



FORUM OF FEDERATIONS

Foreign Relations of Constituent Units

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**Rapporteur's Report**

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*These remarks are intended to summarise the discussions of the Workshop Session # 2 (devoted to the participation of constituent units<sup>1</sup> to the negotiation and implementation of international treaties) as general comments, without referring to specific countries.*

- ① It is perhaps necessary to remind the **legal frame** of the topic. Participation of the constituent units to the negotiation and implementation of international treaties are just *one* part of a broader theme: foreign relations of these constituent unit. Other means are the conclusion of agreements by regions with foreign counterparts ("*ius tractati*"), as well as the possibility for the regions to have a kind of direct "diplomatic" relations ("embassies" or "bureaux") abroad ("*ius legationis*"). During the discussions, which have shown globally the increasing importance of and interest for foreign relations of regions (para- or protodiplomacy, see John KINCAID's paper), it hasn't always been easy to distinguish between these different formal aspects.
- ② **Things change!** International relations of sub-national units are part of, and reflect of a changing world: more federations, more democracy, more communication. Things also change in other topics that participants have identified and consider of the highest interest, but cannot be dealt with in this session: increase of globalization (is this a threat or not for constituent units?), place of native people within the federal state, place of municipalities and mega-cities in the federal state. These topics could represent interesting themes for further Congresses organised by the Forum of Federations.
- ③ **Things exist!** Within the context we have mentioned above, this congress shows very clearly that regions have really undertaken a lot of foreign activities. The topic is then not purely intellectual, but corresponds to a new *reality* which has to be explored.
- ④ **Things are important!** If one refers more specifically to the international treaties, the participation of regions is an important topic. Once upon a time, treaties dealt only with peace and war, but today they deal with all aspects of citizens' all day life. If the central state can conclude treaties without any participation of its constituent units, these treaties could be a major threat for the latter, in matters as important as protection of environment or water supply. Participants have also expressed their concerns about the sometimes precarious relations between constituent units and world economic organisation such as WTO or World Bank.

*Foreign relations of constituent units are a shiny medal with two sides: a theoretical one and a technical/practical one.*

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<sup>1</sup> We can also use the term "federal units", "regions" or "sub-national units" to describe what is known as "States" in USA or India, as "Länder" in Germany and Austria, as "Cantons" in Switzerland and as "Provinces" in Canada.

⑤ From a **theoretical** point of view, one has to examine the relation between foreign relations of constituent units and federalism, what seems quite easy to be done. As federalism - as it has been created by the Founding Fathers of the 1787 American Constitution in Philadelphia - suppose the over-imposition of two levels of *States*, foreign relations of constituent units obviously deal with the *statism* of the latter, and then fully correspond to the very essence of federalism.

⑥ From a **technical** point of view, several questions have been identified, but no precise answers has been given. Here are some examples:

- Reforms are there conceivable? Is it legally and/or politically conceivable to reform the current system?
- What is the best moment for the participation of the regions? Is it before or after the conclusion of the treaty? One could presumably argue that the best solution is *before*, as the political implication of the regions within the negotiation of a treaty would give it more legitimacy. On the contrary, the regional participation of the regions to the implementation of the treaty if they fully disagree with the content of the treaty would be meaningless.
- Do they regions have to be consulted for treaties dealing with matters related to the exclusive powers of the regions or for all treaties? As exclusive powers of the regions are often very limited and as on the contrary many national treaties can influence the life of regional citizens, it would be better to introduce a *general* right of participation.
- What could be do concerning the information, technical means and financial help regions need in order to be able to participate and give their opinions?

*The Forum of Federations is looking for recommendations concerning its future activities. The Workshop Session can suggest two.*

⑦ **Firstly**, the Forum of Federations could insist on the necessity of institutionalising or formalising (the exact term has to be discussed) the mechanisms allowing for a participation of regions to the international treaties. This could be done through other conferences dealing with the same topic as the Winnipeg one, but is would then be important to invite many representatives of central governments who have to be convinced, and not only representatives of constituent units who are already convinced.

⑧ **Secondly**, the Forum of Federations could launch a programme - at a lower level, which means with smaller groups - whose goal could be to find precise answers to the technical questions which have been identified above (see ⑥).

*Two final remarks:*

⑨ The **central question** that arise could be summarised as follows: How is it possible to make central governments *understand* that they have to change their perception of the foreign relations of constituent units? The answer includes an increase of mutual respect, co-ordination, co-operation and *Bundestreue*. Central governments have to be convinced that their regions don't want to play neither a conflicting nor a secessionist role.

⑩ The **most important** result of the Workshop Session # 2 in Winnipeg could be summarised as follows: when one sees the close relations between real federalism, democracy and welfare, it is then clear that foreign relations of federal units, in the broader sense, are good for all parties, for the regions as well as for the central state. The latter shouldn't forget that and be less reluctant in the appreciation of the phenomenon, which takes place in these antagonistic trends toward globalization and decentralisation that is known under the neologism of *glocalization*.

**PS** - The rapporteur would personally appreciate if this meeting, which took place in Manitoba, could be considered as an *Inukshuk*. Inukshuk is an Inuit word meaning "in the image of man" and describing a stack of stones built to resemble humans. Native Arctic people use them as landmarks to aid in navigation and avoid people to get lost. The Inukshuk has been adopted today as a symbol to remind us of our dependence on each other and the value of strong relationship. Could all participants to this meeting be the stones which, all together, help showing the way to the central governments and help them be more generous in dealing with the foreign relations of their constituent units.