

CONV 826/03

CONTRIB 381

COVER NOTE

from Secretariat

to The Convention

Subject : Contribution of Ms Lena Hjelm-Wallén; Ms Teija Tiilikainen; Mr Peter Hain; Mr Gijs de Vries, member of the Convention - Mr Hendrik Hololei, alternate member of the Convention.

- **“Suggestion for amendment of Articles: III.3”**

The Secretary-General of the Convention has received the contribution annexed hereto from Ms Lena Hjelm-Wallén; Ms Teija Tiilikainen; Mr Peter Hain; Mr Gijs de Vries, member of the Convention - Mr Hendrik Hololei, alternate member of the Convention..

AMENDMENT FORM**Suggestion for amendment of Articles: III.3**

By: Ms Lena Hjelm-Wallén, Ms Teija Tiilikainen, Mr Peter Hain, Mr Henrik Hololei and Mr Gijs de Vries

Status: Members

III.3 *Delete the last sentence.*

Explanation

1. We recognise the potential need for regulating some areas of services of general economic interest at the Community level. We can, however, not at this early stage support the proposed obligation to pass a Community law that will be including principles and conditions for services of general economic interest.

The ongoing general debate on services of general interest

2. We find that the general debate, welcomed by the Member States and initiated by the European Commission in the Green paper on Services of general interest (COM (2003)270), will be superseded by the proposed obligation. The Green paper raises important and yet unanswered issues in relation to these services, in general, and a framework law, in particular. It is our view that the general debate is of great importance. Services of general interest are to a large extent concerning the every-day-life of the citizens of the Union. The debate should be allowed to take the time scheduled by the Commission.

Consequences and the need for a framework law

3. The proposed constitutional obligation forms a legal basis for a framework law on services of general economic interest. We find the need for and consequences of a framework law very difficult to estimate since there is an insufficient analysis as to which services that might be concerned. The present formulation of the Treaty does, however, allow for community legislation sector by sector, which will make proper consequence and "added value" analysis possible.

4. The liberalization of services of general economic interest should continue sector by sector in the interest of the consumers and the functioning of the economy and with respect to the principles of subsidiarity and proportionality.

5. Services of general interest are organised and provided in different ways in the Member States. This is due to various reasons in relation the Member States' constitutional situation, market situation, nature resources, climate, density of population, geography etc. These reasons are influencing the need for regulatory measures – whether on a national or Community level.

6. We believe, with respect to the principles of subsidiarity and proportionality that the Member States, including the self-governing local or regional entities, are most suitable to decide how services of general interest should be provided within a defined local or regional territory when the services are aimed wholly or mainly at serving the local or regional population. These interests should of course coincide with a well functioning internal market.

7. The proposed obligation seems not to have been taking into account the differences between the various kinds of services that might be concerned by a framework law. A law covering all kinds of services of general interest must be of a very general character since the potential services show few common features. The added value of such a law is also to this respect rather doubtful.

8. Against this background, we are strongly in favour of deleting the last sentence in article III-3 in the last version of the draft Constitution.
