In December 2003, Heads of States and Governments will most likely come to a decision on a Constitution for Europe. A modern Constitution able to stand the test of time must provide a reliable basis for the protection as well as the rational use of the natural foundations of human life. By analysing the draft Constitution and by assessing its impacts on the environment, this Ecologic Brief aims to assist in raising the profile of the environment within the constitutional discussion. It clarifies the issues at stake, assesses environmental impacts and sketches options and solutions for change. Thus, Ecologic continues the tradition of “Greening the Treaties” and hopes to contribute to guiding the constitutional development in the right direction.
Ecologic Briefs
A sustainable Constitution for Europe

The European Constitution

An Evaluation from an Environmental Perspective

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A European Constitution – only a few years ago, this subject was taboo to many. But now, the Convention for the Future of Europe has drafted a Constitutional Treaty that is to be agreed and concluded by an Intergovernmental Conference (IGC). The parliaments and the citizens of the Member States will then decide on the Constitution’s entry into force. In order to formulate the Constitution, the Convention consolidated and restructured the different European Treaties.

It is an unusual and at the same time historic step in the great civilisatory project of securing, for the long term, peace, rights and freedoms, and the integration of Europe. Will the IGC based on the work of the Convention succeed in creating a constitution which can stand for a long time with only minor changes and additions? Or is Europe to continue, as it has hitherto done, changing its primary law every few years? The dice have not yet been thrown. The IGC now has the possibilities to remedy the deficiencies in the Constitutional Treaty drafted by the Convention for the Future of Europe.

A Constitution able to stand the test of time must also provide a reliable basis for the protection as well as the rational and considerate use of the natural foundations of human life. Because of the EU’s importance for global environmental policies, the respective articles on environmental protection, nature conservation, and the rational use of natural resources must be drafted with a broad view. In this respect, the draft Constitutional Treaty is now not as bad as had to be feared when first drafted. Progress, in the sense of achieving equal standing for environmental policy above all with economic policy but also with social policies and redistribution, has not been achieved. The three dimensions of sustainable development are thus still far from an equilibrium.

This Ecologic Brief addresses a subject of particular importance in the current process of constitution development. It clarifies the issues and sketches solutions to be discussed and evaluated. The Brief is part of a series of contributions to the European constitutional debates, and Ecologic thus continues its tradition of work on “Greening the Treaties”. With the EcoFuturum project and in dialogue with citizens, Ecologic assists in the creation of the new Constitution of Europe. We have the support of the General Secretariat of the European Commission and we act in partnership with other institutes in five Member States and three Accession States. I hope that the discussions thus initiated have an impact in that they help to guide the constitutional development in the right direction.

R. Andreas Kraemer, Director of Ecologic Institute, Berlin, September 2003
The news that “Europe is giving itself a constitution” made headlines this past June when the Convention on the Future of Europe adopted the “Draft Treaty establishing a Constitution for Europe”1. After 16 months of debate Chairman of the Convention Valéry Giscard d’Estaing presented the draft Treaty to the European Council as hosted by the Greek Presidency in Thessaloniki. The Summit welcomed the draft as “a good basis for starting in the Inter-Governmental Conference”.

The European Council convened the Convention to address three major challenges it had raised in the Laeken Declaration on the Future of Europe:

• the lack of proximity of European institutions to Europe’s citizens and the desire of citizens for better democratic controls of the EU,
• the development of the Union as a stabilising factor and a model in a globalised world, and
• expectations held by Europe’s citizens regarding matters of internal security, migration, social and environmental policy and their concern about increasing European bureaucracy and hyper-regulation.

To meet this challenge the Council identified four areas of action:

• competence
• instruments
• democracy
• constitution

On the basis of this mandate, the Convention’s draft constitution reforms the division of competencies between Member States and the European Union, simplifies the instruments, and introduces measures to increase democracy, transparency and efficiency within the Union. The draft Constitution replaces the current treaties and merges the European Union and the European Community into a single legal entity, the future EUROPEAN UNION.

That is not to say that Member States will lose their sovereignty or that the constitution creates something resembling a European state. On the contrary: the draft overhauls the existing primary law and merges the different treaties into a new basic European treaty, creating reform in different fields. These reforms naturally call for the willingness of Member States to concede some elements which might touch their sovereignty, such as expansion of majority voting (for example in the field of immigration policy), or in the enhancement of a common foreign and security policy.

Reactions throughout Europe to the draft Constitution have varied between confusion, hope, fear, outrage and boredom. Some consider it “a lamentable piece of work,” while others welcome it as “the biggest leap forward since the Treaty of Rome.” Both “Federalists” and “Eurosceptics” agree: the Constitution is essential to the gradual development of European primary law and will be decisive for the future of the European Union.

The draft Treaty will be debated and in all likelihood agreed upon by the Inter-Governmental Conference beginning in October. The Italian Presidency has great interest in formally adopting the Treaty at the Summit of Rome by the end of the year. The Constitution would then be ready for ratification by the current Member States and the accession countries in May of 2004, just before the next elections for the European Parliament.

About this Brochure
Before addressing the background of the Inter-Governmental Conference, this paper gives an introduction to the future Constitution. It focuses on environmental perspectives of the new constitution in order to make an “environmental” contribution to the constitutional debate prior to the Inter-Governmental Conference. The institutional aspects and different politics will be dealt with in separate papers.

1 The draft Treaty will be referred to as “constitution,” “constitutional treaty” or “basic treaty.”
The Character of the Constitutional Treaty

If adopted, the new European constitution will determine the politics of the Union in the coming decades. For our well-being and that of future generations it is crucial that the constitution formulates a solid basis for environmental preservation. Conservation of our natural resources is the prerequisite for a sound and sustainable economic and social future in Europe.

The development of the basic treaties to date has played a major role in European environmental policy. Although the Treaty of Rome (1957) made no mention of the environment or sustainable development, it impacted the environment through its influence on community economic politics. The “environmental” breakthrough came with the Single European Act in 1987, which introduced Title VII “Environment” – finally creating an explicit legal foundation for European environmental policy. It introduced basic environmental principles, such as the environmental policy integration principle. Meanwhile, the Treaties of Maastricht and Amsterdam brought significant improvements: inter alia, the precautionary principle, and the requirement of “a high level of protection and improvement of the environment” in Article 2 EC Treaty.

What is the Difference between the Current European Treaties and the Future Constitution?

The draft Treaty has the basic characteristics of a constitution. The future Constitution will organise community life by delivering the basic legal system. It defines goals and values underlying the community. It erects, organises, and directs public power in order to attain and maintain these goals while respecting certain fundamental principles. The Constitution will legitimise and limit the use of power and protect citizens against the Union by granting them rights guaranteed by a catalogue of basic rights. It establishes a separation of legislative, executive and judiciary powers and provides inter-institutional conflict resolution procedures.

At present, the European Treaties define the Community’s and the Union’s values and goals. They create the necessary institutions and assign them competencies necessary to achieve these goals, and establish conflict resolution procedures. In addition to numerous technical provisions, the EC and the EU Treaties thus contain many constitutional provisions, but they do not include fundamental rights.

Nevertheless, the constitutional character of the European Treaties is – in accordance with the jurisprudence of the European Court of Justice – largely recognised.

Although the current draft does not represent something completely new (as might be suggested by the term “constitution”), it raises the current treaties to a new level. It strengthens their constitutional character by merging them into a single treaty, including the Charter of Fundamental Rights, and by creating new institutional positions, for example the President of the Council and the Minister for Foreign Affairs.

Will a Constitution turn the European Union into a Supranational State?

Neither the EU nor the EC presently qualify as a federal state. The latter is largely defined as a supranational organisation, while the former is an international organisation determined by its member states. Both use their own institutions to undertake tasks conferred to them by the Member States.

A European constitution can exist alongside the constitutions of Member States. While according to traditional understanding a sovereign state preceeded a constitution, modern doctrine follows a broader interpretation: Today, a constitution can create a new entity itself without calling for a state.

What will Change? – The Reorganisation of the Three Pillars

One of the Convention’s major tasks was to restructure and simplify the current treaties. The European Union and the European Communities are currently based on several different treaties forming the “European House.”

The European Union was created through the Maastricht Treaty in 1992 (EU Treaty). This Treaty has since come to symbolise the political roof resting on three pillars. The first pillar consists of the two remaining European communities, the European Community and the European Atomic Energy Community ( Euratom). The Common Foreign and Security Policy forms the second pillar, and Police and Judicial Co-operation in Criminal Matters the third. Furthermore, the Maastricht Treaty replaced the former European Economic Community Treaty, one of the founding treaties of the European Communities signed 1957 in Rome and changed the name to European Community (EC Treaty).
Since Maastricht, both the EU and the EC Treaty have gone through major changes which were adopted at the 1997 Amsterdam Inter-Governmental Conference (Treaty of Amsterdam) and Nice in 2000 (Treaty of Nice). In 2002, the European Coal and Steel Community (founded in Paris in 1951), expired, its term limited to fifty years. Its remaining content was incorporated in the EC Treaty.

The third community is Euratom, based on one of the three founding treaties of the European Communities signed in 1957 in Rome. The treaty deals exclusively with the nuclear industry and its promotion: “It shall be the task of the Community to contribute to the raising of the standard of living in the Member States […] by creating the conditions necessary for the speedy establishment and growth of nuclear industries” (Article 1 of the Euratom Treaty).

The Future of the Three Pillars

The Convention decided to abolish the current structure of the “European House”. The draft Treaty will codify the EU and the EC Treaty and merge the Union and the European Community into a single organisation. The Common Foreign and Security Policy, and the Police and Judicial Co-operation in Criminal Matters will be integrated in Part III of the Treaty concerning the policies and the functioning of the Union. Part III also contains the policies currently regulated by the EC Treaty. Hence, the future constitution will create a new contractual foundation, merging the three “pillars” with the “roof.”

However, part of the first pillar will remain, as the Convention failed to reform the Euratom Treaty. The Presidium originally proposed to linking Euratom to the Constitution via a protocol and merging its legal personality with the future European Union. This proposal would have led to a consolidation of the outdated preferential financial and institutional framework for nuclear power. Instead, many delegates – in line with great parts of the European civil society – have been arguing for the democratisation of Euratom and for fundamental changes to the European nuclear policy.

The Presidium’s proposal was not adopted by the Convention. The Protocol amending the Euratom Treaty now foresees only the harmonisation of Euratom’s institutions and financial provisions with the constitution. The Euratom Treaty will remain independent and Euratom the last European Community – wavering in limbo, as some say. A final decision on the political future of Euratom remains to be made.

The Structure of Europe’s Future Constitution

The constitution consists of 465 articles divided into four Parts:

- Part I contains the definitions and the objectives of the Union, the new catalogue of competencies, as well as basic provisions on the Union’s institutions, financial and democratic life and the use of competence;
- Part II, “The Charter of Fundamental Rights of the Union,” incorporates the Charter into the Treaty;
- Part III, “The Policies and Functioning of the Union,” contains the more technical provisions concerning citizenship. It also defines objectives in different policy areas such as agriculture, environment, energy, and transport, and details on the Union’s institutions and their role(s), as well as financial provisions, and
- Part IV, a brief set of “Final provisions,” defines the procedure for revising the treaty, describes the European flag’s circle of twelve golden stars on a blue background and sets Beethoven’s Ode to Joy as the European anthem and “United in Diversity” as the Union’s motto. It also formally establishes May 9 as Europe Day.

A number of protocols, including the Protocol on the Application of the Principles of Subsidiarity and Proportionality and the one amending the Euratom Treaty, are attached to the draft Treaty.

Quite a few of the 465 articles (especially in Part III) are too technical to have constitutional character. This shortcoming nevertheless does not keep the draft Treaty from having constitutional character, but makes it more difficult to read and comprehend. Therefore, it has been proposed to divide the treaty in two. Only the first part consisting of the current Part I and II would then have “constitutional character” while the second would incorporate most of the current Part III as a “regular” treaty. This would allow for two different amendment procedures. The Convention method (Article IV-7) could then apply to constitutional amendments of the Treaty while the “normal” treaty could follow a simplified procedure as the provisions are of a more technical nature and more likely to require regular revision. This possibility seems to already have been anticipated in the draft treaty (last sentence of Article IV-7 (2)).
Environment and Sustainable Development in the Future Constitution

The following chapter compares the status of the environment with the acquis communautaire of the current treaties and analyses the changes.

The Environment as a Constitutional Value

Article 2 of the Constitution defines the Union’s values:

“The Union is founded on the values of respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights. These values are common to the Member States in a society of pluralism, tolerance, justice, solidarity and non-discrimination.”

The wording is based on the Preamble and Article 6 of the current EU Treaty. Environmental organisations claimed that Article 2 should mention sustainable development as a fundamental value ... be defined as objectives of the Union and therefore have their place among the goals and principles of the Union.

Sustainable development is not considered a constitutional value.

Environmental Protection as an Objective

Article 3 of the draft defines the general political objectives of the Union. According to Article 3 (3),

“The Union shall work for the sustainable development of Europe based on balanced economic growth, a social market economy, highly competitive and aiming at full employment and social progress, and with a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.”

The wording concerning the environment is similar to Article 2 EC Treaty. The Convention uses “shall work for” instead of “promoting” – a minor editorial change. The first draft presented by the Presidium in February, however, was a major step backwards as it omitted reference to the improvement of the quality of the environment and did not aim for a high level of protection. Sustained pressure from convention members, Ministers of the Environment and the Commissioner of the Environment as well as environmental organisations led to the current draft version – remediating the shortcomings of the first draft and maintaining the acquis communautaire. Article I-3 also refers to all three pillars of sustainable development: the economic, social and environmental pillars. Therefore, the definition of sustainable development seems to be more consistent than it had been in the EC Treaty.

Fostering sustainable development in developing countries and helping to develop “international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources” throughout the world is one of the objectives of the Union’s external action, as stated in Article III-193 (2). In its relation to the rest of the world, the Union will contribute to the “sustainable development of the earth”, Art. I-3 (4).
The Charter signifies the evolution of the European Community from a "economic community" to a "community of values."

After controversial discussion, the Convention responded to this question positively. The Charter now forms Part II of the draft Treaty and will be legally binding for the European institutions and Member States when implementing European law.

The Charter codifies the fundamental rights already recognised by the European Court of Justice. It is therefore not going to add much in terms of effective legal protection of fundamental rights in the Union. Nevertheless, its inclusion is of crucial importance as it underlines the evolution of the European Community from a mere "economic community" to a "community of values."

Art. 37 of the Charter, now Article II-37 of the draft constitution, deals with environmental protection. The provision merges Article 2 and Article 6 of the EC Treaty, requiring the Union

- to ensure a high level of environmental protection and the improvement of environmental quality in accordance with the principle of sustainable development and
- to integrate environmental protection into other European policies.

Both obligations are redundant. The first is already contained in Article I-3 of the draft Treaty and the second is identical to the integration clause of Article III-4. Despite common agreement not to endanger the compromise reached on the Charter by reopening the debate, the Inter-Governmental Conference should redraft those provisions of the Charter which (like Article II-37) consist of basic treaty principles and objectives. These have already been included in the draft Constitution by the Convention. Repeating them in Part II improves nothing and leads to legal ambiguity.
The Principle of Environmental Policy Integration

The principle of environmental policy integration requires that environmental protection must be integrated into the definition and the implementation of other policies (Article 6 EC Treaty). The principle of environmental policy integration is one of the essential prerequisites for successful environmental policy. The consideration of environmental aspects in other policy areas has proven to be more effective than isolated environmental protection measures. The most obvious examples are transport and agricultural policy. Furthermore, the integration clause allowed the European courts in the past to apply environmental principles, especially the precautionary principle as laid down in Article 174 EC Treaty, in other policy fields for example in the case of Mad Cow Disease and more recently concerning antibiotics in animal food.

Not a Fundamental Right

Although the title “Charter of Fundamental Rights” indicates otherwise, Article II-37 addresses not a fundamental right, but rather obligations and objectives addressed to Union’s institutions and Member States when implementing European law. These objectives are general, legally binding requirements that must be taken into account when interpreting secondary law. In contrast to rights, they cannot be actioned individually. Courts may only interpret the meaning of legal acts according to these objectives and investigate whether the Union is taking steps to fulfill them. Hence, no European citizen can invoke its violation before a court.

Should Citizens have the Right to a Healthy Environment?

Demands have been made to reformulate Charter Article II-37 to create the right to a healthy environment or the right to live in a benevolent environment or to include the procedural rights laid down in the Århus Convention

Different models for such a provision exist in various Member State constitutions and accession countries. However, it is contested whether a right to a healthy environment would actually be more effective than an objective such as Article I-3. A breach of a fundamental right to a healthy environment would be difficult to litigate since the legislator has a wide margin of discretion. Another danger in establishing a right to a healthy environment is that it might ultimately prove unattainable, so that the value of fundamental rights in the constitution might be reduced to mere preferences. On the other hand, the importance of the environment relative to other fundamental rights and policies would increase, and raising Article II-37 to the status of a fundamental right may be perceived as a positive signal regarding the preservation of the environment. In any case, Article II-37 has to be redrafted. One option would be to introduce the procedural rights of the Århus Convention:

- the right of access to information,
- to public participation in decision-making processes, and
- access to courts in environmental matters,

or to copy Article 1 of the Convention which formulates the “right of every person of present and future generations to live in an environment adequate to his or her health and well-being.” This would be a strong signal that the Union is taking the obligations of the Convention seriously.


The wording is identical in the current treaty with the exception of some editorial adjustments. The provision now refers to the policies and activities regulated in Part III of the constitution while Article 6 EC Treaty referred to the policies and activities mentioned Article 3 EC Treaty. As the clause now refers to Part III, it may make sense to move the provision from its prominent position to Part III. It may prove that its closeness to the policies will increase its impact as it will be more difficult to ignore the clause once placed at the very front of the policies among other horizontal clauses entitled “Clauses of General Application”. However, if the Intergovernmental conference decides to divide the Treaty into a first part with constitutional character (current Part I and II) and in a second portion (current Part III), the integration clause should be relocated to Part I.

The integration principle was introduced into European primary law in 1987 with the adoption of the Single European Act. Since then, it has been revised twice through the Treaties of Maastricht and Amsterdam, ending up at the very beginning of the EC Treaty, thus granting it privileged status above other policy areas. The Convention removed the clause and placed it among other general provisions at the beginning of Part III of the Constitution dealing with Union policies and functioning (Article III-4):

“Environmental protection requirements must be integrated into the definition and implementation of the Union policies and activities referred to in this Part, in particular with a view to promoting sustainable development.”

The integration clause now applies to all activities and policies of the Union. The merger of the EU and the EC Treaty brings another essential refinement. The integration requirement now applies to all Union’s activities and policies – including the current Union’s policies on Police and Judicial Co-operation in Criminal Matters (now Area of Freedom, Security and Justice) as well as the Common Foreign and Security Policy. Under the current treaties, the range of application of Article 6 EC Treaty is limited to European Community policies and does not include the policies of the European Union.

The objectives of the Union’s policies are outdated and need to be revised before included in the constitution. Agricultural policy is good example. It still aims at increasing agricultural productivity by promoting technical progress and assuring supply availability. (Article III-123). In consequence, agriculture at an industrial scale is one of the main sources of surface and groundwater pollution leading to problems in meeting the threshold limit values set for nitrates and pesticides in European water directives. A sustainable agricultural policy should focus instead upon production processes which promote preservation of natural resources and nature, in particular the diversity of landscapes. Instead of increasing productivity, it should ensure environmentally sound and rational development of agricultural production while producing high quality foodstuffs. The current objectives of European agricultural policy contradict the objective of improving the quality of the environment and are not in line with the objective of sustainable development laid down in Article I-3.

The same is true for the transport policy. European transport policy, as set out by the treaty, takes into account economic circumstances and transport safety, but not the environmental impact of measures – even though heavy traffic is a main cause of air pollution. Throughout Europe increasing heavy traffic impedes, among others, efforts to reach and sustain European air quality limit values for particulate matters and NOX. When adopting measures in the transport sector, the legislator should take the environmental impact of these measures into account to meet the overall objective of improving the quality of the environment. One objective should be to progressively internalise the environmental costs of transport to ensure the polluter-pays principle laid down in Article III-129 of the draft Constitution.

Environmental policy

The Convention moved the section on environmental policy (Article 174 – 176 EC Treaty), to Part III of the draft Constitution and left it unchanged. This can be considered as positive as the fundamental principles, such as the precautionary and the polluter-pays principles, are maintained. On the other hand, the Convention failed to extend majority voting to the fields mentioned in Article III-130 (2). Bearing in mind the enlargement of the Union, extension of majority voting is crucial for the functioning of the Union. Adoption of measures necessitate unanimity will require future compromises between 25 states.
Section on Energy Policy

One of the few changes in the chapter on policies is the new section on energy policy (Article III-157):

“In establishing an internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim to:”

(a) ensure the functioning of the energy market,
(b) ensure security of energy supply in the Union, and
(c) promote energy efficiency and saving and the development of new and renewable forms of energy.”

Outlining the need to preserve and improve the environment, the provision is a good example for the integration of environmental objectives into other policies as requested by the integration clause. However, promoting “new and renewable forms of energy” – as far as the wording is concerned – could include sources such as nuclear fusion. At present, however, the Euratom Treaty provides for the more specific and thus exclusive legal regime on nuclear energy. In the interest of legal clarity it would have been preferable to stay in line with the wording of Article I-3 and use the term “to protect and improve the quality of the environment”.

Currently, energy policy lies in principle in the competence of the Member States. Nevertheless, in the past the European Community has adopted various measures concerning energy policy, for example on the basis of its competencies in the field of the environment and those ensuring free competition. The current draft focuses mainly on these already existing European competencies in the field of energy policy, assembling them in one chapter rather than creating new competencies of the Union.

The first point – to ensure the functioning of the market – mainly concerns open competition and free movement of goods, for example through a sustainable liberalisation of the energy markets within the Member States. Paragraph (c) defines objectives that overlap to a large extent with the current environmental policy. Paragraph (b) is likely to be the only one which creates new competencies for the Union, though mention of securing the energy supply in the Union allows for measures such as stockpiling of oil and coal reserves.

Therefore, new competencies are not shifted from the Member States to the Union, but rather from DG Competition and DG Environment to DG Energy and Transport which from an environmental perspective might prove negative.

Public Interest Litigation in Environmental Matters

The European Court of Justice is in charge of reviewing the legality of European legal acts. Actions can be brought forward by European institutions as well as by Member States. Natural or legal persons may institute proceedings against an act “addressed to that person or which is of direct and individual concern to him or her” (Article III-270).

As under the current Article 230 (4), EC Treaty actions brought forward in the public interest will be dismissed as the claimant is not directly and individually concerned. This happened, for example, in the case Greenpeace v. EC concerning European regional aid to build two conventional power plants on the Canary Islands. Greenpeace claimed that the aid was illegal as no environmental impact assessment had been carried out. The action was dismissed as Greenpeace, neither directly nor individually concerned, had no right to challenge the aid*.

The proposal put forward by the Convention contains only minor changes and leaves the existing law in place. It will remain difficult for environmental associations to challenge Union acts directly. Yet experience in various countries has shown that the right of organisations to initiate legal action in cases of infringement of environmental law can contribute to more effective monitoring of administrative measures and procedures. As a result, the expansion of public interest litigation in environmental matters would help to increase the acceptance of European institutions and would – in light of its outstanding ratification by the EU – be in line with the spirit of the Århus Convention.

Environmental Assessment

The codification of the current basic treaties as well as the merger of the European Union and the European Community into a single legal entity are positive developments leading to a simplification of European primary law. Concerning the protection of the environment, the draft Constitution maintains the acquis communautaire: The future European Union will work for a high degree of environmental protection and the improvement of environmental quality. Its policies will be based on the principle of sustainable development. The integration of environmental protection requirements into other policies remains a fundamental principle of the Union.

However, the draft contains various shortcomings which should be addressed by the Inter-Governmental Conference:

- Although the Convention's decision not to include the Euratom Treaty is welcome, efforts must be made to reform European nuclear policy.

- The inclusion of the Charter of Fundamental Rights is an important signal to Europe's citizens. However, the Inter-Governmental Conference should redraft Article II-37, as the provision's current wording is redundant. The Århus Convention principles should be included instead in Part II.

- To ensure the functioning of the enlarged Union, the Inter-Governmental Conference should expand majority voting in the field of the environment; Article III-130 (2) in particular needs to be revised.

- The policies of the European Community, especially on transport and agriculture, are in desperate need of revision. The Inter-Governmental Conference has to make sure that the outdated objectives of these policies will not be rendered permanent in the future Constitution.

- The Inter-Governmental Conference should expand public interest litigation by environmental organisations to send a strong signal that it is acting in accordance with the spirit of the Århus Convention.

Annex

Selected Articles from the Draft Treaty establishing a Constitution for Europe (CONV 850/03)

Article I-2: The Union's values
The Union is founded on the values of respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights. These values are common to the Member States in a society of pluralism, tolerance, justice, solidarity and non-discrimination.

Article I-3: The Union's objectives
1. The Union's aim is to promote peace, its values and the well-being of its peoples.

2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, and a single market where competition is free and undistorted.

3. The Union shall work for the sustainable development of Europe based on balanced economic growth, a social market economy, highly competitive and aiming at full employment and social progress, and with a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

   It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of children's rights.

   It shall promote economic, social and territorial cohesion, and solidarity among Member States.

   The Union shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.
4. In its relations with the wider world, the Union shall uphold and promote its values and interests. It shall contribute to peace, security, the sustainable development of the earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and protection of human rights and in particular children’s rights, as well as to strict observance and development of international law, including respect for the principles of the United Nations Charter.

5. These objectives shall be pursued by appropriate means, depending on the extent to which the relevant competences are attributed to the Union in the Constitution.

Article II-37: Environmental protection
A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

Article III-4
Environmental protection requirements must be integrated into the definition and implementation of the Union policies and activities referred to in this Part, in particular with a view to promoting sustainable development.

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Selected Links

Ecologic – Institute for International and European Environmental Policy
www.ecologic.de

Institute for European Environmental Policy (IEEP)
www.ieep.org.uk

The European Convention
european-convention.eu.int

The Future of the European Union – Debate
europa.eu.int/futurum

Governance in the European Union – A White Paper
europa.eu.int/comm/governance/index_en.htm

Friends of the Earth Europe
www.foeeurope.org/activities/convention/convention.htm

European Environmental Bureau
www.eeb.org

Århus Convention – Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters
www.unece.org/env/pp
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The European Constitution

Democracy, Efficiency, Transparency

The Division of Competencies

Energy Policy in the Constitutional Treaty

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