

BULLETIN 21
Brussels, 30 January 2004

EDITORIAL

NEWS ON IGC

ACT4EUROPE CAMPAIGN

- Letter and Action Call for Protocol on Sustainable Development

EDITORIAL

Dear Friends

Welcome back in 2004. The IGC is suspended, yet negotiations have never been so intensive and serious as they are now. Many well informed people think there is every chance that the Irish will present a compromise at the spring summit, that the IGC can be re-convened very quickly afterwards, and that the Constitution agreed before accession. Sounds promising, yet at the same time, negotiating a Constitution for all citizens during an untransparent IGC is one thing, negotiating it without any public documentation or legal framework of an Intergovernmental Conference completely behind closed doors is another. It cannot get further away from citizens than this. Yet if we remain silent now and do not assert our concerns and voices, we stand to lose even the small gains that were made during the last IGC. It is, thus, still an important time to act and be heard.

Act4europe is still trying to find out whether there are small windows of opportunities for lobbying on improvements. One such window seems to currently be the draft protocol on sustainable development, which might be re-tabled. The Civil Society Contact Group has launched a lobby action towards Foreign Ministers and Permanent Representatives (COREPER) – for the fourth time on the issue of sustainable development since the start of the Convention. We ask NGOs at national level to consider picking up the protocol in their actions again. The four NGO sectors have agreed on a set of essential joint amendments to the Commission's draft mainly ensuring that sustainable

development does not become an economic affair that disregards environmental protection, social dimensions, respect for human rights and solidarity with people outside the EU. You will find the information and the link to the document below. Please send the full draft protocol to your Heads of State and Foreign Ministers.

Most of our principal nutshell demands for the IGC have also not been met. Every government has another chance now to table improvements, so keep up the pressure right now and tell your government and your MPs what changes are still needed. You can find the nutshell demands of all 4 NGO sectors on our web site as well as all other IGC actions. And you are certainly welcome to contact us any time for more information or advice.

Nicolas Beger
Coordinator
Civil Society Contact Group/act4europe campaign

NEWS ON IGC¹

The **EP's constitutional affairs committee**, chaired by Italian MEP Napolitano, calls for the IGC to be convened as soon as possible so that an agreement on the Constitution can be reached before the EP elections in June this year. According to Napolitano, a suspension of the Constitutional process until after the election would mean to restart from scratch. The process might then be delayed for an unforeseeable period. **In a resolution of January 29, the EP welcomes the positive approach of the Irish Presidency on the completion of the IGC on the basis of the Convention's draft and calls for the IGC to immediately finish its work before 1 May.** The constitutional affairs committee plans to organize several meetings in order to push the process: Hearing of the Constitutional Affairs Committee with the representatives of EP and Commission to the IGC plus representatives of National Parliaments; a meeting before the 25-26 March Spring Summit with the widest possible range of Parliament representatives and Ex-Convention members; meetings of a delegation from the Constitutional Affairs Committee with National Parliaments of certain Member States and acceding countries.

The First General Affairs and External Relations Council (GAERC) on Monday 26 January brought together the Foreign ministers of Europe. At an informal lunch they discussed the IGC. Irish Foreign Minister and current head of the Council, Brian Cowen, said there was "**considerable common**

¹ Information mostly from Agence Europe, EU observer and the Irish Presidency's website: <http://www.eu2004.ie/>

ground" and that the feeling was that "there was a need to proceed with a real sense of urgency" – "**as soon as possible**" and, **as far as possible, before the European elections**. French Foreign Minister Dominique de Villepin said it would be a "fantastic signal" if negotiations were finalized before the June elections. Joschka Fischer, German Foreign Minister, said that "everybody is asked to reach a compromise" before this date. Polish Foreign minister agrees that delaying the process would make it less "urgent" on the agenda but gave no indication whether his country might move from its position on double majority in the Council. Meanwhile, the bilateral meetings between the Irish Presidency and the Member States to search for the possibility of common ground in order to re-convene the IGC continue. The next step for the Irish is to prepare the "fullest possible" feasibility report on a Constitution deal to be presented to the EU leaders in March. The Irish Presidency and the Member States seem to be optimistic about reaching an agreement – but that is easy to say during informal meetings without binding decisions to be taken. Assuming all goes to plan, the Irish are likely to suggest that EU leaders hold an informal meeting on the EU Constitution before the enlargement ceremony in Dublin on 1 May. We could not find out, however, if the issue of the Sustainable Development Protocol has been raised at all during this meeting.

The two MEPs represented at the IGC, Brok and Hänsch, are quite confident after the informal lunch on January 26 as they feel that Foreign Ministers are willing to do everything to reach a compromise on the remaining issues before the European Parliament's elections in June. Overall however, Klaus Hänsch expresses more concern. **Commissioner Barnier** warns that the European spirit created during the Convention period is in danger of getting lost.

It is still not clear on which basis the discussions are held: the Convention draft only or some or all results of the previous IGC. And civil dialogue or transparency are completely out of the picture. Some countries want the Convention's draft as only basis, some the documents of the Italian Presidency issued for the Naples and the Brussels summits, and some still ask about the famous list of 82 points Berlusconi said he had in his pocket and which were apparently agreed on in Brussels (which has apparently also never arrived on the table of the Irish Taoiseach). The Irish have highlighted that they will found the discussions on the outcome of their bilateral meetings they are holding these weeks. Yet, Ahern also publicly stated that the Naples document did not necessarily need to be undone and that the Convention draft remains the basis for negotiation. This leaves civil society to wonder whether the few gains made in the area of gender equality, social exclusion, and public health are safeguarded or not.

In the framework of the bilateral meetings, **Taoiseach Ahern came together with Polish Prime Minister Miller** on Thursday 29. They agreed on the importance of a Constitution for the Union and its citizens as well as they sharing the determination to move on as quickly as possible. It is not clear,

however, what that means in practice. According to some voices, Poland might rethink its position after the Spanish elections that take place in March. If Aznar is stepping down, the successor might alter the tone of discussions and Poland could find itself alone with its position. Ahern will next meet de Villepin in Dublin on January 30 and Aznar in Madrid on Tuesday February 2.

EESC Information Conference on January 22 with Andrew Duff and Jean-Luc Dehaene

The EESC has invited representatives of organized Civil Society to an information conference on the IGC with former Convention Vice President Jean-Luc Dehaene and MEP Andrew Duff present. While **Dehaene played down the failure of the European Council in December** ("It is important *that* we will have a constitution and not *when* we will have it"), **Duff spoke of an "institutional crisis"**. Dehaene does not see big scope for changes in the Convention's draft and suggests that civil society sends clear signals to the IGC on its support of the Convention's Draft. For Duff, the main problem is media having written off the Constitution. **He therefore calls civil society to stimulate the interest, especially around the European Parliament's elections.** Many MEPs seem to plan the collection of signatures in order to push the IGC to move on. Civil Society representatives deplored the failure of the IGC and the fact that there is still much progress to be made even within the draft. Jürgen Erdmenger from the European Forum for Freedom and Education (EFFE) unexpectedly presented a draft declaration to be sent to the Irish Prime Minister, Bertie Ahern, to call for an agreement of the IGC "as soon as possible" based on the Draft of the Convention – thinking that a common statement of all participants would have a bigger impact than organizations acting individually. The audience was generally not prepared to undersign such a joint resolution and environmental NGOs noted that they are not in favour of any "artificial" time pressure on the IGC as long as there was more transparency and scope to lobby for further improvement, e.g. the deletion of the EURATOM treaty. NGOs wanting to participate in this statement can send their comments / approval to the EESC secretariat (patrick.feve@esc.eu.int) and / or to the EFFE directly (j.erdmenger@brutele.be). The Civil Society Contact Group itself will not subscribe to this statement.

act4europe Campaign

Letter and Action Call for Protocol on Sustainable Development

The first act4europe campaign in 2004 was launched just before the first General Affairs and External Relations Council (GAERC) meeting on 26 January under the Irish Presidency. This meeting brought together the Ministers of Foreign Affairs. The IGC was discussed informally over lunch (see above). We took this opportunity to launch an action on the protocol on sustainable development that had been proposed by the European Commission to be included in the Treaty. The Commission was not successful in getting it included in the draft Constitution neither during the Convention (February 2002 – July 2003) nor the time-pressured first IGC (October-December 2003). The different sectors of the Contact Group have agreed on joint amendments to the Commission's draft protocol and are now lobbying to have those adopted and we sent it to all Permanent Representatives and Foreign Ministers before the meeting.

It is important to use the time now to remind politicians of our claims. Please address your national Foreign Ministers, Heads of State, and relevant MEPs with the amended text of the protocol. This is also the time to restate once more the necessary changes that still have to be made and the need to safeguard the gains of the Convention draft and the IGC.

You will find the text of the protocol below (amendments underlined) and more information on our homepage under "most recent actions". www.act4europe.org. Or just contact us in the office for further information: +32 25111711

DRAFT PROTOCOL ON SUSTAINABLE DEVELOPMENT

The text below includes improvements supported by the Civil Society Contact Group to the draft protocol presented by the European Commission for annexing to the future EU Constitution

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that the Union shall work for a Europe of **sustainable development** and that it shall contribute to the **sustainable development** of the earth, as stated in Article 3(2) and (4) respectively of the Constitution;

RESOLVED to establish the conditions for a proper achievement of these fundamental objectives of the Union, and to establish a system for monitoring the achievement of those objectives,

NOTES the Johannesburg reaffirmation of the UN Millennium Development Goals and that eradicating poverty is among the greatest challenges facing the world today and an

indispensable requirement for sustainable development to be achieved through a multi-dimensional approach²

HAVE AGREED UPON the following provisions, which shall be annexed to the Constitution:

1. **Sustainable development** is **development** that meets the needs of the present without compromising the ability of future generations to meet their own needs. The Union contributes to the **sustainable development** of the earth.

2. **Sustainable development** is a fundamental principle and objective of the Union.

2. bis The European Union shall have a Sustainable Development Strategy, which will be reviewed and updated periodically. This shall include concrete objectives, targets and timetables for the Union with regards to sustainable development, and shall include both the environmental and social aspects of sustainability and the promotion of participatory democracy in the framework of good governance.

3. All institutions shall ensure that all major policy proposals and all legislative acts comply with **sustainable development**.

4. Before proposing any major policy initiatives or legislative acts, the Commission shall consult widely with all parties concerned, including civil society, on the sustainability dimensions of its proposals, except in cases of particular urgency or confidentiality. The European Parliament and the Council shall ensure that a similar procedure is followed for any major amendments they propose.

5. To achieve the objective set out in paragraphs 1 and 2 all major policy proposals and all legislative acts of the Union, as well as major amendments thereto, shall:

a) be preceded by a sustainability impact assessment covering their potential economic, social and environmental consequences;

b) contribute to the protection and the improvement of the quality of the environment and agreed social objectives²

c) be coherent with development objectives if they are likely to affect developing countries³

d) be coherent with international standards of justice and the protection of fundamental rights

e) contain a detailed statement explaining the reasons on which it is based with a view to justifying its compliance with **sustainable development** ; the reasons must be substantiated by qualitative or, whenever possible, quantitative indicators ;

² Conclusions of the General Affairs and External Relations Council of the 30th September 2002

² Article 6 TEC and article III-3 of the Draft Constitutional Treaty

³ Article 178 TEC and article III-218 of the Draft Constitutional Treaty

f) be based upon the principle that their economic, social and environmental effects should be assessed in a co-ordinated way and taken into account;

g) incorporate an appropriate balance of short and long term impacts, **taking** into account the needs of future generations;

h) take account of how the action may promote and contribute to a **sustainable development**, i.e. the potential advantages and disadvantages of action or lack of action.

6. The European Parliament, the Council and the Commission may conclude an inter-institutional agreement to lay down the modalities of the impact assessment.

7. The rules of procedure necessary for implementing paragraph 5 shall be adopted in accordance with the provisions of the Constitution on the adoption of the Rules of Procedure of the Court of Justice. During the procedure, any Institution or any Member State of the Union, as well as any concerned party, including relevant non governmental organisations, may intervene on an « amicus curiae » basis.

8. The European Parliament, the Council and the Commission shall take account of the opinion of the Court of Justice.