

# SPECIAL REPORT: The European Convention and the environment

By Ioli Christophoulou of the WWF European Policy Office

## Introduction

The conclusion of the Nice Intergovernmental Conference in 2000 called for a debate on the future of the European Union to bring the citizens – of member states and candidate countries – closer to the EU institutions. This process is now well underway and the 'debate' has been superseded by more formal developments that could lead to a new European Convention. The EU's commitment to the environment and to sustainable development is being renegotiated and the outcome of these decisions will shape its environmental position for many years to come.

The Green 8 – Birdlife International, Climate Action Network Europe, European Environmental Bureau, Friends of Nature International, European Federation for Transport and Environment, Friends of the Earth Europe, Greenpeace and WWF – are contributing actively to this process, seeking to ensure that the environmental and sustainability dimension of the European Union is fully reflected in a revised Constitutional Treaty.

In December 2001, at the Laeken summit, the debate initiated in Nice was formalised in the shape of the European Convention for the Future of the European Union. In preparation for the 2004 Intergovernmental Conference, which

will revise the treaties on which the European Community and the European Union activities are currently based, an extraordinary debate within the European Convention is taking place. During the first months of 2003 the Convention has gained momentum, and it is already producing draft articles of what could become the new Constitutional Treaty of the European Union.

## Purpose and current status of the European Convention

The European Convention takes on a significant task as it tries to consolidate the elements of European identity into a document that will shape and guide the policy of the European Union into the future. It is crucially important that during this momentous phase of the history of the Union, due to its enlargement, the European identity is accurately represented and codified. Simplification of existing treaties, improved democracy and transparency constitute core objectives of the Convention's proceedings. The process should result in a Union, which, drawing strength from the active involvement of its citizens, can have an increased influence in world affairs.

Following a series of discussions, consultations and working groups initiated in March 2002, the Convention Praesidium presented a first draft text in October 2002. Referred to as a 'skeleton treaty' it presented the Praesidium's proposal of the structure of a new coherent document that could replace the existing treaties with one Constitutional Treaty of the European Union.

Since the beginning of February 2003 more detailed draft articles have been presented by the Praesidium engaging the Members of the Convention in a discussion on topics as diverse as the values and objectives of the Union, the division of competences, revision of the legislative instruments, management of the finances as well as the decision-making authority of each of the instruments of the Union.

## The Convention and the environment

The breadth of the topics covered by the Convention allows for the environmental dimension to be crystallised within the political as well as the legal and institutional frameworks of the European Union. The Convention has the task of proposing solutions to the difficulties of European governance in an ever-

### Who's who in the European Convention

The Convention consists of 105 Members who represent Heads of State or Governments and National Parliaments of the 15 Member-States and the 13 Accession and Candidate Countries as well as the European Parliament and the European Commission. Former President of France, Valéry Giscard D'Estaing acts as the Chairman of the Convention, while former Prime Ministers of Belgium and Italy, Jean-Luc Deheane and Giuliano Amato, respectively, act as the Convention's Vice-Chairmen. The Convention proceedings are managed by the Praesidium, which consists of 13 of its Members. In addition, representatives from the Committee of the Regions, the Economic and Social Committee, the European Social Partners and the European Ombudsman serve as observers to the European Convention.

larger Union. The solutions should build on and not undermine existing accomplishments, including in the environment area. The Convention constitutes an opportunity to achieve greater policy coherence in the internal and external affairs of the European Union. This policy coherence must be rooted in the commitment, already enshrined in the existing treaties, to the protection and the improvement of the environment and the promotion of sustainable development.

The Green 8 have outlined the elements that are necessary for a new Constitutional Treaty. The new Constitution should:

- maintain the objectives and principles essential for environment and sustainable development;
- guarantee the right of access to information, public participation in decision making and access to justice for all its citizens and residents;
- extend transparency requirements to all EU bodies;
- revise old and outdated objectives of the sectoral policies of the EU.

### **Reasons behind the Green 8's concerns**

The Green 8 are alarmed by the fact that the draft for a new European Constitution lacks a strong environmental dimension. In particular, the first 16 articles of the new draft Treaty neglect the shared value of environmental integrity. This value is enshrined in Article 2 of the present EC Treaty, which sets the promotion of "a high level of protection and improvement of the quality of the environment" as a task of the Community. The proposed Constitution not only omits this sentence, but contains a definition of sustainable development that is only based on social and economic considerations and does not even mention the environmental dimension. The wording of Article 6 of the EC Treaty, which obliges the EU to integrate, in all its policies, environmental protection requirements, has also completely disappeared. Specific concerns are listed below.

### **Part One of the Convention: constitutional structure**

#### **Article 3: Objectives of the EU – definition of sustainable development**

The definition of sustainable development, as an objective of the Union, in the draft article 3 does not include the environment. The language should be that of article 2 of the EC Treaty and, therefore, explicitly refer to "a high level of protection and improvement of the quality of the environment" and "needs of the present generation with respect for the rights of future generations".

#### **Article 8: Fundamental principles of the Union – environmental policy integration and policy coherence**

Draft Article 8, which outlines the fundamental principles of the EU, does not include reference to the principles of environmental policy integration and of policy coherence.

**Environmental policy integration:** The integration principle is part of the existing EC Treaty (Article 6) and is found in the same prominent place in the front of the EC Treaty as other fundamental principles (subsidiarity, proportionality). The integration principle is an essential support to the Union's objective of sustainable development. To treat the integration principle differently from other established principles and to give it a less prominent place in the Constitution than it now has would be a major step backwards.

**Policy coherence:** The resolution of environmental questions in developing countries is inextricably linked to the fight against poverty. The consideration of this link in the whole of the policies and actions of the Union, and as they affect developing countries, should be taken into account in the principles of the future Constitutional Treaty of the Union. The principle is mentioned in Article 3 of the EU Treaty and in Article 178 of the EC Treaty.

#### **Transparency and participatory democracy:**

**Transparency:** The principle of transparency should apply throughout the legislative procedure, including committees meetings, the plenary sessions of the Parliament as well as the conciliation meetings between the Council and the Parliament under the co-decision procedure (proposed **Articles 25 and 27**).

**Participatory democracy:** The Convention is presently working on the drafting of the articles on participatory democracy, which were included in the skeleton treaty in October 2002. The Green 8 have used the Aarhus Convention as the basis for recommendation of specific wording for the proposed **Article 34** guaranteeing the rights to access to information, public participation in decision making and access to justice.

**Open decision-making:** The Green 8 advocate specific wording for proposed **Article 36** ensuring that the Council will meet in public when acting in its legislative capacity and that the records of its proceedings and votes will be published. This requirement should also apply to the conciliation process with the European Parliament.

### Part Two of the Convention – Union Policies

For Part Two of the Constitutional Treaty on Union Policies and their Implementation, the Praesidium intends to propose articles borrowed from the existing treaties, without discussing their content in detail. This will mean that the wording of the objectives of many of the specific policies will remain outdated and incompatible with the Union's overall objective of sustainable development and the fundamental principles of environmental policy integration and coherence which apply to all Union policies.

The new Constitutional Treaty should ensure that the wording of the sectoral competences and policies of the Union is updated so that the definition and implementation of the Union's policies reinforce, instead of contradict, the fundamental principles of environmental policy integration and policy coherence in support of the Union's overarching objective of sustainable development. This is necessary in order for the Convention to achieve its goal of drafting a Constitutional Treaty that is coherent and accessible to European citizens.

The Green 8 have raised the following concerns:

- In particular, we are concerned with the wording in the following policy chapters of the current EC Treaty: agriculture (art. 32-38), transport (art. 70-80), economic and social cohesion (art. 158-162), common commercial policy (art. 131-134) and development co-operation (art. 177-181).
- As regards the current provisions on the environment (art.174-176), existing language should not be changed with an exception of ensuring Qualified Majority Voting in all environmental areas.
- If a Title on energy is added to the new Constitutional Treaty, action by the Union relating to energy production, transmission, use, storage and related matters should have the following objectives:
  - Securing an environmentally sound energy system which contributes to the conservation of natural

resources and the minimization of short term and long term risks to human health and the environment.

- Fulfilling Article 2 (the objective) of the United Nations Framework Convention on Climate Change.
- The use of renewable energy sources and the implementation of energy efficiency and energy conservation measures shall have priority in the realization of these objectives.
- The abolishment of EURATOM in its current form is a precondition for any further integration of the EU on energy.

### Conclusion

The Green 8 have been coordinating their efforts in order to actively contribute to the development of the new Constitutional Treaty of the Union in order to ensure that the value of environmental integrity and the EU's leadership role on sustainable development will both be confirmed and consolidated.

Recognising sustainable development as its objective, the European Union should regard the protection and improvement of the environment as a strong and inviolate pillar of the EU of the 21<sup>st</sup> century. Integrating the environmental dimension into the sectoral policies, the European Union can continue creating momentum, nationally as well as internationally, towards a future that does not jeopardise the quality of life of both present and future generations.

As the European Convention proceeds with the drafting of a new European Constitutional Treaty, the environmental identity of the European Union of 25 countries must not be lost or forgotten by the drafters. There surely must be no going back on the environmental and sustainable development advances made over the past 30 years to the point where Europe now has a world leadership role for environmental management.

This report was written by Ioli Christopoulou of the WWF European Policy Office.

FERN promotes the conservation and sustainable use of forests and respect for the rights of forest peoples in the policies and practices of the European Union. See [www.fern.org](http://www.fern.org)

**FERN Brussels**, 20 Avenue des Celtes, 1040 Brussels, Belgium.

Tel: +32 2 742 2436. Fax: +32 2 736 8054. E-mail: [info@fern.org](mailto:info@fern.org)

**FERN UK**, 1c Fosseyway Business Park, Stratford Road, Moreton-in-Marsh, GL56 9NQ, UK.

Tel: +44 1608 652 895. Fax: +44 1608 652 878. E-mail: [info@fern.org](mailto:info@fern.org)