

## COVER NOTE

from :                      Secretariat

to : Convention

**Subject : Reactions to draft Article 42 (The Union and its immediate environment)**  
**– Analysis**

Convention members will find attached analyses of proposed amendments to Article 42 of the Constitutional Treaty (CONV 649/03).

## ANALYSIS OF ALL THE AMENDMENTS

Convention members have presented [31] amendments to draft Article 42. With only a few exceptions, these fall under three broad headings:

- Several amendments question either the **need for such an article**, or if it is decided to retain it, whether it should not more properly be **situated elsewhere** in the Constitution (a number suggest in Part II);
- A considerable number of amendments propose that the relationship proposed should take account of the **role of the Council of Europe and other relevant international organisations**;
- A number of amendments propose adding a reference to the necessity for such a **relationship to be governed by some basic principles**, in particular, democracy, the rule of law and human rights;

## **SUMMARY SHEET OF THE AMENDMENTS TO ARTICLE 42**

### **Necessity and place of the article**

Several amendments suggest deleting the article altogether. This is the case for Mr Voggenhuber and others (*am. 30*), Lord MacLennan and others (*am. 21*), and Mr Fischer (*am 10*).

Others consider that the provisions of this article should be better placed elsewhere. Mr Hololei (*am. 14*) proposes that it should come under Title VIII of Part I of the Constitution. Mr Roche (*am. 25*) considers that the issue needs to be looked at once the Convention has received the External Relations articles. Ms Tilikainen and others (*am. 28*) propose transferring the provisions of the first paragraph to Part II of the Constitution, and deleting paragraph 2 on the grounds that it will be sufficiently covered by the provisions on international agreements in Part II. Mr. Korcok and Mr. Migas (*am. 18*) Mrs Hubner (*am. 15*) would wish to see this article in the CFSP part of the Constitution. Mr. Lopes and others (*am.20*) suggest splitting up the article, with the first paragraph placed in the article on objectives and principles, and the second paragraph in Part II.

### **Role of the Council of Europe and other international organisations**

Several contributions - Mr van der Linden and others (*am. 29*), Mr Brok and others (*am. 5*), Ms Azevedo and Mr Pereira (*am. 2*), Ms Giannakou and Mr Stylianidis (*am.12*), Ms Kuneva (*am.19*), Mr Follini (*am. 11*) and Mrs. Hubner (*am. 15*) suggest adding a new third paragraph which would read : *"In developing such special relationships, the Union shall make full use of the Council of Europe and other international organisations of which such States are members"*.

## **Respect for basic values and principles**

Several amendments - Mr Attalides (*am. 1*), Ms Muscardini (*am. 22*), Mr Carnero and others (*am. 6*), Mr Borrell and others (*am. 4*) - propose adding a reference to the need for the proposed special relationship to respect basic values such as democratic principles, the rule of law, and human rights. Ms Muscardini (*am. 22*) specifically refers back to the values set out in the Constitution. Mr Bonde and others (*am. 3*) wish to refer to the need for the Union to respect sovereignty and parliamentary democracy in its neighbouring states.

## **Other amendments**

Mr Brok and others (*am. 5*) and Mr Follini (*am. 11*) wish to refer in paragraph 2 of the article to the possibility of establishing joint institutions. Mr Heathcoat-Amory (*am. 13*) wishes to state in paragraph 1 that the states foreseen under this proposed cooperation can include those which have elected to withdraw from the Union. Mr Kirkhope (*am. 16*) proposes that paragraph 1 refer to building on existing relationships. He also wishes to replace the word 'Union' by 'Community'. Mr Queiro (*am. 23*) proposes that paragraph 1 refer to the possibility of agreements in cases where these are not provided for elsewhere in the Constitution, and that paragraph 2 be more closely based on the language of existing article TEC 310. Mr Wuermeling (*am. 31*) suggests an addition to paragraph 1 in order to be more specific on its geographical scope. Mr. Chabert and others (*am. 7*) wish to put emphasis on the crossborder and interregional co-operation. Mr Szajer (*am. 26*) wishes to add a reference to national and ethnic minorities in the first paragraph. Mrs Hubner (*am. 15*) wishes to add the principle of differentiation concerning agreements with countries concerned in paragraph 2. Mr. Demiralp (*am. 8*) wishes to add specific agreements with international institutions in paragraph 2. The Earl of Stockton (*am. 9*) wishes to add the agreement of the European Parliament in paragraph 2.

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## **List of amendments and observations:**

### *Article 42*

1. *Attalides*
2. *Azevedo, Nazaré-Pereira*
3. *Bonde, Kalgaard, Heathcoat-Amory Skaarup, Zahradil*
4. *Borrell, Carnero, López-Garrido*
5. *Brok, Santer, Szajer, Tajani, Teufel, Palacio, Van der Linden, Almeida Garrett, Alonso, Altmaier, Azevedo, Basile, Brejc, Cisneros, Cushnahan, Demetriou, Dolores, Figel, Fogler, Follini, Frendo, Kauppi, Kelemen, Korhonen, Krasts, Droupa, Lamassoure, Lenmarker, Lequiller, Maij-Weggen, Mladenov, Piks, Rack, Van Dijk, Wittbrodt, Würmeling, Zile*
6. *Carnero, van Lancker, Duhamel, Fayot, McAvan, Marinho, Berès, Berger, Paciotti, Thorning-Schmidt*
7. *Chabert, Dammeyer, Dewael, du Granrut, Matini, ValcarcelSiso*
8. *Demiralp*
9. *The Earl of Stockton*
10. *Fischer*
11. *Follini*
12. *Giannakou, Stylianidis*
13. *Heatcoat-Amory*
14. *Hololoi*
15. *Hübner*
16. *Kirkhope*
17. *Kirkope*
18. *Korcok, Migas*
19. *Kuneva*
20. *Lopes*
21. *MacLennan, Robert MacCormick*
22. *Muscardini*
23. *Queiró*
24. *Queiró*
25. *Roche*
26. *Szajer*

27. *Teufel*
28. *Tiilikainen, Peltomäki, Kiljunen, Vanhanen, Kokhonen*
29. *Van der Linden, Demetriou, Einem, Fayot, Giannakou, Maij-Weggen, Timmermans, Meyer, Mladenov, Puwak, Santer, Szájer, Wittbrodt, van Dijk, van Eekelen, Kauppi, Kroupa, Nazaré-Pereira, Severin, Wüermeling.*
30. *Voggenhuber, MacCormick, Lichtenberger,*
31. *Wuermeling*
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