

## **Opinion on the Draft Treaty establishing a Constitution for Europe**

11 November 2003 -

**The Convention on the future of the European Union has produced good results. The Intergovernmental Conference (IGC), now in the process of discussing the draft Treaty establishing a Constitution for Europe, should concentrate mainly on those issues not dealt with by the Convention, in particular the need to update the provisions in Part III of the draft Treaty concerning the European Union's policies (for example on transport and agriculture). A more flexible review procedure should be introduced for Part III.**

These are the recommendations of the Social and Economic Council of the Netherlands (SER) to the Dutch government in an advisory report authored by its International Social and Economic Affairs Committee. Thus the SER subscribes to the Dutch Cabinet's view that the results of the Convention should be adhered to as closely as possible. The SER does, however, wish to encourage the Cabinet to focus more specifically on streamlining and updating Part III of the Constitutional Treaty. A review of Part III, which covers the European Union's policies, is not one of the Cabinet's priorities at this time.

### **Convention gets thumbs-up from the SER**

The SER believes that the Convention was much more productive than the two previous IGCs. Among the significant advances are the new definition of qualified majority (majority of the Member States representing at least 60% of the Union's population) and the introduction of majority voting for provisions previously decided by unanimity. The SER believes that majority voting should be extended to cover even more provisions, for example certain aspects of foreign policy (in particular the common trade policy) and taxation.

### **Part III should be revised**

The SER would like the provisions set out in Part III of the Constitutional Treaty to be revised and updated. Much of Part III of the draft Treaty dates from the nineteen fifties. The provisions concerning competition and transport policy, for example, still contain exemptions related to the consequences of a divided Germany.

The SER makes several specific suggestions to improve Part III of the draft Treaty. These include:

- To offer better guarantees for the free movement of workers, for example by consistently applying majority voting when deciding on measures enabling Community migrant workers to retain social security entitlements.
- To introduce majority voting on provisions eliminating tax obstacles to cross-border commerce and company mergers. Such obstacles include the regulatory energy tax, transnational intra-company profit-and-loss compensation and the way cross-border pension schemes are treated under tax law.
- To boost the position of the European Commission when it comes to assessing excessive government deficits within the context of the Growth and Stability Pact.
- To define the term "guideline" in order to improve the open method of coordination on social policy.
- To refer to the concept of "sustainable development" in the environmental policy provisions.
- To update the objectives of the Common Agricultural Policy (CAP), for example by looking more closely at the production of "green services" (agricultural nature and landscape management).

- To apply consistently majority voting when deciding on the external dimension of the internal market and therefore on all aspects of the common trade policy that fall within the EU's remit. This would naturally also include the external dimension of the common transport policy.

### **Making amendments to Part III possible**

The nature of Part III means that it may need to be updated in future to take changing circumstances and new insights into account. Amendments to the Treaty require unanimous adoption and ratification by the Member States. With 25 Member States or more, it will prove very difficult to amend the Treaty in future. While unanimity plus ratification is certainly appropriate for the constitutional provisions of Parts I and II, it would be preferable to have a more flexible review procedure for the provisions that concern the EU's policies in Part III, for example one requiring unanimous adoption, but not ratification.