

## AMENDMENT FORM

### Suggestion for amendment of Article 10:

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on behalf of the EPP Convention Group

Status: Members and Alternates

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*Text of the Praesidium*

*Proposed Amendments*

#### Article 10: Categories of competence

1. When the Constitution confers on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union.
2. When the Constitution confers on the Union a competence shared with the Member States in a specific area, the Union and the Member States shall have the power to legislate and adopt legally binding acts in this area. The Member States shall exercise their competence only if and to the extent that the Union has not exercised its.
3. The Union shall have competence to coordinate the economic policies of the Member States.
4. The Union shall have competence to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.
5. In certain areas and in the conditions laid down

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2. When the Constitution confers on the Union a competence shared with the Member States in a specific area, the Union and the Member States shall have the power to legislate and adopt legally binding acts in this area, ***including the conclusion of international agreements***. The Member States shall exercise their competence only if and to the extent that the Union has not exercised its ***or where the Union has ceased to exercise its competence***.
3. The Union shall have competence to coordinate the economic policies of the Member States.
4. The Union shall have competence to define and implement a common foreign and security policy, ***covering all areas of foreign and security***

in the Constitution, the Union shall have competence to carry out actions to coordinate, supplement or support the actions of the Member States, without thereby superseding their competence in these areas.

6. The Union shall exercise its competences to implement the policies defined in Part Two of the Constitution in accordance with the provisions specific to each area which are there set out.

policy, including ~~the progressive framing of a~~ common defence policy.

5. In certain areas and in the conditions laid down in the Constitution, the Union shall have competence to carry out actions to coordinate, supplement or support the actions of the Member States, without thereby superseding their competence in these areas.
6. The Union shall exercise its competences to implement the policies defined in Part Two of the Constitution in accordance with the provisions specific to each area which are there set out.

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## Explanation:

### **Para 2:**

- This clarification on the corresponding and parallel external competence of the Union is required in view of the fact that the text as proposed by the Praesidium only provides for external competences of the Union in the field of exclusive competences (see Article 11(2) of the Praesidium text), but is silent on external competences in the context of external competences. The wording here proposed is in line with the AETR case-law principles (parallelism of external and internal competences).
- Clarifies that Member States may reactivate a shared competence where the Union ceases to exercise its competence in this field. Takes over the principle currently to be found in Article 12(3) of the Praesidium text. In our view, it would be clearer and better justifiable if the principle would be determined fully already in Article 10(2).

### **Para 4:**

- With regard to defence policy, the text proposed is not in line with the political decisions already taken by the European Council under Article 17(1) of the EU Treaty, in particular at the Helsinki European Council. Today, it is appropriate to talk of a “common defence”. As an illustration, see also Articles 58(1) (b) and 127(1) of the EPP Discussion Paper (Frascati version, as amended, 27 January 2003).