

AMENDMENT FORM

Suggestion for amendment of Part III

By : TIMOTHY KIRKHOPE MEP

Status : MEMBER

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
<u>PART THREE: GENERAL AND FINAL PROVISIONS</u>	<u>PART THREE: GENERAL AND FINAL PROVISIONS</u>
<u>Article A: Repeal of earlier Treaties</u> The Treaty establishing the European Community of 25 March 1957, the Single Act of 17 February 1986, the Treaty on European Union of 7 February 1992, the Treaty of Amsterdam of 2 October 1997 and the Treaty of Nice of 26 February 2001 shall be repealed as from the date of entry into force of the Constitutional Treaty. The acts and treaties listed in the Annex shall also be repealed.	<u>Article A: Repeal of earlier Treaties</u> The Treaty establishing the European Community of 25 March 1957, the Single Act of 17 February 1986, the Treaty on European Union of 7 February 1992, the Treaty of Amsterdam of 2 October 1997 and the Treaty of Nice of 26 February 2001 shall be repealed as from the date of entry into force of the <i>simplifying</i> Treaty. The acts and treaties listed in the Annex shall also be repealed.
<u>Article B: Legal continuity in relation to the European Community and the European Union</u> The European Union shall succeed to all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Constitutional Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives. The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force insofar as they are compatible with the Constitution. The case-law of the Court of Justice of the European Communities shall be maintained as a preferential source of interpretation of the Constitution and acts prior to its entry into force.	<u>Article B: Legal continuity in relation to the <i>previous</i> European Community and the European Union</u> The European <i>Community</i> shall succeed to all the rights and obligations of the <i>previous</i> European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the <i>simplifying</i> Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives. The provisions of the acts of the Institutions of the <i>Community</i> , adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force insofar as they are compatible with the <i>simplifying Treaty</i> . The case-law of the Court of Justice of the European Communities shall be maintained as a preferential source of interpretation of the <i>simplifying Treaty</i> and acts prior to its entry into force.

	<p>Explanation: If the European Union were to revert back to being the European Community (the option presented by the Convention Chairman which I support), the simplifying Treaty would need to differentiate between the <i>previous</i> Community and the <i>new</i> Community.</p>
<p><u>Article C: Scope</u></p> <p>1. The Constitutional Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland, ...</p> <p>2. The Constitutional Treaty shall apply to the French overseas departments, the Azores, Madeira and the Canary Islands in accordance with Article ... of Part Two.</p> <p>3. The special arrangements for association set out in Part [Four of the TEC] of the Constitutional Treaty shall apply to the overseas countries and territories listed in [Annex II to the TEC].</p> <p>The Constitutional Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.</p> <p>4. The Constitutional Treaty shall apply to the European territories for whose external relations a Member State is responsible.</p> <p>5. The Constitutional Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.</p>	<p><u>Article C: Scope</u></p> <p>1. The <i>simplifying</i> Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland, ...</p> <p>2. The <i>simplifying</i> Treaty shall apply to the French overseas departments, the Azores, Madeira and the Canary Islands in accordance with Article ... of Part Two.</p> <p>3. The special arrangements for association set out in Part [Four of the TEC] of the <i>simplifying</i> Treaty shall apply to the overseas countries and territories listed in [Annex II to the TEC].</p> <p>The <i>simplifying</i> Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.</p> <p>4. The <i>simplifying</i> Treaty shall apply to the European territories for whose external relations a Member State is responsible.</p> <p>5. The <i>simplifying</i> Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.</p>

<p>6. Notwithstanding the preceding paragraphs:</p> <p>(a) the Constitutional Treaty shall not apply to the Faeroe Islands;</p> <p>(b) the Constitutional Treaty shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;</p> <p>(c) the Constitutional Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community, signed on 22 January 1972.</p>	<p>6. Notwithstanding the preceding paragraphs:</p> <p>(a) the <i>simplifying</i> Treaty shall not apply to the Faeroe Islands;</p> <p>(b) the <i>simplifying</i> Treaty shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;</p> <p>(c) the <i>simplifying</i> Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community, signed on 22 January 1972.</p>
<p><u>Article D: Regional unions</u></p> <p>The Constitutional Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of the Constitutional Treaty.</p>	<p><u>Article D: Regional unions</u></p> <p>The <i>simplifying</i> Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of the <i>simplifying</i> Treaty.</p>
<p><u>Article E: Protocols</u></p> <p>The protocols annexed to this Treaty shall form an integral part thereof.</p>	<p><u>Article E: Protocols</u></p> <p>The protocols annexed to this Treaty shall form an integral part thereof.</p>
<p><u>Article F: Procedure for revising the Constitutional Treaty</u></p> <p>The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.</p> <p>If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference</p>	<p><u>Article F: Procedure for revising the Constitutional Treaty</u></p> <p>The government of any Member State or the <i>European Parliament</i> may submit to the Council proposals for the amendment of the <i>simplifying</i> Treaty. The national Parliaments shall be notified of these proposals.</p> <p>If the Council, after consulting the European Parliament, <i>agrees by unanimity to open the simplifying Treaty for renegotiation, a Convention of representatives from the Member States and the Accession States shall be convened.</i> The Council of</p>

<p>shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.</p> <p>The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.</p>	<p>the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.</p> <p>The amendments shall enter into force after being ratified by all the Member States in <i><u>national referenda, where permitted by national constitutions</u></i>.</p> <p>Explanation: As the directly elected institution of the Community, the European Parliament should have the power to propose amendments to the simplifying Treaty to the Council.</p>
<p><u>Article G: Adoption, ratification and entry into force of the Constitutional Treaty</u></p> <p>1. The Constitutional Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.</p> <p>2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.</p> <p>3. If, two years after the signature of the Constitutional Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.</p>	<p><u>Article G: Adoption, ratification and entry into force of the <i>simplifying</i> Treaty</u></p> <p>1. The <i>simplifying</i> Treaty shall be ratified by the High Contracting Parties <i><u>through national referenda, where permitted by national constitutions</u></i>. The instruments of ratification shall be deposited with the Government of the Italian Republic.</p> <p>2. The <i>simplifying</i> Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.</p> <p>3. If, two years after the signature of the <i>simplifying</i> Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council <i><u>which shall act on a unanimous basis</u></i>.</p> <p>Explanation: Unanimity is important because Member States should not proceed without the full support of other Member States, unless they are doing so on a bilateral or multilateral basis.</p>

<p><u>Article H: Duration</u></p> <p>The Constitutional Treaty is concluded for an unlimited period.</p>	<p><u>Article H: Duration</u></p> <p>The <i>simplifying</i> Treaty is concluded for an unlimited period. <i>If, however, an amending Convention has not been convened for more than ten years since the date of ratification, a new Convention shall be automatically convened to review the simplifying Treaty.</i></p> <p>Explanation: The simplifying Treaty should be reviewed every ten years, thus keeping the scrutiny of the purposes and principles of the Community under regular review.</p>
<p><u>Article I: Languages</u></p> <p>The Constitutional Treaty, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish, Swedish and ... languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.</p>	<p><u>Article I: Languages</u></p> <p>The <i>simplifying</i> Treaty, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish, Swedish and ... languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.</p>

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Part3Demiralp.doc.

Déposée par ~~Madame ou~~ Monsieur Oğuz DEMIRALP

Qualité : ~~-Membre~~ - Suppléant

Article F : Procédure de révision du Traité constitutionnel :

- Ajouter dans le deuxième paragraphe de cet article « d'une Convention qui précèdera celle » :

Si le Conseil, après avoir consulté le Parlement européen et, le cas échéant, la Commission, émet un avis favorable à la réunion d'une Convention qui précèdera celle d'une conférence des représentants des gouvernements des États membres, celle-ci est convoquée par le président du Conseil en vue d'arrêter d'un commun accord les modifications à apporter au Traité constitutionnel. Dans le cas de modifications institutionnelles dans le domaine monétaire, le Conseil de la Banque centrale européenne est également consulté.

Explication éventuelle :

Le texte proposé par le secrétariat ne modifie pas sensiblement la méthode actuelle de révision des traités. Comme les négociations intergouvernementales concernant le Traité de Nice l'ont montré, cette méthode ne semble pas être la plus appropriée pour l'Union. Par conséquent, il faut inclure la méthode conventionnelle comme voie privilégiée de révision du Traité constitutionnel. **En effet, l'une des principales nouveautés de cette méthode consiste dans le fait qu'elle a modifié la notion du pouvoir constituant à l'échelle de l'Union tout en élargissant sa base parlementaire.** C'est en cela que la méthode conventionnelle se distingue principalement du processus de négociation diplomatique classique, et cet acquis devrait être maintenu.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Part3Demiralp.doc.

Déposée par ~~Madame ou~~ Monsieur Oğuz DEMIRALP

Qualité : ~~-Membre~~ - Suppléant

Article B : Continuité juridique par rapport à la Communauté européenne et à l'Union européenne :

- **Ajouter « de nature légale et politique » :**

L'Union européenne succède aux Communautés européennes et à l'Union dans tous les droits et obligations **de nature légale et politique** de celles-ci, qu'ils soient internes ou résultent d'accords internationaux, nés avant l'entrée en vigueur du Traité constitutionnel en vertu des traités, protocoles et actes antérieurs, y compris tous les éléments du patrimoine actif et passif des Communautés et de l'Union, ainsi que leurs archives.

Explication éventuelle :

Cette modification s'avère légalement nécessaire afin de souligner que l'Union européenne sera le successeur des droits et obligations émanant non seulement des engagements légaux mais aussi politiques qui sont également significatifs, en ce moment, dans le fonctionnement de l'Union.

AMENDMENT FORM

Suggestion for amendment of: **PART THREE: GENERAL AND FINAL PROVISIONS**

Article F: Procedure for revising the Constitutional Treaty

By: Josef Zieleniec

Status: Member

Text of the Praesidium

Article F: Procedure for revising the Constitutional Treaty

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Proposed Amendments

Article F: Procedures for revising the Constitution

The government of any Member State, the Commission **or the European Parliament** may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

a) The procedure for revising the part I or III of the Constitution shall be as follows:

If the Council, after consulting the European Parliament and, ~~where appropriate,~~ the Commission, delivers, **by qualified majority**, an opinion in favour of **the revision of the part I or III of the Constitution, a Constitutional Convention** shall be convened by the President of the Council for the purpose of **proposing by consensus** the amendments to be made to the part I or III of the Constitution.

The Constitutional Convention shall be composed of a representative delegated by the government of each Member State, two representatives delegated by the national parliaments of each Member State, 16 representatives of the European Parliament and 2 members of the European Commission.

The President of the Convention shall be appointed by the Council with the approval of the European Parliament.

A representative of the ECB shall be member of the Convention, in the case of institutional changes in the monetary area.

The Council and the European Parliament by a common agreement shall appoint observers to the Constitutional Convention.

The amendments to the Constitution adopted by consensus by the Constitutional Convention are submitted to an extraordinary European Council

convened within 60 days following the conclusion of the Constitutional Convention's work.

The text of the constitutional amendments approved by unanimity within the European Council is submitted to the European Parliament for assent.

If the amendments are assented by a majority of all members of the European Parliament, they shall be submitted for ratification to the Member States, in accordance with their respective constitutional requirements.

The amendments shall enter into force after the ratification by all Member States.

b) The procedure for revising the part II of the Constitution shall be as follows:

If the Council, after consulting the European Parliament and, ~~where appropriate,~~ the Commission, delivers, **by qualified majority**, an opinion in favour of **the revision of the part II of the Constitution, an extraordinary European Council** shall be convened by the President of the Council for the purpose of **adopting by unanimity a proposal of the amendments to be made to the part II of the Constitution.**

The amendments shall enter into force after being assented by a majority of all members of the European Parliament and after being ratified by the Member States in accordance with their respective constitutional requirements.

Explanation:

- the Convention method should become the standard method for revising the Constitution. The combination of the Convention (drafting a proposal by consensus) and the European Council acting by unanimity can replace the traditional IGC method.
- nevertheless, a difference should be established between the procedure for revising the part I and II of the Constitution. However, this difference should not concern the majority required (in both cases the unanimity should be the rule), but the length and the complexity of the procedure. Any change of the part I or III requires a consensus within a Constitutional Convention, which guarantees that a broader range of opinions has necessarily to be taken into account.

FICHE AMENDEMENT

Proposition d'amendement à l'Article: F (Teil III, Allgemeine und Schlussbestimmungen)

Déposée par Monsieur: Joachim Wuermeling

Qualité: Suppléant

Texte du Praesidium

Die Regierung jedes Mitgliedstaats oder die Kommission kann dem Rat Entwürfe zur Änderung des Verfassungsvertrags vorlegen. Diese Entwürfe werden den einzelstaatlichen Parlamenten mitgeteilt.

Gibt der Rat nach Anhörung des Europäischen Parlaments und gegebenenfalls der Kommission eine Stellungnahme zugunsten des Zusammentritts einer Konferenz von Vertretern der Regierungen der Mitgliedstaaten ab, so wird diese vom Präsidenten des Rates einberufen, um die an dem Verfassungsvertrag vorzunehmenden Änderungen zu vereinbaren. Bei institutionellen Änderungen im Währungsbereich wird auch die Europäische Zentralbank gehört.

Die Änderungen treten in Kraft, nachdem sie von allen Mitgliedstaaten gemäß ihren verfassungsrechtlichen Vorschriften ratifiziert worden sind.

Amendement proposé

*Unterstützung des Vorschlags
des Präsidiums*

Begründung:

Es wird hervorgehoben, dass Änderungen des Verfassungsvertrags in allen seinen Teilen ratifikationsbedürftig bleiben müssen.

Mit Bezug auf die ergänzenden Ausführungen und Fragestellungen des Präsidiums in Conv. 647/03 zu Art. F wird hierzu hervorgehoben:

- Die Entscheidung über die künftige Änderungen der auf die EU übertragenen Hoheitsrechte muss den Mitgliedstaaten vorbehalten bleiben. Die Mitgliedstaaten müssen deshalb Herren der Verträge bleiben. Hierzu gehört ebenso wie das Initiativrecht jedes Mitgliedstaates für Vertragsänderungen, dass Vertragsänderungen durch alle Mitgliedstaaten ratifiziert werden müssen und EU-Organe oder ihre Vertreter nicht über Vertragsänderungen mitentscheiden. Das Ratifikationsrecht der Mitgliedstaaten darf auch nicht durch die Schaffung sogenannter „Organgesetze“ umgangen werden.
Die wegen des Zustimmungsrechtes aller Mitgliedstaaten erwarteten Probleme sind auch in der erweiterten Union beherrschbar.
Das muss vor allem dadurch zum Ausdruck kommen, dass ihnen nicht gegen ihren Willen Kompetenzen und Finanzmittel entzogen werden dürfen. Ansonsten nähme der Verfassungsvertrag den nationalen Parlamenten das wichtigste europäische Recht, die Ratifizierung der Verträge.

Hilfsweise könnte für den Fall der Blockade einer Vertragsänderung durch einen Staat auf die flexible Zusammenarbeit zurückgegriffen werden, wenn eine grosse Mehrheit von Mitgliedstaaten ein gemeinschaftliches Vorgehen für unverzichtbar hält.

- Wie Vertragsänderungen künftig vorbereitet werden sollten, kann erst nach Abschluss der Konventsarbeiten beurteilt werden. Dies gilt auch die vom Präsidium aufgeworfene Frage, in welcher Weise die mitgliedstaatlichen Parlamente an Vertragsänderungen beteiligt werden sollten. Der vom Konventspräsidium erneut genannte Vorschlag, einen „Kongress“ einzurichten, wird jedoch als nachteilig gesehen. Neue Institutionen würden die EU komplizierter machen.
- Gemeinschaftsautonome Vertragsänderungsverfahren müssen den Gegenstand

der den EU-Organen überlassenen Vertragsänderung präzise bestimmen, damit die Legitimation von Vertragsänderungen durch die in den Mitgliedstaaten zur Ratifikation berufenen Volksvertretungen bzw. der in Referenden abstimmenden Völker gewährleistet ist. Sie sind deshalb nur in sehr begrenzten Ausnahmefällen, z.B. bei Regelungen rein technischer Art ohne wesentlichen materiellen Regelungsgehalt sinnvoll.

AMENDMENT FORM

Suggestion for amendment of Article :Article F doc

Suggestion forPart III

By Ms / Mr : Voggenhuber, MacCormick, Lichtenberger, Nagy

Status : - Member - Alternate

Article F : Procedure for revising the Constitutional Treaty

~~1. The government of any Member State, or the Commission, may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals. If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.~~

~~The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.~~

1. Amendments of the Constitution shall be made upon a proposal by a Constitutional Convention and shall be adopted by the Council by a $\frac{3}{4}$ majority of the votes and the European Parliament has given its approval by means of a $\frac{2}{3}$ majority of the seats. They shall enter into force once they have been ratified by $\frac{3}{4}$ of the national Parliaments.

2. The Constitutional Convention shall be convened by the European Council upon the request of one half of the national parliaments or by $\frac{2}{3}$ of the members of the European Parliament. The Convention shall be given a mandate by the European Parliament and the Council by means of a qualified majority. The national parliaments shall send two members each, the European Parliament an equal number. The Commission shall nominate two representatives, the Member States governments one member each. The President of the European Parliament shall chair the Convention.

Explanation (if any) :

It should be referred here and throughout to the "Constitution" and not to the "Constitutional Treaty"

AMENDMENT FORM

Suggestion for amendment of Article G, Part III

By Mr Ingvar Svensson

Status : Alternate

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

1. The Constitutional Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.

~~3. If, two years after the signature of the Constitutional Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.¹~~

¹ Article G.3 is unnecessary. The European Council already has the possibility to discuss political solutions if a Member State does not ratify a Treaty. This has also happened after referenda in Denmark and Ireland where there has been a majority in favour of rejecting a Treaty. Thus, this paragraph could be deleted.

AMENDMENT FORM

Suggestion for amendment of Article A (part III of the Treaty)

By Mr Poul Schlüter

Status: Alternate

Article A: Repeal of earlier Treaties

The Treaty establishing the European Community of 25 March 1957, the Single Act of 17 February 1986, the Treaty on European Union of 7 February 1992, the Treaty of Amsterdam of 2 October 1997 and the Treaty of Nice of 26 February 2001 shall be repealed as from the date of entry into force of the Constitutional Treaty. The acts and treaties listed in the Annex shall also be repealed.

P.m:

The Danish government can only support a repeal of earlier Treaties if the *acquis communautaire*, including the existing protocols, is continued.

Explanation:

AMENDMENT FORM

**Suggestion for amendment of Article F:
Procedure for revising the Constitutional Treaty**

Suggestion for Part III: General and final provisions

By Mr : **dr. Dimitrij Rupel Janez Lenarčič**

Status : **- Member** **- Alternate**

Article F: Procedure for revising the Constitutional Treaty

We would like to insert of a second paragraph:

"The Conference of the Representatives of the Governments of the Member States may be preceded by a preparatory Convention convened by the European Council and composed of representatives of the national Parliaments, the Heads of State or Government of the Member States, the European Parliament, the Council and the Commission. At the close of its proceedings, the Convention shall adopt by consensus a recommendation to the Conference of the Representatives of the Governments of the Member States."

AMENDMENT FORM

Suggestion for amendment of Article : C

Suggestion for Part III

By Mr : Danny PIETERS

Status : ~~Member~~ - Alternate

Voeg een lid 7 toe aan artikel C, houdend :

« Het constitutioneel verdrag blijft van toepassing op de delen van de in lid 1 bedoelde staten evenals op de gebieden bedoeld in de leden 2 tot 5 wanneer deze delen of gebieden soevereiniteit verwerven en binnen het jaar de wil tot behoud van het lidmaatschap van de Europese Unie kenbaar maken. In voorkomend geval worden onmiddellijk na kennisgeving onderhandelingen tussen de Unie en de nieuwe staat begonnen teneinde de modaliteiten van dit lidmaatschap nader te bepalen. De overeenkomst die er binnen het jaar uit voortvloeit wordt namens de Unie door de Raad met gekwalificeerde meerderheid van stemmen na instemming van het Europese Parlement gesloten. De lidstaat die vroeger soevereiniteit over het deel van een in lid 1 bedoelde staat of over een in de leden 2 tot 5 bedoeld gebied uitoefende neemt niet deel aan de desbetreffende beraadslagingen of de besluitvorming van de Raad. »

Explanation (if any) :

Het valt niet uit te sluiten dat lidstaten constitutionele veranderingen ondergaan, waardoor de bestaande lidstaten ophouden te bestaan, of deze ophouden hun soevereiniteit over delen of gebieden verliezen. Ten einde de continuïteit van de Unie maximaal te verzekeren is het daarom aangewezen ook een voorziening te treffen voor wat er dan gebeurt. De oplossing is deze van het naadloos voortzetten van het lidmaatschap door de nieuwe soevereine entiteit, zo deze laatste zulks wil. Indien dit niet het geval is, zal de zaak volgens de algemene regels van de statenopvolging geregeld worden. Uiteraard moeten bij voortgezet lidmaatschap door de nieuwe soevereine entiteit afspraken gemaakt worden, zo b.v. over het aantal Europarlementairen die afgevaardigd worden (en mogelijk de reductie van het aantal uit de vroeger bevoegde staat). Hiervoor wordt een procedure en een tijdpad voorgesteld analoog aan (maar uiteraard wezenlijk verschillend van) dit voorzien voor de uittreding.

AMENDMENT FORM

Suggestion for amendment of Article : I

Suggestion for Part III

By Mr : Danny PIETERS

Status : ~~Member~~ Alternate

Inlassen tussen « ...in één exemplaar » en « in de Deense, de Duitse... » :
« in elk officiële taal van de Unie, te weten »

Explanation (if any) :

Niet alleen wordt de tekst aldus ook taalkundig correct (het woordje taal lijkt vergeten in voorgestelde tekst), doch daarenboven wordt meteen aangegeven welke de officiële talen van de Unie zijn. Dit is overigens de reden waarom het constitutioneel verdrag ook authentiek in die taal geldt.

AMENDMENT FORM

Suggestion for Part III

By Mr : Józef Oleksy

Status : Member

Article F: Procedure for revising the Constitutional Treaty

1. The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

2. **"The Conference of the Representatives of the Governments of the Member States may be preceded by a preparatory Convention convened by the President of the European Council and composed of representatives of the national Parliaments, the Heads of State or Government of the Member States, the European Parliament, the Council and the Commission. At the close of its proceedings, the Convention shall adopt by consensus a recommendation to the Conference of the Representatives of the Governments of the Member States."**

Explanation (if any) :

The second paragraph follows the recommendation by the Working Group on National Parliaments to formalize the method of a Convention in a future Constitutional Treaty as a preparatory mechanism for future Treaty changes.

AMENDMENT FORM

Suggestion for amendment of Part III

By: The Earl of Stockton MEP

Status : - Alternate

Article A: Repeal of earlier Treaties

The Treaty establishing the European Community of 25 March 1957, the Single Act of 17 February 1986, the Treaty on European Union of 7 February 1992, the Treaty of Amsterdam of 2 October 1997 and the Treaty of Nice of 26 February 2001 shall be repealed as from the date of entry into force of the Constitutional Treaty. The acts and treaties listed in the Annex shall also be repealed. The Constitutional Treaty shall not repeal, alter or invalidate any of the provisions of the above in as far as they are not reproduced in the new Treaty.

Article B: Legal continuity in relation to the European Community and the European Union

The European Union shall succeed to all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Constitutional Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force (DELETE REST OF SENTENCE). The case-law of the Court of Justice of the European Communities shall be maintained as a preferential source of interpretation of the Constitution and acts prior to its entry into force.

Article C: Scope

1. The Constitutional Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Republic of Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland, ...

2. The Constitutional Treaty shall apply to the French overseas departments, the Azores, Madeira, the Canary

Islands and Gibraltar in accordance with Article ... of Part Two.

3. The special arrangements for association set out in Part [Four of the TEC] of the Constitutional Treaty shall apply to the overseas countries and territories listed in [Annex II to the TEC].

The Constitutional Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

4. The Constitutional Treaty shall apply to the European territories for whose external relations a Member State is responsible.

5. The Constitutional Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

6. Notwithstanding the preceding paragraphs:

- (a) the Constitutional Treaty shall not apply to the Faeroe Islands;
- (b) the Constitutional Treaty shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;
- (c) the Constitutional Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community, signed on 22 January 1972.

Article D: Regional unions

The Constitutional Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of the Constitutional Treaty.

Article E: Protocols

The protocols annexed to this Treaty shall form an integral part thereof.

Article F: Procedure for revising the Constitutional Treaty

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments and the European Parliament shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by unanimity the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

1. The Constitutional Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.
3. If, two years after the signature of the Constitutional Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council which shall act only on a unanimous basis.

Article H: Duration

The Constitutional Treaty is concluded for an unlimited period. However, if an amending Convention has not been convened for more than ten years since the date of ratification, a new Convention shall be automatically convened to review the Constitutional Treaty.

Article I: Languages

The Constitutional Treaty, drawn up in a single original in English and translated into the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish, Swedish and ... languages, the

texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

Explanation (if any) :

With regard to Article I; Any future translations of the Constitutional Treaty will be made from a single source, the language most widely read and spoken in the European Union. This would include not only the languages of future Member States, but also those spoken by minorities within Member States.

AMENDMENT FORM

Suggestion for amendment of Article: F

Suggestion for Part III

By Ms: Meglena Kuneva

Status: Member

Article F: Procedure for revising the Constitutional Treaty

1. The government of any Member State, or the Commission, may submit to the Council proposals for the amendment of **the first part of** the Constitutional Treaty. The national Parliaments shall be notified of these proposals.
If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.
The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.
 2. **Following a decision of the Council**, the Conference of the Representatives of the Governments of the Member States may be preceded by a preparatory Convention convened by the President of the European Council and composed of representatives of the national Parliaments, the Heads of State or Government of the Member States, the European Parliament, the Council and the Commission. At the close of its proceedings, the Convention shall adopt by consensus a recommendation to the Conference of the Representatives of the Governments of the Member States.
 3. **The government of any Member State, or the Commission, may submit to the Council proposals for amendments to the second part of the Constitutional Treaty. The national parliaments shall be notified of these proposals.**
The Council, after consulting the European Parliament and, where appropriate, the Commission, shall take a decision by unanimity on the amendments to be made to the second part of the Constitutional Treaty.
-

Explanation (if any):

With a view to achieving flexibility and avoiding constant IGCs in the future we consider that the procedure for revising the constitutional treaty should be different for its two composite parts. The first part, if subject to amendment, should be preceded by an IGC, and where appropriate, upon a decision of the Council, by a Convention and should require ratification by all Member States. The second part – functional or technical provisions - dealing predominantly with common policies, should be amended following an easier procedure that requires solely a decision of the Council.

AMENDMENT FORM

Suggestion for amendment of Article: G

Suggestion for Part III

By Ms: **Meglana Kuneva**

Status: **Member**

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

1. The **present** Constitutional Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
2. The **present** Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.
3. If, two years after the signature of the **present** Constitutional Treaty, ~~four-fifths of the Member States have ratified it and~~ one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.

Explanation (if any):

We do not see the need for introducing that threshold, since it would suffice to have even one case (Member State) of non-ratification in order to refer the matter to the European Council.

AMENDMENT FORM

Suggestion for amendment of Article : Part III

By Ms / Mr : J. Kohout

Status : - Member

Art. B.2

The validity of the secondary acts should be scrutinized prior to the enforcement of the Constitutional Treaty. The Convention should recommend to the IGC to work out (or to let the Council do so) a Protocol containing all the acts not compatible with the new Constitutional Treaty.

Art. D

It could be considered to formulate the Article in general terms so that other regional entities than Benelux could be covered.

Art. F

Amendments to Part I should be made on a proposal by Member State/s (alternatively by a Convention), being subject for ratification in all Member States according to the current provisions for Treaty amendments.

Amendments to Part II should be made on a proposal by Member State/s or the Commission, being subject for super-QMV and codecision in the EP (by super-QMV as well).

The NPs shall be involved in the process (early warning mechanism) if a revision of competences is included in the given amendment.

There is no role for a Congress in the amending process.

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Artigo I

Déposée Monsieur Luís Queiró

Qualité : Suppléant

O Tratado (1 palavra suprimida), redigido num único exemplar, nas línguas alemã, dinamarquesa, espanhola, finlandesa, francesa, grega, inglesa, irlandesa, italiana, neerlandesa, portuguesa, sueca e ..., fazendo fé qualquer dos textos, será depositado nos arquivos do Governo **do Estado-Membro que estiver a exercer a Presidência**, o qual remeterá uma cópia autenticada a cada um dos governos dos outros Estados signatários.

Explication éventuelle :

Não compete à Convenção determinar o calendário da negociação, aprovação, ratificação e entrada em vigor do presente Tratado.

AMENDMENT FORM

Suggestion for amendment of Article :I (part 3)

Suggestion for protocol :

By Mr David Heathcoat-Amory, Mr Bonde

Status :X - Member - Alternate

N.B. ‘()’ denote text deleted ‘_____’ denotes text added

Article I: Languages 1

The Constitutional Treaty, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish, Swedish, Catalan, Aragonese, Basque, Asturian, Galician, Scots, Scots Gaelic, Welsh, Cornish, Breton, Ocitan, Franco-Provencal, Luxemburgish, Alsacian, Romany, Low German, Corsican, Sorbian, Low Saxon, Limburgish, Frisian, Aroumanian, Pomak, Friulian, Sard, Sami and ... languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

Explanation (if any) :

While in no way detracting from the authority of the official languages of the member states, the Laeken mandate of bringing Europe closer to its citizens suggests that this Treaty should be understood and debated by all.

The inserted minority languages are recognized by the European Bureau of Lesser Used Languages.

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Artigo H

Déposée Monsieur Luís Queiró

Qualité : Suppléant

O Tratado (1 palavra suprimida) tem vigência ilimitada.

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article F

By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, Mr Kenneth Kvist and Mr Ingvar Svensson, national parliament representatives.

Status : - Member: Hjelm-Wallén and Lekberg
 - Alternate: Petersson, Kvist and Svensson

Article F: Procedure for revising the Constitutional Treaty¹

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

¹ We welcome that the revision procedure remains unchanged. The system laid down in this Article is very flexible. It enables both an extensive process, including the use of a convention, dealing with a large group of issues and the possibility of changing a single Article in a relatively short period of time.

FICHE AMENDEMENT

Proposition d'amendement à la Partie III

Déposée par MM. Haenel, membre titulaire, et Badinter, membre suppléant

Article A : Abrogation des Traités antérieurs

A la date d'entrée en vigueur du Traité constitutionnel, le Traité instituant la Communauté européenne du 25 mars 1957, l'Acte unique du 17 février 1986, le traité sur l'Union européenne du 7 février 1992, ainsi que les traités d'Amsterdam du 2 octobre 1997 et de Nice du 26 février 2001 sont abrogés. Les actes et traités qui figurent en Annexe sont aussi abrogés.

Article B : Continuité juridique par rapport à la Communauté européenne et à l'Union européenne

L'Union européenne succède aux Communautés européennes et à l'Union dans tous les droits et obligations de celles-ci, qu'ils soient internes ou résultent d'accords internationaux, nés avant l'entrée en vigueur du Traité constitutionnel en vertu des traités, protocoles et actes antérieurs, y compris tous les éléments du patrimoine actif et passif des Communautés et de l'Union, ainsi que leurs archives.

Les dispositions des actes des Institutions de l'Union, adoptés en vertu des Traités et actes mentionnés au premier paragraphe, demeurent en vigueur dans la mesure où elles sont compatibles avec la Constitution. La jurisprudence de la Cour de Justice des Communautés européennes est maintenue en tant que source d'interprétation privilégiée de la Constitution et des actes avant son entrée en vigueur.

Article C : Champ d'application

1. Le traité constitutionnel s'applique au Royaume de Belgique, au Royaume de Danemark, à la République fédérale d'Allemagne, à la République hellénique, au Royaume d'Espagne, à la République française, à l'Irlande, à la République italienne, au Grand-duché de Luxembourg, au Royaume des Pays-Bas, à la République d'Autriche, à la République portugaise, à la République de Finlande, au Royaume de Suède et au Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, et ...
2. Le traité constitutionnel est applicable aux départements français d'outre-mer, aux Açores, à Madère et aux îles Canaries conformément à l'article de la Partie II.
3. Les pays et territoires d'outre-mer dont la liste figure à [l'annexe II du TCE] font l'objet du régime spécial d'association défini dans [la quatrième partie du TCE] partie du traité constitutionnel.

Le traité constitutionnel ne s'applique pas aux pays et territoires d'outre-mer entretenant des relations particulières avec le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord qui ne sont pas mentionnés dans la liste précitée.

4. Le traité constitutionnel s'applique aux territoires européens dont un État membre assume les relations extérieures.

5. Le traité constitutionnel s'applique aux îles Åland conformément aux dispositions figurant au protocole n° 2 de l'acte relatif aux conditions d'adhésion de la République d'Autriche, de la République de Finlande et du Royaume de Suède.

6. Par dérogation aux paragraphes précédents :

- a) le traité constitutionnel ne s'applique pas aux îles Féroé ;
- b) le traité constitutionnel ne s'applique pas aux zones de souveraineté du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord à Chypre ;
- c) le traité constitutionnel n'est pas applicable aux îles anglo-normandes et à l'île de Man que dans la mesure nécessaire pour assurer l'application du régime prévu pour ces îles par le traité relatif à l'adhésion de nouveaux États membres à la Communauté économique européenne et à la Communauté européenne de l'énergie atomique, signé le 22 janvier 1972.

Article D : Unions régionales

Le Traité constitutionnel ne fait pas obstacle à l'existence et à l'accomplissement des unions régionales entre la Belgique et le Luxembourg, ainsi qu'entre la Belgique, le Luxembourg et les Pays-Bas, dans la mesure où les objectifs de ces unions régionales ne sont pas atteints en application du Traité constitutionnel.

Article E : Protocoles

Les protocoles annexés au présent traité en font partie intégrante.

Article F : Procédure de révision du Traité constitutionnel

Le gouvernement de tout État membre, ou la Commission, peut soumettre au Conseil des projets tendant à la révision du Traité constitutionnel. Ces projets sont notifiés aux Parlements nationaux.

Si le Conseil, après avoir consulté le Parlement européen et, le cas échéant, la Commission, émet un avis favorable à la réunion d'une conférence des représentants des gouvernements des États membres, celle-ci est convoquée par le président du Conseil en vue d'arrêter d'un commun accord les modifications à apporter au Traité constitutionnel. Dans le cas de modifications institutionnelles dans le domaine monétaire, le Conseil de la Banque centrale européenne est également consulté.

Pour assurer la préparation de la conférence, le Conseil nomme une convention à laquelle participent des membres des parlements nationaux, du Parlement européen et de la Commission, ainsi que des représentants des gouvernements des États membres. Le Conseil, statuant à l'unanimité, peut toutefois constater qu'un projet de révision ne nécessite pas la désignation d'une convention pour préparer la conférence.

Les amendements entreront en vigueur après avoir été ratifiés par tous les États membres conformément à leurs règles constitutionnelles respectives.

Article G : Adoption, ratification et entrée en vigueur du Traité constitutionnel

1. Le Traité constitutionnel sera ratifié par les Hautes Parties Contractantes, conformément à leurs règles constitutionnelles respectives. Les instruments de ratification seront déposés auprès du gouvernement de la République italienne.

2. Le Traité constitutionnel entrera en vigueur le ..., à condition que tous les instruments de ratification aient été déposés, ou, à défaut, le premier jour du mois suivant le dépôt de l'instrument de ratification de l'État signataire qui procédera le dernier à cette formalité.

~~3. Si à l'issue d'un délai de deux ans à compter de la signature du Traité constitutionnel, les quatre cinquièmes des États membres ont ratifié le Traité constitutionnel et qu'un ou plusieurs États membres ont rencontré des difficultés pour procéder à ladite ratification, le Conseil européen se saisit de la question.~~

Article H : Durée

La Traité constitutionnel est conclu pour une durée illimitée.

Article I : Langues

Le Traité constitutionnel rédigé en un exemplaire unique, en langues allemande, anglaise, danoise, espagnole, française, finnoise, grecque, irlandaise, italienne, néerlandaise, portugaise, suédoise, et ..., les textes établis dans chacune de ces langues faisant également foi, sera déposé dans les archives du gouvernement de la République italienne, qui remettra une copie certifiée conforme à chacun des gouvernements des autres États signataires.

Explication éventuelle :

- Article F : Le groupe de travail IV sur le rôle des parlements nationaux a émis comme première recommandation l'inscription, dans le futur traité constitutionnel, du principe de la Convention en tant que mécanisme préparatoire pour les modifications futures du traité. L'amendement reprend ce principe en l'assortissant d'une exception, destinée à s'appliquer aux révisions techniques ou d'ampleur limitée : il permet au Conseil de constater, à l'unanimité, qu'il n'y a pas lieu de convoquer une convention.

- Article G § 3 : Si l'on comprend bien le souci du présidium de prendre en compte les difficultés auxquelles pourraient se heurter certains États pour ratifier le traité constitutionnel, ce n'est pas dans une disposition de celui-ci que l'on trouvera la solution au problème. Par hypothèse, cette disposition n'entrera en vigueur qu'avec le traité lui-même, ce qui suppose que celui-ci ait été ratifié par tous les États... Le problème envisagé par l'article G § 3 doit donc faire l'objet d'une déclaration politique et ne peut être résolu par une disposition spécifique du traité.

Suggestion for amendment of Article :

Suggestion for Part III : Article G

**By Ms / Mr : G.M. de Vries
 T.J.A.M. de Bruijn**

Status : Members Alternate

1. The Constitutional Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.
3. ~~If, two years after the signature of the Constitutional Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.~~

Explanation (if any) : The possibility that the Treaty can enter into force without the ratification of the Kingdom of the Netherlands is unacceptable. After all, it is unclear what the European Council shall decide.

Anendment form

Suggestion for amendment of Article: G doc

Suggestion for Part III

By Ms / Mr: Voggenhuber, Lichtenberger

Status: - Member - Alternate

Artikel G: Annahme, Ratifikation und Inkrafttreten des~~r~~ Verfassungsvertrags

(1) Dieser Verfassungsvertrag bedarf der Ratifikation durch die Hohen Vertragsparteien gemäß ihren verfassungsrechtlichen Vorschriften. Die Ratifikationsurkunden werden bei der Regierung der Italienischen Republik hinterlegt.

(2) Zur Annahme dieser Verfassung sollen in jenen Mitgliedesstaaten in denen nach ihrer innerstaatlichen Verfassung keine Volksabstimmung vorgesehen ist, Volksbefragungen durchgeführt werden. Die Ergebnisse der Volksabstimmungen bzw. Volksbefragungen werden nicht nur einzelstaatlich sonder für das gesamte Unionsgebiet ausgezählt. Das Unionsergebnis wird vom Präsidenten des Europäischen Parlaments bekanntgegeben.

(2) Dieser~~r~~ Verfassungs~~vertrag~~ tritt am ... in Kraft, sofern alle Ratifikationsurkunden hinterlegt worden sind, oder andernfalls am ersten Tag des auf die Hinterlegung der letzten Ratifikationsurkunde folgenden Monats.

(3) Falls nach Ablauf von zwei Jahren nach der Unterzeichnung des Verfassungs~~vertrags~~ vier Fünftel der Mitgliedstaaten **die** ~~den~~ Verfassungs~~vertrag~~ ratifiziert haben und in einem oder mehreren Mitgliedstaaten Schwierigkeiten bei der Ratifikation aufgetreten sind, so befasst sich der Europäische Rat mit der Frage.

Explanation if any):

AMENDMENT FORM

Suggestion for Part III Article G: Adoption, ratification and entry into force of the Constitutional Treaty

By Ms / Mr :

F. Timmermans
R. van der Linden
W. van Eekelen
J. van Dijk

Status : - Member - Alternate

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

1. The Constitutional Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.

3. If, ~~two~~ **1.5 (1)** years after the signature of the Constitutional Treaty, four fifths of the Member States

have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council. **For dealing with this matter in a justified manner the European Council will receive a rapport by the European Commission and an opinion of the European Parliament (2).**

Explanation (if any) :

1. In order to keep pressure on the member states to ratify the Treaty, the period after the signature of the Treaty should be shortened.
2. The European institutions should have a say in this procedure.

FICHE AMENDEMENT

Proposition d'amendement à l'Article :

Déposée par MM. Santer, Helminger et Fayot (Titulaires, Luxembourg) et M. Schmit (Suppléant, Luxembourg)

Article G : Adoption, ratification et entrée en vigueur du Traité constitutionnel

1. Le Traité constitutionnel sera ratifié par les Hautes Parties Contractantes, conformément à leurs règles constitutionnelles respectives. Les instruments de ratification seront déposés auprès du gouvernement de la République italienne.
 2. Le Traité constitutionnel entrera en vigueur le ..., à condition que tous les instruments de ratification aient été déposés, ou, à défaut, le premier jour du mois suivant le dépôt de l'instrument de ratification de l'État signataire qui procédera le dernier à cette formalité.
 3. ~~Si à l'issue d'un délai de deux ans à compter de la signature du Traité constitutionnel, les quatre cinquièmes des États membres ont ratifié le Traité constitutionnel et qu'un ou plusieurs États membres ont rencontré des difficultés pour procéder à ladite ratification, le Conseil européen se saisit de la question.~~
-

Explication éventuelle :

Cette disposition est d'une part superflue car le Conseil européen se saisirait évidemment de la question mais d'autre part elle pourrait même sembler imposer au Conseil européen un délai d'attente de deux ans; or, si après quelques mois déjà un Etat n'a pas réussi à ratifier le traité, il pourrait sembler opportun pour le Conseil européen de se saisir de la question à la première occasion.

AMENDMENT FORM

Suggestion for amendment of Article : G of Part 3

Suggestion for protocol :

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member ~~–Alternate~~

Artikel G: Annahme, Ratifikation und Inkrafttreten des Verfassungsvertrags

(1) Dieser Verfassungsvertrag bedarf der Ratifikation durch die Hohen Vertragsparteien gemäß ihren verfassungsrechtlichen Vorschriften. Die Ratifikationsurkunden werden bei der Regierung der Italienischen Republik hinterlegt.

(2) Dieser Verfassungsvertrag tritt ~~am ... in Kraft, sofern alle Ratifikationsurkunden hinterlegt worden sind, oder andernfalls~~ am ersten Tag des auf die Hinterlegung der letzten Ratifikationsurkunde folgenden Monats **in Kraft, sofern die Änderungen durch Volksabstimmung in jedem Mitgliedstaat eine Bestätigung gefunden haben.**

~~(3) Falls nach Ablauf von zwei Jahren nach der Unterzeichnung des Verfassungsvertrags vier Fünftel der Mitgliedstaaten den Verfassungsvertrag ratifiziert haben und in einem oder mehreren Mitgliedstaaten Schwierigkeiten bei der Ratifikation aufgetreten sind, so befasst sich der Europäische Rat mit der Frage.~~

Explanation (if any) :

Absatz 3:

Streichung. Diese Bestimmung ist gegenstandslos und daher überflüssig. Solange der vorliegende Verfassungsvertrag nicht von allen Mitgliedstaaten ratifiziert worden ist, tritt diese Bestimmung - wie alle anderen Bestimmungen dieses Verfassungsvertrages - nicht in Kraft. Ist andererseits diese Bestimmung aufgrund der Ratifikation aller Mitgliedstaaten in Kraft getreten, besteht kein Bedürfnis mehr für diese Regelung.

AMENDMENT FORM

Suggestion for amendment of Article: G

Suggestion for Part III

By Ms: Prof. Danuta Hübner

Status: Member

<i>Text of the Praesidium</i>	<i>Proposed Amendments</i>
Article G: Adoption, ratification and entry into force of the Constitutional Treaty 1. The Constitutional Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic. 2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step. 3. If, two years after the signature of the Constitutional Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.	Article G: Adoption, ratification and entry into force of the Constitutional Treaty 1. The Constitutional Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic. 2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step. 3. If, two years after the signature of the Constitutional Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.

Explanation:

Since the Constitutional Treaty is at the same time an establishing treaty it is of the utmost importance to assure that the Treaty could come into force only if it is ratified unanimously by all

the Member States of the Union, according to the rule: no ratification - no membership. There is no logic rationale to have two groups of Union's states with two different legal standards (full- and semi-membership).

AMENDMENT FORM

Suggestion for amendment of Article :G (part 3)

Suggestion for protocol :

By Mr David Heathcoat-Amory, Mr Bonde

Status :X - Member - Alternate

N.B. '()' denote text deleted ' _____ 'denotes text added

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

1. The Constitutional Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited (*or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.*) **by all existing members.**
3. If, two years after the signature of the Constitutional Treaty, (*four fifths of the Member States have ratified it and*) one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.

NEW 4. Provisions may be made by national governments for a referendum or plebiscite on the Treaty, to be held on 9 May 2004 or as near to such date as national law permits. The referenda shall be organized and run in a spirit of fair and open debate, with equal and balanced funding and exposure in state media outlets for both campaigns.

Explanation (if any) :

The amendment in paragraph 2 modifies the text, so that the existing Treaties do not cease to exist before all member states have either ratified this Treaty, or negotiated a settlement under paragraph 3.

The present draft allows for the Constitutional Treaty to enter into force without the unanimous approval of member states, because it refers to the "last signatory state",

which does not take into account the possibility of an existing member state refusing to sign and ratify.

Paragraph 3 is meanwhile simplified: if any member state has encountered difficulties in ratification, the Council will need to convene regardless.

The additional reference to a referendum – or in countries where legally-binding referendums do not exist in national law, to a plebiscite – is intended to fulfill the Laeken mandate of bringing Europe closer to its citizens, while respecting the constitutional rights and practices of member states. If this Treaty is made in the name of the citizens, they should at least be asked their opinion, in a full and fair debate.

AMENDMENT FORM

Suggestion for amendment of **Parte Terza: Disposizioni generali e finali**

Article G (Paragraph 1): Adozione, ratifica e entrata in vigore del trattato costituzionale

By Mr: Marco Follini

Status: - Member

Testo del Praesidium

Emendamento proposto

Articolo G: Adozione, ratifica e entrata in vigore del trattato costituzionale

1. Il trattato costituzionale sarà ratificato dalle Alte Parti contraenti conformemente alle loro norme costituzionali rispettive. Gli strumenti di ratifica saranno depositati presso il Governo della Repubblica Italiana.

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Articolo G: Adozione, ratifica e entrata in vigore del trattato costituzionale

1. Il trattato costituzionale sarà ratificato dalle Alte Parti contraenti conformemente alle ***rispettive norme costituzionali e sottoposto dalle stesse a referendum popolare***. Gli strumenti di ratifica saranno depositati presso il Governo della Repubblica Italiana.

FICHE AMENDEMENT

Proposition d'amendement à l'Article G, Partie III de la Constitution

Déposée par M. Jacques FLOCH, Membre suppléant

Article G. : Adoption, ratification et entrée en vigueur du Traité constitutionnel

Modifier le paragraphe 1 de l'article comme suit :

1. Le traité constitutionnel sera ratifié par ~~Les Hautes Parties Contractantes~~ *les Peuples d'Europe par la voie d'un référendum qui sera organisé le même jour dans chacun des Etats membres, conformément aux règles constitutionnelles respectives des Hautes Parties Contractantes*. Les instruments de ratification seront déposés auprès du gouvernement de la République italienne.

Explication éventuelle :

L'importance du traité constitutionnel et l'esprit du projet d'article 1 du traité qui dispose que : « Inspirée par la volonté des Peuples et des Etats d'Europe de bâtir leur avenir en commun, cette Constitution vise à établir une Union... », justifie de recourir à l'expression directe de la souveraineté nationale par les Peuples d'Europe.

Il ne s'agit pas de faire un référendum européen dans la mesure où le décompte des voix se fera au niveau national et non européen.

AMENDMENT FORM

Part Three: General and final provisions

Suggestion for amendment of Article : G

By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Karel de Gucht, Mr Peeter Kreitzberg, Mr Algirdas Gricius, Mr Puiu Hasotti, Mr Jelko Kacin, Mr Zekeriya Akçam and Mr Eugenijus Maldeikis; **and Alternate Members:** Ms Lone Dybkjaer, Mr Willem Van Eekelen, Mr Valdo Spini, Lord MacLennan of Rogart, Mr Nesrin Uzun, Mr Marios Matsakis, Mrs Androula Vassiliou, Mr Istvan Szent-Ivanyi, Mr Péter Eckstein-Kovacs, Mr Ibrahim Ozal and Mr Gintautas Sivickas.

Status : Members and alternate members.

Article G: Adoption, ratification and entry into force of the *Constitution*

1. The *Constitution* shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
 2. The *Constitution* shall enter into force *after having received the assent of the European Parliament acting by a two-thirds majority of the votes cast, representing a majority of its Members, and on the first day of the month following the deposit of the instruments of ratification from five-sixths of the Member States.*
 3. *In the case where a Member State declares that it declines to ratify the Constitution, the European Council, on a proposal of the Commission and after having consulted the European Parliament, shall open negotiations with that Member State for associate membership of the Union, in accordance with Article 46 bis.*
-

Explanation:

1. Article 48 TEU imposes the well-known constraint of unanimity upon this year's IGC.
2. As far as the entry into force of the new Constitution is concerned, however, the arguments for a modified procedure advanced in our amendments to Article F (above) also apply here. The European Parliament, therefore, is asked to give its approval to the new Constitution, voting by a high threshold. And the Constitution would enter into force once having been ratified by five-sixths of the Member States.
3. As the Praesidium acknowledges in its own proposal, there has to be a contingency plan to cater for the recalcitrant Member State, whose government and parliament or people in a referendum decline to accept the constitutional package negotiated by their prime minister.

Our option is to offer that state a form of associate or partner membership of the Union. This association would encapsulate the essential mutual obligations in respect of the four freedoms but

dissociate the country in question from the constitutional advance made by the majority.

A Member State that for domestic political reasons chose merely to delay its own ratification would not be subject to that imperative - hence the need for a formal declaration of the rejection by the Member State concerned.

[Another option that might be considered is to draft a constitutional treaty separate from the Constitution whose purpose would be to repeal the current EU Treaties and act as a passerelle between the old and the new regimes. This would have the advantage of allowing Member States to make a two-phased commitment to the Constitution, the first to admit its possibility and the second to entrench it. It would likely to be a lengthy business, however.]

Another, more final way out is figured in the Praesidium's draft Article 46 on secession.

AMENDMENT FORM

Suggestion for amendment of Article : G

Suggestion for Part III

By Mr : Vytenis Povilas Andriukaitis

Status : Member

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

Delete part 3.

Explanation (if any) :

Part 3 of Article G highlights the potential problem, but fails to offer a solution.

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Artigo G, n.º 3

Déposée Monsieur Luís Queiró

Qualité : Suppléant

Suprimir o n.3 deste Artigo G

Explication éventuelle :

Se compararmos com os processos concretos da Dinamarca (1992) e Irlanda (2001), vimos que, no primeiro caso, o Conselho Europeu apreciou politicamente a questão no mesmo ano (1992, no Conselho Europeu de Edimburgo, de 11 e 12 de Dezembro de 1992). No caso irlandês, a solução passou por aí mas foi mais difusa.

A norma não é portanto necessária, apesar do exclusivo relevo político desta disposição.

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Artigo G, n.º 2

Déposée Monsieur Luís Queiró

Qualité : Suppléant

O Tratado (1 palavra suprimida) entrará em vigor no dia, se tiverem sido depositados todos os instrumentos de ratificação ou, na falta desse depósito, no primeiro dia do mês seguinte ao do depósito do instrumento de ratificação do Estado signatário que proceder a esta formalidade em último lugar.

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Artigo G, n.º 1

Déposée Monsieur Luís Queiró

Qualité : Suppléant

O Tratado (1 palavra suprimida) será ratificado pelas Altas Partes Contratantes, de acordo com as respectivas normas constitucionais. Os instrumentos de ratificação serão depositados junto do Governo **do Estado-Membro que estiver a exercer a Presidência**.

Explication éventuelle :

Não compete à Convenção determinar o calendário da negociação, aprovação, ratificação e entrada em vigor do presente Tratado.

AMENDMENT FORM

Suggestion for amendment of Article :

Suggestion for Part III : Article F

**By Ms / Mr : G.M. de Vries
 T.J.A.M. de Bruijn**

Status : Members Alternate

The government of any Member State or the Commission may submit to the Council proposals for the amendment of Part I and III of the Constitutional Treaty. The European Parliament and the national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

The government of any Member State or the Commission may submit to the Council proposals for the amendment of Part II of the Constitutional Treaty. The European Parliament and the national Parliaments shall be notified of these proposals.

Amendments of part II shall be established by the European Council, acting unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.

Explanation (if any) : Amending Part II of the Constitution should be subject to a 'less heavy' procedure than an IGC. If not, then what is the use of splitting up the Treaty in three different parts?

AMENDMENT FORM

Suggestion for amendment of Article :

Suggestion for Part III

Article F: Procedure for revising the Constitutional Treaty

By Ms / Mr : R. van der Linden

F. Timmermans

W. van Eekelen

J. van Dijk

Status : - Member - Alternate

Add revised second paragraph (as proposed by the working group on national parliaments) and a new fourth paragraph:

Article F: Procedure for revising the Constitutional Treaty

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

"The Conference of the Representatives of the Governments of the Member States ~~may~~ shall be preceded by a preparatory Convention convened by the President of the European Council and composed of representatives of the national Parliaments, the Heads of State or Government of the Member States, the European Parliament, the Council and the Commission. At the close of its proceedings, the Convention shall adopt ~~by consensus~~ a recommendation to the Conference of the Representatives of the Governments of the Member States."

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

A simplified procedure will be used for revising the second part of the Constitutional Treaty, namely a super qualified majority voting in the Council, assent of the European Parliament and an approval of at least two-third of the national parliaments within a six month period.

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Artigo F - Título

Déposée Monsieur Luís Queiró

Qualité : Suppléant

Processo de revisão do Tratado (1 palavra suprimida)

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article F: (Part Three: General and final provisions)

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen, Esko Helle

Status : **Tiilikainen, Kiljunen, Vanhanen - Members**
 Peltomäki, Korhonen, Helle - Alternates

Article F: Procedure for revising the Constitutional Treaty

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Explanation:

We do not support the suggestion, made in the Praesidium's comments, on inserting an express provision to draft Article F on the possibility of convening a preparatory Convention. In our view it would not be appropriate to lay down in the Constitution one particular method that might be used for preparing for an Intergovernmental Conference. The system should rather be kept as flexible as possible, which of course in no way rules out the possibility that in future recourse is also had to a preparatory Convention. In that case, however, the Convention should be convened by the European Council and not by its "President", as suggested by the commentary. The reference to "Council" is also inappropriate as it is representatives of the Heads of State or Government of the Member States, and not representatives of the Council, that are members of the Convention.

We welcome the invitation to the Convention to consider a procedure other than that referred to in Article 48 TEU for amending those parts of the Constitution that are not constitutional in nature. This could, for instance, mean that such amendments could be approved by a common accord of representatives of the Governments of the Member States, rather than ratification. Or, as an alternative, amendments could be approved by Union institutions or by representatives of Member States' Governments by a reinforced qualified majority, and then ratified by each Member State. However, it is clear that before any definite view can be taken in this respect, we need to know precisely to which provisions such a simplified procedure would apply.

As to the question of what to do if any Member State fails to ratify a Treaty revision, we think that this is a political question that should be dealt with along the lines proposed in draft Article G, paragraph 3.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Article F (Partie III)

Déposée par MM. Santer, Helminger et Fayot (Titulaires, Luxembourg) ainsi que Mme Wagener et M. Schmit (Suppléants, Luxembourg)

Article F : Procédure de révision du Traité constitutionnel

Le gouvernement de tout État membre, ou la Commission, peut soumettre au Conseil des projets tendant à la révision du Traité constitutionnel. Ces projets sont notifiés aux Parlements nationaux.

Si le Conseil, après avoir consulté le Parlement européen et, le cas échéant, la Commission, émet un avis favorable à la réunion d'une conférence des représentants des gouvernements des États membres, celle-ci est convoquée par le président du Conseil en vue d'arrêter d'un commun accord les modifications à apporter au Traité constitutionnel. Dans le cas de modifications institutionnelles dans le domaine monétaire, le Conseil de la Banque centrale européenne est également consulté.

La Conférence des représentants des gouvernements des États membres peut être préparée par une Convention composée de représentants des Parlements nationaux, des chefs d'État et de gouvernement des États membres, et du Parlement européen et de la Commission.

Les amendements entreront en vigueur après avoir été ratifiés par tous les États membres conformément à leurs règles constitutionnelles respectives.

Explication éventuelle :

La méthode de la Convention comme moyen de préparation d'une CIG doit être prévue dans la Constitution mais plutôt comme une possibilité car certains amendements ne justifieront pas la convocation d'un organe d'une telle importance.

AMENDMENT FORM

Suggestion for Part III Article F: Procedure for revising the Constitutional Treaty

By Mr Roche

Status : - Member

Article F: Procedure for revising the Constitutional Treaty

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Explanation (if any) :

The substance of this Article should not be amended. As Part II of the Treaty will contain provisions of major substance and sensitivity, the same requirements should apply to future amendment of all parts of the Treaty.

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Artigo F

Déposée Monsieur Luís Queiró

Qualité : Suppléant

O Governo de qualquer Estado-Membro ou a Comissão podem submeter ao Conselho projectos de revisão do Tratado (1 palavra suprimida). Esses projectos serão **imediatamente transmitidos** (1 palavra suprimida) aos parlamentos nacionais.

Se o Conselho, após consulta ao Parlamento Europeu e, quando for adequado, à Comissão, emitir parecer favorável à realização de uma conferência de representantes dos governos dos Estados-Membros, esta **é** convocada pelo Presidente do Conselho, a fim de aprovar, de comum acordo, **o projecto de** alterações a introduzir no Tratado (1 palavra suprimida). Se se tratar de alterações institucionais no domínio monetário, **é** igualmente consultado o Conselho do Banco Central Europeu.

As alterações **projectadas entram** em vigor após ratificação por todos os Estados-Membros, de acordo com as respectivas normas constitucionais.

Explication éventuelle :

O artigo é uma boa surpresa na medida em que mantém o actual artigo 48.º UE, sugerindo-se apenas retirar o qualificativo "Constitucional".

FICHE AMENDEMENT

Proposition d'amendement à l'**article F** de la partie III de la Constitution, relative aux « dispositions générales et finales »

Déposée par **M. Pierre Lequiller**, représentant de l'Assemblée nationale française

Qualité : Membre titulaire

Rédiger cet article ainsi :

« Article F : Procédure de révision du Traité constitutionnel »

Le gouvernement de tout Etat membre, **le Parlement européen**, ~~ou~~ la Commission, **le Comité économique et social ou le Comité des régions** peut soumettre au Conseil des projets tendant à la révision du Traité constitutionnel. Ces projets sont notifiés aux Parlements nationaux.

La procédure est différente selon que les projets de révision concernent les parties I, II ou III du Traité constitutionnel ou les protocoles annexés au présent traité.

Les modifications aux parties I, III et aux protocoles peuvent être préparées par une Convention, convoquée pour une durée limitée, et dont la composition est définie par le Conseil, statuant à la majorité qualifiée, également compétent pour en désigner le Président. La Convention réunit des représentants des gouvernements, du Parlement européen, de la Commission et des Parlements nationaux. La Cour de Justice, la Cour des comptes, le Comité économique et social, le Comité des régions et le Médiateur sont représentés avec le statut d'observateur.

Au terme des travaux de la Convention, si le Conseil, après avoir consulté le Parlement européen et, le cas échéant, la Commission, émet un avis favorable à la réunion d'une conférence des représentants des gouvernements des Etats membres, celle-ci est convoquée par le président du Conseil en vue d'arrêter d'un commun accord les modifications à apporter au Traité constitutionnel. Dans le cas de modifications institutionnelles dans le domaine monétaire, le Conseil de la Banque centrale européenne est également consulté.

Les modifications aux parties I, III et aux protocoles entreront en vigueur après avoir été ratifiées par tous les Etats membres conformément à leurs règles constitutionnelles respectives.

Les modifications apportées à la partie II du présent traité sont rédigées par une Convention convoquée à cet effet, pour une durée limitée, par le Conseil qui en fixe les règles de composition et en désigne le Président. La Convention réunit des représentants des gouvernements, du Parlement européen, de la Commission et des Parlements nationaux. La Cour de Justice, la Cour des comptes, le Comité économique et social, le Comité des régions et le Médiateur sont représentés avec le statut d'observateur.

Le Conseil, après avoir consulté le Parlement européen et, le cas échéant, la Commission, adopte à la majorité qualifiée les amendements proposés par la Convention, le cas échéant après les avoir modifiés.

Les amendements à la partie II entreront en vigueur après avoir été ratifiés par 4/5^e Etats membres, représentant 4/5^e de la population de l'Union, conformément à leurs règles constitutionnelles respectives.

Explication :

Aucune raison ne justifie de limiter le droit d'initiative d'une révision du Traité constitutionnel aux seuls gouvernements nationaux et à la Commission. Il est donc souhaitable d'étendre cette possibilité, non seulement au Parlement européen mais également au Comité économique et social et au Comité des régions, susceptibles de relayer les préoccupations des citoyens de l'Union.

Si toutes les dispositions du Traité constitutionnel auront la même valeur juridique (y compris les protocoles ainsi que la Charte des droits fondamentaux, indépendamment de son emplacement dans le Traité constitutionnel), il est souhaitable d'introduire deux procédures de révision : l'une contraignante pour les parties I, III et les protocoles et l'autre plus légère pour les modifications apportées à la partie II.

En effet, dans une Union élargie, l'exigence de l'unanimité risque de paralyser toute évolution du traité constitutionnel. L'amendement déposé vise à ainsi à distinguer :

- Une procédure de révision « lourde » pour les parties I, III et les protocoles prévoyant la possibilité (et non l'obligation) de convoquer une Convention pour préparer la Conférence intergouvernementale. La composition précise de cette Convention doit être laissée, au cas par cas, à la discrétion du Conseil. La Constitution doit cependant prévoir une représentation des différentes institutions mentionnées. L'exigence de l'unanimité doit être maintenue pour l'entrée en vigueur des modifications apportées.
- Une procédure de révision plus légère pour la partie II, confiant systématiquement à une Convention le soin de rédiger les propositions de modifications, sans qu'il soit nécessaire de convoquer une Conférence intergouvernementale. Dans le schéma proposé, c'est au Conseil qu'il appartiendra de se prononcer sur les propositions de cette Convention, à la majorité qualifiée. Pour entrer en vigueur, les modifications envisagées devront avoir été ratifiées par 4/5^e des Etats représentant 4/5^e de la population. Cette majorité « superqualifiée » permet ainsi d'éviter qu'un très faible nombre d'Etats puisse bloquer une révision constitutionnelle approuvée par tous les autres.

AMENDMENT FORM

Suggestion for amendment of Article : F of Part 3

Suggestion for protocol :

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member ~~–Alternate~~

Artikel F: Verfahren zur Änderung des Verfassungsvertrags

(1) *Jeder Mitgliedstaat, das Europäische Parlament und die Kommission können dem Europäischen Rat Die Regierung jedes Mitgliedstaats oder die Kommission kann dem Rat Entwürfe zur Änderung des Verfassungsvertrags vorlegen. Diese Entwürfe werden den einzelstaatlichen Parlamenten mitgeteilt. Der Europäische Rat gibt hierzu gegebenenfalls nach Anhörung des Europäischen Parlaments und der Kommission eine Stellungnahme ab.*

(2) *Gibt der Europäische Rat ~~nach Anhörung des Europäischen Parlaments und gegebenenfalls der Kommission eine Stellungnahme zugunsten des Zusammentritts einer Konferenz von Vertretern der Regierungen der Mitgliedstaaten ab, so wird diese vom Präsidenten des Rates einberufen, um die an dem Verfassungsvertrag vorzunehmenden Änderungen zu vereinbaren. Bei institutionellen Änderungen im Währungsbereich wird auch die Europäische Zentralbank gehört. eine Stellungnahme zugunsten einer Überprüfung von Bestimmungen des Teils II des Verfassungsvertrages ab, so wird vom Präsidenten des Europäischen Rates eine Verfassungskonferenz einberufen, um auf Grundlage der Stellungnahme die an dem Verfassungsvertrag vorzunehmenden Änderungen auszuarbeiten. Die Verfassungskonferenz besteht aus je einem Vertreter der Regierungen der Mitgliedstaaten, einem Vertreter der Kommission und zwei Vertretern des Europäischen Parlaments.~~*

Gibt der Europäische Rat eine Stellungnahme zugunsten einer Überprüfung sonstiger Bestimmungen des Verfassungsvertrages ab, so wird vom Präsidenten des Europäischen Rates ein Verfassungskonvent einberufen, um auf Grundlage der Stellungnahme die an dem Verfassungsvertrag vorzunehmenden Änderungen auszuarbeiten. Der Verfassungskonvent besteht aus einem Präsidenten und zwei stellvertretenden Präsidenten, die vom Europäischen Rat ernannt werden,

aus je einem Vertreter der Regierungen der Mitgliedstaaten und zwei Vertretern der Kommission sowie aus je zwei Vertretern der nationalen Parlamente und einer gleichen Anzahl von Vertretern des Europäischen Parlaments.

(3) Nach Zustimmung des Europäischen Parlaments kann der Europäische Rat einstimmig den Mitgliedstaaten die Annahme der Änderungen gemäß ihren verfassungsrechtlichen Vorschriften empfehlen.

(4) Die Änderungen treten am ersten Tag des auf die Hinterlegung der letzten Ratifikationsurkunde folgenden Monats in Kraft, ~~nachdem sie von allen Mitgliedstaaten gemäß ihren verfassungsrechtlichen Vorschriften ratifiziert worden sind~~ sofern die Änderungen durch Volksabstimmung in jedem Mitgliedstaat eine Bestätigung gefunden haben.

(5) Verfassungsänderungen, die darauf abzielen, die in der Charta der Grundrechte anerkannten Rechte und Freiheiten abzuschaffen oder ihren Schutzzumfang zu verringern, sind unzulässig.

Explanation (if any) :

Absatz 1:

Auch das Europäische Parlament sollte Vorschläge zur Änderung des Verfassungsvertrages vorlegen können. Darüber hinaus sollte es der internen Rechtsordnung der Mitgliedstaaten überlassen bleiben, welches Staatsorgan einen Vorschlag zur Änderung der Verfassung vorlegt.

Der dritte Satz übernimmt die Formulierung aus Absatz 2, Satz 1, und zieht diese vor. Der Europäische Rat sollte zu einer Stellungnahme auch verpflichtet sein, wenn er sich gegen die Einberufung einer Verfassungskonferenz/eines Verfassungskonvents entscheidet.

Absatz 2:

Die bloße Übernahme der Formulierung aus Art. 48 EU-Vertrag geht nicht weit genug. Der über rein redaktionelle Verbesserungen hinausgehende materielle Mehrwert einer Zweiteilung des Verfassungsvertrages wird nur erreicht, wenn unterschiedliche Änderungsverfahren zur Anwendung kommen.

Für Teil II des Verfassungsvertrages sollte es im wesentlichen bei dem bisherigen Vertragsänderungsverfahren bleiben. Allerdings sollte der gewachsenen Bedeutung des Europäischen Parlaments durch die Anwendung des Zustimmungsverfahrens und durch eine veränderte Zusammensetzung der Konferenz, die die Änderungsvorschläge ausarbeitet, Rechnung getragen werden.

Für die allgemeinen Bestimmungen (jetziger Teil I und III) sowie für die Grundrechtecharta sollte darüber hinaus die Konventsmethode institutionalisiert werden.

Absatz 5:

Eine Verfassungsänderung, die auf eine Minderung des durch die Grundrechtecharta gewährleisteten Grundrechtsschutzes zielt, muss ausgeschlossen werden.

AMENDMENT FORM

Suggestion for Part III

By Mr : Joschka Fischer

Status : - Member

Artikel A: Aufhebung der früheren Verträge

Am Tag des Inkrafttretens des Verfassungsvertrags werden der Vertrag zur Gründung der Europäischen Gemeinschaft vom 25. März 1957, die Einheitliche Akte vom 17. Februar 1986, der Vertrag über die Europäische Union vom 7. Februar 1992 sowie der Vertrag von Amsterdam vom 2. Oktober 1997 und der Vertrag von Nizza vom 26. Februar 2001 aufgehoben. Ferner werden die im Anhang genannten Rechtsakte und Verträge aufgehoben.

Artikel B: Rechtliche Kontinuität im Verhältnis zur Europäischen Gemeinschaft und zur Europäischen Union

Die Europäische Union tritt die Rechtsnachfolge der Europäischen Gemeinschaften und der Union in allen ihren internen und aus internationalen Übereinkommen erwachsenden Rechten und Pflichten an, die sich vor Inkrafttreten des Verfassungsvertrags aus den früheren Verträgen, Protokollen und Rechtsakten ergeben haben; sie übernimmt ferner das gesamte Aktiv- und Passivvermögen der Gemeinschaften und der Union sowie deren Archive.

Die Bestimmungen der Rechtsakte ~~der Organe der Union~~, die aufgrund der in Absatz 1 genannten Verträge und Rechtsakte angenommen wurden gelten unverändert weiter, soweit sie mit der Verfassung in Einklang stehen. ~~Die Rechtsprechung des Gerichtshofs der Europäischen Gemeinschaften ist weiterhin maßgeblich für die Auslegung der Verfassung und der vor ihrem Inkrafttreten angenommenen Rechtsakte.~~

Artikel C: Geltungsbereich

(1) Der Verfassungsvertrag gilt für das Königreich Belgien, die Tschechische Republik, das Königreich Dänemark, die Bundesrepublik Deutschland, die Republik Estland, die Hellenische Republik, das Königreich Spanien, die Französische Republik, Irland, die Italienische Republik, die Republik Zypern, die Republik Lettland, die Republik Litauen, das Großherzogtum Luxemburg, die Republik Ungarn, die Republik Malta, das Königreich der Niederlande, die Republik Österreich, die Republik Polen, die Republik Slowenien, die Slowakische Republik, die Portugiesische Republik, die Republik Finnland, das Königreich Schweden und das Vereinigte Königreich Großbritannien und Nordirland ~~und ...~~.

(2) Der Verfassungsvertrag gilt gemäß Artikel ... des Teils II für die französischen überseeischen Departements, die Azoren, Madeira und die Kanarischen Inseln.

(3) Auf die überseeischen Länder und Hoheitsgebiete, die in [Anhang II des EGV] aufgeführt sind, findet die im [vierten Teil des EGV] Teil des Verfassungsvertrags festgelegte besondere Assoziierungsregelung Anwendung.

Der Verfassungsvertrag findet keine Anwendung auf die überseeischen Länder und Hoheitsgebiete, die besondere Beziehungen zum Vereinigten Königreich Großbritannien und Nordirland unterhalten und die in dieser Liste nicht aufgeführt sind.

- (4) Der Verfassungsvertrag findet auf die europäischen Hoheitsgebiete Anwendung, deren auswärtige Beziehungen ein Mitgliedstaat wahrnimmt.
- (5) Der Verfassungsvertrag findet entsprechend den Bestimmungen des Protokolls Nr. 2 zur Akte über die Bedingungen des Beitritts der Republik Österreich, der Republik Finnland und des Königreichs Schweden auf die Ålandinseln Anwendung.
- (6) Abweichend von den vorstehenden Absätzen gilt:
- a) Der Verfassungsvertrag findet auf die Färöer keine Anwendung.
 - b) Der Verfassungsvertrag findet auf die Hoheitszonen des Vereinigten Königreichs Großbritannien und Nordirland auf Zypern keine Anwendung.
 - c) Der Verfassungsvertrag findet auf die Kanalinseln und die Insel Man nur insoweit Anwendung, als dies erforderlich ist, um die Anwendung der Regelung sicherzustellen, die in dem am 22. Januar 1972 unterzeichneten Vertrag über den Beitritt neuer Mitgliedstaaten zur Europäischen Wirtschaftsgemeinschaft und zur Europäischen Atomgemeinschaft für diese Inseln vorgesehen ist.

Artikel D: Regionale Zusammenschlüsse

Dieser Verfassungsvertrag steht dem Bestehen und der Durchführung der regionalen Zusammenschlüsse zwischen Belgien und Luxemburg sowie zwischen Belgien, Luxemburg und den Niederlanden nicht entgegen, sofern die Ziele dieser Zusammenschlüsse durch die Anwendung dieses Verfassungsvertrags nicht erreicht sind.

Artikel E : Protokolle

Die diesem Vertrag beigefügten Protokolle sind Bestandteil dieses Vertrags.

Artikel F: Verfahren zur Änderung des Verfassungsvertrags

- (1) Die Regierung jedes Mitgliedstaats, das Europäische Parlament oder die Kommission kann dem Rat Entwürfe zur Änderung des Verfassungsvertrags vorlegen. Diese Entwürfe werden den einzelstaatlichen Parlamenten mitgeteilt.
- (2) Gibt der Rat nach Anhörung des Europäischen Parlaments und gegebenenfalls der Kommission eine Stellungnahme zugunsten einer Änderung der Verfassung ab, beruft der Europäische Rat einen Konvent ein. Dieser setzt sich zusammen aus Vertretern der einzelstaatlichen Parlamente, der Staats- und Regierungschefs der Mitgliedstaaten sowie des Europäischen Parlaments und der Kommission.
- (3) Die vom Konvent angenommene Empfehlung wird einer Konferenz von Vertretern der Regierungen der Mitgliedstaaten vorgelegt, die die Änderung der Verfassung vereinbart. ~~des Zusammentritts einer Konferenz von Vertretern der Regierungen der Mitgliedstaaten ab, so wird diese vom Präsidenten des Rates einberufen, um die an dem Verfassungsvertrag vorzunehmenden Änderungen zu vereinbaren.~~ Bei institutionellen Änderungen im Währungsbereich wird auch die Europäische Zentralbank gehört. Die Änderungen treten in Kraft, nachdem sie von allen Mitgliedstaaten gemäß ihren verfassungsrechtlichen Vorschriften ratifiziert worden sind.
- (4) Der Europäische Rat kann beschließen, auf die Einberufung eines Konvents zu verzichten, wenn die zu vereinbarenden Änderungen des Verfassungsvertrags lediglich technischer Natur sind.

Artikel G: Annahme, Ratifikation und Inkrafttreten des Verfassungsvertrags

- (1) Dieser Verfassungsvertrag bedarf der Ratifikation durch die Hohen Vertragsparteien gemäß ihren verfassungsrechtlichen Vorschriften. Die Ratifikationsurkunden werden bei der Regierung der Italienischen Republik hinterlegt.
- (2) Dieser Verfassungsvertrag tritt am ... in Kraft, sofern alle Ratifikationsurkunden hinterlegt worden sind, oder andernfalls am ersten Tag des auf die Hinterlegung der letzten Ratifikationsurkunde folgenden Monats.
- (3) Falls nach Ablauf von zwei Jahren nach der Unterzeichnung des Verfassungsvertrags vier Fünftel der Mitgliedstaaten den Verfassungsvertrag ratifiziert haben und in einem oder mehreren Mitgliedstaaten Schwierigkeiten bei der Ratifikation aufgetreten sind, so befasst sich der Europäische Rat mit der Frage.

Artikel H: Geltungsdauer

Der Verfassungsvertrag gilt auf unbegrenzte Zeit.

Artikel I: Sprachen ¹

Der Verfassungsvertrag ist in einer Urschrift in dänischer, deutscher, englischer, estnischer, finnischer, französischer, griechischer, irischer, italienischer, lettischer, litauischer, maltesischer, niederländischer, polnischer, portugiesischer, schwedischer, slowakischer, slowenischer, spanischer, tschechischer und ungarischer Sprache abgefasst, wobei jeder Wortlaut gleichermaßen verbindlich ist; er wird im Archiv der Regierung der Italienischen Republik hinterlegt; diese übermittelt der Regierung jedes anderen Unterzeichnerstaats eine beglaubigte Abschrift.

¹ Dieser Artikel muss der Beitrittsakte angepasst werden.

Explanation:

Artikel B:

Die Rechtsnachfolge umfasst die Europäische Gemeinschaft sowie die Union.

Darüber hinaus sollte noch genauer geprüft werden, ob tatsächlich eine Rechtsnachfolge oder nicht vielmehr eine Fortsetzung der bisherigen Gemeinschaft, mit einem um die bisherigen Unionsbereiche erweiterten Zuständigkeitsbereich (Rechtsidentität) unter dem neuen Namen Europäische Union vereinbart werden sollte.

In Absatz 2 sollten die Worte "der Organe der Union" gestrichen werden. Es muss sichergestellt werden, dass auch die Rechtsakte der Institutionen, die keinen Organstatus haben, weiter gelten.

Der letzte Satz in Absatz 2 über die Fortgeltung der Rechtsprechung gibt die Rechtslage nicht zutreffend wieder, da Rechtsprechung nicht "gilt", sondern vom EuGH als Erkenntnisquelle bei der Auslegung des geltenden Rechts herangezogen wird.

Artikel C: Der Artikel sollte alle Länder aufführen, die den Verfassungsvertrag voraussichtlich unterzeichnen werden.

Artikel F: Verfassungsänderungen sollten auch künftig möglichst transparent und bürgernah, unter Einbeziehung der Zivilgesellschaft, erfolgen. Die Einberufung eines Konvents zur Vorbereitung der Regierungskonferenz sollte daher als Grundsatz in der Verfassung verankert werden. Bei rein technischen Änderungen des Verfassungsvertrags sollte der Europäische Rat die Möglichkeit erhalten, einstimmig auf die Einberufung eines Konvents zu verzichten.

Artikel I: Der Artikel sollte bereits jetzt die Sprachen aller Länder aufführen, die den Verfassungsvertrag voraussichtlich unterzeichnen werden.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : F, G

Proposition d'amendement à la Partie III

Déposée par Madame ou Monsieur : Gianfranco FINI

Qualité : - Membre

Articolo F: Procedura di modifica del trattato costituzionale

Il governo di qualsiasi Stato membro o la Commissione può sottoporre al Consiglio progetti intesi a modificare il trattato costituzionale. Tali progetti sono notificati ai parlamenti nazionali.

Qualora il Consiglio, dopo aver consultato il Parlamento europeo e, se del caso, la Commissione, esprima parere favorevole alla convocazione di una conferenza dei rappresentanti dei governi degli Stati membri, questa è convocata dal Presidente del Consiglio allo scopo di stabilire di comune accordo le modifiche da apportare al trattato costituzionale. In caso di modifiche istituzionali nel settore monetario viene consultata anche la Banca centrale europea.

Le modifiche ~~Gli emendamenti~~ entreranno in vigore dopo essere state ~~i~~ ratificate ~~i~~ da tutti gli Stati membri conformemente alle loro rispettive norme costituzionali

Articolo G: Adozione, ratifica e entrata in vigore del trattato costituzionale

1. Il trattato costituzionale sarà ratificato dalle Alte Parti contraenti conformemente alle loro norme costituzionali rispettive. Gli strumenti di ratifica saranno depositati presso il Governo della Repubblica italiana.
 2. Il trattato costituzionale entrerà in vigore il ..., se tutti gli strumenti di ratifica saranno stati depositati; altrimenti, il primo giorno del mese successivo all'avvenuto deposito dello strumento di ratifica da parte dello Stato firmatario che procederà per ultimo a tale formalità.
 3. Qualora, al termine di un periodo di due anni a decorrere dalla firma del trattato costituzionale, i quattro quinti degli Stati membri **che rappresentino almeno i 4/5 della popolazione europea** abbiano ratificato il trattato costituzionale e uno o più Stati membri **non lo abbiano ratificato** ~~abbiano incontrato difficoltà nelle procedure di ratifica~~, la questione è deferita al Consiglio europeo.
-

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article :F (part 3)

Suggestion for protocol :

By Mr David Heathcoat-Amory, Mr Bonde

Status :X - Member - Alternate

N.B. '()' denote text deleted ' _____ 'denotes text added

Article F: Procedure for revising the Constitutional Treaty

The government of any Member State (*or the Commission*) may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall (*be notified of*) **have the opportunity to debate** these proposals. If the Council, **by unanimity**, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

All parts of this Treaty are amendable by the same rules and procedures

Explanation (if any) :

The first paragraph is amended to increase the input of national parliaments, which shall be called upon at an early stage to give their Governments a broad negotiating outline, and voice their opinions on the need for modifications and reforms.

While a mechanism should exist to provide for Treaty change, this should not be undertaken lightly. Nor should a member state effectively be forced into negotiating a treaty change which its parliament does not want. This method allows for full debate and participation by citizens.

The concluding new sentence ensures that all parts of the Treaty are equal, and major treaty change cannot take place by a vote in Council away from the public eye.

AMENDMENT FORM

~~Suggestion for amendment of Article :~~

Suggestion for Part III, Article F

By ~~Ms~~/ Mr : Hain

Status : - Member - ~~Alternate~~

Fine.

Explanation (if any) :

We support this article, which in our view is the only feasible option for legal and political reasons.

AMENDMENT FORM

Suggestion for amendment of: **PART THREE: GENERAL AND FINAL PROVISIONS**

Article F: Procedure for revising the Constitutional Treaty

By: **GIANNAKOU Marietta, Member and
STYLIANIDIS Evripidis, Alternate Member**

Text of the Praesidium

Proposed Amendments

Article F: Procedure for revising the Constitutional Treaty

~~The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.~~

~~If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.~~

~~The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.~~

Article F: Procedure for revising the Constitution

(1) The government of any Member State, the European Parliament and the Commission may submit to the Council proposals for the amendment of the Constitution.

(2) The amendment of the Constitution shall be prepared by a Constitutional Convention which shall be convened by the Council after consulting the European Parliament and the Commission, and which shall within one year draw up a final document containing a detailed draft text.

The Constitutional Convention shall be composed of:

- a Convention Chairman appointed by the Council with the approval of the European Parliament;*
- a representative delegated by the government of each Member State;*
- two representatives delegated by the national parliaments of each Member State;*
- a number of representatives of the European Parliament equal to the number of member states;*
- four members of the European Commission.*

In the case of institutional changes in the monetary area, one delegate of the ECB shall also participate in the Constitutional Convention.

The President of the European Court of Justice, the President of the European Court of Auditors, the President of the Committee of the Regions, the President of the Economic and Social Committee and the Ombudsman may each delegate one observer to the Constitutional Convention.

(3) The constitutional amendment adopted by the Constitutional Convention must be confirmed by a conference of representatives of the governments of the Member States. This conference shall be convened by the President of the Council immediately subsequent to the Convention.

Explanation:

The Convention method should be the general mechanism for Constitution changes in the future in order to allow broader public debates and improve the opportunities for finding a consensus. With 25 or more Member States this will be even more important.

FICHE AMENDEMENT

Proposition d'amendement à l'Article F, Partie III de la Constitution

Déposée par M. Jacques FLOCH, Membre suppléant

Article F. : Procédure de révision du Traité constitutionnel

Modifier le paragraphe 1 de l'article comme suit :

Le gouvernement de tout Etat membre, **ou** la Commission, *ou le Parlement européen*, peut soumettre au Conseil des projets tendant à la révision du traité constitutionnel. Ces projets sont notifiés aux Parlements nationaux.

Si le Conseil, après avoir consulté le Parlement européen et, le cas échéant, la Commission, émet un avis favorable à la réunion d'une conférence des représentants des gouvernements des Etats membres, celle-ci est convoquée par le président du Conseil en vue d'arrêter d'un commun accord les modifications à apporter au Traité constitutionnel. Dans le cas de modifications institutionnelles dans le domaine monétaire, le Conseil de la Banque centrale européenne est également consulté.

Ajouter un troisième paragraphe

Le Conseil, après consultation du Parlement européen, et le cas échéant, avis de la Commission, décide, pour préparer la conférence des représentants des gouvernements des Etats membres, de convoquer une Convention composée de représentants des Parlements nationaux, des chefs d'Etat et de gouvernement des Etats membres, du Parlement européen, de la Commission et d'observateurs.

Les amendements entreront en vigueur après avoir été ratifiés par tous les Etats membres conformément à leurs règles constitutionnelles respectives.

Explication éventuelle :

Quels que soient les résultats de l'actuelle Convention et sans présumer d'éventuels perfectionnements de son fonctionnement, le principe de la Convention comme méthode de préparation d'une conférence intergouvernementale doit avoir sa place dans le traité.

AMENDMENT FORM

Part Three: General and final provisions

Suggestion for amendment of Article : F

By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Karel De Gucht, Mr Peeter Kreitzberg, Mr Algirdas Gricius, Mr Puiu Hasotti, Mr Jelko Kacin, Mr Zekeriya Akçam, and Mr Eugenijus Maldeikis; **and Alternate Members:** Ms Lone Dybkjaer, Mr Valdo Spini, Mr Willem Van Eekelen, Lord MacLennan of Rogart, Mr Nesrin Uzun, Mr Marios Matsakis, Mrs Androula Vassiliou, Mr Istvan Szent-Ivanyi, Mr Péter Eckstein-Kovacs, Mr Patrick Dewael, Mr Ibrahim Ozal and Mr Gintautas Sivickas.

Status : Members and alternate members.

Article F: Procedure for revising the *Constitution*

1. Any Member State, the European Parliament or the Commission may submit to the *European Council* proposals for the amendment of the *Constitution*. The national parliaments shall be notified of these proposals.

2. The European Council, acting by a majority of its members, after consulting the European Parliament and, where appropriate, the Commission, *may call a Convention composed of a President, representatives of the Member States, the Commission, the European Parliament and Member State parliaments. The Convention shall consider the proposals for constitutional amendment and, on the basis of a consensus, make proposals to* a conference of representatives of the governments of the Member States. The conference shall be convened by the President of the Council for the purpose of *determining the* amendments to be made to the *Constitution*. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

*2 bis. As far as Part One of the Constitution is concerned, the conference shall decide by a five-sixths majority of the Member States.*¹ The amendments shall enter into force after *having received the assent of the European Parliament acting by a two-thirds majority of the votes cast, representing a majority of its Members, and* after being ratified by *five-sixths of* the Member States in accordance with their respective constitutional requirements.

2 ter. As far as Part Two of the Constitution is concerned, the conference shall decide by a five-sixths majority of the Member States. The amendments shall enter into force after *having received the assent of the European Parliament acting by a two-thirds majority of the votes cast, representing a majority of its Members.*

Explanation:

¹ We assume that the Charter of Fundamental Rights will appear as Chapter Two of Part One.

1. *The Praesidium's faithful reiteration of Article 48 TEU and the reference to the governments of Member States in this context is a pity. Who else represents the Member States but their governments? We propose the ironing out of this anomaly and the reversion to the normal terminology.*

If it is to be accredited with the legitimacy to take part in the Convention (and ratification procedures, as proposed below), the European Parliament must also be included in the list of those who can propose constitutional amendments. MEPs have a vested interest in and enormous experience of the workings of the Constitution.

We should surely specify that we mean the European Council here and throughout the constituent procedure, and also that it must act to call the Convention by a simple majority.

2. *Thankfully, it is unthinkable that the Union should now or ever again revert merely to the classical intergovernmental conference method of revising the treaties. The legitimacy of the Convention method is proven and any regression from it would be a decisive step backwards for Europe. We insert therefore the use of the Convention as a prerequisite for all future constitutional amendment (although the precise definition of the purpose, composition and working method of the Convention might be better placed in the title on institutions¹).*

It is sensible, however, to stick with the present formula of Article 48 TEU with respect to the triggering of the constitutional revision process. Although no revision can be allowed to take place without the holding of a Convention, it is up to the European Council to consider the timing of the process.

2 bis. *In the light of (1) the enlargement of the Union, (2) the problematic history of previous Intergovernmental Conferences, and (3) the constitutional settlement with which the Convention is now engaged, we are convinced that this is the time to adapt the revision procedure from that provided for in Article 48 TEU.*

The treaty revision process has already been held to ransom twice in a Union of 15 member states, once by Denmark (Treaty of Maastricht) and once by Ireland (Treaty of Nice). Other referenda, such as the French over Maastricht, have only just acquired the necessary popular assent. In a number of cases, notably the UK over Maastricht, the passage of the treaty amendment through national parliaments has been too close for comfort. The Convention must therefore pose the question about whether it is right that the opposition of a small minority of voters or parliamentarians in one or two member states - often acting for reasons only loosely connected with the politics of the European Union - should be sufficient to veto the constitutional reform required and supported by the rest of Europe.

The changes we propose, therefore, have three elements:-

First, the consensus needed in future IGCs to amend the Constitution (Parts One and Two) will be defined as five-sixths of Member States.

Second, the European Parliament will be asked to give its assent to the conclusions of the IGC. The voting formula proposed here is the same as the Parliament already uses for

¹ As in CONV 234/02.

solemn votes, such as the sanction of an errant member state (Rule 108 of the Parliament's current Rules of Procedure).

The proposed installation of the European Parliament in the constituent process is the other important change we propose. As far as Part One is concerned, the role of the European Parliament complements and does not replace national constitutional requirements. To maintain the exclusion of the Parliament from sharing in the ratification process is unjustifiable if the Convention is serious about improving the democratic life of the Union. The only directly-elected institution of the Union must have an enhanced standing in its constituent work. Otherwise the Convention's claim to a genuine 'constitutionalisation' will be very thin and its commitment to democratisation risible.

Third, as far as Part One of the Constitution is concerned, the revisions as agreed by the heads of government at the IGC and approved by the European Parliament will come into force before all member states have ratified them. We again propose the threshold of five-sixths (21 member states in an EU of 25; 24 member states in an EU of 28).

2 ter. As far as Part Two is concerned, a lighter ratification procedure is required if the Union is not to be mired in endless constitutional crises. The policy chapters of the Constitution must be made more susceptible to reform than the hard and fast rules entrenched in Part One.

Although the decision making in the IGC will be the same for both Parts of the Constitution, the ratification procedure for Part Two will stop with the assent of the European Parliament acting according to the same high threshold.

Please note that our proposals to modify the procedures for constitutional revision are reflected in our amendments to Article G in the present Title and to Title X (Union membership).

AMENDMENT FORM

Suggestion for Part III

Article : A

By Mr Hannes FARNLEITNER
Mr Reinhard Eugen BÖSCH

Mr Gerhard TUSEK
Mr Eduard MAINONI

Status : - Members

- Alternate Members

Article A: Repeal of earlier Treaties

The Treaty establishing the European **Economic** Community of 25 March 1957, **the Treaty establishing the European Atomic Energy Community of 25 March 1957**, ~~the Single Act of 17 February 1986, the Treaty on European Union of 7 February 1992, the Treaty of Amsterdam of 2 October 1997 and the Treaty of Nice of 26 February 2001,~~ **and the Treaties amending these Treaties** shall be repealed as from the date of entry into force of the Constitutional Treaty **to the extent foreseen in the Annex to this Constitutional Treaty**. The acts and treaties listed in the Annex shall also be repealed as foreseen therein.

The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force with their original legal effect. However, the European Court of Justice may - in accordance with the procedure laid down in Art. XYZ [current 234 and 241 EC-Treaty] - determine that they are not compatible with this Constitutional Treaty.

The case-law of the Court of Justice of the European Communities shall remain relevant for the interpretation of the Constitutional Treaty and acts taken prior to its entry into force.

Explanation (if any) :

For systematic reasons, only the original Treaties should be mentioned here explicitly while referring to the Annex listing their subsequent amendments. As there will be a large number of provisions in these Treaties which can/ will not be repealed, the Annex will contain lists of these provisions which will remain in force. This should be explicitly mentioned here for the sake of clarity and legal certainty. The last sentence of para. 1 deserves further consideration as to the question whether it is necessary (which acts or treaties would fall within this category (e.g. acts and treaties in the framework of Schengen)?).

We consider it to be imperative for the Convention to address the question as to which role should be played by the European Atomic Energy Community and the underlying Treaty within the context of a future system of European integration and cooperation. The role of EURATOM must have its place precisely in the comprehensive debate on the future of the Union which we are conducting at the present time. In this context we refer to the Contribution by Mr. Hannes Farnleitner, Mr. Caspar Einem and Mr. Reinhard E. Bösch, members of the Convention : " A single legal personality - On the future of EURATOM " (CONV 358/02) and to the Contribution by Mr Caspar Einem and Mr Hannes Farnleitner, members of the Convention, and Ms Maria Berger, Mr Reinhard Rack and Mr Gerhard Tusek, alternate members of the Convention: "Praesidium's suggested approach for the

Euratom Treaty (CONV 621/03)" (CONV 666/03).

Para 2 and 3 are – to a large extent - taken from Art. B. The wording “with their original legal effect” inserted should make it clear that the legal instruments shall have the same legal effects they have been given under the former legal regime of the EC-Treaty and EU-Treaty. This is esp. important for legal acts which will not exist any more (see eg. framework decisions, specific acts taken within the current “Second Pillar” etc.). The proposed last sentence of paragraph 2 should make it clear that it is the European Court of Justice to determine whether or not a provision of an act is compatible with the Constitutional Treaty.

AMENDMENT FORM

Suggestion for Part III

Article : B

By Mr Hannes FARNLEITNER
Mr Reinhard Eugen BÖSCH

Mr Gerhard TUSEK
Mr Eduard MAINONI

Status : - Members

- Alternate Members

Article B: Legal continuity in relation to the European Communities and the European Union

The European Union shall ~~succeed to~~ **continue** all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Constitutional Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

~~The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force insofar as they are compatible with the Constitution. The case-law of the Court of Justice of the European Communities shall be maintained as a preferential source of interpretation of the Constitution and acts prior to its entry into force.~~

Explanation (if any) :

The title should refer to the European Communities as the provision itself also refers to the European Communities - thereby including the European Atomic Energy Community.

The heading refers to “legal continuity”, the provision should as well foresee a “continuation” of rights and obligations and not a “succession”.

Para 2 is moved to Art. A as it refers to “the acts of the Institutions of the Union, adopted by virtue of the treaties and acts” mentioned therein.

AMENDMENT FORM

Suggestion for Part III

Article : F

**By Mr Hannes FARNLEITNER
Mr Reinhard Eugen BÖSCH**

**Mr Gerhard TUSEK
Mr Eduard MAINONI**

Status : - Members

- Alternate Members

Article F: Procedure for revising the Constitutional Treaty

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a Conference of Representatives of the Governments of the Member States, the Conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The Conference of the Representatives of the Governments of the Member States may be preceded by a preparatory Convention convened by the President of the European Council and composed of representatives of the national Parliaments, the Heads of State or Government of the Member States, the European Parliament and the Commission. At the close of its proceedings, the Convention shall adopt by consensus a final document comprising either different options, indicating the degree of support which they received, or recommendations if consensus is achieved. This final document, where appropriate together with the outcome of dialogue with representative associations and civil society on European and national level, shall provide the basis for deliberations in the subsequent Conference of the Representatives of the Governments of the Member States referred to in paragraph 2.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Explanation (if any) :

We welcome the proposal of the Praesidium in its comments to Art. F (CONV 647/03) to insert a provision defining a possible role for a preparatory Convention in the future procedure revising the Constitutional Treaty. We have however inserted some changes taking into account the wording of the “Laeken Declaration”. The rule that an IGC “may” be preceded by a Convention should open the possibility not to foresee such a Convention for the preparation of only minor amendments to the Constitutional Treaty.

The possibility of an amendment of the Constitutional Treaty by the Council –acting unanimously -

instead of a Conference of Member States might also be considered. It is of course crucial that this Council decision has to be ratified by all Member States in accordance with their respective constitutional requirements.

We do not see any role for a “Congress”.

The political problem of having one or more Member States failing to ratify a revision has to be solved with political means on a political level. Therefore no specific provision needs to be inserted here in this context.

AMENDMENT FORM

Suggestion for Part III

Article : G

By **Mr Hannes FARNLEITNER**
Mr Reinhard Eugen BÖSCH

Mr Gerhard TUSEK
Mr Eduard MAINONI

Status : - Members

- Alternate Members

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

1. The Constitutional Treaty shall be ratified by the ~~High Contracting Parties~~ **Member States** in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.
3. ~~If, two years after the signature of the Constitutional Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.~~

Explanation (if any) :

The applicability of the provision of para 3 depends – from a legal point of view – on the entry into force of the Constitutional Treaty. In such a case there is of course no need for it any more as all Member States have ratified the Constitutional Treaty. The provision consequently has no legal relevance and should therefore not be included in the Constitutional Treaty. The political problem of having one or more Member States failing to ratify the Constitutional Treaty has therefore to be solved with political means on a political level.

Instead we could imagine having a political agreement by the Heads of State or Government e.g. in the margins of the signatory ceremony of the Constitutional Treaty that there may be a reference to the European Council if such ratification problems may occur.

AMENDMENT FORM

Suggestion for amendment of Article F: Procedure for revising the Constitutional Treaty

By Ms / Mr: Ján Figel' (Representative of the Slovak Parliament)

Status: member

Inclusion of a new paragraph:

"The Conference of the Representatives of the Governments of the Member States may be preceded by a preparatory Convention convened by the President of the European Council and composed of representatives of the national Parliaments, the Heads of State or Government of the Member States, the European Parliament, the Council and the Commission. At the close of its proceedings, the Convention shall adopt by consensus a recommendation to the Conference of the Representatives of the Governments of the Member States."

Explanation (if any):

AMENDMENT FORM

Suggestion for amendment of Article : F

Suggestion for Part III

By Ms / Mr : M Caspar EINEM

Status : Member

Artikel F: Verfahren zur Änderung des Verfassungsvertrags

(1) Die Regierung jedes Mitgliedstaats oder die Kommission kann dem Rat Entwürfe zur Änderung **der Verfassung** vorlegen. Diese Entwürfe werden den einzelstaatlichen Parlamenten mitgeteilt.

Der Rat entscheidet, ob wegen des Umfangs oder der Bedeutung der vorgelegten Änderungsvorschläge ein Konvent, der sich aus Vertretern der einzelstaatlichen Parlamente und des Europäischen Parlaments, von Vertretern der Staats- und Regierungschefs sowie der Kommission zusammensetzt, zur Erarbeitung eines Verfassungstextes eingesetzt wird.

Gibt der Rat nach **Erarbeitung eines Änderungsvorschlages zur Verfassung durch den eingesetzten Konvent oder im Falle geringfügigerer Änderungen nach** Anhörung des Europäischen Parlaments und gegebenenfalls der Kommission eine Stellungnahme zugunsten des Zusammentritts einer Konferenz von Vertretern der Regierungen der Mitgliedstaaten ab, so wird diese vom Präsidenten des Rates einberufen, um die an **der Verfassung** vorzunehmenden Änderungen zu vereinbaren. Bei institutionellen Änderungen im Währungsbereich wird auch die Europäische Zentralbank gehört.

(2) **Haben die Bürgerinnen und Bürger der Union mit der in Artikel 34 festgelegten Mehrheit ein Referendum über eine Änderung der Verfassung angenommen so ist das Ergebnis den einzelstaatlichen Parlamenten mitzuteilen.**

(3) Die Änderungen treten in Kraft, nachdem sie von allen Mitgliedstaaten gemäß ihren verfassungsrechtlichen Vorschriften ratifiziert worden sind.

Explanation (if any) : Durch die hier vorgeschlagenen Änderungen soll einerseits die Konvents-Methode ausdrücklich als Möglichkeit für größere oder bedeutsamere Verfassungsänderungen im Verfassungstext eingeführt werden. Weiters soll der Entwicklung der EU zu einer Einrichtung, die zwei Legitimationsgrundlagen hat, Rechnung getragen werden: Verfassungsänderungen sollen einerseits – wie bisher – von Mitgliedstaaten oder der Kommission vorgeschlagen werden können und dann in einer Regierungskonferenz beraten und beschlossen oder durch eine Volksabstimmung beschlossen werden können. In beiden Fällen soll – vorläufig - auch eine nachfolgende Ratifizierung erforderlich bleiben.

AMENDMENT FORM

Suggestion for Part III General and Final Provisions: article E: Protocols

**By Ms / Mr : R. van der Linden
W. van Eekelen
J. van Dijk**

Status : - Member - Alternate

The Convention should not just draw the attention of the IGC to the fact that it needs to consider what is to happen to the existing protocols, but it should urge the IGC to critically look at the existing protocols. Some of the current protocols annexed to the Treaty have no more specific meaning and/or include (expired) transitional arrangements.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article E: (Part Three: General and final provisions)

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen, Esko Helle

Status : **Tiilikainen, Kiljunen, Vanhanen - Members**
 Peltomäki, Korhonen, Helle - Alternates

Article E: Protocols

The protocols annexed to this Treaty shall form an integral part thereof.

Explanation:

With reference to our comments on draft Article A and C we think that the protocols to annexed to this Treaty shall include not only the protocols annexed to the EU and EC Treaties but also the protocols annexed to the Acts of Accession (e.g., the Protocol on the Åland Islands referred to in paragraph 5 of draft Article C).

AMENDMENT FORM

Suggestion for Part III Article E: Protocols

By Mr Roche

Status : - Member

Article E: Protocols

The protocols annexed to this Treaty shall form an integral part thereof.

Explanation (if any) :

No amendment is proposed. However, the question of Protocols to existing Treaties, and the Declarations relating to them, will need to be addressed by the IGC.

AMENDMENT FORM

Suggestion for amendment of Article: E

Suggestion for Part III

By Ms: Prof. Danuta Hübner

Status: Member

<i>Text of the Praesidium</i>	<i>Proposed Amendments</i>
Article E: Protocols The protocols annexed to this Treaty shall form an integral part thereof.	Article E: Protocols The protocols annexed to this Treaty shall form an integral part thereof.

Explanation :

Since there is no completed list of the protocols mentioned in that article and it is also likely that some of them will be the subject of amendment (Schengen) or deletion (protocols of the Amsterdam Treaty) this issue need to be examined by the group of the legal experts for the next Intergovernmental Conference.

AMENDMENT FORM

Suggestion for amendment of Article :E (part 3)

Suggestion for protocol :

By Mr David Heathcoat-Amory, Mr Bonde

Status :X - Member - Alternate

N.B. ‘()’ denote text deleted ‘ _____ ’denotes text added

Article E: Protocols

The protocols annexed to this Treaty shall form an integral part thereof, **with equal legal force.**

Explanation (if any) :

This clarifies beyond all doubt that Protocols have full legal standing and equivalence with the main treaty body.

FICHE AMENDEMENT

Proposition d'amendement à l'Article E, Partie III

Déposée par **M. Olivier DUHAMEL**

Qualité: - Membre

Déposée par **Mme Elena PACIOTTI**
 Mme Maria BERGER

Qualité: - Suppléantes Vers. IT

ARTICOLO E: Atti aggiuntivi

Gli atti aggiuntivi allegati al presente trattato costituzionale ne costituiscono parte integrante.

Motivazione:

Il termine "protocolli" si addice ad atti allegati a trattati, mentre questi atti diventeranno parte di una costituzione.

FICHE AMENDEMENT

Proposition d'amendement à l'Article E, Partie III

Déposée par M. Olivier DUHAMEL

Qualité: - Membre

Déposée par Mme Elena PACIOTTI
Mme Maria BERGER

Qualité: - Suppléantes Vers. FR

Article E: *Actes Additionnels*

Les Actes additionnels annexés au présent Traité en font partie intégrante.

Justification:

Le terme "protocole" convient aux actes annexés aux traités; par contre, les actes en question deviendront partie d'une constitution.

FICHE AMENDEMENT

Proposition d'amendement à la Partie III

Déposée par Monsieur : Olivier Duhamel

Qualité : - Membre

Adjonction d'un alinéa premier en tête.

Article G Adoption, ratification et entrée en vigueur du Traité constitutionnel.

1. *Nouveau* Après son adoption par le Conseil européen et avant sa ratification par les Etats membres, le projet de constitution est soumis à un référendum européen en même temps que les élections européennes de juin 2004.

Suite inchangée

Explication éventuelle :

1. *Les citoyens européens doivent se prononcer eux-mêmes sur le nouveau texte fondamental qui régira désormais les institutions européennes.*
2. *Le référendum européen peut être décidé politiquement et organisé juridiquement par chaque Etat membre. Dans les Etats qui ne prévoient pas constitutionnellement l'organisation d'un référendum, rien ne s'oppose à l'adoption d'une loi permettant la tenue d'un référendum consultatif, comme ce fut fait, par exemple, pour l'adhésion du Royaume-Uni aux Communautés européennes.*

AMENDMENT FORM

Suggestion for amendment of Article: D

Suggestion for Part III

By Ms: Prof. Danuta Hübner

Status: Member

<i>Text of the Praesidium</i>	<i>Proposed Amendments</i>
<p>Article D: Regional unions</p> <p>The Constitutional Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of the Constitutional Treaty.</p>	<p>Article D: Regional unions</p> <p>The Constitutional Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, <u>the Member States</u> to the extent that the objectives of these regional unions are not attained by application of the Constitutional Treaty.</p>

Explanation:

Taking to account the enlargement of the Union it seems reasonable to wider the meaning of this article in order to give Member States more flexibility in exercising their enhanced regional co-operation.

AMENDMENT FORM

Part Three: General and final provisions

Suggestion for amendment of Article : D

By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Karel De Gucht, Mr Alain Lamassoure, Mr Peeter Kreitzberg, Mr Algirdas Gricius, Mr Puiu Hasotti, Mr Jelko Kacin, Mr Zekeriya Akçam, and Mr Eugenijus Maldeikis; **and Alternate Members:** Mrs Elena Paciotti, Mr Willem Van Eekelen, Lord MacLennan of Rogart, Mr Nesrin Uzun, Mr Marios Matsakis, Mrs Androula Vassiliou, Mr Istvan Szent-Ivanyi, Mr Péter Eckstein-Kovacs, Mr Patrick Dewael, Mr Ibrahim Ozal and Mr Gintautas Sivickas.

Status : Members and alternate members.

Article D: Regional unions

The *Constitution* shall not preclude the existence or completion of regional unions between *neighbouring Member States* to the extent that the objectives of these regional unions are *in accordance with the provisions of the Constitution and are* not attained by *its* application.

Explanation:

1. We refer here and throughout to the 'Constitution' rather than to the 'Constitutional Treaty'. The pact is of course a treaty in terms of the Vienna Convention on the Law on Treaties. But it establishes a constitution for the European Union, and it is simpler and clearer to call it so.

2. The existence of Benelux is all very well, but it is not the one and only form of closer cooperation between neighbouring Member States that could in the future take an institutionalised format within the provisions of the Union's Constitution - see for example, the Nordic Council and the British-Irish Agreement. Enlargement might well induce further manifestations of geographical proximity among certain Member States, for instance in the Balkans or the Baltic. The development of regional unions should certainly not be discouraged as they may well contribute to the regional and cultural diversity of the Union as a whole and even to its efficient management.

We suggest here a form of words that would permit such developments on the condition that they do not conflict with the aims, objectives or constitutional order of the Union.

AMENDMENT FORM

Suggestion for amendment of Article :

Suggestion for Part III : Article C

By Ms / Mr : G.M. de Vries
T.J.A.M. de Bruijn

Status : Members Alternate

-
1. The Constitutional Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland, ...
 2. The Constitutional Treaty shall apply to the French overseas departments, the Azores, Madeira and the Canary Islands in accordance with Article ... of Part Two.
 3. The special arrangements for association set out in Part [Four of the TEC] of the Constitutional Treaty shall apply to the overseas countries and territories listed in [Annex II to the TEC].

The Constitutional Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

4. The Constitutional Treaty shall apply to the European territories for whose external relations a Member State is responsible.
5. The Constitutional Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.
6. Notwithstanding the preceding paragraphs:
 - (a) the Constitutional Treaty shall not apply to the Faeroe Islands;
 - (b) the Constitutional Treaty shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;
 - (c) the Constitutional Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community, signed on 22 January 1972.

Explanation (if any) : The Dutch Government is considering proposing an amendment for article C regarding the procedure for revision of paragraph 3. We will inform the Convention secretariat as soon as possible.

AMENDMENT FORM

Suggestion for amendment of Article C: (Part Three: General and final provisions)

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen

Status : **Tiilikainen, Kiljunen, Vanhanen - Members**
 Peltomäki, Korhonen - Alternates

Article C: Scope

1. The Constitutional Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland, ...
2. The Constitutional Treaty shall apply to the French overseas departments, the Azores, Madeira, ~~and the Canary Islands~~ **and the regions of the Republic of Finland and of the Kingdom of Sweden with an extremely low population density**, in accordance with Article ... of Part Two.
3. The special arrangements for association set out in Part [Four of the TEC] of the Constitutional Treaty shall apply to the overseas countries and territories listed in [Annex II to the TEC].

The Constitutional Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

4. The Constitutional Treaty shall apply to the European territories for whose external relations a Member State is responsible.
5. The Constitutional Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol **Y to the Constitutional Treaty** ~~2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.~~
6. Notwithstanding the preceding paragraphs:
 - (a) the Constitutional Treaty shall not apply to the Faeroe Islands;
 - (b) the Constitutional Treaty shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;
 - (c) the Constitutional Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States

to the European Economic Community and to the European Atomic Energy Community, signed on 22 January 1972.

Explanation:

In the Accession Treaty of Austria, Finland and Sweden (Protocol 6) it was agreed to give the peripheral regions of Finland and Sweden with an extremely low population density a special status (Objective 6) in the framework of the Structural Funds. The eligibility of the regions for assistance from the Structural Funds was re-examined in 1999 simultaneously with the framework Regulation (EEC) No 2081/93 on Structural instruments and policies.

The regions of Finland and Sweden with an extremely low population density were assigned Objective 1 status (Council Regulation 1260/99, Article 3) equivalent to that of the ultra-peripheral regions as defined in Article 299, paragraph 2, of the EC Treaty. As the conditions which formed the basis for the special treatment of the regions of Finland and Sweden with extremely low population density have not improved, Finland proposes that the treatment of northern regions with an extremely low population density would be recognised in the new Article C. This would also take account of the need to reduce the number of special exceptions in the *acquis*. This treatment would be restricted to access to assistance from Structural Funds and state aid.

It follows from our comments on draft Articles A and E that the Protocol on the Åland Islands referred to in paragraph 5 should be annexed directly to the Constitutional Treaty.

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Artigo C

Déposée Monsieur Luís Queiró

Qualité : Suppléant

Suprimir a palavra "Constitucional" de todos os números e alíneas deste Artigo C

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article: F

Suggestion for Part III

By Mr:

Alberto Costa - Member

Guilherme d'Oliveira Martins - Alternate

Part Three: General and final provisions

Article F: Procedure for revising the Constitutional Treaty

1. ...

2. "The Conference of the Representatives of the Governments of the Member States **shall be preceded** by a preparatory Convention convened by the President of the European Council and composed of representatives of the National Parliaments, the Heads of State or Government of the Member States, the European Parliament, the Council and the Commission. At the close of its proceedings, the Convention **shall submit a proposal** to the Conference of the Representatives of the Governments of the Member States."

FICHE AMENDEMENT

Proposition d'amendement à l'Article : F

Proposition d'amendement à la Partie III

Déposée par Monsieur :

Alberto Costa - Membre

Guilherme d'Oliveira Martins - Suppléant

Partie III: Dispositions générales et finales

Article F: Procédure de révision du Traité constitutionnel

1...

2. "La Conférence des représentants des gouvernements des États membres **sera préparée** par une Convention convoquée par le Président du Conseil européen et composée de représentants des Parlements nationaux, des chefs d'État et de gouvernement des États membres, et du Parlement européen, du Conseil et de la Commission. A l'issue de ses travaux, la Convention **soumet une proposition** à la Conférence des représentants des gouvernements des États membres."

FICHA DE ALTERAÇÃO

Proposta de alteração à Parte III : Artigo F

Apresentada pelo Deputado:

Alberto Costa (membro)

Guilherme d'Oliveira Martins (suplente)

Parte III: Disposições Gerais e Finais

Artigo F: Processo de revisão do Tratado Constitucional

1. ...

2. "A Conferência de representantes dos governos dos Estados-Membros **será preparada** por uma Convenção convocada pelo Presidente do Conselho Europeu e composta por representantes dos Parlamntos Nacionais, dos Chefes de Estado e de Governo dos Estados-Membros, e do Parlamento Europeu, do Conselho e da Comissão. No termo dos seus trabalhos, a Convenção **submete uma proposta** à Conferência de representantes dos governos dos Estados-Membros."

11.4.2003

Comments on draft Articles 33-37: (Title VI: The democratic life of the Union, part I of the Constitution), draft Article 42: (Title IX: The Union and its immediate environment, part I of the Constitution), Articles 43-46: (Title X : Union membership, part I of the Constitution) as well as Part Three: General and final provisions, by Dr. Teija Tiilikainen, Mr. Antti Peltomäki, Mr. Kimmo Kiljunen, Mr. Matti Vanhanen and Ms. Riitta Korhonen, Finnish representatives in the Convention (*except for article 46, where only Dr. Tiilikainen, Mr. Peltomäki and Ms. Korhonen support the comment*).

ARTICLES 33-37 (TITLE VI: THE DEMOCRATIC LIFE OF THE UNION, PART I OF THE CONSTITUTION)
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Article 33: The principle of democratic equality

The Union's operation shall be founded on the dual principle of the equality of its citizens and its Member States., ~~who shall receive equal attention from the Union's institutions.~~

Explanation:

The scope and purpose of this article is unclear. As a starting point for title VI it should, however, cover also the other leading principle in this respect namely that of equality between Member States. In this way, a necessary recognition is given to the dual nature of the Union as the Union of citizens and Member States.

Article 36: Transparency of the proceedings of the Union's institutions

1. In order to promote good governance and ensure the participation of civil society, the Union institutions shall conduct their work as openly as possible.
2. The European Parliament shall meet in public, as shall the Council when it is discussing a legislative proposal.
3. Any citizen of the Union, ~~man or woman,~~ and any natural or legal person residing **or having its registered office** in a Member State, shall have a right of access to ~~European Parliament, Council and Commission documents in whatever form they are produced, and to those of the Union institutions, agencies and bodies created by those institutions..~~
4. General principles, ~~conditions~~ and limits ~~which,~~ on grounds of public or private interest, governing the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure **within two years of the entry into force of the Constitutional Treaty.**

5. Each institution, agency or body referred to in paragraph 2 3 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.

Explanation:

Paragraph 3 should cover the right of access to documents of not only agencies and bodies created by the European Parliament, Council and Commission but also Union institutions and bodies established directly by the Constitution. Furthermore, there is no reason to define that citizens are either men or women.

In paragraph 4 the word "conditions" is superfluous. There should also be a time limit for the act concerned.

As regards paragraph 5, it is not certain whether this paragraph is necessary. More specific rules on access to documents of each institution, agency or body can in any case be made in accordance to jurisdiction given to each institution, agency or body in the Constitution to adopt its Rules of Procedure.

Ms. Teija Tiilikainen also supports the proposal made by Lena Hjelm-Wallén to include a specific provision about good administration as a new Article 36 b of the Constitutional Treaty.

Article 37: Status of churches and non-confessional organisations

1. The European Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.
2. The European Union equally respects the status of philosophical and non-confessional organisations.
3. The Union shall maintain an **open, transparent and** regular dialogue with these churches and organisations, recognising their identity and their specific contribution.

Explanation:

We take a critical view as regards the need for a separate article in the Constitution concerning churches and non-confessional organisations. In our view, these could well be included in Article 34 paragraph 3, together with representative associations and civil society.

If, however, the Convention should choose to retain the provision, the dialogue envisaged in paragraph 3 should be based on the same principles as the dialogue in Article 34 paragraph 3.

**ARTICLE 42 (TITLE IX: THE UNION AND ITS IMMEDIATE ENVIRONMENT,
PART I OF THE CONSTITUTION)**

Article 42

1. The Union shall **endeavour to** develop a special relationship with its neighbouring States, aiming to establish an area of prosperity and good neighbourliness characterised by close and peaceful relations based on cooperation.
2. ~~For this purpose, the Union may conclude and implement specific agreements with the countries concerned in accordance with of Article X on Part Two of the Constitution. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.~~

Explanation:

We have serious doubts whether the proposed title IX is necessary in part I of the Constitution. A more natural place for the content of Article 42 paragraph 1, taking into account its political nature, would be the beginning of the text under the title "The Union's External Action" (title B of part II of the Constitution), which would also contain the principles and objectives of external action. Furthermore, the first sentence should be rephrased so as not to sound too paternalistic; the union cannot simply decide to develop special relationships, but it can endeavour to do so.

Paragraph 2 of Article 42 will be sufficiently covered by the provisions relating to international agreements - corresponding the present articles 300 and 310 - in the title of External Relations (Chapter 5 of title B, part II of the Constitution). The substance of paragraph 2 does not create significant added value and might even give the impression of a hierarchy among the treaties the Union concludes with third countries.

**ARTICLES 43-46 (TITLE X : UNION MEMBERSHIP, PART I OF THE
CONSTITUTION)**

A comment supported only by Ms. Tiilikainen, Mr. Peltomäki and Ms. Korhonen:

Article 46: Voluntary withdrawal from the Union

1. Any Member State may decide to withdraw from the European Union in accordance with its own constitutional requirements **and international law**.
2. A Member State which decides to withdraw shall notify the Council of its intention. Once that notification has been given, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be concluded on behalf of the

Union by the Council, acting **unanimously** ~~by a qualified majority~~, after obtaining the assent of the European Parliament.

The withdrawing State shall not participate in the Council's discussions or decisions concerning it.

- 3- This Constitution shall cease to apply to the State in question as from the date of entry into force of the withdrawal agreement. ~~or, failing that, two years after the notification referred to in paragraph 2.~~

Explanation:

We wonder, whether the proposed article is necessary, as paragraph 1 only spells out what already follows from the basic principles of international law.

If, however, the Convention should choose to retain the provision, the safeguarding of the rights of natural and legal persons should always be a precondition for withdrawal from the Union. For this reason, withdrawal should always be based on an agreement containing the modalities related to the withdrawal and to the withdrawing state's relations with the Union. We therefore propose to delete the proposed provision in paragraph 3 whereby the application of the constitution would in any case be terminated two years after the notification envisaged in paragraph 1.

Moreover, the decision-making procedure for concluding an agreement between the Union and the withdrawing state should require unanimity in the Council.

PART THREE (GENERAL AND FINAL PROVISIONS)

Article A: Repeal of earlier Treaties

The Treaty establishing the European Community of 25 March 1957, the Single Act of 17 February 1986, the Treaty on European Union of 7 February 1992, the Treaty of Amsterdam of 2 October 1997 and the Treaty of Nice of 26 February 2001 shall be repealed as from the date of entry into force of the Constitutional Treaty. The ~~aets and~~ treaties, **protocols and acts** listed in the Annex shall also be repealed.

Explanation:

The drafting suggestion is a purely technical improvement. As to the technique of bringing over those protocols which are not repealed we propose that they be annexed directly to the Constitution.

Article B: Legal continuity in relation to the European Community and the European Union

The European Union shall succeed to all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Constitutional Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Union **referred to in Protocol X**, ~~adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force insofar as they are compatible with the Constitution.~~ The **existing acquis communautaire, including the** case-law of the Court of Justice of the European Communities, **established on the basis of the treaties, protocols and acts referred to in Article A**, shall be maintained as a ~~preferential~~ **primary** source of interpretation of **Union law** ~~the Constitution and acts prior to its entry into force insofar as it is compatible with the Constitution.~~

Explanation:

The amendments are intended to guarantee legal certainty and to preserve the *acquis communautaire*, insofar as compatible with the Constitution, as a primary source of interpretation of Union law.

Article C: Scope

1. The Constitutional Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland, ...
2. The Constitutional Treaty shall apply to the French overseas departments, the Azores, Madeira, ~~and the Canary Islands~~ **and the regions of the Republic of Finland and of the Kingdom of Sweden with an extremely low population density**, in accordance with Article ... of Part Two.
3. The special arrangements for association set out in Part [Four of the TEC] of the Constitutional Treaty shall apply to the overseas countries and territories listed in [Annex II to the TEC].

The Constitutional Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

4. The Constitutional Treaty shall apply to the European territories for whose external relations a Member State is responsible.

5. The Constitutional Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol **Y to the Constitutional Treaty** ~~2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.~~
6. Notwithstanding the preceding paragraphs:
 - (a) the Constitutional Treaty shall not apply to the Faeroe Islands;
 - (b) the Constitutional Treaty shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;
 - (c) the Constitutional Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community, signed on 22 January 1972.

Explanation:

In the Accession Treaty of Austria, Finland and Sweden (Protocol 6) it was agreed to give the peripheral regions of Finland and Sweden with an extremely low population density a special status (Objective 6) in the framework of the Structural Funds. The eligibility of the regions for assistance from the Structural Funds was re-examined in 1999 simultaneously with the framework Regulation (EEC) No 2081/93 on Structural instruments and policies.

The regions of Finland and Sweden with an extremely low population density were assigned Objective 1 status (Council Regulation 1260/99, Article 3) equivalent to that of the ultra-peripheral regions as defined in Article 299, paragraph 2, of the EC Treaty. As the conditions which formed the basis for the special treatment of the regions of Finland and Sweden with extremely low population density have not improved, Finland proposes that the treatment of northern regions with an extremely low population density would be recognised in the new Article C. This would also take account of the need to reduce the number of special exceptions in the acquis. This treatment would be restricted to access to assistance from Structural Funds and state aid.

It follows from our comments on draft Articles A and E that the Protocol on the Åland Islands referred to in paragraph 5 should be annexed directly to the Constitutional Treaty.

Article E: Protocols

The protocols annexed to this Treaty shall form an integral part thereof.

Explanation:

With reference to our comments on draft Article A and C we think that the protocols to annexed to this Treaty shall include not only the protocols annexed to the EU and EC Treaties but also the pro-

protocols annexed to the Acts of Accession (e.g., the Protocol on the Åland Islands referred to in paragraph 5 of draft Article C).

Article F: Procedure for revising the Constitutional Treaty

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Explanation:

We do not support the suggestion, made in the Praesidium's comments, on inserting an express provision to draft Article F on the possibility of convening a preparatory Convention. In our view it would not be appropriate to lay down in the Constitution one particular method that might be used for preparing for an Intergovernmental Conference. The system should rather be kept as flexible as possible, which of course in no way rules out the possibility that in future recourse is also had to a preparatory Convention. In that case, however, the Convention should be convened by the European Council and not by its "President", as suggested by the commentary. The reference to "Council" is also inappropriate as it is representatives of the Heads of State or Government of the Member States, and not representatives of the Council, that are members of the Convention.

We welcome the invitation to the Convention to consider a procedure other than that referred to in Article 48 TEU for amending those parts of the Constitution that are not constitutional in nature. This could, for instance, mean that such amendments could be approved by a common accord of representatives of the Governments of the Member States, rather than ratification. Or, as an alternative, amendments could be approved by Union institutions or by representatives of Member States' Governments by a reinforced qualified majority, and then ratified by each Member State. However, it is clear that before any definite view can be taken in this respect, we need to know precisely to which provisions such a simplified procedure would apply.

As to the question of what to do if any Member State fails to ratify a Treaty revision, we think that this is a political question that should be dealt with along the lines proposed in draft Article G, paragraph 3.

AMENDMENT FORM

Suggestion for amendment of Article : C – Part III

By Ms / Mr : Ernâni Lopes and Manuel Lobo Antunes

Status : - Member and Alternate

Article C: Scope

Comment: we can accept this article as it stands, but we reserve the right to come back to it at a later stage. We will wait for the drafting of the future article mentioned on paragraph 2 proposed to be included on the new Part II .We understand that this new article will incorporate and keep the contents of the current article 299, 2 of the EC Treaty and we would wish to see it in the beginning of Part II, as an horizontal provision.

AMENDMENT FORM

Suggestion for amendment of Article :

Suggestion for Part III, article C

By ~~Ms~~/ Mr : Hain

Status : - Member - ~~Alternate~~

1. *Okay.*

2. *Okay.*

3. The special arrangements for association set out in Part [Four of the TEC] of the Constitutional Treaty shall apply to the overseas countries and territories listed in [Annex II to the TEC].

~~The Constitutional Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.~~

4. *Okay.*

5. *Okay.*

6(a) *Okay.*

(b) *Delete.*

(c) *Okay.*

Explanation (if any) :

C3: The deleted sentence is redundant, since there no longer any such territories.

C4: This article refers to Gibraltar. Our comment on Article A addresses the issue.

C6(b): The deleted sentence is redundant, since this is dealt with in the Cyprus Accession Treaty.

C6(c): This article preserves the status quo. But some further work will be necessary to ensure consistency, since the 1972 Treaty will be repealed.

AMENDMENT FORM

Suggestion for amendment of Article : C

Suggestion for Part III

By Mr : Vytenis Povilas Andriukaitis

Status : Member

Article C: Scope ¹

Add the footnote:

¹ To be adjusted in accordance with the Act of Accession

Explanation (if any) :

The footnote is necessary to avoid legal uncertainty just as it in the case of Article I on Languages.

AMENDMENT FORM

Suggestion for amendment of Article :

Suggestion for Part III : Article B

**By Ms / Mr : G.M. de Vries
 T.J.A.M. de Bruijn**

Status : Members Alternate

The European Union shall succeed to all the rights and obligations of the European Communities and of the Union as listed in Annex X, whether internal or resulting from international agreements, which arose before the entry into force of the Constitutional Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force insofar as they are compatible with the Constitution. The case-law of the Court of Justice of the European Communities shall be maintained as a preferential source of interpretation of the Constitution and acts prior to its entry into force.

Explanation (if any) : By the drafting of Annex X, close attention should be paid to the question which protocols or acts should or should not be continue to be part of the Constitution.

AMENDMENT FORM

Suggestion for amendment of Article B: (Part Three: General and final provisions)

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen

Status : **Tiilikainen, Kiljunen, Vanhanen - Members**
 Peltomäki, Korhonen - Alternates

Article B: Legal continuity in relation to the European Community and the European Union

The European Union shall succeed to all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Constitutional Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Union **referred to in Protocol X**, ~~adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force insofar as they are compatible with the Constitution.~~ The **existing acquis communautaire, including the** case-law of the Court of Justice of the European Communities, **established on the basis of the treaties, protocols and acts referred to in Article A**, shall be maintained as a ~~preferential~~ **primary** source of interpretation of **Union law** ~~the Constitution and acts prior to its entry into force insofar as it is compatible with the Constitution.~~

Explanation:

The amendments are intended to guarantee legal certainty and to preserve the *acquis communautaire*, insofar as compatible with the Constitution, as a primary source of interpretation of Union law.

AMENDMENT FORM

Suggestion for amendment of Article :

Suggestion for **Part III Article F: Procedure for revising the Constitutional Treaty**

By Ms / Mr : dr. Mihael Brejc

Status : - Member - Alternate

Article F: Procedure for revising the Constitution

(1) The government of any Member State, the European Parliament and the Commission may submit to the Council proposals for the amendment of the Constitution.

(2) The amendment of the Constitution shall be prepared by a Constitutional Convention which shall be convened by the Council after consulting the European Parliament and the Commission, and which shall within one year draw up a final document containing a detailed draft text.

The Constitutional Convention shall be composed of:

- *a Convention Chairman appointed by the Council with the approval of the European Parliament;*
- *a representative delegated by the government of each Member State;*
- *two representatives delegated by the national parliaments of each Member State;*
- *54 members of the European Parliament;*
- *four members of the European Commission.*

In the case of institutional changes in the monetary area, one delegate of the ECB shall also participate in the Constitutional Convention.

The President of the European Court of Justice, the President of the European Court of Auditors, the President of the Committee of the Regions, the President of the Economic and Social Committee and the Ombudsman may each delegate one observer to the Constitutional Convention.

(3) The constitutional amendment adopted by the Constitutional Convention must be confirmed by a conference of representatives of the governments of the Member States. This conference shall be convened by the President of the Council immediately subsequent to the Convention.

(4) The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Explanation (if any) : While the Convention method should become the general mechanism for amending the Constitutional Treaty as it generates general debate and thus legitimizes the process, amendments should come into force only after they have been reatified by **all** member states. Any other solution would radically change the nature of the European integration.

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Artigo B

Déposée Monsieur Luís Queiró

Qualité : Suppléant

A União (1 palavra suprimida) sucede às Comunidades Europeias e à União **Europeia, criadas pelos Tratados previstos no artigo anterior**, em todos os seus direitos e obrigações, quer sejam internos quer resultem de acordos internacionais, constituídos antes da entrada em vigor do **presente** Tratado (1 palavra suprimida) por força dos Tratados, protocolos e actos anteriores, incluindo a totalidade do activo e do passivo das Comunidades e da União, bem como os respectivos arquivos.

(3 palavras suprimidas) Os actos das Instituições da União (11 palavras suprimidas) **vigentes na data da entrada em vigor do presente Tratado** permanecem em vigor na medida em que sejam **com este** compatíveis (3 palavras suprimidas). A jurisprudência do Tribunal de Justiça (3 palavras suprimidas) mantém-se enquanto fonte (1 palavra suprimida) de interpretação **dos Tratados** (2 palavras suprimidas) e dos actos **adoptados** antes da (1 palavra suprimida) entrada em vigor **do presente Tratado**.

Explication éventuelle :

Não há objecções significativas ao primeiro parágrafo. Sugerem-se apenas alterações de natureza terminológica e formal. Quanto ao segundo parágrafo, procurou-se uma solução mais em conformidade, por exemplo, com o espírito do Acordo sobre o Espaço Económico Europeu, mas julga-se melhor aperfeiçoar o texto proposto. Além disso, a qualificação de «privilegiada» aplicada ao Tribunal de Justiça não se afigura de todo necessária para conservar a sua posição no sistema jurídico comunitário, além de que não se vê qual o alcance da atribuição ao Tribunal de Justiça do poder de «interpretar a Constituição antes da sua entrada em vigor».

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Disposiciones generales y finales

Déposée par Madame ou Monsieur : Borrell (miembro), Carnero y López Garrido (suplentes)

Parte III: Disposiciones generales y finales

Sustituir en todo el texto los términos Tratado Constitucional por ***Constitución Europea***

Artículo F: Procedimiento de revisión ***de la Constitución Europea***

Cualquier estado miembro, el Parlamento Europeo o la Comisión podrán proponer la revisión de la Constitución.

En caso de que el Consejo, por mayoría cualificada, y el Parlamento Europeo, por mayoría absoluta de sus miembros, se pronuncien favorablemente, en un plazo máximo de seis meses, sobre la toma en consideración de dicha propuesta, el Consejo Europeo convocará en los seis meses siguientes una Convención Constitucional compuesta por representantes de los estados miembros, el Parlamento Europeo y la Comisión a fin de estudiarla y proponer, en su caso, las modificaciones constitucionales correspondientes.

Una vez aprobadas por el Consejo y el Parlamento Europeo, por mayoría cualificada reforzada y mayoría de dos tercios de sus miembros, respectivamente, tales modificaciones serán ratificadas por los Estados miembros y entrarán en vigor de acuerdo con lo contemplado en el Artículo G.

El Consejo y el Parlamento Europeo, por iguales mayorías a las del párrafo anterior, teniendo en cuenta la relevancia de las modificaciones de la Constitución, también podrán someterlas a referéndum europeo, cuyo resultado será vinculante.

Artículo G: Adopción, ratificación y entrada en vigor ***de la Constitución Europea***

1. ***La Constitución Europea*** será ratificada, ***previo dictamen conforme del Parlamento Europeo aprobado por dos tercios de sus miembros, por los Estados miembros***, de conformidad...

3. Si, transcurrido un plazo de dos años desde la firma ***de la Constitución***, ***las cuatro quintas partes de los Estados miembros la hubieran ratificado y uno o varios Estados miembros no lo hubieran hecho, entrará en vigor para aquellos, previa decisión por mayoría cualificada del Consejo y dictamen conforme del Parlamento Europeo aprobado por dos tercios de sus miembros. En ese caso, se negociarán los Tratados correspondientes con los Estados que no hayan ratificado la Constitución, a fin de sustituir el marco jurídico de la relación y las obligaciones previamente existentes.***

AMENDMENT FORM

Suggestion for amendment of Article :

Suggestion for Part III : Part III

By Ms / Mr : Mr Bonde, Mr Dalgaard (alternate) Mr Heathcoat-Amory, Mr Skaarup, Mr Zahradil

Status : X - Member X - Alternate

PART THREE: GENERAL AND FINAL PROVISIONS

THE ARTICLES

Article A: Repeal of earlier Treaties

The Treaty establishing the European Community of 25 March 1957, the Single Act of 17 February 1986, the Treaty on European Union of 7 February 1992, the Treaty of Amsterdam of 2 October 1997 and the Treaty of Nice of 26 February 2001 shall be repealed as from the date of entry into force of the Constitutional Treaty. The acts and treaties listed in the Annex shall also be repealed.

Article B: Legal continuity in relation to the European Community and the European Union

The European Union shall succeed to all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Constitutional Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force insofar as they are compatible with the Constitution. The case-law of the Court of Justice of the European Communities shall be maintained as a preferential source of interpretation of the Constitution and acts prior to its entry into force.

Article C: Scope

1. The Constitutional Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland, ...

2. The Constitutional Treaty shall apply to the French overseas departments, the Azores, Madeira and the Canary Islands in accordance with Article ... of Part Two.
3. The special arrangements for association set out in Part [Four of the TEC] of the Constitutional Treaty shall apply to the overseas countries and territories listed in [Annex II to the TEC].

The Constitutional Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

4. The Constitutional Treaty shall apply to the European territories for whose external relations a Member State is responsible, **PROVIDED THAT THE PEOPLE OF THE TERRITORIES HAVE APPROVED IT IN A REFERENDUM.**
5. The Constitutional Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.
6. Notwithstanding the preceding paragraphs:
 - (a) the Constitutional Treaty shall not apply to the Faeroe Islands;
 - (b) the Constitutional Treaty shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;
 - (c) the Constitutional Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community, signed on 22 January 1972.

Article D: Regional unions

The Constitutional Treaty shall not preclude the existence or completion of regional unions between **THE NORDIC COUNTRIES**, Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands [~~Delete:~~ the extent that the objectives of these regional unions are not attained by application of the Constitutional Treaty.]

Article E: Protocols

The protocols annexed to this Treaty shall form an integral part thereof.

Article F: Procedure for revising the Constitutional Treaty

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the

Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements **AND AFTER BINDING OR CONSULTATIVE REFERENDUM, UNLESS THE NATIONAL CONSTITUTION EXPLICITLY PROHIBITS REFURENDUMS.**

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

1. The Constitutional Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.
3. If, two years after the signature of the Constitutional Treaty, ~~NOT ALL~~ [Delete: four fifths] of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council, **WITH THE VIEW TO FIND A SOLUTION SUPPORTED BY ALL MEMBER STATES AND NATIONAL PARLIAMENTS.**

Article H: Duration

The Constitutional Treaty is concluded for an unlimited period.

Article I: Languages ¹

The Constitutional Treaty, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish, Swedish and ... languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

Explanation (if any) :

¹ To be adjusted in accordance with the Act of Accession.

AMENDMENT FORM

Suggestion for amendment of Article : B of Part 3

Suggestion for protocol :

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member - ~~Alternate~~

Artikel B: Rechtliche Kontinuität im Verhältnis zur Europäischen Gemeinschaft und zur Europäischen Union

~~Die Europäische Union tritt die Rechtsnachfolge der Europäischen Gemeinschaften und der Union in allen ihren internen und aus internationalen Übereinkommen erwachsenden Rechten und Pflichten an, die sich vor Inkrafttreten des Verfassungsvertrags aus den früheren Verträgen, Protokollen und Rechtsakten ergeben haben; sie übernimmt ferner das gesamte Aktiv- und Passivvermögen der Gemeinschaften und der Union sowie deren Archive.~~

Die Rechtspersönlichkeit der Europäischen Gemeinschaft besteht in der Rechtspersönlichkeit Europäischen Union fort.

Die Europäische Union tritt die Nachfolge der Europäischen Atomgemeinschaft in alle Rechte und Pflichten an; sie übernimmt das gesamte Aktiv- und Passivvermögen der Europäischen Atomgemeinschaft sowie deren Archive.

*Die ~~Bestimmungen der~~ Rechtsakte der Organe der Union, die aufgrund der in ~~Absatz 1 Artikel A~~ genannten Verträge ~~und Rechtsakte angenommen~~ **erlassen** wurden gelten weiter, soweit sie mit der Verfassung in Einklang stehen. ~~Die Rechtsprechung des Gerichtshofs der Europäischen Gemeinschaften ist weiterhin maßgeblich für die Auslegung der Verfassung und der vor ihrem Inkrafttreten angenommenen Rechtsakte.~~*

Explanation (if any) :

Absatz 1:

Der Begriff der Rechtsnachfolge, insbesondere die damit verbunden Rechtsfolgen, sind völkerrechtlich unklar. Daraus resultieren Risiken, insbesondere betreffend die Rechtsverhältnisse mit Drittstaaten und internationalen Organisationen. Daher sollte die **Kontinuität** im Verhältnis zur Europäischen Gemeinschaft über das Institut der **Rechtsidentität** und nicht der **Rechtsnachfolge** hergestellt werden. Die Rechtspersönlichkeit der Europäischen Gemeinschaft sollte nicht erlöschen, sondern sich in der Union fortsetzen. Rechtsnachfolgerin sollte die Union lediglich in Bezug auf die Europäische Atomgemeinschaft werden.

Im übrigen ist eine Rechtsnachfolge zur derzeitigen Union rechtlich nicht möglich. Die derzeitige Union hat keine Rechtspersönlichkeit; sie hat weder Rechte noch Pflichten, weder Aktivvermögen noch Passivvermögen.

Absatz 2:

Diese Bestimmung ist die notwendige Ergänzung zur Aufhebung der Verträge nach Artikel A und sollte dementsprechend darauf Bezug nehmen.

Satz 2 ist zu streichen, da seine Geltung zu höchst widersprüchlichen Ergebnissen führen würde. Viele der weitergeltenden Rechtsakte stehen mit der Aufhebung der ursprünglichen Rechtsgrundlagen (Artikel A) und dem Inkrafttreten dieses Verfassungsvertrages in einem völlig neuen Regelungskontext. Die aufgrund des alten Regelungskontextes ergangene Rechtsprechung des EuGH zur Auslegung dieser Rechtsakte, die zudem immer nur Einzelbestimmungen dieser Rechtsakte betrifft, kann deshalb nicht zwingend weiterhin auf diese Rechtsakte angewendet werden. Die Auslegung aller Bestimmungen der Rechtsakte muss sich vielmehr nach dem neuen Regelungskontext richten.

AMENDMENT FORM

Suggestion for amendment of Article :B (part 3)

Suggestion for protocol :

By Mr David Heathcoat-Amory, Mr Bonde

Status :X - Member - Alternate

N.B. ‘()’ denote text deleted ‘ _____ ’denotes text added

Article B: Legal continuity in relation to the European Community and the European Union

The European Union shall succeed to all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Constitutional Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force insofar as they are compatible with the Constitution. The case-law of the Court of Justice of the European Communities shall be maintained as a preferential source of interpretation of the (*Constitution*) Treaties and acts prior to (*its*) the Constitutional Treaty’s entry into force.

The Directorates General shall review, within a period of three years from the entry into force of this Treaty, the acquis communautaire with the objective of the deletion of x% of the existing legislation, and provide for the future application of sunset clauses.

Explanation (if any) :

The amendment in the second paragraph clarifies an incongruity – the text apparently at present allows for the ECJ to interpret the Constitutional Treaty before it actually enters into force.

The additional paragraph at the close is intended to reduce some of the legislative burden. There have been many promises over the years to lighten the burden, but in reality the

acquis has now grown to some 97,000 pages of bureaucracy. This is an attempt “to do less and to do it better”.

AMENDMENT FORM

~~Suggestion for amendment of Article :~~

Suggestion for Part III, article B

By ~~Ms~~/ Mr : Hain

Status : - Member - ~~Alternate~~

Fine.

Explanation (if any) :

We agree the need for an article to ensure legal continuity. As the commentary suggests, the technical drafting could be left to others.

AMENDMENT FORM

Suggestion for amendment of Article B, part III.: Legal continuity in relation to the European Community and the European Union

By Ms / Mr : Ján Figel', Juraj Migaš (Slovakia)

Status : Mr. Figel' is a Member, Mr. Migaš is an Alternate.

The European Union shall succeed to all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Constitutional Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force insofar as they are compatible with the ~~Constitution~~ Constitutional Treaty. The case-law of the Court of Justice of the European Communities shall be maintained as a preferential source of interpretation of the ~~Constitution~~ Constitutional Treaty and acts prior to its entry into force.

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article B § 2, Parte III

Déposée par M. Olivier DUHAMEL

Qualité: - Membre

Déposée par Mme Elena PACIOTTI

Qualité: - Suppléante

Vers. IT

ARTICOLO B, secondo alinea

Le disposizioni (*sei parole soppresse*) adottate in virtù dei trattati e atti citati al paragrafo 1, restano in vigore, se compatibili con la Costituzione *secondo* la giurisprudenza della Corte di giustizia della Comunità europee (*il resto soppresso*) .

Motivazione:

Lo scopo dell'articolo è il mantenimento dell'acquis esistente, e quindi di tutte le disposizioni attuali non contrastanti con la Costituzione, così come interpretate dalla Corte di Giustizia. Non si può invece attribuire rilievo costituzionale al mantenimento della giurisprudenza pregressa, quasi fosse immutabile nel tempo; tanto meno la giurisprudenza passata può essere definita formalmente quale fonte "privilegiata" di interpretazione della nuova Costituzione.

FICHE AMENDEMENT

Proposition d'amendement à l'Article B § 2, Partie III

Déposée par M. Olivier DUHAMEL

Qualité: - Membre

Déposée par Mme Elena PACIOTTI

Qualité: - Suppléante

Vers. FR

Article B §2: Champ d'application

Les dispositions (**6 mots supprimés**) adoptés en vertu des Traités et actes mentionnés au premier paragraphe, demeurent en vigueur, dans la mesure où elles sont compatibles avec la Constitution *selon* la jurisprudence de la Cour de Justice des Communautés européennes (**dernière phrase supprimée**).

Justification:

Le but de cet article est le maintien de l'acquis existant, et donc de toutes les dispositions actuelles qui ne contrastent pas avec la Constitution selon l'interprétation de la Cour de Justice. Par contre, on ne peut pas attribuer une importance constitutionnelle au maintien de la jurisprudence précédente, comme si elle n' était pas modifiable dans le temps; tout comme on ne peut pas définir formellement la jurisprudence précédente comme source "privilégiée" d'interprétation de la nouvelle Constitution.

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Article F

Déposée par Madame ou Monsieur :

Maria Eduarda Azevedo (membre)

António Nazaré Pereira (suppléant)

Partie III: Dispositions générales et finales

Article F: Procédure de révision du Traité constitutionnel

1. Le gouvernement de tout État membre, ou la Commission, peut soumettre au Conseil des projets tendant à la révision du Traité constitutionnel. **Le Conseil doit envoyer ces projets aux Parlements nationaux.** (...)

2. La Conférence des représentants des gouvernements des États membres sera préparée par une Convention convoquée par le Président du Conseil européen et composée de représentants des Parlements nationaux, des chefs d'État et de gouvernement des États membres, et du Parlement européen, du Conseil et de la Commission. A l'issue de ses travaux, la Convention adopte par consensus une recommandation à la Conférence des représentants des gouvernements des États membres."

3. Les amendements entreront en vigueur après avoir été ratifiés par tous les États membres conformément à leurs règles constitutionnelles respectives.

AMENDMENT FORM

Suggestion for amendment of Article A: (Part Three: General and final provisions)

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen

Status : **Tiilikainen, Kiljunen, Vanhanen - Members**
 Peltomäki, Korhonen - Alternates

Article A: Repeal of earlier Treaties

The Treaty establishing the European Community of 25 March 1957, the Single Act of 17 February 1986, the Treaty on European Union of 7 February 1992, the Treaty of Amsterdam of 2 October 1997 and the Treaty of Nice of 26 February 2001 shall be repealed as from the date of entry into force of the Constitutional Treaty. The ~~acts and~~ treaties, **protocols and acts** listed in the Annex shall also be repealed.

Explanation:

The drafting suggestion is a purely technical improvement. As to the technique of bringing over those protocols which are not repealed we propose that they be annexed directly to the Constitution.

FICHE AMENDEMENT

Proposition d'amendement à la Partie III: Artigo A

Déposée Monsieur Luís Queiró

Qualité : Suppléant

À data de entrada em vigor do **presente** Tratado (1 palavra suprimida), são revogados o Tratado que institui a Comunidade Europeia, de 25 de Março de 1957, (9 palavras suprimidas) o Tratado da União Europeia, de 7 de Fevereiro de 1992, bem como **o Acto Único Europeu, de 17 e 28 de Fevereiro de 1986, o Tratado** de Amesterdão, de 2 de Outubro de 1997, e **o Tratado** de Nice, de 26 de Fevereiro de 2001. São igualmente revogados os actos e Tratados que constam do Anexo.

Explication éventuelle :

Parece mais lógica a redacção que separa em três blocos os tratados institutivos da CE e UE, os tratados ditos de revisão e os outros tratados.

AMENDMENT FORM

Suggestion for amendment of Article : A of Part 3

Suggestion for protocol :

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member - ~~Alternate~~

Artikel A: Aufhebung der früheren Verträge

Am Tag des Inkrafttretens des Verfassungsvertrags werden der Vertrag zur Gründung der Europäischen Gemeinschaft vom 25. März 1957, *der Vertrag zur Gründung der Europäischen Atomgemeinschaft vom 25. März 1957*, die Einheitliche Akte vom 17. Februar 1986, der Vertrag über die Europäische Union vom 7. Februar 1992 sowie der Vertrag von Amsterdam vom 2. Oktober 1997 und der Vertrag von Nizza vom 26. Februar 2001 aufgehoben. Ferner werden die im Anhang genannten Rechtsakte und Verträge aufgehoben.

Explanation (if any) :

Entgegen der Auffassung des Präsidiums des Konvents erstreckt sich das Mandat des Konvents auch auf den EAG-Vertrag. In der Erklärung von Laeken ist die Rede von "vier Verträgen". Die dort formulierten Fragen beziehen sich damit auch auf den EURATOM-Vertrag (siehe auch CONTRIB 297).

Der Euratom-Vertrag ist obsolet und daher aufzuheben. Sein Zustandekommen vor 46 Jahre stand unter Bedingungen, die heute nicht mehr gegeben sind. Die Privilegierung der Atomenergie gegenüber anderen Energieformen ist heutzutage nicht mehr zu rechtfertigen. Vielmehr sollte die Nuklearenergie Bestandteil der allgemeinen Energiepolitik, Atomforschung Bestandteil der allgemeinen Forschungspolitik werden. Sonstige bereichsspezifische Regelungen, die auch heute noch ihre Berechtigung haben (Bestimmungen zur nuklearen Sicherheit und zur Entsorgung), sind an geeigneter Stelle im Teil II des Verfassungsvertrages zu integrieren.

AMENDMENT FORM

Suggestion for amendment of Article: A

Suggestion for Part III

By Ms: Prof. Danuta Hübner

Status: Member

<i>Text of the Praesidium</i>	<i>Proposed Amendments</i>
Article A: Repeal of earlier Treaties The Treaty establishing the European Community of 25 March 1957, the Single Act of 17 February 1986, the Treaty on European Union of 7 February 1992, the Treaty of Amsterdam of 2 October 1997 and the Treaty of Nice of 26 February 2001 shall be repealed as from the date of entry into force of the Constitutional Treaty. The acts and treaties listed in the Annex shall also be repealed.	Article A: Repeal of earlier Treaties The Treaty establishing the European Community of 25 March 1957, the Single Act of 17 February 1986, the Treaty on European Union of 7 February 1992, the Treaty of Amsterdam of 2 October 1997 and the Treaty of Nice of 26 February 2001 shall be repealed as from the date of entry into force of the Constitutional Treaty. The acts and treaties listed in the Annex shall also be repealed.

Explanation:

It should be precisely indicated which of the provisions of the Accession Treaties, the most recent one in particular, will be still in force after adoption of the Constitutional Treaty and what part of a new Treaty they should be exactly placed in. Moreover, the legal consequences of the aforementioned act need to be examined by the group of the legal experts for the next Intergovernmental Conference.

AMENDMENT FORM

~~Suggestion for amendment of Article :~~

Suggestion for Part III, article A

By ~~Ms~~/ Mr : Hain

Status : - Member - ~~Alternate~~

Fine.

Explanation (if any) :

While we think the drafting of this article is fine, further work will be required on the other provisions to ensure that the special status of the UK's overseas territories is protected.

AMENDMENT FORM

Suggestion for amendment of Article :B – Part III

By Ms / Mr : Ernâni Lopes and Manuel Lobo Antunes

Status : - Member and Alternate

Article B: Legal continuity in relation to the European Community and the European Union

The European Union shall succeed to all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Constitutional Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force insofar as they are compatible with the Constitution. The case-law of the Court of Justice of the European Communities shall be maintained as a ~~preferential~~ source of interpretation of the ~~Constitution and acts prior to its entry into force.~~ Union Law

Explanation: the current drafting on the role of the ECJ may be cause of confusion. Moreover, we believe our draft proposal makes unnecessary a protocol with the enumeration of the acts, which, besides being a lengthy work , would raise some problems: CFSP common positions and actions are to be considered as “juridical patrimony” of the (old) Union? We think it is preferable a simple declaration stating that the acts shall remain in force under the condition of their conformity with the Constitution. The ECJ will be competent to verify that conformity.

AMENDMENT FORM

Suggestion for amendment of Article F: Procedure for revising the Constitution

By Ms : KAUPPI, Piia-Noora

Status : - Alternate

Article F: Procedure for revising the Constitution

(1) The government of any Member State, the European Parliament and the Commission may submit to the Council proposals for the amendment of the Constitution.

(2) The amendment of the Constitution shall be prepared by a Constitutional Convention which shall be convened by the Council after consulting the European Parliament and the Commission, and which shall within one year draw up a final document containing a detailed draft text.

The Constitutional Convention shall be composed of:

- a Convention Chairman appointed by the Council with the approval of the European Parliament;*
- a representative delegated by the government of each Member State;*
- two representatives delegated by the national parliaments of each Member State;*
- 54 members of the European Parliament;*
- four members of the European Commission.*

In the case of institutional changes in the monetary area, one delegate of the ECB shall also participate in the Constitutional Convention.

The President of the European Court of Justice, the President of the European Court of Auditors, the President of the Committee of the Regions, the President of the Economic and Social Committee and the Ombudsman may each delegate one observer to the Constitutional Convention.

(3) The constitutional amendment adopted by the Constitutional Convention must be confirmed by a conference of representatives of the governments of the Member States. This conference shall be convened by the President of the Council immediately subsequent to the Convention.

(4) The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of: **PART THREE: GENERAL AND FINAL PROVISIONS**

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

By: BROK; SANTER; SZAJER; VAN DER LINDEN; ALONSO; ALTMAIER; AZEVEDO; BASILE; CISNEROS; CUSHNAHAN; DEMETRIOU; DOLORES; FIGEL; FOGLER; FOLLINI; FREND; KELEMEN; KORHONEN; KRASTS; KROUPA; MAIJ-WEGGEN; MLADENOV; PIKS; RACK; VAN DIJK; WITTBRODT; WÜRMELING; ZIELENIEC; ZILE;

on behalf of the EPP Convention Group

Status: Members and Alternates

Text of the Praesidium

Proposed Amendments

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

The Constitutional Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.

3. If, two years after the signature of the Constitutional Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

(1) ~~The Constitutional Treaty~~ ***This Constitution*** shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

~~2. The Constitutional Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.~~

~~3. If, two years after the signature of the Constitutional Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.~~

(2) ***For the Member States which have ratified it, this Constitution shall enter into force on the first day of the month following the deposit of the instrument of ratification by four fifth of the Member States. The other Member States will have to decide, within one year following the entry into force of this Constitution, whether they want to be member of the Union on the basis of this Constitution or to leave the Union.***

Explanation:

The Constitution has to make clear, that those Member States not ratifying the Constitution have to decide whether they want to stay in the Union or leave.

AMENDMENT FORM

Suggestion for amendment of Article :

Suggestion for protocol : III G

By Ms / Mr : M Caspar EINEM

Status : Member

Artikel G: Annahme, Ratifikation und Inkrafttreten des Verfassungsvertrags

(1) ~~Dieser Verfassungsvertrag~~ bedarf der Ratifikation durch die Hohen Vertragsparteien gemäß ihren verfassungsrechtlichen Vorschriften. Die Ratifikationsurkunden werden bei der Regierung der Italienischen Republik hinterlegt.

(2) **Für Mitgliedstaaten, die ratifiziert und hinterlegt haben, tritt dieser Verfassungsvertrag tritt am Tag nach Hinterlegung von vier Fünfteln der ratifizierten Vertragsurkunden** in Kraft, ~~sofern alle Ratifikationsurkunden hinterlegt worden sind, oder andernfalls am ersten Tag des auf die Hinterlegung der letzten Ratifikationsurkunde folgenden Monats.~~

(3) ~~Falls nach Ablauf von zwei Jahren nach der Unterzeichnung des Verfassungsvertrags vier Fünftel der Mitgliedstaaten den Verfassungsvertrag ratifiziert haben und in einem oder mehreren Mitgliedstaaten Schwierigkeiten bei der Ratifikation aufgetreten sind, so befasst sich der Europäische Rat mit der Frage:~~ **ein Jahr nach Inkrafttreten dieser Verfassung noch nicht alle Mitgliedstaaten ratifiziert haben, müssen diese Staaten entscheiden, ob sie Mitglieder der Union auf Basis dieser Verfassung sein wollen – diesfalls müssen sie binnen eines weiteren Jahres diese Verfassung ratifizieren - oder aus der Union austreten wollen. Mangelnde Ratifizierung in der angegebenen Frist gilt als Austrittserklärung im Sinne des Artikel 46.**

Explanation (if any) : Für den Ratifikationsvorgang bei dieser Verfassung gelten die hier vorgeschlagenen Bestimmungen ohnehin noch nicht. Für künftige Verfassungsänderungen sollte jedoch ein modus gefunden werden, der die Ungewissheit der möglichen Nicht-Ratifikation in einzelnen Mitgliedstaaten durch entsprechende Regeln zu vermeiden hilft.

AMENDMENT FORM

Suggestion for amendment of: PART THREE: GENERAL AND FINAL PROVISIONS

Article F: Procedure for revising the Constitutional Treaty

By: BROK; SANTER; SZAJER; TAJANI; VAN DER LINDEN; ALONSO; ALTMAIER; AZEVEDO; BASILE; CISNEROS; CUSHNAHAN; DEMETRIOU; DOLORES; FOGLER; FOLLINI; FREND; KELEMEN; KORHONEN; KRASTS; KROUPA; MAIJ-WEGGEN; MLADENOV; PIKS; RACK; VAN DIJK; WITTBRODT; ZIELENIEC ; ZILE

on behalf of the EPP Convention Group

Status: Members and Alternates

Text of the Praesidium

Proposed Amendments

Article F: Procedure for revising the Constitutional Treaty

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Article F: Procedure for revising the Constitutional Treaty

~~The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.~~

~~If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be consulted in the case of institutional changes in the monetary area.~~

~~The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.~~

(1) The government of any Member State, the European Parliament and the Commission may submit to the Council proposals for the amendment of the Constitution.

(2) The amendment of the Constitution shall be prepared by a Constitutional Convention which shall be convened by the Council after consulting the Euro-

pean Parliament and the Commission, and which shall within one year draw up a final document containing a detailed draft text.

The Constitutional Convention shall be composed of:

- *a Convention Chairman appointed by the Council with the approval of the European Parliament;*
- *a representative delegated by the government of each Member State;*
- *two representatives delegated by the national parliaments of each Member State;*
- *a number of representatives of the European Parliament equal to the total number of representatives of national parliaments;*
- *four members of the European Commission.*

In the case of institutional changes in the monetary area, one delegate of the ECB shall also participate in the Constitutional Convention.

The President of the European Court of Justice, the President of the European Court of Auditors, the President of the Committee of the Regions, the President of the Economic and Social Committee and the Ombudsman may each delegate one observer to the Constitutional Convention.

(3) The constitutional amendment adopted by the Constitutional Convention must be confirmed by a conference of representatives of the governments of the Member States. This conference shall be convened by the President of the Council immediately subsequent to the Convention.

(4) The constitutional amendment shall enter into force after having been assented by the European Parliament and being ratified, in accordance with their respective constitutional requirements, by 4/5 of Member States.

Explanation:

The Convention method should be the general mechanism for Constitution changes in the future in order to allow broader public debates and improve the opportunities for finding a consensus. With 25 or more Member States this will be even more important.

Concerning the composition of the Convention, the current model is taken over. Currently, where the Union has 15 Member States, the European Parliament is allowed to send 30 members to the Convention.

Concerning the entry into force, it could also be envisaged that a majority of Member States representing $\frac{4}{5}$ of the population would be the threshold.

FICHE AMENDEMENT

Proposition d'amendement à l'Article F, partie III de la Constitution:

Déposée par M. Olivier DUHAMEL
M. Caspar EINEM
Mme Anne VAN LANCKER
M. Luis MARINHO
Mme Pervenche BERÈS
Mme Maria BERGER
M. Carlos CARNERO
Mme Elena PACIOTTI

Qualité: - Membres et Suppléants

ARTICLE F – Procédure de révision du Traité constitutionnel

1. Une proposition de révision de la Constitution peut être présentée par le Conseil à une majorité des Etats membres représentant une majorité de la population de l'Union ou par le Parlement européen à la majorité absolue des membres qui le composent.
 2. Si le Conseil, à la majorité qualifiée, et le Parlement européen, à la majorité de ses membres, approuvent la proposition de révision dans les six mois, elle est soumise à une Convention constitutionnelle.
La Convention est composée de deux représentants du Parlement de chaque Etat membre, deux représentants de la Commission, un représentant du gouvernement de chaque Etat membre et un nombre de représentants du Parlement européen égal à la moitié du nombre des représentants des parlements nationaux. Le texte de la révision est adopté par la Convention à la majorité des deux tiers de ses membres.
 3. Le texte adopté par la Convention est soumis au Parlement européen, pour approbation à la majorité absolue des membres qui le composent et au Conseil européen pour approbation à la double majorité de deux tiers des Etats membres représentant les deux tiers de la population de l'Union.
 4. Le Conseil européen et le Parlement européen peuvent décider conjointement de soumettre la révision à un référendum consultatif européen.
 5. La révision est définitivement adoptée lorsque sa ratification a été autorisée dans les deux tiers des Etats membres représentant les deux tiers de la population de l'Union.
-

Explication éventuelle:

I. Justification

- *Le principe de double légitimité justifie la double initiative de la révision.*
- *Pour éviter la convocation abusive d'une Convention la double approbation du Conseil et du Parlement européen est nécessaire.*

- *La Convention offre une méthode plus efficace et plus légitime pour adopter le texte de la révision. Sa composition doit être fixée dans la constitution. Les représentants des Parlements nationaux en sont la composante majoritaire.*
- *La révision de la Constitution peut être soumise à un référendum européen. Pour que cette consultation soit possible, il faut la prévoir dans la constitution. Pour respecter la diversité des traditions en la matière, il n'est que consultatif.*
- *Le dernier mot revient aux peuples des Etats membres ou à leurs représentants, selon le même principe d'une approbation majoritaire dans les deux tiers des Etats représentant les deux tiers de la population.*

AMENDMENT FORM

Suggestion for amendment of Article : F

Suggestion for Part III

By Mr : Vytenis Povilas Andriukaitis

Status : Member

Article F : Procedure for revising the Constitutional Treaty

The national parliament or the government of any Member State, **the European Parliament** or the Commission may submit to the Council proposals for the amendment of the Constitutional Treaty. The national Parliaments shall be notified of these proposals.

If the Council, after consulting the European Parliament, **except the cases when the European Parliament submits the proposals**, and, where appropriate, the Commission, **may call a Convention composed of representatives of the national parliaments, the national governments, the European Parliament and the Commission. The Convention shall consider the proposals for the amendments of the Constitutional Treaty and, on a basis of a consensus, make proposals to** a conference of representatives of the governments of the Member States. The conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Constitutional Treaty. The Council of the European Central Bank shall also be concluded in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Explanation (if any) :

The national parliaments should also have the right of initiative to submit proposals for the amendment of the Constitutional Treaty in addition to the national governments, as well as the European Parliament. It is one of the ways of bringing Europe closer to people.

The Convention has proved to be a useful work method for the treaty amendments of the constitutional scale. The Constitutional Treaty therefore should contain an enabling clause to call a Convention to consider proposals for amendments of the Constitutional Treaty .

AMENDMENT FORM

Suggestion for amendment of Article : F (Part Three: General and Final Provisions – The Articles)

By Mr : **Adrian Severin**

Status : **- Alternate member**

Art. F

Replace para. 2 with the following two paragraphs:

If the Council after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of the opening of the amendments procedure, a Convention composed of the representatives of the governments, of the national parliaments, of the European Parliament and of the European Commission shall be convened by the President of the European Council for the purpose of determining by a qualified majority of three quarters [by a special procedure which is to be established] the amendments to be made to the Constitutional Treaty.

If the European Council does not agree to convene a Convention, it shall be automatically convened every four [five] years.

or As an alternative for the above proposal we suggest to replace para.2 with the following text:

The amendments to the Constitutional Treaty shall be decided by the Council following a proposal from any Member State or the Commission. The amendments shall be ratified by the European Parliament and the Legislative Council convened in a joint session by QMV.

- Para. 1 and 3 of the existing draft will remain unchanged.

Explanation (if any) :

Amending the Constitution through the Convention method instead of IGC/ (Convention +IGC) represents a more democratic way of revising the Constitution

FICHE AMENDEMENT

Proposition d'amendement à l'article F

Déposée par Anne Van Lancker

Qualité: - Membre

Nouvel article F bis

1. Lorsqu'une révision de la Constitution est entrée en vigueur et qu'un Etat membre n'a pu adopter cette révision conformément à ses règles constitutionnelles, cet Etat a le droit de demander son retrait de l'Union
 2. L'Etat membre qui, conformément au paragraphe 1^{er}, souhaite se retirer de l'Union notifie son intention au Conseil. Dès cette notification, l'Union engage des négociations avec l'Etat membre concerné en vue de la conclusion d'un accord ~~d'association~~ (suppression des termes « d'association ») régissant leurs relations futures. Cet accord est conclu au nom de l'Union par le Conseil, statuant à la majorité qualifiée, après avis conforme du Parlement européen. L'Etat qui se retire ne participe ni aux délibérations ni aux décisions du Conseil le concernant.
 3. La présente Constitution cesse d'être applicable à l'Etat concerné à partir de la date d'entrée en vigueur de l'accord ~~d'association~~ (suppression des termes « d'association ») régissant ses relations futures avec l'Union.
-

Explication éventuelle:

Voir commentaires articles 46 et F.

AMENDMENT FORM

Suggestion for amendment of Article :

Suggestion for Part III Dbis (new)

**By Ms / Mr : G.M. de Vries
 T.J.A.M. de Bruijn**

Status : Members Alternate

Introducing a new article Dbis

“The rights and obligations arising from agreements concluded before 1 January 1958 or, for acceding States, before the date of their accession, between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the provisions of this Treaty.

To the extent that such agreements are not compatible with this Treaty, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.

In applying the agreements referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under this Treaty by each Member State form an integral part of the establishment of the Community and are thereby inseparably linked with the creation of common institutions, the conferring of powers upon them and the granting of the same advantages by all the other Member States.”

Explanation (if any) : The current article 307 EC should be mentioned in Title III.

FICHE AMENDEMENT

Proposition d'amendement à la Partie III - articles F et G

Déposée par Monsieur : Alain Lamassoure et Adrian Severin

Qualité : - Membre et Membre suppléant

Article F : Procédure de révision du Traité constitutionnel

Un projet de révision du Traité constitutionnel peut être déposé par le gouvernement de tout État membre, le Parlement européen, la Commission, ou par une pétition populaire signée par cinq pour cent d'électeurs émanant des quatre cinquièmes des pays de l'Union. Ces projets sont notifiés aux Parlements nationaux.

Dans le cas de modifications institutionnelles dans le domaine monétaire, le Conseil de la Banque centrale européenne est également consulté.

Le Conseil européen décide, après avis conforme du Parlement européen, qui se prononce à la majorité des deux tiers des suffrages exprimés.

Si le Conseil s'est prononcé à l'unanimité, l'amendement constitutionnel entre immédiatement en vigueur.

Si le Conseil s'est prononcé à une super-majorité qualifiée, le projet entre en vigueur après ratification par les quatre cinquièmes des Etats membres représentant quatre cinquièmes de la population.

Toutefois, sur proposition d'une majorité d'Etats membres, ou d'une majorité simple du Parlement européen, ou si le projet initial émane d'une pétition populaire, la ratification peut être soumise à un référendum dans l'ensemble de l'Union. Elle est obtenue si les votes positifs l'ont emporté dans quatre cinquièmes des Etats représentant quatre cinquièmes de la population.

Article G : Adoption, ratification et entrée en vigueur du Traité constitutionnel

1. Le Traité constitutionnel sera ratifié par les Hautes Parties Contractantes, conformément à leurs règles constitutionnelles respectives. Les instruments de ratification seront déposés auprès du gouvernement de la République italienne.
2. **Le Traité constitutionnel ne s'appliquera qu'aux Etats qui l'auront ratifié. Il entrera en vigueur lorsqu'il aura été ratifié par quatre cinquièmes des Etats signataires représentant quatre cinquièmes de la population totale.**
3. **Si certains Etats signataires n'ont pas ratifié le Traité constitutionnel, l'Union négociera avec ceux-ci un accord de partenariat privilégié visant à préserver l'acquis commun.**

Explication :

Sur l'article F : *Les amendements ont trois objectifs différents :*

1 – Prévoir une procédure simplifiée pour les réformes de type technique : si le Conseil est unanime, la ratification dans chaque pays devient inutile.

2 – Eviter la paralysie de la règle de l'unanimité pour l'adoption et pour la ratification. A 25 membres ou plus, sur tout projet significatif, l'unanimité est impossible à obtenir. La contrepartie doit être l'ouverture d'un droit de retrait de l'Union pour un ou des Etats qui seraient radicalement opposés à la réforme ainsi décidée.

3 – Introduire une procédure référendaire à l'échelle européenne. Les réformes les plus significatives gagneront à être soumises à l'ensemble des citoyens. Un droit de pétition est même envisagé. De telles dispositions de démocratie directe aideront puissamment à faire naître un espace public européen.

Sur l'article G : *Le texte proposé par le Présidium a l'inconvénient de retarder considérablement l'entrée en vigueur de la Constitution et de ne pas régler le problème que poserait l'opposition d'un ou plusieurs Etats membres. Les amendements ont pour objet de permettre une mise en œuvre rapide, sous la condition d'une majorité super-qualifiée, et de prévoir une solution alternative pour les pays qui n'auraient pas pu ratifier la Constitution.*

AMENDMENT FORM

Suggestion for amendment of Article: Part III

By Mr. Jan Zahradil

Status: - Member

Article G: Adoption, ratification and entry into force of the Constitutional Treaty

~~3. If, two years after the signature of the Constitutional Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.~~

3. If, two years after the signature of the Constitutional Treaty, one or more Member States will not have ratified it, these states are bound in the European Union by their current legal status they had enjoyed before the signature of the Constitutional Treaty.

Explanation (if any):

As the Vienna Convention on the Law of Treaties (Art. 54) states a treaty can be terminated only in conformity with its provisions or by consent of all the parties, and the current Treaties are silent on the question of their repeal, so that repeal is possible only with the consent of all the Member States party to them, member states that will not ratify the Constitutional Treaty must be bound by their current legal status and arrangements in the Union.

FICHE AMENDEMENT

Proposta di emendamento all'articolo F, parte III della Costituzione:

Déposée par

M. Olivier DUHAMEL
M. Caspar EINEM
Mme Anne VAN LANCKER
M. Luis MARINHO
Mme Pervenche BERÈS
Mme Maria BERGER
M. Carlos CARNERO
Mme Elena PACIOTTI

Qualité: - Membres et Suppléants

Articolo F: Procedura di revisione del Trattato costituzionale

1. Una proposta di revisione della Costituzione può essere presentata dal Consiglio a una maggioranza dei suoi membri che rappresenti una maggioranza della popolazione dell'Unione, o dal Parlamento europeo alla maggioranza assoluta dei membri che lo compongono.

2. Qualora il Consiglio, a maggioranza qualificata, e il Parlamento, alla maggioranza dei suoi membri, approvino la proposta di revisione entro sei mesi, essa è sottoposta a una Convenzione costituzionale.

La Convenzione è composta da due rappresentanti del Parlamento di ogni Stato membro, da due rappresentanti della Commissione, da un rappresentante del governo di ogni Stato membro e da un numero di rappresentanti del Parlamento europeo pari alla metà del numero dei rappresentanti dei Parlamenti nazionali. Il testo della revisione è adottato dalla Convenzione a maggioranza dei due terzi dei suoi membri.

3. Il testo adottato dalla Convenzione è sottoposto al Parlamento europeo, per approvazione alla maggioranza assoluta dei membri che lo compongono e al Consiglio europeo per approvazione alla doppia maggioranza dei due terzi degli Stati membri rappresentanti i due terzi della popolazione dell'Unione.

4. Il Consiglio europeo e il Parlamento possono decidere congiuntamente di sottoporre la revisione a un referendum consultivo europeo.

5. La revisione è definitivamente adottata quando la sua ratifica è stata autorizzata nei due terzi degli Stati membri rappresentanti i due terzi della popolazione dell'Unione.

Explication éventuelle:

- il principio di doppia legittimità giustifica la doppia iniziativa della revisione.
- Per evitare la convocazione abusiva di una Convenzione la doppia approvazione del Consiglio e del Parlamento europeo è necessaria.

- La Convenzione rappresenta un metodo più efficace e più legittimo per adottare il testo di revisione.

La sua composizione deve essere fissata nella Costituzione. I rappresentanti dei Parlamenti nazionali ne sono la componente maggioritaria.

- La revisione della Costituzione può essere sottoposta a un referendum europeo. Perché questa consultazione sia possibile, occorre prevederla nella Costituzione. Per rispettare la diversità delle tradizioni in materia, esso non può che essere consultivo.

- L'ultima parola spetta ai popoli degli Stati membri o ai loro rappresentanti, secondo lo stesso principio di un'approvazione maggioritaria dei due terzi degli Stati rappresentanti i due terzi della popolazione.

FICHE AMENDEMENT

Proposition d'amendement à l'Article :

Proposition d'amendement à la Partie III : Article F

Déposée par Madame ou Monsieur : M. Louis Michel, M. Karel de Gucht, M. Elio di Rupo, membres de la Convention et M. Pierre Chevalier et Mme Marie Nagy, membres suppléants de la Convention ainsi que par Monsieur Patrick Dewael, observateur

Qualité : - Membre - Suppléant

Article F

A l'initiative du Le gouvernement de tout État membre, du Parlement européen ou de la Commission, le Conseil statuant à la majorité des membres qui le composent peut déclarer qu'il y a lieu de réviser une ou plusieurs dispositions de la Constitution soumettre au Conseil des projets tendant à la révision du Traité constitutionnel. Ces projets sont notifiés aux Parlements nationaux. Les parlements nationaux sont informés de toute initiative proposant une révision de la Constitution. Dans le cas de modifications institutionnelles dans le domaine monétaire, le Conseil de la Banque centrale européenne est consulté.

Au terme de la déclaration de révision, le Conseil européen convoque une Convention composée de représentants des parlements nationaux, des gouvernement des Etats membres, du Parlement européen et de la Commission. La Convention adopte une recommandation qu'elle soumet au Conseil européen en vue d'une décision sur la révision de la Constitution.

Si le Conseil, après avoir consulté le Parlement européen et, le cas échéant, la Commission, émet un avis favorable à la réunion d'une Une conférence des représentants des gouvernements des États membres, celle-ci est convoquée sur base de la recommandation de la Convention par le président du Conseil en vue d'arrêter d'un commun accord les modifications à apporter au Traité constitutionnel à la Constitution. Dans le cas de modifications institutionnelles dans le domaine monétaire, le Conseil de la Banque centrale européenne est également consulté.

Les modifications à apporter à la Constitution sont arrêtées par la Conférence des représentants de gouvernement statuant à la majorité des quatre cinquièmes de ses membres, à l'exception des modifications à apporter à la Partie I de la Constitution qui doivent être

arrêtées de commun accord.

Les amendements entreront en vigueur, **après avis conforme du Parlement européen, lorsque les quatre cinquièmes des Etats membres auront accompli les procédures requises par leurs** après avoir été ratifiés par tous les États membres conformément à leurs règles constitutionnelles respectives, **à l'exception des amendements à la Partie I de la Constitution qui n'entreront en vigueur qu'après avoir été ratifiés par tous les Etats membres.**

Explication éventuelle :

- *Le Parlement européen devrait disposer du droit d'initiative pour proposer le lancement d'une révision de la Constitution. Il devrait également donner son avis conforme aux modifications constitutionnelles.*
- *La méthode conventionnelle devrait désormais constituer la règle pour préparer les réformes constitutionnelles.*
- *Le maintien de l'unanimité pour l'adoption des amendements à apporter à la Constitution et l'exigence d'une ratification par l'ensemble des Etats membres constituent des exigences qui dans une Union de 25 ou plus d'Etats membres risquent de ne pouvoir se réaliser. Or, le développement de l'Union ne saurait dans une Union de 25 ou plus d'Etats membres être entravé par le veto d'un seul. Une majorité très haute devrait dès lors suffire – sauf pour la partie I - tant pour l'adoption des amendements que pour leur entrée en vigueur.*

FICHE AMENDEMENT

Proposition d'amendement à l'Article :

Proposition d'amendement à la Partie III : Article G

Déposée par Madame ou Monsieur : M. Louis Michel, M. Karel de Gucht, M. Elio di Rupo, Mme Anne Van Lancker, membres de la Convention et M. Pierre Chevalier et Mme Marie Nagy, membres suppléants de la Convention ainsi que par Monsieur Patrick Dewael, observateur

Qualité : - Membre - Suppléant

Modifier le paragraphe 1^{er} de la manière suivante :

1. Le Traité constitutionnel sera, **après avoir reçu l'avis conforme du Parlement européen**, ratifié par les Hautes Parties Contractantes, conformément à leurs règles constitutionnelles respectives. Les instruments de ratification seront déposés auprès du gouvernement de la République italienne

Explication éventuelle :

FICHE AMENDEMENT

Proposta di emendamento all'Articolo D, Parte III

Déposée par:

Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Karel De Gucht, Mr Alain Lamassoure, Mr Peeter Kreitzberg, Mr Algirdas Gričius, Mr Puiu Hasotti, Mr Jelko Kacin, Mr Zekeriya Akçam, and Mr Eugenijus Maldeikis

Qualité: - Membres

Déposée par :

Mrs Elena Paciotti, Mr Willem Van Eekelen, Lord MacLennan of Rogart, Mr Nesrin Uzun, Mr Marios Matsakis, Mrs Androula Vassiliou, Mr Istvan Szent-Ivanyi, Mr Péter Eckstein-Kovacs, Mr Patrick Dewael, Mr Ibrahim Ozal and Mr Gintautas Sivickas. Mme Elena PACIOTTI

Qualité: - Suppléants

Vers. IT

ArticoloD: Unioni regionali

La Costituzione non osta all'esistenza e al perfezionamento delle unioni regionali tra *Stati membri confinanti*, nella misura in cui gli obiettivi di tali unioni regionali *sono conformi alle disposizioni della Costituzione* e non sono raggiunti in *sua* applicazione (*3 parole soppresse*).

Motivazione:

1. Ci riferiamo qui e di seguito alla "Costituzione" invece che al "Trattato costituzionale". Il patto costituisce un trattato ai sensi della Convenzione di Vienna sul diritto dei trattati. Esso però stabilisce una Costituzione per l'Unione europea ed è più semplice e più chiaro chiamarlo così.

2. L'esistenza del Benelux non è l'unica forma di "stretta cooperazione" fra Stati confinanti passibile di assumere in futuro una forma istituzionalizzata all'interno delle disposizioni della Costituzione dell'Unione - si vedano ad esempio il Consiglio Nordico e l'accordo Anglo-Irlandese. L'allargamento potrebbe anzi indurre a ulteriori manifestazioni di "prossimità geografica" fra alcuni Stati membri, ad esempio nei Balcani o nel Baltico. Lo sviluppo delle unioni regionali non deve certamente essere scoraggiato poiché esse potrebbero senz'altro contribuire alla diversità regionale e culturale dell'Unione nel suo complesso e persino ad una sua gestione più efficiente.

Si suggerisce qui una formulazione che permetterebbe questi sviluppi a condizione che essi non confliggano con i fini, gli obiettivi e l'ordinamento costituzionale dell'Unione.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : IV-4 (partie IV)

Déposée par Mme Pervenche Berès, Jürgen Meyer, Pierre Lequiller, Olivier Duhamel, Ben Fayot, Caspar Einem, Elena Paciotti

Qualité : - Membres et Suppléants

Article IV-4 (Ex Article D) Unions régionales

Le Traité instituant la Constitution ne fait pas obstacle à l'existence et à l'accomplissement des unions régionales entre la Belgique et le Luxembourg, **(2 mots supprimés)** entre la Belgique, le Luxembourg et les Pays-Bas, **ou le cas échéant entre d'autres Etats membres,** dans la mesure où les objectifs de ces unions régionales ne sont pas atteints en application dudit traité.

AMENDMENT FORM

Part Three: General and final provisions

Suggestion for amendment of Article : IV-7 (DECLARATION)

By Members: Mr Andrew Duff

Status : Members.

DECLARATION to Article IV-7:

Adoption, ratification and entry into force of the Constitution

- 1. If, two years after the signature of the Treaty establishing the Constitution, four fifths of the Member States have ratified it and one or more Member States have encountered insurmountable difficulties in proceeding with ratification, the matter shall be referred to the European Council.*
 - 2. The European Council shall call a conference of representatives of the governments of the Member States. This conference shall revise only the provisions of Article 48 of the Treaty on European Union in order to enable the Constitution to enter into force. The conference shall consult the European Parliament, the Commission and the Court of Justice.*
 - 3. All Member States shall commit themselves to the intergovernmental conference in good faith, as well as to using their best endeavours to ensure the ratification of any consequential amendment.*
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Explanation:

Ratification of the Constitution by twenty-five member states might prove impossibly difficult. It is highly desirable, therefore, to commit the European Council at this stage to a contingency plan to resolve the problem caused by the dual lock imposed by Article 48 TEU. The obvious solution is a short and decisive IGC to amend Article 48.

For a wider discussion of these issues, see my contribution 'How to bring the Constitution into force', CONV 764/03.

AMENDMENT FORM

Suggestion for : Part IV

Suggestion for amendment of Article : IV-6 para. 2

By Mr : Emilio GABAGLIO

Status : Observer

Amendment : Art. IV-6 para. 2

Insert at the end of the 1st sentence:

“and as observers the European Ombudsperson, representatives of the Committee of the Regions, the Economic and Social Committee and of the European Social Partners”.

Explanation (if any) :

Whenever the Convention method is applied, the observer status of those bodies or organisations which participate in the actual Convention should be maintained expressly.

FICHE AMENDEMENT

Proposition d'amendement à l'Article:

**Artikel IV-6 (Ex Artikel F): Verfahren zur Änderung des Verfassungsvertrags
Vertrags über die Verfassung**

Déposée par Monsieur:

Joachim Wuermeling

Qualité:

Suppléant

<i>Texte du Praesidium</i>	<i>Amendement proposé</i>
<p>(1) Die Regierung jedes Mitgliedstaats, das Europäische Parlament oder die Kommission kann dem Rat Entwürfe zur Änderung des Vertrags über die Verfassung vorlegen. Diese Entwürfe werden den einzelstaatlichen Parlamenten der Mitgliedstaaten mitgeteilt.</p> <p>(2) Beschließt der Europäische Rat nach Anhörung des Europäischen Parlaments und der Kommission mit einfacher Mehrheit die Prüfung der vorgeschlagenen Änderungen, so beruft der Präsident des Europäischen Rates einen Konvent von Vertretern der einzelstaatlichen Parlamente der Mitgliedstaaten, der Staats- und Regierungschefs der Mitgliedstaaten, des Europäischen Parlaments und der Kommission ein. Bei institutionellen Änderungen im Währungsbereich wird auch die Europäische Zentralbank gehört. Der Europäische Rat kann mit einfacher Mehrheit beschließen, den Konvent nicht einzuberufen, wenn eine Einberufung aufgrund des Umfangs der Änderungen nicht gerechtfertigt ist. In diesem Fall legt der Europäische Rat die Tragweite der Änderungen fest, die der Konferenz der Vertreter der Regierungen der Mitgliedstaaten unterbreitet werden.</p> <p>Der Konvent prüft die Änderungsentwürfe und nimmt im Konsensverfahren eine Empfehlung für die in Absatz 3</p>	<p>(1) Die Regierung jedes Mitgliedstaats, das Europäische Parlament oder die Kommission kann dem Rat Entwürfe zur Änderung des Vertrags über die Verfassung vorlegen. Diese Entwürfe werden den einzelstaatlichen Parlamenten der Mitgliedstaaten mitgeteilt.</p> <p>(2) <u>Gibt der Rat nach Anhörung des Europäischen Parlaments und gegebenenfalls der Kommission eine Stellungnahme zugunsten des Zusammentritts einer Konferenz von Vertretern der Regierungen der Mitgliedstaaten ab, so wird diese vom Präsidenten des Rates einberufen, um die an dem Verfassungsvertrag vorzunehmenden Änderungen zu vereinbaren. Bei institutionellen Änderungen im Währungsbereich wird auch die Europäische Zentralbank gehört.</u> <u>Beschließt der Europäische Rat nach Anhörung des Europäischen Parlaments und der Kommission mit einfacher Mehrheit die Prüfung der vorgeschlagenen Änderungen, so beruft der Präsident des Europäischen Rates einen Konvent von Vertretern der nationalen Parlamente der Mitgliedstaaten, der Staats- und Regierungschefs der Mitgliedstaaten, des Europäischen Parlaments und der Kommission ein. Bei institutionellen Änderungen im Währungsbe-</u></p>

<p>vorgesehene Konferenz der Vertreter der Regierungen der Mitgliedstaaten an.</p> <p>(3) Die Konferenz der Vertreter der Regierungen der Mitgliedstaaten wird vom Präsidenten des Rates einberufen, um die an dem Vertrag über die Verfassung vorzunehmenden Änderungen zu vereinbaren.</p> <p>Die Änderungen treten in Kraft, nachdem sie von allen Mitgliedstaaten gemäß ihren verfassungsrechtlichen Vorschriften ratifiziert worden sind.</p>	<p>reich wird auch die Europäische Zentralbank gehört. Der Europäische Rat kann mit einfacher Mehrheit beschließen, den Konvent nicht einzuberufen, wenn seine Einberufung aufgrund des Umfangs der geplanten Änderungen nicht gerechtfertigt ist. In diesem Fall legt der Europäische Rat das Mandat für die Konferenz der Vertreter der Regierungen der Mitgliedstaaten fest.</p> <p>Der Konvent prüft die Änderungsentwürfe und nimmt im Konsensverfahren eine Empfehlung für die in Absatz 3 vorgesehene Konferenz der Vertreter der Regierungen der Mitgliedstaaten an.</p> <p>(3) Die Konferenz der Vertreter der Regierungen der Mitgliedstaaten wird vom Präsidenten des Rates einberufen, um die an dem Vertrag über die Verfassung vorzunehmenden Änderungen zu vereinbaren.</p> <p>Die Änderungen treten in Kraft, nachdem sie von allen Mitgliedstaaten gemäß ihren verfassungsrechtlichen Vorschriften ratifiziert worden sind.</p>
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Begründung:

Ob Vertragsänderungen künftig grundsätzlich durch einen Konvent vorbereitet werden sollten, kann erst nach Abschluss der Konventsarbeiten beurteilt werden. Abzulehnen wäre außerdem ein Verfahren, das die Regierungskonferenz an die Vorschläge eines Konventes bindet.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : IV- 6

Déposée par Madame ou Monsieur : **M. Louis Michel, M. Elio di Rupo, Mme Anne Van Lancker, membres de la Convention et M. Pierre Chevalier et Mme Marie Nagy, membres suppléants de la Convention**

Qualité : - Membre - Suppléant

Article IV- 6(Ex Article F)

Procédure de révision du traité instituant la Constitution

1. Le gouvernement de tout État membre, le Parlement européen ou la Commission, peut soumettre au Conseil des projets tendant à la révision du traité instituant la Constitution. Ces projets sont notifiés aux Parlements nationaux des États membres.

2. Si le Conseil européen, après consultation du Parlement européen et de la Commission, adopte à la majorité simple une décision favorable à l'examen des modifications proposées, le Président du Conseil européen convoque une Convention composée de représentants des Parlements nationaux des États membres, des chefs d'Etat ou de gouvernement des États membres, du Parlement européen et de la Commission. La Banque centrale européenne est également consultée dans le cas de modifications institutionnelles dans le domaine monétaire. Le Conseil européen peut décider ~~à la majorité simple~~ de ne pas convoquer la Convention dans le cas de modifications dont l'ampleur ne le justifie pas. Dans ce dernier cas, le Conseil européen établit le mandat pour la Conférence des représentants des gouvernements des États membres.

La Convention examine les projets de révision et adopte par consensus une recommandation à la Conférence des représentants des gouvernements des États membres prévue au paragraphe 3.

3. La Conférence des représentants des gouvernements des États membres est convoquée par le président du Conseil en vue d'arrêter ~~d'un commun accord~~ les modifications à apporter du traité instituant la Constitution.

Les amendements aux parties I, II et IV de la Constitution entreront en vigueur après avoir été **arrêtés de commun accord par la Conférence des représentants des gouvernements et** ratifiés par tous les États membres conformément à leurs règles constitutionnelles respectives.

Les amendements à la partie III de la Constitution entreront en vigueur après avoir été approuvés par les cinq sixièmes des membres de la Conférence des représentants des gouvernements et après approbation du Parlement européen statuant à une majorité des 2/3 des votes exprimés.

Explication éventuelle :

Il convient de prévoir une formule plus souple pour la révision de la partie III de la Constitution. Le présent amendement prévoit une formule possible pour y arriver. Les signataires du présent amendement sont cependant ouverts à d'autres formules dès lors qu'elles rencontreraient le même objectif d'une procédure qui ne requerrait pas l'unanimité et la ratification de tous les Etats membres pour l'entrée en vigueur de la partie III.

AMENDMENT FORM

**Suggestion for amendment of: PART IV OF THE CONSTITUTION:
Article IV-6**

By Mrs. Marietta GIANNAKOU

Status : - Member

Suggestion

Article IV-6 (ex Article F)

Procedure for revising the Treaty establishing the Constitution

~~1.—The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of the Treaty establishing the Constitution. The national Parliaments of the Member States shall be notified of these proposals.~~

~~2.—If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments of the Member States, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The European Council may decide by a simple majority not to convene the Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for the conference of representatives of the governments of the Member States.~~

~~The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.~~

~~3.—The conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaty establishing the Constitution.~~

~~The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.~~

(1) The government of any Member State, the European Parliament and the Commission may submit to the Council proposals for the amendment of the Constitution.

(2) The amendment of the Constitution shall be prepared by a Constitutional Convention which shall be convened by the Council after consulting the European Parliament and the Commission, and which shall within one year draw up a final document containing a detailed draft text.

The Constitutional Convention shall be composed of:

- a Convention Chairman appointed by the Council with the approval of the European Parliament;
- a representative delegated by the government of each Member State;
- two representatives delegated by the national parliaments of each Member State;
- a number of representatives of the European Parliament equal to the number of member states;
- four members of the European Commission.

In the case of institutional changes in the monetary area, one delegate of the ECB shall also participate in the Constitutional Convention.

The President of the European Court of Justice, the President of the European Court of Auditors, the President of the Committee of the Regions, the President of the Economic and Social Committee and the Ombudsman may each delegate one observer to the Constitutional Convention.

(3) The constitutional amendment adopted by the Constitutional Convention must be confirmed by a conference of representatives of the governments of the Member States. This conference shall be convened by the President of the Council immediately subsequent to the Convention.

(4) The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Explanation (if any) :

AMENDMENT FORM

Part Three: General and final provisions

Suggestion for amendment of Article : IV-6

By Members: Mr Andrew Duff

Status : Members and alternate members.

Article IV-6: Procedure for revising the Treaty establishing the Constitution

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of Treaty establishing the Constitution. The national Parliaments of the Member States shall be notified of these proposals.

2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments of the Member States, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The European Council may decide by a simple majority not to convene the Convention should the scope of the amendments not warrant this. In the latter case, the European Council shall define the terms of reference for the conference of representatives of the governments of the Member States.

The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.

3. The conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaty establishing the Constitution.

In cases where the competences of the Union and the Member States are not affected, the conference shall decide by a five-sixths majority of the Member States.

4. The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

In cases where the competences of the Union and the Member States are not affected, the European Council shall decide the modalities of bringing the amendments into force. The European Council shall act by a five-sixths majority of the Member States, after having received the opinion of the Court of Justice, and after having received the assent of the European Parliament acting by a two-thirds majority of the votes cast representing a majority of its Members.

Explanation:

For a wider discussion of the issue of constitutional revision, see Mr Duff's contribution 'How to bring the Constitution into force', CONV 764/03.

Here we propose to lighten the revision procedure for amendments where a shift in the competences of the Union is not intended. This would therefore be the normal practice for revisions of institutional procedures and for the reform of the policies in areas where competence is already conferred on the Union by the Constitution.

AMENDMENT FORM

**Suggestion for amendment of: PART IV OF THE CONSTITUTION:
Article IV-6**

By Ms / Mr : BROK, SZAJER, AKCAM, AZEVEDO, VAN DER LINDEN, LAMASSOURE, BREJC, DEMETRIOU, FIGEL, LIEPINA, PIKS, SANTER, KELAM, KROUPA, TAJANI, ALMEIDA GARRETT, ALTMAIER, LENNMARKER, MALJ-WEGGEN, RACK, VILEN

Status : - Member - Alternate

On behalf of the EPP Convention Group

Suggestion

Article IV-6 (ex Article F)

Procedure for revising the Treaty establishing the Constitution

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of ~~the Treaty establishing the Constitution~~. The national Parliaments of the Member States shall be notified of these proposals.
2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, ~~the President of the European Council shall convene~~ a Convention shall be convened composed of *one representative of each* of the Heads of State or Government of the Member States, of *two* representatives of *each of* the national Parliaments of the Member States, *a number of representatives of the European Parliament equal to the total number of representatives of national Parliaments* and *of 5 representatives* of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The European Council may decide by a ~~simple~~ *qualified* majority *with the assent of the European Parliament* not to convene the Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for the conference of representatives of the governments of the Member States. *The Convention shall elect its President and up to four Vice-Presidents to coordinate its sessions.* The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.
3. The conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord, *and on the basis of the results of the Convention*, the amendments to be made to ~~the Treaty establishing the Constitution~~. The amendments shall enter into force after being ratified by *4/5 of* all the Member States in accordance with their respective constitutional requirements.
4. *The procedure under the present Article shall be the only procedure by which the Constitution (Part One, Part Two, Part Three, Part Four) and the Protocols annexed to it may be amended.*

Explanation (if any) : The Convention method should be the general method for Constitution changes in the future, its composition should be fixed in the Constitution. With 25 or more Member States a provision on entry into force by ratification by an overwhelming majority is all the more important in order to secure the Union's ability to act.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : IV-6 (partie IV)

Déposée par Mme Pervenche Berès, Andrew Duff, Olivier Duhamel, Ben Fayot, Caspar Einem

Qualité : - Membres et Suppléants

Article IV-6 (Ex Article F) Procédure de révision du Traité instituant la Constitution

2. Si le Conseil européen, après consultation du Parlement européen et de la Commission, adopte à la majorité simple une décision favorable à l'examen des modifications proposées, le Président du Conseil européen convoque une Convention composée de représentants des Parlements nationaux des Etats membres, des chefs d'Etat ou de gouvernement des Etats membres, du Parlement européen et de la Commission. La Banque centrale européenne est également consultée dans le cas de modifications institutionnelles dans le domaine monétaire. Le Conseil européen peut, **après approbation du Parlement européen,** décider à la majorité simple de ne pas convoquer la Convention dans le cas de modifications dont l'ampleur ne le justifie pas. Dans ce dernier cas, le Conseil européen établit le mandat pour la Conférence des représentants des gouvernements des Etats membres.

La Convention examine les projets de révision et adopte par consensus une recommandation à la Conférence des représentants des gouvernements des Etats membres prévue au paragraphe 3.

AMENDMENT FORM

Suggestion for amendment of Article : IV-2

By Mr Joschka Fischer

Status : - Member

Artikel IV-2 (Ex Artikel B) Rechtliche Kontinuität im Verhältnis zur Europäischen Gemeinschaft und zur Europäischen Union

Die Europäische Union tritt die Rechtsnachfolge der Europäischen Gemeinschaften und der Union in allen ihren internen und aus internationalen Übereinkommen erwachsenden Rechten und Pflichten an, die sich vor Inkrafttreten des Verfassungsvertrags aus den früheren Verträgen, Protokollen und Rechtsakten ergeben haben; sie übernimmt ferner das gesamte Aktiv- und Passivvermögen der Gemeinschaften und der Union sowie deren Archive.

Die Bestimmungen der Rechtsakte der Organe der Union, die aufgrund der in Absatz 1 genannten Verträge und Rechtsakte angenommen wurden, gelten nach Maßgabe des dem Vertrag über die Verfassung beigefügten Protokolls weiter. Die Rechtsprechung des Gerichtshofs der Europäischen Gemeinschaften ist weiterhin maßgeblich für die Auslegung des Unionsrechts.

Explanation :

Die Rechtsnachfolge umfasst die Europäische Gemeinschaft sowie die Union.

AMENDMENT FORM

Suggestion for amendment of Title : IV-2

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member - ~~Alternate~~

Artikel IV-2: Rechtliche Kontinuität im Verhältnis ~~zur~~ zu den Europäischen Gemeinschaften
~~und zur Europäischen Union~~

Die Rechtspersönlichkeit der Europäischen Gemeinschaft besteht als Rechtspersönlichkeit der Europäischen Union fort. Die Europäische Union tritt die Rechtsnachfolge der Europäischen ~~Atomgemeinschaft Gemeinschaften und der Union~~ in allen ihren internen und aus internationalen Übereinkommen erwachsenden Rechten und Pflichten an, die sich vor Inkrafttreten des Vertrags über die Verfassung aus den früheren Verträgen, Protokollen und Rechtsakten ergeben haben; sie übernimmt ferner das gesamte Aktiv- und Passivvermögen ~~der Gemeinschaften und der Union~~ sowie deren Archive.

Die Bestimmungen der Rechtsakte der Organe der Union, die aufgrund der in ~~Absatz 1~~ *Artikel IV-1* genannten Verträge und Rechtsakte angenommen wurden, gelten nach Maßgabe des dem Vertrag über die Verfassung beigefügten Protokolls weiter. ~~Die Rechtsprechung des Gerichtshofs der Europäischen Gemeinschaften ist weiterhin maßgeblich für die Auslegung des Unionsrechts.~~

Explanation (if any) :

Absatz 1:

Der Begriff der Rechtsnachfolge, insbesondere die damit verbunden Rechtsfolgen, sind völkerrechtlich unklar. Daraus resultieren Risiken, insbesondere betreffend die Rechtsverhältnisse mit Drittstaaten und internationalen Organisationen. Daher sollte die **Kontinuität** im Verhältnis zur Europäischen Gemeinschaft über das Institut der **Rechtsidentität** und nicht der **Rechtsnachfolge** hergestellt werden. Die Rechtspersönlichkeit der Europäischen Gemeinschaft sollte nicht erlöschen, sondern sich in der Union fortsetzen. Rechtsnachfolgerin sollte die Union lediglich in Bezug auf die Europäische Atomgemeinschaft werden.

Im übrigen ist eine Rechtsnachfolge zur derzeitigen Union rechtlich nicht möglich. Die derzeitige Union hat keine Rechtspersönlichkeit; sie hat weder Rechte noch Pflichten, weder Aktivvermögen

noch Passivvermögen.

Absatz 2:

Diese Bestimmung ist die notwendige Ergänzung zur Aufhebung der Verträge nach Artikel IV-1 und sollte dementsprechend darauf Bezug nehmen. Das sinnvollste wäre es allerdings, diese Bestimmung als ersten Artikel in dem betreffenden Protokoll zu verankern.

Satz 2 ist zu streichen. Bezieht er sich auf die zukünftige Rechtsprechung, so wiederholt er lediglich Artikel I-28 Absatz 1. Bezieht sich Satz 2 jedoch auf die vergangene Rechtsprechung, so gefährdet er die Unabhängigkeit des Gerichtshofs, da dieser verfassungsrechtlich an seine früheren Auslegungen gebunden würde.

AMENDMENT FORM

Suggestion for amendment of Article : IV-2

By Ms / Mr : Voggenhuber, Wagener, McCormick, Lichtenberger, Nagy

Status : - Member - Alternate

Artikel IV-2

Article IV-2(ex Article B)

Legal continuity in relation to the European Community and the European Union

The European Union shall succeed to all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Treaty establishing the Constitution by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force under the conditions laid down in the Protocol annexed to the Treaty establishing the Constitution. The case-law of the Court of Justice of the European Communities shall be maintained as a source of interpretation of Union law.

Explanation if any :

Legal continuity shall not apply to the Euratom Treaty

FICHE AMENDEMENT

Proposition d'amendement à l'Article IV-3 (Champ d'application territoriale)

Déposée par Monsieur de Villepin

Qualité : - Membre

[1 sans changements]

2. Le traité instituant la Constitution est applicable ~~aux départements français d'outre-mer~~ **aux régions ultra-périphériques de la Guadeloupe, de la Guyane, de la Martinique, de la Réunion, de Mayotte, des** ~~aux~~ Açores, **de** à Madère et **des** ~~aux~~ îles Canaries conformément à l'article III-326 de la partie III.

Ces dispositions n'entrent toutefois en application à Mayotte qu'au terme d'un processus dont les modalités et la durée seront définies, au plus tard deux ans après l'entrée en vigueur de la présente Constitution, par un règlement du Conseil. Le régime juridique défini au premier alinéa du paragraphe 3 du présent article est applicable à Mayotte jusqu'à la date d'entrée en vigueur de l'acte sur lequel se fonde ce processus.

[le reste sans changements]

Explication éventuelle :

Les autorités françaises souhaitent une énumération des régions ultra-périphériques françaises au lieu de la simple mention de DOM car cette catégorie de collectivités peut être amenée à évoluer et risque de ne plus coïncider avec les régions ultra-périphériques..

Ainsi, la demande de prévoir l'inclusion de Mayotte dans les régions ultrapériphériques permet d'anticiper la réforme constitutionnelle française en cours qui prévoit la transformation de Mayotte en DOM.

AMENDMENT FORM

Suggestion for amendment of: PART IV OF THE CONSTITUTION, Article IV – 3 (ex article C)

By: Mrs. Marietta GIANNAKOU

Status : - Member

Suggestion :

Article IV-3 (ex Article C)

1. The Treaty establishing the Constitution shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland, ...

2. The Treaty establishing the Constitution shall apply to the French overseas departments, the Azores, Madeira and the Canary Islands in accordance with Article III-326 of Part Three.

3. The special arrangements for association set out in Part [Four of the TEC] of the Treaty establishing the Constitution shall apply to the overseas countries and territories listed in [Annex II to the TEC].

The Treaty establishing the Constitution shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

4. The Treaty establishing the Constitution shall apply to the European territories for whose external relations a Member State is responsible.

5. The Treaty establishing the Constitution shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

6. Notwithstanding the preceding paragraphs:

(a) the Treaty establishing the Constitution shall not apply to the Faeroe Islands;

(b) the Treaty establishing the Constitution shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;

(c) the Treaty establishing the Constitution shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community, signed on 22 January 1972.

(d) the Treaty establishing the Constitution shall apply to the self-governed area of Mount Athos of the Hellenic Republic, taking into consideration the special regime of this area as this is guaranteed in Art. 105 of the Constitution of the Hellenic Republic, in the meaning that this regime will not be affected by the preparation and implementation of the Union's policies, especially with regard to the maintenance of spiritual heritage, the rights of property, establishment and visit as well as tax and custom exemptions.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article IV-5:

By: BROK, AZEVEDO, AKCAM, ALTMAIER, BREJC, DEMETRIOU, FIGEL, FOLLER, FRENDON, GIANNAKOU, KAUPPI, KELAM, LENNMARKER, LIEPINA, MAIJ-WEGGEN, PIKS, RACK, SANTER, STOCKTON, SZAJER, TEUFEL, VAN DER LINDEN, VILEN, VAN DIJK, WITTBRODT, WUERMELING

on behalf of the EPP Convention Group

Status : Member / Alternate

Article IV-5 (ex Article E) Protocols

The protocols annexed to this Treaty shall form an integral part thereof.

We request the Praesidium to draw up an exhaustive list of Protocols to be annexed to the Constitution and to submit it to the Convention for deliberations. Protocols have the same normative rank as the Constitution itself. It is therefore crucial that the Convention gets a chance to take this constitutional law into account and to, where deemed required, to amend it.

FICHE AMENDEMENT

Proposition d'amendement à l'Article IV-6

Déposée par MM. Barnier, Vitorino, O'Sullivan et Ponzano

Qualité : Membres et Suppléants

Article IV - 6 (Ex Article F) Procédure de révision du traité instituant la Constitution

Ajout d'un paragraphe :

5. Sans préjudice des paragraphes 1 à 3, le Conseil européen peut décider, selon la procédure prévue au deuxième alinéa, de modifier les dispositions de la Constitution autres que celles des Titres I à III et IX de la Partie I, de la Partie II et de la Partie IV, à condition que ces modifications ne confèrent pas de nouvelles compétences à l'Union et qu'elles ne changent pas l'équilibre des pouvoirs entre les institutions.

Le gouvernement de tout État membre, le Parlement européen ou la Commission, peut soumettre au Conseil européen des projets de révision de la Constitution. Le projet de révision est notifié aux Parlements nationaux des États membres au moins six mois avant que le Conseil européen prend une décision. Le Conseil européen consulte la Commission ainsi que de la Banque centrale européenne au cas où les modifications envisagées portent sur le domaine monétaire. La Cour de justice rend un avis sur la conformité des modifications envisagées avec les dispositions de l'alinéa précédent. Le Conseil européen statue à la majorité des cinq sixièmes de ses membres, après approbation par le Parlement.

Les modifications ainsi décidées entrent en vigueur deux ans après la décision du Conseil européen, à moins que celui-ci, statuant à l'unanimité, décide d'une entrée en vigueur à une date antérieure.

Explication :

Il est crucial d'éviter que la modification de la Constitution s'avère impossible dans la pratique. La procédure qui prévoit l'unanimité à la CIG et ratification dans tous les États membres pour l'ensemble des dispositions de la Constitution est trop lourde, compte tenu du grand nombre de dispositions de rang constitutionnel (non seulement les quatre Parties de la Constitution, mais également les Protocoles anciens et nouveaux). Le paragraphe 4 (qui prévoit seulement que le Conseil européen se saisit de la question lorsque quatre-cinquièmes des États membres ont ratifié et qu'un ou plusieurs États membres rencontrent des difficultés pour procéder à la ratification) ne constitue pas une réponse suffisante.

Il est proposé de permettre au Conseil européen d'apporter des modifications à la Constitution, à la condition (a) qu'elles ne portent pas sur les principes fondamentaux, la Charte des droits fondamentaux, la répartition des compétences, ou le cadre constitutionnel (b) qu'elles ne comportent pas de nouvelles attributions de compétences à l'Union et (c) ne changent pas l'équilibre interinstitutionnel.

Dans ces cas il devrait être suffisant que le Conseil européen décide de ces modifications à la majorité des 5/6. Afin de renforcer la légitimité démocratique des révisions envisagées, il est proposé de prévoir l'approbation du Parlement européen. En revanche, il est proposé de ne pas faire de ratifications nationales, mais d'impliquer les parlements nationaux en amont de la prise de décision, pour qu'ils puissent pleinement jouer leur rôle à travers le contrôle qu'ils exercent sur les gouvernements, plutôt que de limiter leur implication à la seule faculté - qui souvent est politiquement une obligation - d'entériner l'accord intervenu au Conseil européen.

Il est proposé, enfin, de prévoir un délai de deux ans pour l'entrée en vigueur des modifications décidées (à moins qu'à l'unanimité le Conseil européen en décide autrement), en vue de permettre à un Etat membre de se retirer de l'Union (en vertu de l'art. I-59), s'il le préfère cette solution plutôt que de se soumettre aux modifications décidées.

AMENDMENT FORM

Suggestion for amendment of Article : IV-6

By Ms / Mr : Mr Bonde

Status : **X - Member** - Alternate

Article IV-6 (ex Article F) Procedure for revising the Treaty establishing the Constitution

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of the Treaty establishing the Constitution. The national Parliaments of the Member States shall be notified of these proposals.
2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments of the Member States, **DISTINGUISHED PERSONS WITH DIFFERENT VIEWS ON THE UNION INTEGRATION, REPRESENTATIVES FROM CIVIL SOCIETY ORGANISATIONS**, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The European Council may decide by a simple majority not to convene the Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for the conference of representatives of the governments of the Member States.

The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.
3. The conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaty establishing the Constitution.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : ArtIV-6

Déposée par Josep Borrell, Carlos Carnero, Diego Lopez-Garrido

Qualité :

Compléter comme suit le par. 2 de l'Art. IV-6 (ex-article F):

2. Si le Conseil européen, après consultation du Parlement européen et de la Commission, adopte à la majorité simple une décision favorable à l'examen des modifications proposées, le Président du Conseil européen convoque une Convention composée de représentants des Parlements nationaux des États membres, des chefs d'État ou de gouvernement des États membres, du Parlement européen, ~~et~~ de la Commission *et du Comité économique et social**. La Banque centrale européenne est également consultée dans le cas de modifications institutionnelles dans le domaine monétaire. Le Conseil européen peut décider à la majorité simple de ne pas convoquer la Convention dans le cas de modifications dont l'ampleur ne le justifie pas. Dans ce dernier cas, le Conseil européen établit le mandat pour la Conférence des représentants des gouvernements des États membres.

Explication:

L'expérience de la présente Convention a démontré que la méthode conventionnelle est seule susceptible de permettre d'associer la société civile, ainsi que les organisations aux travers desquelles ils s'expriment et agissent, aux débats et décisions sur l'évolution de l'Union et de ses politiques. En tant que représentant institutionnel et enceinte de consultation, de représentation, d'information et d'expression de la société civile organisée, le Comité contribue, au sein de la Convention, à garantir une ouverture aussi large que possible des débats au sein de la société civile et à la transparence indispensable pour qu'elle puisse effectivement y contribuer.

Le Comité estime en conséquence que, s'il faut se féliciter de la pérennisation de la méthode de la Convention pour la révision du traité instituant la Constitution, prévoir la participation de plein droit du Comité représenterait une avancée supplémentaire dans la vie démocratique de l'Union en conformité avec les principes établis à l'article 46 de la Partie I relatif à la démocratie participative.

* Le Comité réitère l'amendement qu'il a transmis à la Convention en décembre dernier que son nom soit changé en "Conseil économique et social européen".

FICHE AMENDEMENT

Proposition d'amendement à l'Article IV-6 (Révision du traité constitutionnel)

Déposée par Monsieur de Villepin

Qualité : - Membre

[1, 2 et 3 sans changements]

4 Si à l'issue d'un délai de deux ans à compter de la signature du traité modifiant le traité instituant la Constitution, les quatre-cinquièmes des Etats membres ont ratifié ledit traité et qu'un ou plusieurs Etats membres ont rencontré des difficultés pour procéder à ladite ratification, le Conseil européen **statue à la majorité qualifiée, sur proposition de la Commission, sur l'entrée en vigueur du traité de révision et sur le retrait des Etats membres qui n'ont pas procédé à sa ratification** ~~se saisit de la question.~~

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Title : IV-6

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member - ~~Alternate~~

Artikel IV-6 (Ex Artikel F): Verfahren zur Änderung des Vertrags über die Verfassung

(1) ~~Die Regierung jedes Mitgliedstaats~~ **Jeder Mitgliedstaat**, das Europäische Parlament oder die Kommission kann dem **Europäischen** Rat Entwürfe zur Änderung des Vertrags über die Verfassung vorlegen. Diese Entwürfe werden den nationalen Parlamenten der Mitgliedstaaten mitgeteilt.

(2) Beschließt der Europäische Rat nach Anhörung des Europäischen Parlaments und der Kommission mit einfacher Mehrheit die Prüfung der vorgeschlagenen Änderungen, so beruft der Präsident des Europäischen Rates einen Konvent von **je zwei** Vertretern der einzelstaatlichen Parlamente der Mitgliedstaaten, **von je einem Vertreter** der Staats- und Regierungschefs der Mitgliedstaaten, **von einer gleichen Anzahl Vertretern** des Europäischen Parlaments und **von zwei Vertretern** der Kommission ein (**Europäischer Verfassungskonvent**). Bei institutionellen Änderungen im Währungsbereich wird auch die Europäische Zentralbank gehört. Der Europäische Rat kann mit einfacher Mehrheit beschließen, den Konvent nicht einzuberufen, wenn seine Einberufung aufgrund des Umfangs der geplanten Änderungen nicht gerechtfertigt ist. In diesem Fall legt der Europäische Rat das Mandat für ~~die eine~~ Konferenz ~~der~~ **von je einem** Vertreter der Regierungen der Mitgliedstaaten, **von je zwei Vertretern des Europäischen Parlaments und einem Vertreter der Kommission (Europäische Verfassungskonferenz)** fest.

Der Konvent **bzw. die Konferenz** prüft die Änderungsentwürfe und nimmt im Konsensverfahren eine Empfehlung für die in Absatz 3 vorgesehene Konferenz der Vertreter der Regierungen der Mitgliedstaaten an.

(3) Die Konferenz der Vertreter der Regierungen der Mitgliedstaaten wird vom Präsidenten des Rates einberufen, um **über die Annahme der** an dem Vertrag über die Verfassung vorzunehmenden Änderungen ~~zu vereinbaren~~ **einvernehmlich zu entscheiden**.

Die Änderungen treten in Kraft, nachdem sie von allen Mitgliedstaaten gemäß ihren verfassungsrechtlichen Vorschriften ratifiziert worden sind, *sofern die Änderungen durch Volksabstimmung in jedem Mitgliedstaat eine Bestätigung gefunden haben.*

(3a) Änderungen des Vertrags über die Verfassung, die darauf abzielen, die in der Charta der Grundrechte anerkannten Rechte abzuschaffen oder ihren Schutzzumfang zu verringern, sind unzulässig.

(4) Falls nach Ablauf von zwei Jahren nach der Unterzeichnung des Vertrags zur Änderung des Vertrags über die Verfassung vier Fünftel der Mitgliedstaaten den genannten Vertrag ratifiziert haben und in einem oder mehreren Mitgliedstaaten Schwierigkeiten bei der Ratifikation aufgetreten sind, so befasst sich der Europäische Rat mit der Frage.

Explanation (if any) :

Absatz 1:

Es sollte der internen Rechtsordnung der Mitgliedstaaten überlassen bleiben, welches Staatsorgan einen Vorschlag zur Änderung der Verfassung vorlegt. Zudem macht es keinen Sinn, den Antrag beim Rat stellen zu lassen, wenn gemäß Absatz 2 nicht der Rat, sondern der Europäische Rat das Verfahren fortführt.

Absatz 3:

Auf der Konferenz der Vertreter der Regierungen der Mitgliedstaaten sollte nicht das "Paket" der Verfassungsänderung erneut geöffnet werden können.

Absatz 3a (neu):

Eine Verfassungsänderung, die auf eine Minderung des durch die Grundrechtecharta gewährleisteten Grundrechtsschutzes zielt, muss ausgeschlossen werden.

AMENDMENT FORM

Part Four: General and final provisions

Suggestion for amendment of Article : IV-6 (2)

By: Mr. Rein Lang, Mr. Tunne Kelam - members

Mr. Henrik Hololei, Mrs. Liina Tõnisson, Mr. Urmas Reinsalu - alternates

Article IV-6: Procedure for revising the Treaty establishing the Constitution

2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments of the Member States, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of Institutional changes in the monetary area. ~~The European Council may decide by a simple majority not to convene the Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for the conference of representatives of the governments of the Member States.~~

The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.

Explanation:

It should not be left to the heads of state and government to decide by a simple majority, whether the proposed amendments are important enough to be considered by the Convention, given that there are no objective criteria for determining that.

For the sake of democratic legitimacy, the Convention should be always convened, when treaty reforms are concerned, unless a simplified amendment procedure applies (no ratification in member states in accordance with their respective constitutional requirements).

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Art IV-6

Déposée par Mme SIGMUND, M. BRIESCH et M. FRERICHs

Qualité : Observateurs

Compléter comme suit le par. 2 de l'Art. IV-6 (ex-article F):

2. Si le Conseil européen, après consultation du Parlement européen et de la Commission, adopte à la majorité simple une décision favorable à l'examen des modifications proposées, le Président du Conseil européen convoque une Convention composée de représentants des Parlements nationaux des États membres, des chefs d'État ou de gouvernement des États membres, du Parlement européen, ~~et~~ de la Commission *et du Comité économique et social**. La Banque centrale européenne est également consultée dans le cas de modifications institutionnelles dans le domaine monétaire. Le Conseil européen peut décider à la majorité simple de ne pas convoquer la Convention dans le cas de modifications dont l'ampleur ne le justifie pas. Dans ce dernier cas, le Conseil européen établit le mandat pour la Conférence des représentants des gouvernements des États membres.

Explication:

L'expérience de la présente Convention a démontré que la méthode conventionnelle est seule susceptible de permettre d'associer la société civile, ainsi que les organisations aux travers desquelles ils s'expriment et agissent, aux débats et décisions sur l'évolution de l'Union et de ses politiques. En tant que représentant institutionnel et enceinte de consultation, de représentation, d'information et d'expression de la société civile organisée, le Comité contribue, au sein de la Convention, à garantir une ouverture aussi large que possible des débats au sein de la société civile et à la transparence indispensable pour qu'elle puisse effectivement y contribuer.

Le Comité estime en conséquence que, s'il faut se féliciter de la pérennisation de la méthode de la Convention pour la révision du traité instituant la Constitution, prévoir la participation de plein droit du Comité représenterait une avancée supplémentaire dans la vie démocratique de l'Union en conformité avec les principes établis à l'article 46 de la Partie I relatif à la démocratie participative.

* Le Comité réitère l'amendement qu'il a transmis à la Convention en décembre dernier que son nom soit changé en "Conseil économique et social européen".

FICHE AMENDEMENT

Proposition d'amendement à l'Article:

IV-6

Déposée par Messieurs:

**Erwin Teufel, Peter Altmaier,
Joachim Wuermeling**

Qualité:

Membre / Suppléant

Texte du Praesidium

- (3) Die Konferenz der Vertreter der Regierungen der Mitgliedstaaten wird vom Präsidenten des Rates einberufen, um die an dem Vertrag über die Verfassung vorzunehmenden Änderungen zu vereinbaren.

Die Änderungen treten in Kraft, nachdem sie von allen Mitgliedstaaten gemäß ihren verfassungsrechtlichen Vorschriften ratifiziert worden sind.

Amendement proposé

Unterstützung des Vorschlags des Präsidiums

Begründung:

Zentral ist hier, dass Änderungen des Verfassungsvertrags in allen seinen Teilen ratifikationsbedürftig sind. Nur dies entspricht dem geltenden Grundsatz, dass die Mitgliedstaaten Herren der Verträge sind. Die erforderliche Flexibilität kann auch durch das Instrument der verstärkten Zusammenarbeit erreicht werden.

AMENDMENT FORM

Suggestion for amendment of Article : IV-6

By Ms / Mr : Voggenhuber, Wagener, Lichtenberger, Nagy

Status : - Member - Alternate

Artikel IV-6

Artikel IV-6 (ex Article F)

Article IV-6: Procedure for revising the Treaty establishing the Constitution

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of Treaty establishing the Constitution. The national Parliaments of the Member States shall be notified of these proposals.

2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments of the Member States, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The European Council may decide by a simple majority not to convene the Convention should the scope of the amendments not warrant this. In the latter case, the European Council shall define the terms of reference for the conference of representatives of the governments of the Member States.

The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.

3. The conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaty establishing the Constitution.

In cases where neither the Charter of Fundamental Rights nor the competences of the Union and the Member States are affected, the conference shall decide by a five-sixths majority of the Member States.

4. The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

In cases where neither the Charter of Fundamental Rights nor the competences of the Union and the Member States are affected, the European Council shall decide the modalities of bringing the amendments into force. The European Council shall act by a five-sixths majority of the Member States, after having received the opinion of the Court of Justice, and after having received the assent of the European Parliament acting by a two-thirds majority of the votes cast representing a majority of its Members.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : IV-7

By Ms / Mr : Mr Bonde

Status : X - Member - Alternate

Article IV-7 (ex Article G)

Adoption, ratification and entry into force of the Treaty establishing the Constitution

1. The Treaty establishing the Constitution shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
 2. The Treaty establishing the Constitution shall enter into force on, provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.
 3. If, two years after the signature of the Treaty establishing the Constitution, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council. **A SPECIAL AGREEMENT CAN BE NEGOTIATED COUNTRIES THAT DO NOT WISH TO RATIFY WHERE THE PRESENT STATUS IN TRADE AND LEGAL SYSTEM ARE MAINTAINED AS FAR AS POSSIBLE.**
-

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Title : IV-7

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member - ~~Alternate~~

Artikel IV-7: Annahme, Ratifikation und Inkrafttreten des Vertrags über die Verfassung

(1) Der Vertrag über die Verfassung bedarf der Ratifikation durch die Hohen Vertragsparteien gemäß ihren verfassungsrechtlichen Vorschriften. Die Ratifikationsurkunden werden bei der Regierung der Italienischen Republik hinterlegt.

(2) Der Vertrag über die Verfassung tritt ~~am ...~~ in Kraft, ~~sofern alle Ratifikationsurkunden hinterlegt worden sind, oder andernfalls am ersten Tag des auf die Hinterlegung der letzten Ratifikationsurkunde folgenden Monats~~ *nachdem er von allen Mitgliedstaaten gemäß ihren verfassungsrechtlichen Vorschriften ratifiziert worden ist, sofern er durch Volksabstimmung in jedem Mitgliedstaat eine Bestätigung gefunden hat.*

Explanation (if any) :

Um Widersprüche wie beim Inkrafttreten des Vertrages von Nizza zu vermeiden, sollte diese Bestimmung mit Artikel 48 Absatz 3 EU-Vertrag abgestimmt sein.

AMENDMENT FORM

Suggestion for amendment of Article for Part IV

By Mr Duhamel, Mr Fayot, Mr Marinho, Madame Berès, Monsieur Lamassoure, Madame Berger

Status : Members and alternates

Article part IV

Symbols of Union identity

1. The flag of the Union is a circle of twelve goldenstars on a blue ground.
2. The currency of the Union is the euro.
3. The anthem of the Union is the Ode of Joy from the Ninth Symphony by Ludwig van Beethoven.
4. 9 May is celebrated as Union public holiday day.

Article pour la partie IV

Les symboles de l'Union européenne

1. Le drapeau de l'Union européenne représente un cercle de douze étoiles sur fond bleu
2. La devise l'Union est l'Euro
3. L'hymne de l'Union est l'Ode à la Joie de la Neuvième Symphonie de Ludwig van Beethoven
4. Le 9 mai est le jour de l'Europe, jour férié dans l'Union

Explanation (if any) : un très large accord existait dans la Convention sur le principe de cet article qui a disparu sans explication de la Iè partie, mais peut tout à fait figurer dans la IVè.

AMENDMENT FORM

Part Three: General and final provisions

Suggestion for amendment of Article : IV-6

By Members: Mr Giuliano Amato, Mr Elmar Brok, Alain Lamassoure and Mr Andrew Duff

Status : Members.

Article IV-6: Procedure for revising the Treaty establishing the Constitution

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of Treaty establishing the Constitution. The national Parliaments of the Member States shall be notified of these proposals.

2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments of the Member States, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The European Council may decide by a simple majority not to convene the Convention should the scope of the amendments not warrant this. In the latter case, the European Council shall define the terms of reference for the conference of representatives of the governments of the Member States.

The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.

3. The conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaty establishing the Constitution.

4. The conference shall decide by a five-sixths majority of the Member States the amendments concerning certain provisions of Part Three in cases where the competences of the Union and its Member States are not affected. These provisions are:-

.....*

5. The amendments ***determined under paragraph 3*** shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

6. With respect to the amendments determined under paragraph 4, the European Council shall decide the modalities of bringing the amendments into force. The European Council shall act by a five-sixths majority of the Member States, after having received the opinion of

the Court of Justice, and after having received the assent of the European Parliament acting by a two-thirds majority of the votes cast representing a majority of its Members.

The European Council shall take account of reasoned opinions issued by Member States' national parliaments on non-compliance with the principle of subsidiarity. Where reasoned opinions are issued from more than one-third of national parliaments, the European Council shall amend or withdraw the amendment.

Explanation:

To take account of the comments made in the debates on our original amendment, and to galvanise a consensus, we make an amended proposal for the modification of Article IV-6.

The changes achieve the following:

- *use of the softer procedure is restricted to certain, specified provisions of Part Three of the Constitution;*
- *one-third of national parliaments will be able to block the change on the grounds of a breach of subsidiarity;*

National parliaments are therefore heavily involved in the process.

We would aim to make a precise proposal about the relevant provisions of Part III in time for the Convention plenary on 4 July.

The reference to the Court of Justice is in order to verify that competences are not affected. This procedure, and the assent procedure of the European Parliament, are drawn directly from the Treaty establishing the Coal and Steel Community.

**The list of the pertinent sections of the constitution will be completed at a later stage.*

FICHE AMENDEMENT

Proposition d'amendement à l'Article : IV-6 (Ex Article F)

Déposée par Giuliano Amato, Elmar Brok, Andrew Duff, Anne Van Lancker, Pervenche Berès, Helle Thorning-Schmidt, Olivier Duhamel, Luis Marinho, Elena Paciotti, Carlos Carnero, Maria Berger, Caspar Einem, Vytenis Andriukaitis, Genowefa Grabowska, Adrian Severin, Jürgen Meyer, Claudio Martini, Robert Badinter

Article IV-6 (Ex Article F)

Procedure for revising the Treaty establishing the Constitution

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of the Treaty establishing the Constitution. The national Parliaments of the Member States shall be notified of these proposals.
2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments of the Member States, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of Institutional changes in the monetary area. The European Council may decide by a simple majority not to convene the Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for the conference of representatives of the governments of the Member States.

The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.

3. The conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaty establishing the Constitution.

In cases where the competences of the Union and the Member States are not affected, the

conference shall decide by a five-sixths majority of the Member States.

4. The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

In cases where the competences of the Union and the Member States are not affected, the European Council shall decide the modalities of bringing the amendments into force. The European Council shall act by a five-sixths majority of the Member States, after having received the opinion of the Court of Justice, and after having received the assent of the European Parliament acting by a two-thirds majority of the votes cast representing a majority of its Members.

Explication éventuelle:

FICHE AMENDEMENT

Proposition d'amendement à l'Article : IV - 6 §4

Déposée par Monsieur Pierre Lequiller, Président de la Délégation pour l'Union européenne de l'Assemblée nationale française.

Qualité : - Membre titulaire

Rédiger ainsi l'article IV-6 §4

4 Si à l'issue d'un délai de deux ans à compter de la signature du traité modifiant le traité instituant la Constitution, les quatre-cinquièmes des États membres ont ratifié ledit traité et qu'un ou plusieurs États membres ont rencontré des difficultés pour procéder à ladite ratification, le Conseil européen **statue à la majorité qualifiée, sur proposition de la Commission, sur l'entrée en vigueur du traité de révision et sur le retrait des États membres qui n'ont pas procédé à sa ratification** ~~se saisit de la question.~~

AMENDMENT FORM

Part Four: General and final provisions

Suggestion for amendment of Article : IV-6 (2)

By: Mr. Rein Lang, Mr. Tunne Kelam - members

Mr. Henrik Hololei, Mrs. Liina Tõnisson, Mr. Urmas Reinsalu - alternates

Article IV-6: Procedure for revising the Treaty establishing the Constitution

2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments of the Member States, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of Institutional changes in the monetary area. ~~The European Council may decide by a simple majority not to convene the Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for the conference of representatives of the governments of the Member States.~~

The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.

Explanation:

It should not be left to the heads of state and government to decide by a simple majority, whether the proposed amendments are important enough to be considered by the Convention, given that there are no objective criteria for determining that.

For the sake of democratic legitimacy, the Convention should be always convened, when treaty reforms are concerned, unless a simplified amendment procedure applies (no ratification in member states in accordance with their respective constitutional requirements).

AMENDMENT FORM

Suggestion for amendment of Title : IV-1

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member - ~~Alternate~~

Artikel IV-1: Aufhebung der früheren Verträge

Am Tag des Inkrafttretens des Vertrags über die Verfassung werden der Vertrag zur Gründung der Europäischen Gemeinschaft und der Vertrag über die Europäische Union sowie die Rechtsakte und Verträge zu ihrer Ergänzung oder Änderung, die in dem dem Vertrag über die Verfassung beigefügten Protokoll genannt sind, aufgehoben. ***Der Vertrag zur Gründung der Europäischen Atomgemeinschaft sowie die Rechtsakte und Verträge zu seiner Änderung, die in dem dem Vertrag über die Verfassung beigefügten Protokoll genannt sind, werden zum 1.1.2007 aufgehoben.***

Explanation (if any) :

Der Euratom-Vertrag ist obsolet und daher nach einer Übergangszeit aufzuheben. Sein Zustandekommen vor 46 Jahre stand unter Bedingungen, die heute nicht mehr gegeben sind. Die Privilegierung der Atomenergie gegenüber anderen Energieformen ist heutzutage nicht mehr zu rechtfertigen. Vielmehr sollte die Nuklearenergie Bestandteil der allgemeinen Energiepolitik, Atomforschung Bestandteil der allgemeinen Forschungspolitik werden. Sonstige bereichsspezifische Regelungen, die auch heute noch ihre Berechtigung haben (Bestimmungen zur nuklearen Sicherheit und zur Entsorgung), sind an geeigneter Stelle im Teil III des Verfassungsvertrages zu integrieren.

AMENDMENT FORM

Suggestion for amendment of Article : Article IV-1 (ex Article A)

Suggestion for protocol :Voggenhuber, Nagy, MacCormick, Lichtenberger, Helminger, Wagener, Gormley, Van Lancker, Fayot,

By Ms / Mr :

Status : - Member - Alternate

Article IV-1 (ex Article A)

Repeal of earlier Treaties

The Treaty establishing the European Community, the Treaty on European Union and the acts and treaties which have supplemented or amended them and are listed in the Protocol annexed to the Treaty establishing the Constitution shall be repealed as from the date of entry into force of the Treaty establishing the Constitution. **The Treaty establishing the European Atomic Energy Community - the EURATOM Treaty - shall be repealed by 2007.**

Explanation (if any) :

The Euratom Treaty, signed in 1957, is clearly biased, out of date and undemocratic. It is contrary to the aims for reforming the internal market for electricity, and contrary to the provisions of the Article III-2 requiring the integration of a high level of environmental protection into all other Union policy areas. The Euratom Treaty now is the only remaining sector specific treaty.

Setting the date of phase of the Euratom Treaty at 2007 allows the current Euratom research programme (FP6) to run its course, completing as planned in 2007. After this, aspects of nuclear research could continue under the general EU research programme.

AMENDMENT FORM

Suggestion for amendment of Article : IV-2

Suggestion for protocol :

**By Ms / Mr : Maria Berger
Caspar Einem
Gerhard Tusek**

Status : -x Member - x Alternate

Rechtliche Kontinuität im Verhältnis zur Europäischen Gemeinschaft und zur Europäischen Union

Die Europäische Union tritt die Rechtsnachfolge der Europäischen Gemeinschaft~~en~~ und der Union in allen ihren internen und aus internationalen Übereinkommen erwachsenden Rechten und Pflichten an, die sich vor Inkrafttreten des Vertrags über die Verfassung aus den früheren Verträgen, Protokollen und Rechtsakten ergeben haben; sie übernimmt ferner das gesamte Aktiv- und Passivvermögen der Gemeinschaft~~en~~ und der Union sowie deren Archive.

Die Bestimmungen der Rechtsakte der Organe der Union, die aufgrund der in Absatz 1 genannten Verträge und Rechtsakte angenommen wurden, gelten nach Maßgabe des dem Vertrag über die Verfassung beigefügten Protokolls ... weiter. Die Rechtssprechung des Gerichtshofs der Europäischen Gemeinschaften ist weiterhin maßgeblich für die Auslegung des Unionsrechts.

Explanation (if any) :

Da eine ausreichende Änderung des EURATOM-Vertrags im Rahmen des Konvents nicht möglich scheint, soll die neue Europäische Union nicht die Rechtsnachfolge der Europäischen Atomgemeinschaft antreten (siehe Änderungsantrag zum Teil III - Anhang 1, Protokoll zum EURATOM-Vertrag).

AMENDMENT FORM

Suggestion for amendment of Article : IV-2

By Ms / Mr : Mr Bonde

Status : X - Member - Alternate

Article IV-2 (ex Article B)

Legal continuity in relation to the European Community and the European Union

The European Union shall succeed to all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Treaty establishing the Constitution by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force under the conditions laid down in Protocol ... annexed to the Treaty establishing the Constitution. The case-law of the Court of Justice of the European Communities shall be maintained as a source of interpretation of Union law.

THE 97000 PAGES OF UNION LEGISLATION SHALL BE REVISED CAREFULLY WITH THE VIEW TO ABOLISH ACTS THAT ARE OUTDATED OR WHERE LEGISLATION JUST AS WELL CAN BE DECIDED AT THE NATIONAL OR THE REGIONAL LEVEL. LEGISLATION SHOULD ALSO BE REVISED WITH THE VIEW TO REDRAFT FROM HARMONISATION DIRECTIVES INTO MINIMUM ACTS AND FROM OLIGATORY ACTS INTO VOLUNTARY ACTS. EVERY YEAR AT LEAST 20% OF THE UNIONS LEGISLATION SHALL BE REVISED AND ABOLISHED UNLESS REAFFIRMED THROUGH THE LEGISLATIVE PROCESS. THE COMMISSION IS RESPONSIBLE FOR INITIATIVES ACCORDING TO THIS PROVISION.

Explanation (if any):