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Part of the act4europe campaign initiated by the Civil Society Contact Group

Reactions to the European Constitutional Treaty **Perspective on humanitarian aid and development co-operation**

Voice, Solidar, International Federation Terre des Hommes and Eurostep, together representing more than 140 European NGOs involved in Relief and Development work, welcome the improvements made to the last draft of the constitutional treaty in the field of development. However, these NGO Networks would like to call attention to the fact that several amendments tabled to improve the section on humanitarian aid have been rejected, and further steps must still be taken in the area of development co-operation. The enclosed amendments to Part III could help strengthen European values of solidarity with third countries within the constitutional treaty.

In the area of development co-operation, the following main points remain to be addressed:

- **Coherent Common Commercial Policy**
EU's trade policy, especially with developing countries, must contribute to sustainable development and poverty eradication.
- **Development section for ALL developing countries**
The Development co-operation article (III-213) should specify that it targets all developing countries
- **The principle of Partnership**
There should be an explicit reference to the principle of partnership with governments and participation of civil society, which is of the greatest importance in the definition and implementation of EU development policies.

In the area of Humanitarian assistance, the new draft fails to reflect the following principles essential to the delivery of EU humanitarian aid:

1. **Needs-based aid direct to beneficiaries**
Humanitarian aid should be delivered on a needs-basis to the most vulnerable populations. Bringing political considerations into humanitarian aid would prevent this (article III-218.1).
2. **Neutrality**
As in International Humanitarian Law, the principle of neutrality should be added as distinct from and complementary to the principles of impartiality and non-discrimination (article III-218.2).
3. **Quality and professionalism in delivery of aid**
Reference to the creation of a voluntary humanitarian aid corps should be removed. Humanitarian aid is a setting for experienced, trained professionals such as NGOs and international organisations. (article III-218.5).
4. **Humanitarian Aid has no place within the fight against terrorism**
The only fight to which humanitarian aid should be called is the fight against poverty and human suffering (article III-205.1).

Development Co-operation

Whereas some important amendments were taken into account by the Praesidium in the area of development co-operation, some points are still outstanding. The following amendments are proposed to ensure that development co-operation will continue to have a serious independent basis in the EU Treaty and will apply to all developing countries.

Title V : The Union's External Action

1. Chapter III: Common Commercial Policy

Article III-212.1

Wording proposed by the Praesidium:

The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services and the commercial aspects of intellectual property, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action, as set out in Article 1 of this title

Replace by:

The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services and the commercial aspects of intellectual property, foreign direct investments, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action, as set out in Article 1 of this title, and contribute to the primary aims of sustainable development and poverty eradication.

Explanatory note:

As the main trading partner of developing countries, the EU has a huge responsibility in insuring that its external trade policy is not compromising its development objectives. It is now generally accepted that commercial policy has huge effects on development that can be either positive or negative. EU's trade policy, especially with developing countries, must therefore contribute to sustainable development and poverty eradication if the EU is to fulfil its self stated aims.

2. Chapter IV: Co-operation with Third countries and Humanitarian Aid

Title proposed by the Praesidium:

Co-operation with Third countries and Humanitarian Aid

Replace by:

Assistance, Development Co-operation and Humanitarian aid

Explanatory note:

As the world's largest donor of Official Development Assistance, and the source of over half of all official humanitarian assistance distributed world-wide, the EU has a really important donor profile in the whole world. This profile should remain visible in the Constitutional Treaty with the inclusion of development in the Title of Chapter IV. European citizens are proud of this donor profile, the constitution should therefore, in order to bring the Union closer to its peoples, integrate Europe's social values in the important titles that will be seen first by the citizens.

3. Article III-213

Text proposed by the Praesidium:

Union policy in the sphere of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action as set out in Article 1 of this Title. The Union's development cooperation policy and that of the Member States complement and reinforce each other.

Proposed text:

Union policy in the sphere of development cooperation shall be conducted, **with all developing countries as agreed by OECD**, within the framework of the principles and objectives of the Union's external action as set out in Article 1 of this Title. The Union's development cooperation policy and that of the Member States complement and reinforce each other.

Explanatory note: As the chapter on economic, financial and technical co-operation states that it does not include the co-operation with developing countries, it is important to insure clarity in the coverage of the different parts of chapter 3 to specify that development co-operation will be targeting all developing countries. The OECD (DAC list of developing countries) give a clear definition of developing countries. To include such a reference in article III-213 would considerably improve its clarity as developing country, centre of this article, are not defined at all presently.

4. Article III-213 (.3) new sub-article

Proposed text:

The Union's Development Co-operation policy shall be based on the principle of partnership exercised on the fundamental principles of equality of the partners; ownership of the development strategies by the countries and populations concerned; and participation in order to encourage integration of all sections in society, including civil society organisations.

Explanatory note :

Article on partnership with governments and participation of civil society is already present in Cotonou Partnership Agreement, article 2, on fundamental principles. Involvement of non-state actors is an important aspect of EC development co-operation as set out in the Communication on Non-State-Actors. (COM(2002)598). The recognition of the role of Civil Society as a partner of the development co-operation policy is one of the main points of CE's external assistance reform (political declaration of the Council and the Commission in November 2000 on development policy). This integration of Civil Society is also recognised as one of the key issues to improve efficiency of development aid (Recommendations of the Development Aid Committee (DAC) of the OECD) and to fight poverty (Recommendation adopted by the 15 Member States, and the Commission in 2001)

Humanitarian Assistance

Amendments to Article III-218 similar to the following proposals were tabled by several Convention members but did not appear in the current draft. The current text of Article III-205.1 is the result of a recent amendment which also carries risks to the EU's impartial delivery of humanitarian aid.

1. Needs-based aid direct to beneficiaries: Article III-218.1

Text proposed by the Praesidium:

The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union as set out in [Article III-188 (ex 1)] of this Title. Such operations shall be intended to provide ad hoc assistance, relief and protection for people in third countries and victims of man-made and natural disasters, in order to meet the humanitarian needs resulting from these different situations. The Union's actions and those of the Member States shall complement and reinforce each other.

Proposed text:

The Union's operations in the field of humanitarian aid shall be guided by the principle of solidarity with populations affected by natural and man-made disasters in third countries. Such operations shall be intended to provide ad hoc assistance, relief and protection, in order to meet exclusively the needs resulting from these different situations.

Explanatory note: Article III/218.1 stipulates that "Union actions in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union as set out in Article 1 of this Title." Article 1.2(g) states as one of the objectives, "assist populations, countries and regions confronting man-made and natural disasters." The problem here is that the EU has in the past delivered humanitarian aid directly to populations, without going through their governments. Assisting countries would imply involving EU politics in the delivery of humanitarian aid, and involving third-country governments in the distribution of EU humanitarian aid to their populations. Bringing these political considerations into humanitarian aid delivery could prevent this assistance from remaining needs-based, and reaching the most vulnerable populations, as EU humanitarian assistance has achieved in the past.

2. Neutrality: Article III-218.1

Text proposed by the Praesidium:

Humanitarian aid operations shall be conducted in compliance with the principles of international humanitarian law, in particular the principles of impartiality and non-discrimination.

Proposed text:

Humanitarian aid operations shall be conducted in compliance with the principles of international humanitarian law, in particular the principles of impartiality, **neutrality** and non-discrimination.

Explanatory note: Article III/218.2 states, "Humanitarian aid operations shall be conducted in compliance with the principles of international humanitarian law, in particular the principles of impartiality and non-discrimination." While many amendments were tabled with the suggestion of adding "neutrality" to impartiality and non-discrimination, these did not reach the final draft. Neutrality, another fundamental principle of humanitarian assistance, contributes to greater access to intended beneficiaries and is often a vital element in relation to the security of aid workers. Neutrality can help to ensure non-discriminatory and needs-based humanitarian aid delivery.

3. Quality and professionalism in delivery of aid: Article III-218.5

Text proposed by the Praesidium:

In order to establish a framework for joint contributions from young Europeans to the humanitarian actions of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. European law shall determine the rules and operation of the Corps.

Proposed text:

Delete article.

Explanatory note: Article III/218.5 proposes the creation of a European Voluntary Humanitarian Aid Corps. Humanitarian actors widely agree that this is a bad idea, due to the need for quality and professionalism in delivery of aid. Humanitarian aid functions in emergency contexts such as war and natural disaster, where know-how and quick reactions are essential, and dangerous, horrific and traumatising events are the norm. Humanitarian aid is a setting for experienced, trained professionals such as NGOs and international organisations. While the idea of bringing young Europeans in touch with third-country realities is interesting, a Voluntary Corps might be more appropriate in the context of long-term development cooperation, where a wide variety of constructive projects are carried out by the EU. Nonetheless, a Voluntary Corps can be established through many other mechanisms, and does not need to be mentioned within the Constitutional Treaty.

4. Humanitarian aid has no place within the fight against terrorism: Article III-205.1

Text proposed by the Praesidium:

The tasks referred to in [Article I-40(1)], in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peacemaking, and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

Proposed text:

Delete last sentence.

Explanatory note: Article III/205, concerning the European Security and Defence policy, lists actions for which the Union can deploy military and civilian means, including “humanitarian and evacuation missions”. While in the previous draft the list included actions to support third countries in their fight against terrorism, a new sentence stipulates that all the listed items may contribute to the fight against terrorism, including support to third countries. Using humanitarian actions as part of the fight against terrorism is contrary to every definition of “humanitarian”: humanitarian principles of impartiality and independence from political considerations would disappear within the “fight against terrorism”. The objectives of humanitarian assistance, to bring food, water, shelter and medical aid to those in direst need, have nothing to do with the fight against terrorism. Everyone performing humanitarian missions must respect international humanitarian law. The only fight to which humanitarian aid should be called is that against poverty and human suffering.

18th June 2003