



**From the European Convention to Public Discourse:  
Debating on Common European Future**

**Istituto Affari Internazionali  
*in cooperation with*  
The Trans European Policy States Association**

## convention watch

### THE NETHERLANDS

#### 1. Evaluation of the work and results of the European Convention

##### 1.1 Overall assessment of the results of the Convention

*What is your government's overall assessment of the results of the Convention? How have they been received by the other main political and social actors?*

The overall assessment of the Dutch government on the outcome is positive. In its communication to Parliament<sup>1</sup> it argued that the Convention produced a “balanced compromise” which includes many of the Dutch proposals and requests. In fact, it has stated that the draft Treaty adopted by the Convention provides an ideal basis for a successful Intergovernmental Conference; it does not require many textual changes. Some other political actors have adopted a more reserved stance and appear to be waiting for the results of the IGC. Most social actors are reluctant to take a position on the draft Treaty, as they are waiting for the final outcome of the Intergovernmental Conference.

##### 1.2 Convention method

*Is there the perception in your country that the Convention has contributed substantially to making the process of constitutional reform of the EU more transparent and democratic? What are considered to be the main positive elements of the Convention method? And those that, on the contrary, have drawn the most widespread criticism?*

At the start of the Convention the former Dutch government, and notably the Foreign Minister, was rather sceptical about the Convention method. However, the new government - composed of the Christian Democrats (CDA), the liberals (VVD) and the social-liberals (D'66) - has been far more positive in its approval of the Convention

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<sup>1</sup> *Regeringsnotitie Nederlandse inzet in de IGC*, 16 September 2003.

method. It has stated that the Convention process reinforced the legitimacy of the constitutional revision: representatives from all important political bodies have closely cooperated for a year and a half in a transparent and open setting. The fact that the debates were held in public and the Convention documents were all published, contributed to much greater transparency vis-à-vis the European citizens.

The Dutch government has not expressed public criticism about the Convention method. Some Dutch newspapers published critical articles on the *modus operandi* of the Presidium of the Convention. In the first phase of the Convention some comments underlined that the Convention President, Mr. Valéry Giscard d'Estaing, seemed to pay attention only to the proposals of the larger member states. Subsequently, the judgements about the behaviour of the Convention Praesidium became increasingly positive.

In short, the three main advantages of the Convention method were:

- the open and transparent character of the debate; this applies to both the meetings and the documents;
- the considerable time (almost a year and a half during which the Convention took place), its broad composition and the variety of the background of its members; and
- the richness of the discussion, which addressed all the topics concerning the future of the European Union.

### **1.3 Performance of national representatives**

*How do you judge the performance of the representative of your government in the Convention? Do you think that he/she played a proactive and dynamic role? What are the Convention issues on which he/she concentrated his/her interventions and proposals? Did your government work actively to adopt common positions or establish a unity of action with other governments? Did the representatives from your country at the Convention take similar stances on the most important issues, or did their different political affiliations and ideological convictions reflect in substantially different positions?*

The efforts, interventions, proposals and judgments of the Dutch national representatives have been highly appreciated by both the Dutch government and the Dutch Parliament. The Dutch representatives have played an important and proactive role in trying to reach agreement on the most important issues. They have worked closely especially with their counterparts of the other Benelux countries. The Dutch representatives have promoted several coalitions on different topics.

This has resulted in the presentation of many policy papers with differing countries (Benelux, France, other smaller member states). All representatives have actively informed both the Dutch government and the Dutch parliament. They have also worked closely together. This has facilitated the definition of a clear Dutch position within the Convention. In other words, the different political affiliations and ideological convictions did not reflect substantially different positions.

## **2. National debate and public opinion trends**

### **2.1 Public opinion trends**

*How have the attitudes of public opinion towards the EU evolved in your country in the last months of the Convention's work? Can it be argued that the completion of the Convention's activities, and the presentation of the draft constitutional treaty have had a substantial impact on public opinion trends?*

In the last months the Dutch political agenda has been mostly dominated by the national elections (and the formation of a new government) and the crisis in Iraq. The Convention did not get much media coverage. Furthermore, the Dutch do not seem much interested in the Convention and the constitutional questions under discussion. More attention is being paid to the enlargement process.

The attitudes of the public opinion have not changed significantly as a result of the presentation of the constitutional Treaty. However, a majority of the people is in favour of a referendum on the new EU Treaty.

### **2.2 The role of parliament**

*Was the draft constitutional treaty approved by the Convention discussed in your national parliament? Did the committees of your parliament working on EU issues address and examine, on a more or less regular basis, the work of the Convention? How did the government inform parliament about its initiatives and positions concerning the constitutional reform of the EU?*

After the presentation of the outcome of the Convention the Dutch political parties have mainly put forward the so-called "written questions" within the permanent Parliamentary committee on European affairs. They were put forward mainly by the smaller political parties that had no representatives in the Convention<sup>2</sup>.

Parliament was briefed on several occasions both by the government itself and by the Dutch representatives in the Convention. There were also some consultations in Parliament with the Dutch Convention representatives. The Dutch Parliament, however, did not play an important role in defining the Dutch policies and opinions towards the Convention. It mostly took a reactive approach.

The Dutch government sent all its Convention proposals to both Chambers. Furthermore, two important documents were published and discussed in Parliament: "Europa in de steigers" (Europe under construction) and "De Conventie: de eindfase" (The Convention: the final phase).

### **2.3 Other relevant initiatives**

*Do you think that the many initiatives undertaken by the EU to promote a public debate on European constitutional issues, notably by involving civil society, have had an impact in your country? Has your government played an effective role in raising the*

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<sup>2</sup> Beantwoording vragen over ontwerpartikelen van het ontwerp Constitutioneel Verdrag voor de Europese Unie, 11 juni 2003, DIE-328/2003

*knowledge and awareness of public opinion concerning the Convention's goals and activities?*

So far, the impact of the Convention on the Dutch public opinion has been rather limited. The government has made only limited efforts to raise knowledge and awareness of the Convention issues among the Dutch citizens.

Some public meetings were organized by national organizations, institutes, the national scientific council and the Ministry of Foreign Affairs, but they were mostly attended by EU experts and professionals.

## **2.4 Media coverage**

*How was the media coverage of the final, crucial phase of the Convention's work? How extensive has information on the content of the draft constitutional treaty been? Has it been presented in a positive or negative light? Which issues have been covered the most?*

Media attention primarily focused on such institutional issues as the elected President of the European Council and the powers and composition of the European Commission and the Parliament. The focus has been on the contrast between the larger and smaller states and the future role of the Netherlands in the enlarged Union.

Most reports and articles presented in a neutral way the current dilemmas of European integration. The proceedings of the Convention and its eventual outcome were positively evaluated. However, it must be noted that the media attention on the Convention was fairly limited. This can partly be explained by the widespread indifference towards and ignorance of the Convention issues among the Dutch public.

## **3. Prospects for the Intergovernmental Conference**

### **3.1 Link between the Convention and the IGC**

*The Thessaloniki Council did not go beyond defining the text of the draft constitutional treaty "a good basis for starting the Intergovernmental Conference". In your government's view, should the IGC limit itself to endorsing the results of the Convention, concentrating only on the few issues that still remain controversial, or engage in a more comprehensive review of the draft constitutional treaty?*

The government has argued that the IGC should stick as closely as possible to the text of the draft Treaty adopted by the Convention.

Furthermore, the Dutch government agrees with the proposal of the Italian Presidency to keep the discussion as compact as possible by renegotiating only few controversial topics. The Dutch government is against a comprehensive revision of the final text of the Convention.

### **3.2 Organisation of the IGC**

*To prevent the upcoming Intergovernmental Conference (IGC) from bogging down in obscure and prolonged negotiations, as in the previous IGCs, the Italian government,*

*which will hold the EU's presidency until December 2003, proposes that the IGC be held mostly at top-level, i.e. at the level of the Heads of State and Government and the Ministers of Foreign Affairs. Does your government agree with this approach?*

Also on this issue the Dutch government supports the proposals of the Italian Presidency. The IGC should take place at the high political level (Heads of State and Government, assisted by Ministers of Foreign Affairs), and not at the diplomatic one. Three observers from the European Parliament should be appointed as well.

### **3.3 Controversial issues**

#### **3.3.1 Elected President of the Council**

*While there is general agreement concerning the establishment of a permanent and elected President of the Council, there are still different ideas on his/her functions, especially on whether or not he/she should play a co-ordinating role with regard to the presidencies of the other Council formations.*

Since the Netherlands were not in favour of an elected President of the European Council, it will do its utmost during the IGC to keep the competencies of this new post as limited as possible. The Dutch government will give its consent to an elected President only if some changes are made:

- the elected President of the European Council should have mostly a technical function and not a strong political one, so that the institutional balance is not undermined;
- the post of the President of the European Council should be equally accessible to candidates from all EU member states.

Furthermore, some requests have been put forward concerning the sectoral Councils:

- The Dutch government strongly opposes the creation of the so-called Legislative Council;
- The rotation system of the Council presidencies should be based on the equality among all member states; and
- The creation of an elected President of the European Council should not weaken the role of the Commission.

#### **3.3.2 Composition of the Commission**

*The debate in the Convention concerning the European Commission eventually concentrated on its composition. The Convention approved the following proposal: "The Commission shall consist of a College comprising its President, the Union Minister of Foreign Affairs/Vice-President, and thirteen European Commissioners selected on the basis of a system of equal rotation between the Member States." In addition, "the Commission President shall appoint non-voting Commissioners, chosen according to the same criteria". Does your government back this proposal or is it in favour of a different solution?*

The Dutch government has stated that it will only accept the Convention's proposal "if the distinction between commissioners will be limited to the voting power without undermining the collegial and consensual character of the Commission itself".

### **3.3.3 Definition of qualified majority voting**

*The Convention has proposed abolishing the current weighting system for qualified majority voting (QMV), by defining QMV as the majority of the member states representing at least 60% of the European population. Is your government satisfied with this provision, or would it rather change it?*

The Dutch government is satisfied with the new definition of the qualified majority voting adopted by the Convention.

### **3.3.4 Extension of qualified majority voting**

*Does your government support an extension of QMV to policy fields other than those indicated in the draft constitutional treaty, such as taxation and CFSP?*

The Dutch government is in favour of the extension of QMV to the following policy fields:

- aspects of social policy
- all aspects of environmental policy
- all aspects of trade in services (without any exceptions for cultural and audiovisual services)
- CFSP-matters. In particular joint proposals by the Commission and the new European Minister of Foreign Affairs; and in case of CFSP-related sanctions and/or decisions that have purely financial consequences and neither operative nor military consequences.

The Netherlands wants unanimity to be preserved in the following policy areas:

- the financial perspectives
- criminal law, especially on judicial cooperation on criminal matters

### **3.3.5 Minister of Foreign Affairs and EU diplomatic service**

*While there is a consensus on the creation of a EU Minister of Foreign Affairs, different views exist concerning the executive structure he/she should rely upon. What is your national government's position on this issue? Should the structure be placed within the Commission or the Council?*

The Dutch government will oppose any change of the institutional configuration of the Minister of Foreign Affairs as defined in article 27. It will oppose giving the Council more influence over this Minister, since the Dutch government strongly believes that the current text would best guarantee the coherence of the external policies of the Union.

In addition to this, the Dutch will ask for a more precise definition of the Foreign Affairs Minister's tasks and institutional links. In particular the relationship between the European Minister for Foreign Affairs and European Parliament needs to be clarified. Also the division of competencies and the relations between the European Minister and the elected President of the European Council should be defined more clearly.

## **4. The ratification process**

### **4.1 Eventual obstacles**

*Do you think that the process of ratification of the new constitutional treaty may encounter difficulties or major political opposition in your country? If so, which?*

No particular obstacles to the ratification process are likely to emerge. A vast majority in both Chambers is in favour of the Constitutional Treaty. However, for the first time in the Dutch political history a national consultative referendum will most probably be held on the outcomes of the IGC.

### **4.2 European Parliament elections**

*According to the conclusions of the Thessaloniki Council, the Intergovernmental Conference should “complete its work and agree the Constitutional Treaty as soon as possible and in time for it to become known to European citizens before the June 2004 elections for the European Parliament”. Do you expect the constitutional issues to become a central matter of debate during the electoral campaign in your country? Or do you think that the European Parliament elections are more likely to be dominated by national issues?*

The elections for the European Parliament are usually dominated by national issues. However, the upcoming elections could be different. There is a real chance that the coming elections for European Parliament will be linked with a national consultative referendum on the outcome of the IGC. Some political parties hope that this will have an impact on future of the European Union.

If the new Constitutional Treaty is submitted to a referendum and if this referendum is held on the same day as the European Parliamentary elections, the constitutional issues are likely to become the central matter in the electoral campaign. If, on the contrary, there is no referendum, the elections are likely to be, once more, dominated by national affairs.

### **4.3 Referendums**

*For constitutional reasons, some countries need to submit the EU Constitutional Treaty to a national referendum before it can enter into force. Others may decide to hold a referendum in order to give the national ratification more legitimacy. Is a referendum foreseen in your country? If so, do you expect this to be a factor that will complicate or facilitate the ratification process?*

The Dutch constitution contains no obligation to submit the EU Treaty to a national referendum. In fact, so far no national referendum has ever been held in the Netherlands.

However, currently there is a lively debate in the Netherlands on the possibility of having a so-called national consultative referendum on the outcomes of the Intergovernmental Conference, in other words on the new EU Treaty. Since the beginning of September a majority in parliament has spoken in favour of such a

referendum. The outcome of this referendum is not supposed to be binding. The final decision on the referendum will be taken after the completion of the IGC. So far, the main opponent to this referendum is the largest party of the governing coalition, the Christian-Democrats. They fear that a negative result of the referendum would harm the position of their Prime Minister, Jan Peter Balkenende. The other two governing parties are, however, in favour of the referendum.

This national consultative referendum could quite well complicate the ratification process. Although the referendum is consultative and therefore non-binding, a “NO” vote of the Dutch people would confront the government and the parliament with a big challenge. Both are strongly in favour of the Treaty and are likely to ratify the new Treaty even if the Dutch people vote against it. This would, however, seriously change the image of European integration in the Netherlands.

#### **4.4 What to do in case of failed ratification**

*Has your government expressed any preference on the eventual initiatives to be undertaken in case one or more countries should fail to ratify the new treaty?*

There is no formal “backup plan” if one or more countries do not ratify the new Constitutional Treaty. The Dutch government has expressed its good faith in the outcomes of the national ratification processes throughout the European Union.