



EUROPEAN FREE TRADE ASSOCIATION
ASSOCIATION EUROPEENNE DE LIBRE-ECHANGE

C/00/R/015
26 June 2003
Brussels

Opinion from
the EFTA Consultative Committee

**A new European Constitution;
Impact on the EEA Agreement**

Rapporteur: Ms Wenche Paulsrud
(Norwegian Confederation of Vocational Unions - YS)

INTRODUCTION

The members of the Convention on the Future of Europe delivered their report to the European Council at the Thessaloniki Summit on 20 June 2003, having finalised the main parts of the draft Constitution on 13 June. The European Council described the Draft Constitutional Treaty as a good basis for the IGC. It requested the Italian Presidency to convene the Intergovernmental Conference (IGC) to start in October 2003, and to complete its work before the June 2004 elections of the European Parliament.

This work reveals a solid determination by the EU to reform institutionally, moving toward closer integration and more effective decision-making. The intention was also to bring European governance closer to citizens, civil society and Social Partners, and it is notable that economic and employment policy have been integrated. It is not possible for the EEA EFTA States to ignore such reforms, as these have a far-reaching impact on the Internal Market in which the EEA EFTA States participate. The implications of the reforms proposed by the Convention go significantly beyond the EU, and will require a response from the EEA EFTA States.

This opinion by the EFTA Consultative Committee* discusses proposals in the draft Constitution that may need particular attention from the EEA EFTA States.

I LEGAL PERSONALITY

- 1.1 Title I, Article I-6, states “The Union shall have legal personality.” When the EEA Agreement was signed, it was the European Economic Community (and the ECSC) together with the EEA States that were named as contracting parties. The Consultative Committee has followed with interest the debate on the conferral of legal personality on the Union, the merging of the treaties and the abolition of the pillar structure.
- 1.2 Conferral of legal personality on the European Union may have implications for agreements and treaties that the Community has signed and that the Union will sign with non-EU Member States. The Consultative Committee is confident that the rights and obligations of the European Communities, which arose before the entry into force of the Constitutional Treaty, will be transferred to the European Union once it has been conferred with legal personality. The Committee asks the EEA EFTA States to keep an eye on this process with a view to ensuring the smooth and uninterrupted continuation of the EEA Agreement.

* The Consultative Committee of the European Free Trade Association (EFTA) is a forum for Trade Unions and Employers’ organisations in the four member countries, Iceland, Liechtenstein, Norway and Switzerland.

II THE UNION AND ITS IMMEDIATE ENVIRONMENT

- 2.1 Title VIII, Article I-56, states that the Union shall develop a special relationship with neighbouring States, with the aim to establish an area of prosperity and good neighbourliness. Paragraph 2 of the same article empowers the Union to conclude and implement specific agreements with the countries concerned in accordance with Article III 222 of the Constitution. These agreements may contain reciprocal rights and obligations, as well as the possibility of undertaking activities jointly.
- 2.2 The EEA EFTA States should follow the developments of this policy closely with a view to supporting closer cooperation amongst all European States and their neighbours. Furthermore, the EEA EFTA States should be ready to provide input concerning discussions that can affect the functioning of the Internal Market and its four freedoms, in the context of a wider Europe.

III THE POLICIES AND FUNCTIONING OF THE UNION

- 3.1 In Part Three of the Constitution (Policies and Functioning of the Union), Chapters I and III of Title III are of particular relevance for the EEA Agreement. The Committee also notes the step the Convention has taken to include the Charter of Fundamental Rights in Part II of the Constitutional text. Chapter I of Part Three establishes the Internal Market and elaborates on its major principles, such as the four freedoms and the rules on competition. Whilst most of the provisions are not new, the EEA EFTA States will want to acquaint themselves with the relevant articles, in order to ensure there are no untoward surprises. Chapter III addresses many issues that are covered in Article 78 of the EEA Agreement. There are however, some new provisions, such as Article III-152, which addresses Union energy policy. This article aims to, amongst other things, ensure the functioning of the energy market.
- 3.2 The Consultative Committee expects that the EEA EFTA States will undertake a thorough assessment of the Union policies outlined in Part III, with the aim of maintaining the integrity of the EEA Agreement.

IV UNION INSTITUTIONS

- 4.1 Title IV of Part I of the Constitution proposes important reforms to the Institutions of the European Union. The establishment of a European Council Chair with the possibility of two consecutive mandates of 2.5 years is just one change the EEA EFTA States may have to adjust to. The creation of a new post of Minister for Foreign Affairs is another.
- 4.2 As soon as the EU Member States decide on whether to adopt such proposals for institutional reform, the EEA EFTA States should be fully informed of the new landscape, in order to be able to communicate and

continue close cooperation with the EU in the most effective manner. To this end, information activities and workshops could help the EFTA side to understand the altered landscape in which they will operate.

V THE UNION'S COMPETENCES AND THE EXERCISE OF THESE COMPETENCES

- 5.1 The Convention proposes in its Constitutional text that National Parliaments shall have powers to ensure compliance with the principle of subsidiarity. The Protocols on the role of National Parliaments in the European Union and on the principles of subsidiarity and proportionality raise questions about the adequacy of the EEA Agreement's two-pillar structure in tomorrow's EEA. The Committee notes that in certain areas qualified majority voting will be used where previously unanimity was required.
- 5.2 It is important that the parties to the EEA assess the impact of proposals to reform lawmaking in the EU on decision-shaping possibilities for the EEA EFTA States, particularly concerning the role of committees and regulatory agencies, not to mention the introduction of European laws, European framework laws, European regulations, delegated regulations etc, as presented in Title V of Part 1 of the Constitutional proposal.
- 5.3 The EEA EFTA States must come to grips with how these developments will influence cooperation under the EEA Agreement. Once again, information activities and seminars should be organised to prepare representatives from EEA EFTA States to operate effectively once the reforms are in place.

VI THE DEMOCRATIC LIFE OF THE UNION

- 6.1 The Role of the Social Partners and the Social Dialogue: The Convention has paid considerable attention to the *Democratic Life of the Union*, under Title VI of Part 1. Several participants made a point of the gap between the Union and civil society and the lack of support for the Union in its population. A clear will has been expressed to find means and methods in order to diminish this gap.
- 6.2 The Social Partners have stated – both in working groups, in the plenary session and by putting forward joint amendments – that the Social Partners and the Social Dialogue should be granted special recognition within a new treaty. The proposed constitutional text (Article I -46) does now confer this recognition on the role of the Social Partners, in that “The European Union recognises and promotes the role of the social partners at Union level, taking into account the diversity of national systems; it shall facilitate dialogue between the social partners, respecting their autonomy.”

- 6.3 It is important to analyse the impact of this article granting the Social Partners a specific role within a new treaty, and to see if it, as a consequence, is relevant to negotiate wider competences for consultations between the Social Partners and the EEA EFTA Member States.

VII RECOMMENDATIONS

- 7.1 The Consultative Committee calls on the EEA EFTA States to assess what consequences could arise for the EEA Agreement if a single legal personality is conferred upon the Union and the pillar structure abolished. The necessity of updating the EEA Agreement should be looked into.
- 7.2 The EEA EFTA States should follow closely the developments of a *Wider Europe* policy, and be ready to provide input on those discussions that can affect the functioning of the Internal Market and its four freedoms.
- 7.3 It is, in the Consultative Committee's view, important that the parties to the EEA assess the impact of reformed lawmaking in the EU on decision-shaping possibilities for the EEA EFTA States, particularly concerning the role of committees and regulatory agencies. To this end, information activities and workshops could help prepare representatives of EEA EFTA States to operate effectively once the reforms are in place.
- 7.4 The EFTA Social Partners underline the importance of analysing the impact of the proposed Constitution's article granting the Social Partners a specific role, and to look at the role of Social Partners in the wider EEA context. It is the Consultative Committee's opinion that broader competences for consultations between the EFTA Social Partners and the EEA EFTA Member States should be negotiated.
- 7.5 The EEA EFTA States will not be members of an enlarged European Union. However, they will to a large extent be affected by the decisions taken at the forthcoming IGC regarding the future of Europe. The Committee therefore asks the EEA EFTA Governments to explore the possibility of observer representation in the IGC.