidencies. In 2008 the Franco-Czech-Swedish trio had begun its work. The cooperation within this group was very limited to the extent that the mottos of two first countries were almost exactly opposite one another: the French advocated a “more protective Europe”, whereas the Czechs promoted “Europe without barriers”.

### The quest for European leadership

2008 was also important as the year when the debate on European leadership shifted. If in January only a few specialists would argue that there was a significant leadership void in Europe, by the end of the year such a statement became commonplace. The combination of many crises with the charismatic and controversial leadership of Nicolas Sarkozy in the second semester showed the public what a strong leadership means. For those reasons the main question on 31 December was whether the Czech presidency would be able to meet the high standards set by Sarkozy. After all, the Czechs took over the EU Presidency for the first time; it is also a small and relatively poorer nation. Yet those questions had not been asked twelve months earlier, when another newer, much smaller and relatively poorer country took up the job. For Slovenia the main question was on institutional capacity to smoothly manage the hundreds of meetings.

There are two main types of political leadership in the European Union. Firstly, in the highly institutionalised Union, there is a historical tendency for a strong formal (institutional) leadership. Secondly, there is the personal leadership, which does not necessarily result strictly from the function, but also from the character and charisma of a political leader and the public’s emotional reactions to him or her. In both cases, in order to become a true leader the actor (institution, politician) needs to 1) inspire the public debate, initiate policies and propose visions of the future and 2) know how to implement his or her ideas. Charisma without organisational capacity is not sufficient and, in fact, means populism. The possession of excellent skills in managing public policies could be described as technocratic bureaucracy – important, but again, not sufficient in itself. Therefore both conditions are necessary to qualify as leadership in any political formula.<sup>11</sup>

The political class of the European Union has been widely criticised for not having the capacity to produce new leaders who compare with Europe’s great historical leaders, such as Schuman, Monnet, de Gaulle, Spaak, Kohl, Mitterrand, de Gasperi or Delors.<sup>12</sup> The

institutional leadership for many years has been with the European Commission, where the new ideas moving the integration process forward were generated.

The process of moving the institutional and political centre away from the Commission and towards the European Council had begun well before 2008. But it was only last year that this development manifested itself fully, especially since the financial crisis in the fall, and the subsequent economic downturn. The French EU Presidency with President Sarkozy also contributed to the process.

In 2008 the European Commission found itself taken over by a certain inertia. Firstly mainly because of the upcoming Irish referendum, potentially controversial topics such as defence or taxation were removed from the agenda. The inertia also continued after the referendum because of the result. In such a context the financial crisis began to unfold, yet again the Commission was perceived as largely inactive and its initiatives were “too little, too late” (“Beyond...”, 2008; Lannoo, 2008); in contrast, the Presidency was feeling rather victorious, having negotiated a truce in the Caucasus conflict. Besides the Georgian-Russian war, the French leadership undertook other initiatives. The Union for the Mediterranean was launched in the spring. The Immigration Pact has been proposed over the summer. Reactions “on behalf of the EU” to the chain of events: food prices crisis, Irish referendum, oil prices, etc. came much more frequently from Paris than from Brussels. Nicolas Sarkozy took up a role of self-claimed EU President, although the official function was President of the European Council. This charismatic leader was not afraid to address important European and global problems. He initiated debates, proposed solutions and brokered deals in difficult negotiations such as the climate change package in December. Some of the French ideas were rejected (e.g. the economic governance idea), some were significantly modified and adopted (e.g. the Barcelona Process: Union for the Mediterranean); while some were postponed (defence cooperation) or dropped from the agenda (taxation cooperation). Sometimes the Presidency acted controversially (e.g. taking contact with the Dalai Lama in the run-up to the EU-China summit in December, holding the EU-Russia summit in Nice in November, as well as the mediation in the Caucasus war) – but it never lacked political will to lead. The only problem of the Nicolas Sarkozy’s term was that it only lasted for six months and the baton then had to be passed on to the next country in the line-up.

The active French Presidency relaunched the debate on European leadership and how best to organise it. The behaviour of the French leaders inspired the belief that if the Lisbon Treaty came into force, it would be easier for the EU to act in situations like the one

that erupted in Georgia last August.<sup>13</sup> This approach has been challenged with the argument that even with the Lisbon Treaty the decision on *who* is the European Council permanent president would be taken by European leaders, who have a personal political interest in choosing a weak rather than a strong person, which would effectively mean that nothing would change.

In the final analysis, the year 2008 did not bring us any closer to answering the question either of *where* should the political leadership in the European Union reside (the Commission or the European Council), or *who* would be able to take up the challenge. The Commission and the European Parliament began their final full calendar year in 2008, which meant less motivation to engage in strong political manoeuvres. The outlook for the present year (2009) was rather grim: the Commission does not know when its term will end or how many Commissioners the next College will have; the Parliament does not know the size of a new chamber to be elected in June (736 or 754) or what will be the scope of its powers; there is also a growing concern that the new Parliament would be much more euro-skeptic than the outgoing one; the Council faces an uncertain future

under the Czech Republic, a country run by cautious, if not euro-skeptic, leaders, and whose government had only a minority support in the national parliament.

This newly reinvigorated debate on European leadership will continue in the following months and years. In the meantime the question of political leadership in the EU of 27 member states remains

unanswered, which causes many concerns. The unofficial decision-making mechanisms proved insufficient and a need for new mechanisms became apparent. The French idea of a smaller coordinating group of the six largest nations was not applied, although by the end of the year the financial crisis forced a closer cooperation among three largest states (France, Germany and the United Kingdom). As it has turned out so far at least, however, the three have not been able to work out a consensus on the European approach to the financial crisis. At the same time, two new developments have arisen. In the first instance, the number of European Council meetings, which were not always productive, has been inflated. During the French Presidency alone, there were four such meetings (two ordinary, one extraordinary and one unofficial). And since those meetings were not always successful, the second new element has manifested itself: a superficial show of unity covering over serious internal divisions on various issues.

## Notes

1. The Hungarian parliament ratified the Lisbon Treaty on 17 December 2008, and three days later the President László Sólyom granted his assent.
2. The Accession Treaty of 2003 concerns the 2004 EU enlargement to ten new countries: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.
3. The Accession Treaty of 2005 concerns the 2007 EU enlargement to two new countries: Bulgaria and Romania.
4. For example, the Irish Commissioner Charlie McCreevy admitted that he had not read the Lisbon Treaty from cover to cover, and said he would not expect any sane person to do so (see RTE News on 23 May 2008, [www.rte.ie/news/2008/0523/eulisbon.html](http://www.rte.ie/news/2008/0523/eulisbon.html)).
5. See [www.yestolisbon.ie/](http://www.yestolisbon.ie/) for the Yes Camp website.
6. See [www.dfa.ie/home/index.aspx?id=34239](http://www.dfa.ie/home/index.aspx?id=34239)
7. See <http://aktualne.centrum.cz/czechnews/clanek.phtml?id=623170>
8. More on the German, Czech and Polish cases in: Piotr Maciej Kaczyński, Sebastian Kurpas and Peadar ó Broin, "Ratification of the Lisbon Treaty: Problems not only in Ireland", EPIN WP No. 18, Centre for European Policy Studies (CEPS), Brussels 2008, [http://shop.ceps.eu/BookDetail.php?item\\_id=1716](http://shop.ceps.eu/BookDetail.php?item_id=1716)
9. See "Voters may approve new Lisbon Treaty, poll reveals", The Irish Times, 17 Nov 2008. 43% of polled said they would vote "yes" in a referendum and 39 "no". The support for "yes" votes has increased in the following polls. See [www.irishtimes.com/newspaper/fronpage/2008/1117/1226700659487.html](http://www.irishtimes.com/newspaper/fronpage/2008/1117/1226700659487.html)
10. The story of President Sarkozy taking EU flag with him on the plane to Moscow for peace talks is emblematic. Allegedly, during a press interview, when the Russians stated they did not have an EU flag and proposed to put the French flag next to Mr. Sarkozy, he said he brought one with him, because he did not come to Moscow as the French President, but as Europe's leader.
11. On the question of political leadership in Europe, see Jonas Tallberg, *Leadership and Negotiation in the European Union*, Cambridge: Cambridge University Press, 2006.

**"By the end of the year the financial crisis forced a closer cooperation among three largest states (France, Germany and the United Kingdom)"**

12. There are many critical articles on the subject. See for example, Goulard, Sylvie, “Can France reclaim intellectual leadership of the EU?”, *Europe’s World*, Autumn 2008.

13. For example, M. Wallstrom wrote on her blog on 2 September 2008: “I was encouraged and impressed by the determined action taken by the French Presidency but can not help thinking that with a new treaty it would have been easier to have a better coordinated response, faster and with greater authority. A high representative with a mandate both from the Council and the Commission would be stronger and better equipped in a situation like the one we have seen this summer in our neighbourhood.” Full text available at <http://blogs.ec.europa.eu/wallstrom/georgia-on-our-minds/>

*an Policy Studies, Task Force report*. Brussels, December 2008. 59 p. [http://shop.ceps.eu/BookDetail.php?item\\_id=1762](http://shop.ceps.eu/BookDetail.php?item_id=1762) [Checked on: 03.19.09]

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