Basic information

2003/0902(CNS) CNS - Consultation procedure	Procedure completed
Treaties, amendment: draft constitutional Treaty, intergovernemental Conference IGC for October 2003 **Subject** 8.10 Revision of the Treaties, intergovernmental conferences	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
AFCO Constitutional Affairs	GIL-ROBLES GIL-DELGADO José María (PPE-DE) TSATSOS Dimitris (PSE)	19/06/2003 19/06/2003

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs, Human Rights, Common Security, Defense	BROK Elmar (PPE-DE)	18/06/2003
BUDG Budgets	WYNN Terence (PSE)	10/07/2003
CONT Budgetary Control	THEATO Diemut R. (PPE-DE)	30/06/2003
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	PACIOTTI Elena Ornella (PSE)	09/07/2003
ECON Economic and Monetary Affairs	RANDZIO-PLATH Christa (PSE)	02/07/2003
JURI Legal Affairs and Internal Market	ROTHLEY Willi (PSE)	17/06/2003
ITRE Industry, External Trade, Research, Energy		
EMPL Employment and Social Affairs	The committee decided not to give an opinion.	
ENVI Environment, Public Health, Consumer Policy	JACKSON Caroline (PPE-DE)	08/07/2003

AGRI Agriculture and Rural Development	DAUL Joseph (PPE-DE)	10/07/2003
PECH Fisheries	STEVENSON Struan (PPE-DE)	08/07/2003
RETT Regional Policy, Transport and Tourism	VAN DAM Rijk (EDD)	08/07/2003
CULT Culture, Youth, Education, Media and Sport	The committee decided not to give an opinion.	
DEVE Development and Cooperation	WIJKMAN Anders (PPE-DE)	01/07/2003
FEMM Women's Rights and Equal Opportunities	DYBKJÆR Lone (ELDR)	09/07/2003
PETI Petitions	GEMELLI Vitaliano (PPE-DE)	09/07/2003

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2526	2003-09-29
Economic and Financial Affairs ECOFIN	2520	2003-07-15

European Commission

Commission DG	Commissioner
Secretariat-General	

Key events

Date	Event	Reference	Summary
18/07/2003	Legislative proposal published	CONV850/2003	Summary
01/09/2003	Committee referral announced in Parliament		
09/09/2003	Vote in committee		Summary
09/09/2003	Committee report tabled for plenary, 1st reading/single reading	A5-0299/2003	
24/09/2003	Decision by Parliament	T5-0407/2003	Summary
24/09/2003	Debate in Parliament		
29/09/2003	Act adopted by Council after consultation of Parliament		
29/09/2003	End of procedure in Parliament		

Technical information

Procedure reference	2003/0902(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legal basis	Treaty on European Union (after Amsterdam) M 048-p2
Stage reached in procedure	Procedure completed
Committee dossier	AFCO/5/19736

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0299/2003	09/09/2003	
Text adopted by Parliament, 1st reading/single reading		T5-0407/2003 OJ C 077 26.03.2004, p. 0089-0255 E	24/09/2003	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	11047/2003	10/07/2003	Summary

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2003)0548	17/09/2003	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
OS	Legislative proposal	CONV850/2003	18/07/2003	Summary
ECB	Document attached to the procedure	BCE(2003)0020 OJ C 229 25.09.2003, p. 0007-0011	19/09/2003	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Treaties, amendment: draft constitutional Treaty, intergovernemental Conference IGC for October 2003

2003/0902(CNS) - 24/09/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Jose Maria GIL-ROBLES GIL-DELGADO (EPP-ED, Spain) and Dimitrios TSATSOS (PES, Greece). Parliament welcomed the draft Constitution and noted with satisfaction that it entrenches the values, objectives, principles, structures and institutions of Europe's constitutional heritage, so that, to a great extent, the draft not only assumes the character of a constitutional text but also provides for its continuous evolution. Parliament approved of many aspects of the draft. It highlighted the inclusion of the Charter of Fundamental Rights, the simplification of EU acts, the abolition of the pillar structure, the wider use of the co-decision procedure and of qualified majority voting, the election of the President of the Commission by Parliament, the introduction of the citizen's right of legislative initiative, the possibility of structural co-operation in security and defence policy, and the separation of the Euratom Treaty from the legal structure of the future Constitution. Parliament also welcomed the abolition of the distinction between obligatory and non-obligatory expenditure in the budget and the extension of co-decision to the common agricultural policy and the common fisheries policy. Certain aspects require further monitoring during their implementation: - the election of the President of the European Council cannot in itself solve all the current problems affecting the functioning of that institution and could entail unforeseeable consequences for the institutional balance of the EU. The role of the President must be strictly limited to that of a chairperson in order to avoid possible conflicts with the President of the Commission or the Union Minister for Foreign Affairs. It must not to endanger their status or encroach in any way on the Commission's role in external representation, legislative initiative, executive implementation or administration; - the creation of the office of Union Minister for Foreign Affairs will enhance the Union's visibility and capacity for action on the international stage but it is vital that the Union Minister for Foreign Affairs be supported by a joint administration within the Commission; - the European Ombudsman, who is elected by Parliament, and the national ombudsmen might propose a more comprehensive system of non-judicial remedies in close cooperation with Parliament's Committee on Petitions. Parliament added that, under the budget procedure, its powers should not be reduced by comparison with the present situation. Parliament went on to welcome the disappearance of the link between the weighting of votes in Council and the distribution of seats in Parliament, a link laid down in the protocol to the Nice Treaty. Members did voice concern about "unsatisfactory answers to some fundamental questions", particularly regarding the consolidation of economic and social cohesion policy, the co-ordination of economic policy, the appointment of members of the Court of Justice and the Court of First Instance, the continuation of unanimous voting in Council for the CFSP and certain areas of social policy. Parliament hoped also hope that the reform of the Commission willnot affect the collegiate nature of this institution. It regretted that the system envisaged makes it difficult to keep a good European Commissioner for a second term. However, notwithstanding certain limits and contradictions, the result of the work of the Convention should be endorsed, representing as it does an historic step towards a European Union which is more democratic, efficient and transparent. Parliament urged the IGC to respect the consensus reached by the Convention, to avoid negotiations on the fundamental decisions reached by the Convention and to approve the draft Treaty establishing a Constitution for Europe without altering its basic balance while aiming at reinforcing its coherence.

Treaties, amendment: draft constitutional Treaty, intergovernemental Conference IGC for October 2003

2003/0902(CNS) - 17/09/2003 - Document attached to the procedure

The Commission welcomed the draft Constitution with particular reference to the following: -it fundamentally changes the structure of the Union - in particular, the draft bestows a single legal personality on the European Union and hence merges the Union and the European Community; it gets rid of the 'pillar' structure of the Union; and it incorporates the Charter of Fundamental Rights into the Constitution and gives it binding legal force; -it introduces a large number of reforms, which improves the way in which the EU works. The Commission specifies, inter alia, the extension of the scope of the codecision procedure and the democratic formula of the double majority; -it strengthens the Union's means of action: in particular, it extends the Community method to the entire area of freedom, security and justice and it creates the office of Minister for Foreign Affairs, who will be both a Member of the Commission and the recipient of a Council mandate, which will enable the Union to develop more consistent and more effective external action and external representation. The Commission feels that it is essential for the forthcoming IGC not to disturb the overall balances built into the draft Constitution and not to start rediscussing all the questions that the Convention has already looked at in detail and on which it has reached a consensus. The IGC cannot, however, be deprived of its political responsibility which is to allow the Heads of State and Government to present the Constitution for ratification. It is the Commission's view that the IGC's task should consist of improving, clarifying and finalising the draft Constitution. It is possible to improve the draft Constitution on a limited number of points without upsetting the general balance. Three areas are emphasised: -the approach advocated for the composition of the Commission, which does not appear to be viable in the light of the way the Commission really operates, should be modified by the IGC, but without reopening other institutional themes. -IGC should further reduce the unanimity requirement. -it will be vital to establish procedures for more flexible revision of the less essential provisions of the Constitution. In the sphere of economic governance, the Constitution should allow those Member States whose currency is the euro to coordinate their economic policies more closely via Union procedures. 1) Commission : composition and Decision · making: The Commission feels that the specific response advocated by the draft Constitution - having a Commission made up of one Member from each Member State with different voting rights - is complicated, muddled and inoperable. It may threaten the basis of collegiality, which is equality for all Members of the Commission. This approach is liable to be poorly received by the public and to make ratification more difficult. Additionally, as regards the status of non voting Members, the draft Constitution leaves open a large number of questions which are essential in terms of the day-today functioning of the Commission. For example, if the members without voting rights manage a portfolio, one cannot see how they could effectively exercise their responsibilities without being able to participate to the collective decision. And if they don't have a portfolio, one wonders what their role within the College could be. The Commission's fear is that the solution proposed by the draft Constitution, with first' and 'second'-category Members of the Commission, might affect the legitimacy and effectiveness of the Commission. The draft Constitution must be improved and the changes must be based on maintaining the principle of equality of all Members of the Commission in terms of preparing proposals and taking decisions. The Commission goes on to proffer possible solutions. One is to structure the College into a number of Groups of

Commissioners, while taking whatever steps are necessary to guarantee collegiality and consistency of policy. The College, embracing all the Members of the Commission, would address only the most important issues and would therefore have only a limited number of decisions to take. Other Commission decisions would be taken by the Groups of Commissioners, each of them acting in fields which are proper to their competencies within the general guidelines laid down by the College. 2) Reducing unanimous voting in the enlarged Union: It is the Commission's duty to issue a clear warning to the IGC that the progress made is not enough to enable the Union to attain all the aims set by the draft Constitution. The Commission sets out various options for reducing unanimous voting, depending on the nature of the legal bases concerned. The Commission also hopes that the IGC will manage to further reduce the use of the veto. There will no doubt be cases where this will not be possible, especially in the institutional domain. It is understandable that certain decisions require universal agreement, such as determining the composition of the European Parliament or the language rules for the institutions. Nevertheless, the Commission requests the IGC to do what is necessary to prevent the enlarged Union being paralysed by a national veto. Several options are conceivable: replacing unanimity by reinforced qualified majority voting or a new definition of unanimous voting according to which, after a certain period of deliberation by the Council and discussion within the European Council, opposition from one or two Member States could no longer prevent the Council from adopting a measure for which the Constitution specifies unanimity. The Commission points to budgetary provisions in particular. It noted the strong opposition of some governments' representatives at the Convention to abandoning unanimous voting on own resources and the first financial framework to be adopted after the Constitution enters into force. However, it is clear that maintaining unanimity, even provisionally, is liable to quickly make negotiations extremely difficult. A fair outcome for everybody could be arrived at by qualified majority voting. The Commission therefor takes the view that the veto should be abolished in this area. 3) Revision of the Treaties : The Convention has made no change to the current rule underlying the Treaties, which is that any revision, even a minor one, of a primary law provision requires unanimous agreement from the governments of the Member States and subsequent ratification by all the Member States according to their respective constitutional rules. This state of affairs could lead to total paralysis of the Union and eventually to a loss of interest on the part of the Member States and citizens as regards this form of integration, in favour of less effective models of cooperation or even cooperation between only some Member States. The Commission feels that it is crucial for the IGC to open the way towards procedures for revising the Constitution which are more flexible, albeit subject to clearly defined definitions. The Commission also makes the following points: -the term of office of a President of a Council formation should be limited to one year. -a public debate must be promoted on the future of the EU, at both local and regional levels.

Treaties, amendment: draft constitutional Treaty, intergovernemental Conference IGC for October 2003

2003/0902(CNS) - 10/07/2003 - Document attached to the procedure

PURPOSE : to present a proposal for the amendment of the Treaties in which the Union is founded. CONTENT : under Article 48 of the Treaty on European Union, it is proposed that a Conference of Representatives of the Governments of the Member States be convened, in accordance with the conclusions of the Thessaloniki European Council meeting. In Thessaloniki the European Council welcomed the draft Constitutional Treaty presented by the Chairman of the Convention, Valéry Giscard d'Estaing, and considered that it marked a historic step in the direction of furthering the objectives of European integration, by: - bringing our Union closer to its citizens; - strengthening our Union's democratic character; - facilitating our Union's capacity to make decisions, especially after its enlargement; - enhancing our Union's ability to act as a coherent and unified force in the international system; - effectively dealing with the challenges that globalisation and interdependence create. The text of the draft Constitutional Treaty is a good basis for initiating the Intergovernmental Conference. The Conference should complete its work and approve the Constitutional Treaty as soon as possible and in time for it to become known to Europe's citizens before the June 2004 elections for the European Parliament. The acceding States will participate fully in the Intergovernmental Conference on an equal footing with the current Member States. The Constitutional Treaty will be signed by the Member States of the enlarged Union as soon as possible after 1 May 2004. The Intergovernmental Conference will be conducted by the Heads of State or Government, assisted by the members of the General Affairs and External Relations Council. The representative of the Commission will participate in the Conference. The General Secretariat of the Council will provide the secretariat support for the Conference. The European Parliament will be closely associated with and involved in the work of the Conference. The three candidate countries - Bulgaria and Romania, with which accession negotiations are under way, and Turkey - will take part in all meetings of the Conference as observers.

Treaties, amendment: draft constitutional Treaty, intergovernemental Conference IGC for October 2003

2003/0902(CNS) - 18/07/2003 - Legislative proposal

PURPOSE : to present the draft Constitution for Europe. CONTENT : The draft Constitution puts forward a single text to replace all the existing Treaties in the interests of readability and clarity. It consists of four parts. Part I contains the provisions which define the EU, its objectives, its powers, its decision-making procedures and its institutions. Part II incorporates the Charter of Fundamental Rights, solemnly proclaimed at the Nice European Council in December 2000. Part III focuses on the EU's policies and actions and incorporates many of the provisions of the current Treaties. Part IV contains the final clauses, including the procedures for adopting and reviewing this Constitution. 1) The EU's objectives : the aim of the Union is to promote peace, and the wellbeing of its people. It offers its citizens an area of freedom, security and justice, and a single market in which competition is free and undistorted. It works for a Europe of sustainable development based on balanced economic growth, a highly competitive social market economy, and a high level of protection and improvement of the quality of the environment. The draft Constitution gives the EU a legal personality to assert its values and interests in the international arena. 2) European citizenship and fundamental rights : The draft Constitution enumerates the rights which stem from citizenship. The text of the Charter of Fundamental Rights has been incorporated in to the Constitution. The draft Constitution thus achieves a major breakthrough which allows the Union to have its own catalogue of rights. The provisions of the Charter have binding legal force but this does not mean an extension of the EU·s powers. The institutions and agencies of the Union must respect the rights written into the Charter. 3) Clarification of powers : The draft Constitution sets out clearly the matters for which the Member States have transferred powers to act to the EU and introduces a classification of the Union's powers: -a first category is made up of 'exclusive' powers. The areas of exclusive power include competition in the internal market or trade with third countries. -a second category groups the areas in which the Union acts when its action brings added value to

action taken by the Member States. These are called 'shared powers'. They include the major policies, e.g. the internal market, the common agricultural policy, transport, the environment, asylum and immigration, and judicial and police cooperation. -as for the third category of powers, the EU acts only to support action taken by the Member States who thus retain very substantial freedom of action and the primary responsibility for management in relation to their citizens. In these areas, the Union cannot harmonise national legislation. Culture, education, sport and civil protection are examples of areas of supporting action. -in certain other areas, such as economic and employment policy, the Member States consider that the Union must coordinate their national policies. -finally, there is a clause which allows the Council to plug anygaps in the powers conferred upon the Union whenever action at Union level is required. 4) Subsidiarity and proportionality : the draft Constitution strengthens the application of the two principles. The Commission must explain the way in which it has taken these two principles into account in each of its proposals. For the first time, every national parliament can re-examine the proposals and will be able to issue a reasoned opinion if it considers that the principle of subsidiarity has not been respected. If one third of the parliaments hold the same opinion, the Commission must review its proposal. 5) A legitimate and democratic Union : the draft Constitution provides for fresh obligations for the institutions with regard to consultation of civil society, transparency, access to documents and respect for personal data. Furthermore, a million citizens' signatures would trigger a call on the Commission to draft a fresh proposal. The key points are as follows: -the transparency of the Council's work will enable national parliaments to monitor better the positions of their governments within the Council, and the 'early warning' mechanism concerning the respect of the principle of subsidiarity will offer them a direct way of influencing the legislative process; -Any Member State can decide, in accordance with its constitutional rules, to withdraw from the Union. 6) The institutional framework : the draft Constitution includes a more stable presidency of the European Council and a Foreign Affairs Minister. The following points must be noted: -the European Parliament·s powers as co-legislator are strengthened by extending to new areas the scope of the co-decision procedure, henceforth termed legislative procedure. The number of Members of the European Parliament, elected by direct universal suffrage, for a five-year term, is established at a maximum of 736. -the Convention has proposed the modification of the current six month rotating presidency of the European Council by creating a permanent post of European Council president elected by the European Council for a period of two and a half years, renewable once. The role of this president would be to chair and push forward the work of the European Council. He would also serve as a high level representative of the Union in the area of the common foreign and security policy. -the Presidency of a Council formation (e.g. the Agricultural Council) will be held by the minister of a Member State according to an equal rota system for a period of one year. The Council for Foreign Affairs, for its part, would be chaired by the Foreign Affairs Minister. -for the next Commission in 2009, the draft Constitution proposes that its composition be modified as follows: the College to be composed of the President of the Commission, the Minister for Foreign Affairs, who would have the title of vice-president, and thirteen 'European Commissioners' selected on the basis of an equal rota system between the Member States. Alongside the European Commissioners the President of the Commission would designate from all the other Member States 'commissioners' who would not have the right to vote within the Commission. The draft Constitutionindicates clearly that when proposing to the election of the European Parliament the candidate for the Commission Presidency the European Council must take account of the results of the European elections. -the commissioners will be appointed by the Commission President from a list of three people (including at least one woman) drawn up by each country. -the Foreign Affairs Minister will wear two hats by being both the Council's representative for the common foreign and security policy and one of the Commission's Vice- Presidents. 7) The Union's means of action : -simplification of instruments - the typology of acts is limited to six instruments (law, framework law, regulation, decision, recommendation and opinion). The co-decision procedure is generalised. -there is a new definition of qualified majority within the Council: this majority should be simplified and be defined as from 2009 as a decision bringing together the majority of the Member States representing at least 60% of the Union·s population. The extension of qualified majority voting within the Council is envisaged for some thirty provisions for which unanimity is currently required. Member States will, however, each retain a right of veto on over 50 legal bases. - the system of enhanced cooperation introduced by the Amsterdam Treaty requires a minimum of Member States. The draft Constitution establishes this number at one third of the Member States and all the Member States must be free to join later. 8) The EU's external action : With regard to foreign policy, the Council will continue to decide unanimously in most cases. The most interesting innovation is the creation of the post of Foreign Affairs Minister. -An Armaments Agency will be set up so that the taxpayers' money is better used, avoiding, for instance, duplication in the military programmes of the different Member States. -in the event of a terrorist attack or natural disaster the Constitution henceforth provides for action by the Union; -with regard to external trade, the Constitution enhances the role of the European Parliament, which is placed almost on an equal footing with the Council whereas hither to the Treaty gave it no role either in monitoring or decision-making. 9) An area of freedom, security and justice: the following points emerge : -the Union may manage its external borders in an integrated way, which means, for instance, setting up a unit which can assist and support national frontier guards in their tasks of controlling and monitoring borders. -unlike the current Treaties, which provide simply for the establishment of minimum rules, the draft Constitution provides for the establishment of a common European asylum system which includes a uniform status for refugees and common procedures. -the guiding principles of a common policy on immigration are set out. Under the current Treaties, the European Parliament is merely consulted whereas in the draft Constitution all measures are adopted by the European Parliament and the Council. - under the terms of the current Treaties, the Union could already act in the area of police and judicial cooperation on criminal matters. However, as in the case of the common foreign and security policy, this was handled in the third pillar and subject to the intergovernmental decision-making method. The draft Constitution does away with the third pillar, grouping within a single structure all the Union's policies; -a quarter of Member States can submit an initiative in the same way as the Commission. Parliament co-legislates with the Council and the rules adopted must be submitted to the scrutiny of the Court of Justice. The European Parliament and the Council can thus establish common definitions and penalties in respect of a series of serious and crossborder offences which are listed in the draft Constitution. -Europol will be subject to the scrutiny of the European Parliament and of the national parliaments.