

AMENDMENT FORM

Suggestion for amendment of Article : **10(3)** **In connection with
Art. 13(1-2) and Art. 15 (2)**

By Mr : **Emilio GABAGLIO**

Status: **Observer**

The Union shall have competence to coordinate the economic and
employment policies of the member states.

Explanation (if any)

= Economic and Employment policies should be kept on an equal footing (social Europe Working Group report).

= “Acquis” of TEC, TITLE VIII should be respected

Amendment Form

Suggestion for amendment of Article : I-11 point 3

By Ms: Linda McAvan

Status : - Member

Delete text “~~*The Union shall have competence to coordinate the economic and employment policies of the Member States*~~”

Replace text with “*The Member States shall coordinate their economic policies within the Union*”

Explanation (if any) :

Amendment Form

Suggestion for amendment of Article : I-11 point 2

By Ms: Linda McAvan

Status : - Member

Delete last sentence:

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 that area. ~~*The Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence.*~~

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : I-11

By Ms: Danuta Hübner

Status : - Member

<u>Article I-11: Categories of competence</u>	<u>Article I-11: Categories of competence</u>
<ol style="list-style-type: none">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 or for the implementation of acts adopted 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 that area. The Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence.3. The Union shall have competence to coordinate the economic and employment 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 in the Constitution, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions specific to	<ol style="list-style-type: none">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 or for the implementation of acts adopted 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 that area. The Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence.3. The Union shall have competence to coordinate the economic and employment policies of the Member States. <u>The Union may adopt initiatives to ensure coordination of Member States' social policies. Specific provisions shall apply to those Member States which have adopted the euro.</u>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. <u>Member States shall actively and unreservedly support the Union's common foreign and security policy in a spirit of loyalty and mutual solidarity and shall comply with the acts adopted by the Union in this area. They shall refrain from action</u>

<p>each area in Part Three of the Constitution.</p>	<p><u>contrary to the Union's interests or likely to impair its effectiveness.</u></p> <p>5. In certain areas and in the conditions laid down in the Constitution, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas. <u>Legally binding acts adopted by the Union on the basis of the provisions specific to supporting, coordinating or complementary actions of the areas in Part Three cannot entail harmonisation of Member States' laws or regulations.</u></p> <p>6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions specific to each area in Part Three of the Constitution.</p>
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Explanation (if any) : Adding the aforementioned sentences from the articles 14-16 make article 11 a really comprehensive source of definitions of categories of the competences.

FICHE AMENDEMENT

Proposition d'amendement à l'Article I-11

Déposée par Monsieur de Villepin

Qualité : - Membre

Article I-11 : Catégories de compétences

1. Lorsque la Constitution attribue à l'Union une compétence exclusive dans un domaine déterminé, celle-ci seule peut légiférer et adopter des actes juridiquement obligatoires, les États membres ne pouvant le faire eux-mêmes que par habilitation de l'Union ou pour la mise en œuvre des actes adoptés par celle-ci.
2. Lorsque la Constitution attribue à l'Union une compétence partagée avec les États membres dans un domaine déterminé, l'Union et les États membres ont le pouvoir de légiférer et d'adopter des actes juridiquement obligatoires dans ce domaine. ~~Les États membres exercent leur compétence dans la mesure où l'Union n'a pas exercé la sienne ou a décidé de cesser de l'exercer.~~ **Lorsque l'Union a exercé sa compétence dans un domaine déterminé, les États membres ne peuvent exercer la leur que dans le respect des limites et obligations fixées par la présente Constitution et par les actes adoptés par l'Union.**
3. L'Union dispose d'une compétence en vue d'assurer la coordination des politiques économiques et de l'emploi des États membres.
4. L'Union dispose d'une compétence pour la définition et la mise en œuvre d'une politique étrangère et de sécurité commune, y compris la définition progressive d'une politique de défense commune.
5. Dans certains domaines et dans les conditions prévues par la Constitution, l'Union a la compétence pour mener des actions pour appuyer, coordonner ou compléter l'action des États membres sans pour autant remplacer leur compétence dans ces domaines.
6. L'étendue et les modalités d'exercice des compétences de l'Union sont déterminées par les dispositions spécifiques à chaque domaine de la Partie III de la Constitution.

Explication éventuelle :

Paragraphe 2 : Les autorités françaises souhaitent insister sur la marge d'action des États membres dans les domaines de compétence partagée. La disposition selon laquelle « Les États membres exercent leur compétence dans la mesure où l'Union n'a pas exercé la sienne ou a décidé de cesser de l'exercer » est en effet de nature à empêcher les États membres d'adopter des dispositions nationales plus contraignantes dans des matières où l'Union aurait préalablement exercé sa compétence par l'élaboration de règles minimales.

AMENDMENT FORM

Title III: Union Competences

Suggestion for amendment of Article : Article I-11: Categories of competence

By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Lord MacLennan

Article I-11: Categories of competence

1. *Remove to fourth paragraph.*
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 that area. The Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its 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 or for the implementation of acts adopted by the Union.
3. The Union shall have competence to coordinate the economic and employment 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 in the Constitution, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.

6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions specific to each area in Part Three of the Constitution.

Explanation:

When the citizen opens the Constitution, he and she will hope to learn fairly easily what the Union is for, what it does and how much power it has. To start the catalogue of competences with a description of the narrow but small range of exclusive competences does not convey the right impression.

Much better to begin with the large range of shared competences, which is the normal delimitation between the Union and Member States, and then to insert the smaller range of exclusive competences later on.

AMENDMENT FORM

PART I, TITLE III: UNION COMPETENCES - REVISED TEXT

Amendment of Article I-11 §2 : Categories of competence

By: M.J.CHABERT
M.M.DAMMEYER
M.P.DEWAEL
Ms. C.du GRANRUT
M.C.MARTINI
M.R.VALCARCEL SISO

Status : - Member - Alternate — - Observer

Addition to Article I-11 §2:

2. When the Constitution confers on the Union a competence shared with the Members States in a specific area, the Union and the Members States **or their regions, according to the constitutional provisions in each Member State**, shall have the power to legislate and adopt legally binding acts in this area. **They** shall exercise their competences to the extent that the Union has not exercised, or has decided to cease exercising, its competence.

AMENDMENT FORM

Suggestion for amendment of Article 11 Part I of the Constitution

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Jari Vilén, Hannu Takkula and Esko Helle

Status : **Tiilikainen, Kiljunen, Vilén- Members**
 Peltomäki, Takkula and Helle - Alternates

Article I-11: 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 or for the implementation of acts adopted 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 that area. The Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence.
- ~~3. The Union shall have competence to coordinate the economic and employment 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 in the Constitution, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.
6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions specific to each area in Part Three of the Constitution.

Explanation (if any) :

For reasons of consistency and clarity, the overarching aim of the reform should be to place all areas of Union action – with the exception of common foreign and security policy - in the three basic categories of competence. As no sufficient grounds have been put forward for the introduction of a separate provision on the coordination of economic and employment policies, the proposed paragraph 3 ought to be deleted.

AMENDMENT FORM

Suggestion for amendment of Article : I-11

By Mr : Joschka Fischer

Status : - Member

Artikel I-11: Arten von Zuständigkeiten

- (1) Weist die Verfassung der Union für einen bestimmten Bereich eine ausschließliche Zuständigkeit zu, so kann nur sie gesetzgeberisch tätig werden und rechtlich bindende Rechtsakte erlassen; die Mitgliedstaaten dürfen in einem solchen Fall nur dann tätig werden, wenn sie von der Union hierzu ermächtigt worden sind, oder um von dieser erlassene Rechtsakte durchzuführen.
- (2) Weist die Verfassung der Union für einen bestimmten Bereich eine mit den Mitgliedstaaten geteilte Zuständigkeit zu, so haben die Union und die Mitgliedstaaten die Befugnis, in diesem Bereich gesetzgeberisch tätig zu werden und rechtlich bindende Rechtsakte zu erlassen. Die Mitgliedstaaten nehmen ihre Zuständigkeit wahr, sofern und soweit die Union ihre Zuständigkeit nicht ausgeübt hat oder entschieden hat, diese nicht mehr auszuüben.
- (3) Die Mitgliedstaaten koordinieren ihre Wirtschafts- und Beschäftigungspolitik in der Union. ~~Union ist dafür zuständig, die Koordinierung der Wirtschafts- und Beschäftigungspolitik der Mitgliedstaaten untereinander sicherzustellen.~~
- (4) Die Union ist dafür zuständig, eine gemeinsame Außen- und Sicherheitspolitik einschließlich der schrittweisen Festlegung einer gemeinsamen Verteidigungspolitik zu erarbeiten und zu verwirklichen.
- (5) In bestimmten Bereichen ist die Union unter den in der Verfassung genannten Bedingungen befugt, Maßnahmen zur Koordinierung, Ergänzung oder Unterstützung der Maßnahmen der Mitgliedstaaten durchzuführen, ohne dass dadurch die Zuständigkeit der Union für diese Bereiche an die Stelle der Zuständigkeit der Mitgliedstaaten tritt.
- (6) Der Umfang der Zuständigkeiten der Union und die Einzelheiten ihrer Ausübung ergeben sich aus den jeweiligen Bestimmungen zu den einzelnen Bereichen in Teil III der Verfassung.

Explanation (if any) :

Absatz 3: Formulierung auf der Grundlage des Acquis und der Beratungen der Arbeitsgruppe Ordnungspolitik.

AMENDMENT FORM

Suggestion for amendment of Article :art. I-11

By Mr :Ernâni Lopes and Manuel Lobo Antunes

Status : Member and alternate

Article I-11: 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 or for the implementation of acts adopted 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 that area. The Member States shall exercise their competence to the extent that the Union has not exercised, ~~or has decided to cease exercising,~~ its competence.

Explanation (if any) :The sentence « or has decided to cease exercising » should be deleted.

AMENDMENT FORM

Suggestion for amendment of Article : I-11

By Mr : Hain

Status : - Member -

1. *OK.*
2. *OK.*
3. *Delete.*
4. *Delete.*
5. *OK.*
6. *OK.*

Explanation (if any) :

3 and 4 : Repeated amendment removing these because they are policies, not categories of competence, and are covered in detail in Articles 14 and 15.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 10, n.º5

Déposée par Monsieur : Luís QUEIRÓ

Qualité : Suppléant

5. Nos domínios previstos neste Tratado, e nas condições nele estabelecidas, a União tem competência para levar a cabo acções destinadas a coordenar, completar ou apoiar a acção dos Estados-Membros, sem com isso substituir a competência destes nesses domínios.

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Article 10, paragraphe 5

Déposée par Monsieur : Luís QUEIRÓ

Qualité : Suppléant

5. Dans les domaines prévus dans ce Traité et dans les conditions y prévues, l'Union a la compétence pour mener des actions pour coordonner, compléter ou appuyer l'action des Etats membres sans pour autant remplacer leur compétence dans ces domaines.
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Explication :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 10, n.º3

Déposée par Monsieur : Luís QUEIRÓ

Qualité : Suppléant

3. A União dispõe de competência para **promover no seu seio a coordenação das** políticas económicas dos Estados-Membros.

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Article 10, paragraphe 3

Déposée par Monsieur : Luís QUEIRÓ

Qualité : Suppléant

3. L'Union dispose d'une compétence pour **promouvoir en son sein la coordination des** politiques économiques des Etats membres.

Explication :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 10, n.º4

Déposée par Monsieur : Luís QUEIRÓ

Qualité : Suppléant

4. A União dispõe de competência para definir **por decisão unânime dos seus Estados-Membros** uma política externa e de segurança comum, inclusive para definir gradualmente uma política de defesa comum.

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Article 10, paragraphe 4

Déposée par Monsieur : Luís QUEIRÓ

Qualité : Suppléant

4. L'Union dispose d'une compétence pour la définition, **statuant à l'unanimité de ses Etats membres**, d'une politique étrangère et de sécurité commune, y compris la définition progressive d'une politique de défense commune.
-

Explication :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Artigo 10, n.º2

Déposée par Monsieur : Luís QUEIRÓ

Qualité : Suppléant

2. Sempre que a Constituição atribua à União uma competência partilhada com os Estados-Membros num domínio determinado, a União e os Estados-Membros, **respeitando o princípio da subsidiariedade**, têm o poder de legislar e aprovar actos juridicamente vinculativos nesse domínio.
(21 palavras suprimidas)

Explication éventuelle :

A manutenção da última frase do texto original, representaria a perversão do princípio da subsidiariedade. (vide Artigo 8.º, n.º 3)

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Article 10, paragraphe 2

Déposée par Monsieur : Luís QUEIRÓ

Qualité : Suppléant

2. Lorsque la Constitution attribue à l'Union une compétence partagée avec les Etats membres dans un domaine déterminé, l'Union et les Etats membres, **dans le respect du principe de la subsidiarité**, ont le pouvoir de légiférer et d'adopter des actes juridiquement obligatoires dans ce domaine. **(20 mots supprimés)**.
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Explication :

Le maintien de la dernière phrase représenterait la perversion du principe de la subsidiarité. (voir article 8, n° 3)

FICHE AMENDEMENT

Proposition d'amendement à l'Article:	10
Déposée par Monsieur:	Erwin Teufel
Qualité:	Membre

Texte du Praesidium

Amendement proposé

- | | |
|--|---|
| (2) Weist die Verfassung der Union für einen bestimmten Bereich eine Zuständigkeit zu, die sie mit den Mitgliedstaaten zu teilen hat, so haben die Union und die Mitgliedstaaten die Befugnis, in diesem Bereich gesetzgeberisch tätig zu werden und rechtlich verbindliche Rechtsakte zu erlassen. Die Mitgliedstaaten nehmen ihre Zuständigkeit nur wahr, sofern und soweit die Union von ihrer Zuständigkeit keinen Gebrauch gemacht hat. | (2) Weist die Verfassung der Union für einen bestimmten Bereich eine Zuständigkeit zu, die sie mit den Mitgliedstaaten zu teilen hat, so haben die Union und die Mitgliedstaaten die Befugnis, in diesem Bereich gesetzgeberisch tätig zu werden und rechtlich verbindliche Rechtsakte zu erlassen. Soweit und so lange die Union eine Zuständigkeit nicht ausübt, verbleibt sie bei den Mitgliedstaaten. |
| (3) Die Union verfügt über die Zuständigkeit für die Koordinierung der Wirtschaftspolitik der Mitgliedstaaten. | (3) Die Mitgliedstaaten koordinieren ihre Wirtschaftspolitik im Rahmen der Union. |
| (5) In bestimmten Bereichen hat die Union unter in der Verfassung genannten Bedingungen die Zuständigkeit für die Durchführung von Maßnahmen zur Koordinierung, Ergänzung oder Unterstützung der Maßnahmen der Mitgliedstaaten, ohne dass hierdurch eine Zuständigkeit der Union für diese Bereiche an die Stelle der Zuständigkeit der Mitgliedstaaten tritt. | (5) In bestimmten Bereichen hat die Union unter in der Verfassung genannten Bedingungen die Zuständigkeit für die Durchführung von Maßnahmen zur Koordinierung, Ergänzung oder Unterstützung der Maßnahmen der Mitgliedstaaten, ohne dass hierdurch eine Zuständigkeit der Union für diese Bereiche an die Stelle der Zuständigkeit der Mitgliedstaaten tritt. Eine Rechtsharmonisierung ist in diesen Bereichen ausgeschlossen. |
| (6) Die Union macht von ihren | (6) Die Union macht von ihren |

Zuständigkeiten Gebrauch, um die in Teil II der Verfassung festgelegten Politiken gemäß den dort für die einzelnen Bereiche vorgesehenen speziellen Bestimmungen durchzuführen.

Zuständigkeiten Gebrauch, um die in Teil II der Verfassung festgelegten Politiken gemäß den dort für die einzelnen Bereiche vorgesehenen speziellen Bestimmungen durchzuführen. **In Teil II werden die Handlungsformen und Handlungsinstrumente den einzelnen Politikbereichen zugeordnet.**

Begründung:

Abs. 2

Diese Formulierung entspricht dem Prinzip der begrenzten Einzelermächtigung (Art. 8 Abs. 2), wonach die Zuständigkeiten grundsätzlich bei den Mitgliedstaaten liegen und der Union durch die Verfassung in Grenzen übertragen werden.

Abs. 3

Die wirtschaftspolitischen Zuständigkeiten sollen in der bestehenden Form im Verfassungsvertrag verankert werden.

Abs. 5

Die Reichweite der unterstützenden Maßnahmen sollte an dieser Stelle definiert werden.

Abs. 6

Die geforderte Zuordnung ist ein wichtiger Bestandteil einer klaren Kompetenzordnung.

FICHE AMENDEMENT

Proposition d'amendement à l'Article: 10

Déposée par Monsieur: Erwin Teufel

Qualité: Membre

Texte du Praesidium

Amendement proposé

- | | |
|--|---|
| (2) Lorsque la Constitution attribue à l'Union une compétence partagée avec les Etats membres dans un domaine déterminé, l'Union et les Etats membres ont le pouvoir de légiférer et d'adopter des actes juridiquement obligatoires dans ce domaine. Les Etats membres exercent leur compétence seulement et dans la mesure où l'Union n'a pas exercé la sienne. | (2) Lorsque la Constitution attribue à l'Union une compétence partagée avec les Etats membres dans un domaine déterminé, l'Union et les Etats membres ont le pouvoir de légiférer et d'adopter des actes juridiquement obligatoires dans ce domaine. Dans la mesure où et tant que l'Union n'exerce pas une compétence, celle-ci demeure aux Etats membres. |
| (3) L'Union dispose d'une compétence pour coordonner les politiques économiques des Etats membres. | (3) Les Etats membres coordonnent leurs politiques économiques au sein de l'Union. |
| (5) Dans certains domaines et dans les conditions prévues par la Constitution, l'Union a la compétence pour mener des actions pour coordonner, compléter ou appuyer l'action des Etats membres sans pour autant remplacer leur compétence dans ces domaines. | (5) Dans certains domaines et dans les conditions prévues par la Constitution, l'Union a la compétence pour mener des actions pour coordonner, compléter ou appuyer l'action des Etats membres sans pour autant remplacer leur compétence dans ces domaines. Dans ces domaines toute harmonisation des dispositions législatives et réglementaires des Etats membres reste exclue. |
| (6) L'Union exerce ses compétences pour | (6) L'Union exerce ses compétences pour |

mettre en œuvre les politiques définies
dans la Partie II de la Constitution
conformément aux dispositions
spécifiques à chaque domaine prévues
dans celle-ci.

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dans la Partie II de la Constitution
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spécifiques à chaque domaine prévues
dans celle-ci. **Dans la partie II, les
formes et les instruments d'action sont
attribués aux politiques spécifiques.**

Explication:

al. 2

Ce texte correspond au principe d'attribution (Art. 8, al. 2) selon lequel les compétences appartiennent en principe aux Etats membres et sont conférées à l'Union par la Constitution dans certaines limites.

al. 3

Les compétences en matière politique économique doivent être ancrées dans le Traité constitutionnel dans la forme actuelle.

al. 5

La portée des domaines d'action d'appui devrait être définie ici.

al. 6

L'attribution demandée est un élément important d'une répartition claire des compétences.

Proposition d'amendement à l'Article 10, Par. 3

Déposée par Madame Elena Paciotti et Monsieur Valdo Spini, Suppléants

IT Version

Articolo 10: Categorie di competenze

3. L'Unione ha competenza per il coordinamento delle politiche economiche, *sociali, fiscali e per l'occupazione* degli Stati membri.

Explication éventuelle:

Le politiche sociali, fiscali e per l'occupazione sono in certa misura non dissociabili dalle politiche economiche.

Proposition d'amendement à l'Article 10, Par. 3

Déposée par Madame Elena Paciotti et Monsieur Valdo Spini, Suppléants

EN Version

Article 10: Categories of competence

3. The Union shall have competence to co-ordinate the economic, *social, fiscal and employment* policies of the Member States.

Explication éventuelle:

To an extent, social, fiscal and employment policies cannot be dissociated from economic policies.

AMENDMENT FORM

Suggestion for amendment of Article 10:

By Mr Georges Jacobs - UNICE

Status: Observer

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 competences.
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 in the Constitution, the Union shall have competence to carry out actions to coordinate, supple-

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 competences.
3. ***Member States shall coordinate their economic policies at EU level.***
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 in the Constitution, the Union shall have competence to carry out actions to coordinate, sup-

ment 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.

plement 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.

Explanation:

This is consistent with the amendment tabled by UNICE concerning article 13

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Helle Thorning-Schmidt and Henrik Dam Kristensen

Status : Members

Article 10.1

'When the Union has 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.'

Explanation (if any) :

To make the sentence more clear and to avoid the use of the wording 'When the Constitution confers'. To be correct it is not the Constitution but the Member States which confer the competencies.

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Helle Thorning-Schmidt and Henrik Dam Kristensen

Status : Members

Article 10.2

'In areas with shared competence, 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.'

Explanation (if any) :

To make the sentence more clear and to avoid the use of the wording 'When the Constitution confers'. To be correct it is not the Constitution but the Member States which confer the competencies.

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Ms / Mr : Marie Nagy

Status : - Member - Alternate

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 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.
 - **education, vocational training and youth**
 - **culture/Audio-visual**
 - **sport**
 - **protection against disasters.**
6. The Union shall exercise its competences to implement the policies defined in Part **Three** of the Constitution in accordance with the provisions specific to each area which are there set out.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 10

Déposée par Monsieur Dominique de Villepin

Qualité : Membre

Article 10: Catégories de compétences

1. Lorsque la Constitution attribue à l'Union une compétence exclusive dans un domaine déterminé, celle-ci seule peut légiférer et adopter des actes juridiquement obligatoires, les Etats membres ne pouvant le faire eux-mêmes que par habilitation de l'Union.
2. Lorsque la Constitution attribue à l'Union une compétence partagée avec les Etats membres dans un domaine déterminé, l'Union et les Etats membres ont le pouvoir de légiférer et d'adopter des actes juridiquement obligatoires dans ce domaine. **Lorsque l'Union a exercé sa compétence dans un domaine déterminé, les Etats membres ne peuvent exercer la leur que dans le respect des limites et obligations fixées par la présente Constitution et par les actes adoptés par l'Union.**
3. L'Union dispose d'une compétence pour coordonner les politiques économiques des Etats membres.
4. L'Union dispose d'une compétence pour la définition et la mise en œuvre d'une politique étrangère et de sécurité commune, y compris la définition progressive d'une politique de défense commune, **qui pourrait conduire à une défense commune, si le Conseil européen en décide ainsi. Il recommande, dans ce cas, aux Etats membres d'adopter une décision dans ce sens conformément à leurs exigences constitutionnelles respectives.**
5. Dans certains domaines et dans les conditions prévues par la Constitution, l'Union a la compétence pour mener des actions pour coordonner, compléter ou appuyer l'action des Etats membres sans pour autant remplacer leur compétence dans ces domaines.
6. L'Union exerce ses compétences pour mettre en œuvre les politiques définies dans la Partie II de la Constitution conformément aux dispositions spécifiques à chaque domaine prévues dans celle-ci.

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article : 10.4

By Lord Tomlinson

Status : Alternate

Delete the words "competence to define and implement".

At end of paragraph add "...within a mandate determined by the European Council".

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 10.3

By Lord Tomlinson

Status : Alternate

Delete and replace with:

"The Union shall establish broad economic guidelines to assist member states with their co-ordination of economic policies."

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 10.2

By Lord Tomlinson

Status : - Alternate

Is both unclear and lacks balance - should be part of the redrafting.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Mr : Edmund Wittbrodt

Status : - Member

1. (new) There are three kinds of competences of the Union: exclusive competences, shared competences and supporting competences.

5. The Union ~~shall~~ **should** have competence to define and implement a common foreign and security policy, including ~~the progressive framing of~~ a common defence policy.

Explanation (if any) :

Point 1 will clarify categories of competencies.

Numeration of other articles should be changed.

I find the phrase « progressive framing » too vague.

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Lord Tomlinson

Status : - Alternate

This Article requires comprehensive redrafting in order to make the process explicitly clear. Competence rests with sovereign states which by their voluntary adhesion to the Treaty confer that competence upon the European Union. It is never the other way round. If in the redrafting the modalities by which competence is partitioned is shown clearly then the rest of Article 10 can be shorter and manifest the merits of clarity and simplicity.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article 10

By **Mr Andrew Duff, Mr Dimitrij Rupel, Mr Paul Helminger, Lord Macleannan and Mr István Szent-Iványi and Mr Lamberto Dini.**

Status: **Members and alternate members.**

Article 10: Categories of competence

- 10.1 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.
- 10.2 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 *and to coordinate policy*. The Member States shall exercise their competence only if and to the extent that the Union has not exercised its.
- 10.3 *Delete.*
- 10.4 *Delete.*
- 10.5 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.
- 10.6 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.

Explanation:

10.2 The draft needs to say explicitly that the EU has the power in the area of shared competence to coordinate the policies of the Member States. That being so, we can neatly delete 10.3 (coordination of economic policy) and 10.4 (coordination of foreign, security and defence policy).

AMENDMENT FORM

Suggestion for amendment of Article : 10 §6

By Mr : Joachim Wuermeling and Peter Altmaier

Status : - Alternates

(6) Die Union macht von ihren Zuständigkeiten *im Rahmen der in Teil II eingeräumten Einzelermächtigungen* Gebrauch, ~~*um die in Teil II der Verfassung festgelegten Politiken gemäß den dort für die einzelnen Bereiche vorgesehenen speziellen Bestimmungen durchzuführen.*~~

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 10 §5

By Mr : Joachim Wuermeling and Peter Altmaier

Status : - Alternates

(5) In bestimmten Bereichen ~~*hat*~~ *kann* die Union unter in der Verfassung genannten Bedingungen ~~*die Zuständigkeit für die Durchführung von*~~ Maßnahmen zur Koordinierung, Ergänzung oder Unterstützung der Maßnahmen der Mitgliedstaaten *treffen*, ohne dass hierdurch eine Zuständigkeit der Union für diese Bereiche an die Stelle der Zuständigkeit der Mitgliedstaaten tritt.

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Art. 10 par. 5

Déposée par Madame Cristiana MUSCARDINI

Qualité : Membre

Aggiungere dopo : «..., l'Unione » :

« **Puó** »

Dopo « settori » :

« **o ledere i loro interessi vitali** »

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Art. 10 par. 4

Déposée par Madame Cristiana MUSCARDINI

Qualité : Membre

Il paragrafo 4 é così riscritto :

« L'Unione può, sotto riserva di non ledere gli interessi vitali degli Stati, partecipare alla definizione e all'attuazione di una politica estera e di sicurezza comune, e, nel caso, incoraggiare la definizione progressiva di una politica comune di difesa. »

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article 10 :

Déposée par M. Pierre LEQUILLER, Président de la Délégation pour l'Union européenne

Article 10 :

Au point 4., après les mots « la définition » , insérer les mots « et la mise en œuvre » .

Explication éventuelle :

Après Saint-Malo, les Conseils européens de Cologne et de Laeken, les arrangements Union européenne-OTAN et la première opération militaire de gestion de crise de l'Union européenne en Macédoine, l'Union européenne a dépassé le stage exclusif de la définition progressive d'une politique de défense commune et a commencé à la mettre en œuvre.

AMENDMENT FORM

Suggestion for amendment of Article : 10 §3

By Mr : Joachim Wuermeling and Peter Altmaier

Status : - Alternates

(3) Die ~~Union verfügt über die Zuständigkeit für die Koordinierung der Mitgliedstaaten~~
~~koordinieren ihre~~ Wirtschaftspolitik ~~der Mitgliedstaaten im Rahmen der Union.~~

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article 10 :

Déposée par M. Pierre LEQUILLER, Président de la Délégation pour l'Union européenne

Article 10 :

Au point 3., après le mot « économique », insérer le mot « et sociale »

Explication éventuelle :

Les débats à la Convention et les travaux du groupe social ont montré l'importance d'associer les dimensions économiques et sociales. D'ores et déjà ces deux volets sont étroitement associés dans les politiques de l'Union.

AMENDMENT FORM

Suggestion for amendment of Article : 10 §2

By Mr : Joachim Wuermeling and Peter Altmaier

Status : - Alternates

(2) Weist die Verfassung der Union für einen bestimmten Bereich eine Zuständigkeit zu, die sie mit den Mitgliedstaaten zu teilen hat, so haben die Union und die Mitgliedstaaten die Befugnis, in diesem Bereich gesetzgeberisch tätig zu werden und rechtlich verbindliche Rechtsakte zu erlassen. *Die Mitgliedstaaten können ihre Zuständigkeit in einem Bereich geteilter Zuständigkeit ausüben, soweit die Union ihre Zuständigkeit nicht ausgeübt hat oder nicht mehr ausübt. Die Mitgliedstaaten nehmen ihre Zuständigkeit nur wahr, sofern und soweit die Union ihre Zuständigkeit keinen Gebrauch gemacht hat.*

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Art. 10 par. 2

Déposée par Madame Cristiana MUSCARDINI

Qualité : Membre

Sostituire a « Gli Stati membri esercitano la loro competenza soltanto se e nella misura in cui l'Unione non ha esercitato la propria » con :

« L'Unione esercita la sua competenza soltanto se e nella misura in cui gli Stati membri non hanno esercitato la propria »

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Art. 10 par. 1

Déposée par Madame Cristiana MUSCARDINI

Qualité : Membre

Aggiungere dopo « **in un determinato settore** » :
« **sotto riserva che questa non leda interessi vitali degli Stati** »

Explication éventuelle :

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Art. 10 par. 1

Déposée par Madame Cristiana MUSCARDINI

Qualité : Membre

Dopo la parola "*settore*" modificare:

"l'Unione legifera e adotta atti giuridicamente vincolanti previa consultazione degli Stati membri"

AMENDMENT FORM

Suggestion for amendment of Article 10: Catégories de compétences

By Ms Meglena Kuneva

Status : Member

1. *(sans changement)*
2. Lorsque la Constitution attribue à l'Union une compétence partagée avec les Etats membres dans un domaine déterminé, l'Union et les Etats membres ont le pouvoir de légiférer et d'adopter des actes juridiquement obligatoires dans ce domaine. **Lorsque l'Union a exercé sa compétence dans un domaine déterminé, les Etats membres ne peuvent exercer la leur que dans le respect des limites et obligations fixées par la présente Constitution et par les actes adoptés par l'Union.**
3. *(sans changement)*
4. L'Union dispose d'une compétence pour la définition et la mise en œuvre d'une politique étrangère et de sécurité commune, y compris la définition progressive d'une politique de défense commune, **qui pourrait conduire à une défense commune, si le Conseil européen en décide ainsi. Il recommande, dans ce cas, aux Etats membres d'adopter une décision dans ce sens conformément à leurs exigences constitutionnelles respectives.**
5. *(sans changement)*
6. *(sans changement)*

Explanation (if any) :

(2) La nouvelle rédaction est proposée en vue d'une plus grande clarté de la définition des compétences partagées

(4) L'ajout proposé est essentiel pour maintenir l'équilibre atteint par l'article 17 (1) TUE.

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Ms : Giannakou Marietta

Status : - Member

Article 10: Categories of Competence

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.

4. The Union shall have competence to define and implement a common foreign and security policy, *covering all areas of foreign and security policy*, including ~~the progressive framing of~~ a common defence policy.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article 10 :

By Mr Joschka Fischer

Status : - Member

Artikel 10: Arten von Zuständigkeiten

- (1) Weist die Verfassung der Union eine ausschließliche Zuständigkeit für einen bestimmten Bereich zu, so kann nur diese gesetzgeberisch tätig werden und rechtlich verbindliche Rechtsakte erlassen; die Mitgliedstaaten dürfen in einem solchen Fall nur dann tätig werden, wenn sie von der Union hierzu ermächtigt werden~~worden sind~~.
- (2) Weist die Verfassung der Union für einen bestimmten Bereich eine Zuständigkeit zu, die sie mit den Mitgliedstaaten zu teilen hat, so haben die Union und die Mitgliedstaaten die Befugnis, in diesem Bereich gesetzgeberisch tätig zu werden und rechtlich verbindliche Rechtsakte zu erlassen. Die Mitgliedstaaten nehmen ihre Zuständigkeit nur wahr, sofern und soweit die Union von ihrer Zuständigkeit keinen Gebrauch ~~gemacht hat~~.
- (3) Die Mitgliedstaaten koordinieren ihre Wirtschaftspolitik in der Union~~verfügt über die Zuständigkeit für die Koordinierung der Wirtschaftspolitik der Mitgliedstaaten~~.
- (4) Die Union verfügt über die Zuständigkeit für die Erarbeitung und Verwirklichung einer gemeinsamen Außen- und Sicherheitspolitik einschließlich der schrittweisen Festlegung einer gemeinsamen Verteidigungspolitik.
- (5) In bestimmten Bereichen hat die Union unter in der Verfassung genannten Bedingungen die Zuständigkeit für die Durchführung von Maßnahmen zur Koordinierung, Ergänzung oder Unterstützung der Maßnahmen der Mitgliedstaaten, ohne dass hierdurch eine Zuständigkeit der Union für diese Bereiche an die Stelle der Zuständigkeit der Mitgliedstaaten tritt.
- (6) Die Union macht von ihren Zuständigkeiten Gebrauch, um die in Teil II der Verfassung festgelegten Politiken gemäß den dort für die einzelnen Bereiche vorgesehenen speziellen Bestimmungen durchzuführen.

Explanation (if any) :

Allgemeiner Hinweis zu Art. 10-15: Eine abschließende Prüfung der Zuweisung der einzelnen Politikbereiche kann erst im Licht der Vorlage des Teils II des Verfassungsvertrags zu den Politiken der Union vorgenommen werden.

Die neue Formulierung in Art. 10 Absatz 3 entspricht dem Acquis.

AMENDMENT FORM

Suggestion for amendment of Article: 10

By Ms / Mr : Mr. Ms. Irena Belohorska – member, Jan Zahradil – member, Mr. Jens-Peter Bonde - member, Mr. David Heathcoat-Amory - member, Mr. William Abitbol - alternate, Mr. Peter Skaarup - member, Mr. Per Dalgaard - alternate, Mr. Esko Seppänen – alternate, and Mr. John Gormley - alternate.

Status : - Member - Alternate

Article 10: Categories of competence

1. When the Treaty confers on the Europe of Democracies exclusive competence in a specific area, the Europe of Democracies may legislate and adopt legally binding acts.
2. When the Treaty confers on the Europe of Democracies a competence shared with the Member States in a specific area, the Europe of Democracies and the Member States shall have the power to legislate and adopt legally binding acts in this area. The Europe of Democracies shall exercise their competence only if and to the extent that the member state has not exercised its.
3. The Europe of Democracies does not have competence to coordinate the economic policies of the Member States with binding regulations.
4. The Europe of Democracies does not have competence to define and implement a common foreign and security policy, including the progressive framing of a common defence policy, but can be in charge of a voluntary co-operation between the member states.
5. In certain areas and in the conditions laid down in the Treaty, the Europe of Democracies 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 Europe of Democracies shall exercise its competences to implement the policies defined in Part Two of the Treaty in accordance with the provisions specific to each area which are there set out.

AMENDMENT FORM

Suggestion for amendment of Article 10:

By Elmar BROK, Jozsef SZAJER, Erwin TEUFEL, Jan Jacob VAN DIJK, René VAN DER LINDEN, Frantisek KROUPA, John CUSHNAHAN, Teresa ALMEIDA GARRETT, Peter ALTMAIER, Jan FIGEL, Piia Noora KAUPPI, Göran LENNMARKER, Hanja MAIJ-WEGGEN, Reinhard RACK, Joachim WÜRMELING

on behalf of the EPP Convention Group

Status: Members and Alternates

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

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, ***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.

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).

AMENDMENT FORM

Suggestion for amendment of Article : 10: Categories of competence

By the Earl of Stockton MEP

Status : - Member - Alternate

3. (New) DELETE.

4. (New) DELETE.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article 10

By Mr : Jan KOHOUT

Status : - Member

Art. 10.2 and Art. 12.3:

Avoid the repetition of the "occupied fields rule".

Art. 10.3 and 10.4, Art. 13 and Art. 14:

Avoid the repetition of the provisions on the coordination of economic policies and the common foreign and defence policy are repeated.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 10

By MM : Kiljunen and Vanhanen

Status : - Members

-
1. [As Presidency draft]
 2. When the Constitution confers on the Union a competence shared with the Member States in a specific area, until the Union has acted with regard to a certain matter, the Member States are entitled to act in respect thereof. When the Union has acted in respect of a certain matter, the Member States shall respect the obligations imposed on them by the relevant Union measures.
 3. **[deleted]**
 4. The Union shall **[delete]** 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 in the Constitution, the Union shall have competence to carry out actions to coordinate, supplement or support the actions of the Member States. In such areas, except in respect of matters which shall be identified specifically in the applicable legal basis, action by the Union shall not entail the use of instruments having direct applicability or leading to the harmonisation of the laws of Member States.
 6. [As Presidency draft]
-

Explanation (if any) : *For the sake of clarity, this provision should bring together all the elements necessary for the defining of the three categories of Union competence. These should be kept separate from the provisions indicating the various substantive policy areas belonging to each competence category (Articles 11-15). The above definitions are intended to bring the definitions of the three categories of competence closer to the established case law of the Court of Justice and the recommendations of the working group on complementary competence. As regards the areas for supporting action, in particular, there should also be a possibility, in matters identified in the relevant provisions of Part Two, to adopt of measures having direct applicability or entailing harmonisation of the Member States' laws or regulations.*

FICHE AMENDEMENT

Proposition d'amendement à l'Article 10 para 3:

Déposée par M. Olivier DUHAMEL
M. Luis MARINHO
Mme Anne VAN LANCKER
M. Klaus HÄNSCH
M. Caspar EINEM

Qualité: - Membres

Mme Pervenche BERÈS
Mme Maria BERGER
M. Carlos CARNERO
Mme Elena PACIOTTI
Mme Helle THORNING-SCHMIDT

Qualité: - Suppléants

Article 10: Catégories de compétences

3. L'Union dispose d'une compétence pour coordonner les politiques économiques, **sociales et de l'emploi** des Etats membres.
-

Explication éventuelle:

Article 10: Categories of competence

1. When the Constitution confers on the Union exclusive competence in a specific area, **the Member States may only act where they have been authorised to do so in accordance with the applicable Union procedures.**
2. When the Constitution confers on the Union a competence shared with the Member States in a specific area, **the Member States are entitled to act with regard to a certain matter until the Union has acted in respect thereof. When the Union has acted in respect of a certain matter, the Member States shall respect the obligations imposed on them by the relevant Union measures.**
3. **[paragraph 3 deleted]**
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 in the Constitution, the Union shall have competence to carry out actions to coordinate, supplement or support the actions of the Member States. **In such areas, except in respect of matters which shall be identified specifically in the applicable legal basis, action by the Union shall not entail the use of instruments having direct applicability or leading to the harmonisation of the laws of Member States.**
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.

Commentary:

For the sake of clarity, this provision should bring together all the elements necessary for the defining of the three categories of Union competence some of which are currently scattered around in

Praesidium's draft Articles 11-15. (Thus, the definition of the categories of competence would be kept separate from the question of allocating the various substantive policy areas to each competence category.) The above definitions are intended to bring the definitions of the categories closer to the established case law of the Court of Justice and the recommendations of the working group on complementary competence.

For reasons of consistency and clarity, the overarching aim of the reform should be to place all areas of Union action – with the exception of common foreign and security policy - in the three basic categories of competence. As no sufficient grounds have been put forward for the introduction of a separate provision on the coordination of economic policies, the proposed para. 3 ought to be deleted.

As regards the areas for supporting action, in particular, there should also be a possibility, in matters identified in the relevant provisions of Part Two, to adopt of measures having direct applicability or entailing harmonisation of the Member States' laws or regulations.

AMENDMENT FORM

Suggestion for amendment of Article 10 :

By Mr : Ingvar SVENSSON

Status : - Alternate

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.~~

~~3.-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.

~~4.-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.

Explanation:

Article 10 is about Categories of competence. The economic policies of the Member States and a common foreign and security policy are **not** categories of competence. These competences are defined in article 13 and 14, respectively.

AMENDMENT FORM

Suggestion for amendment of Article 10

By Prof Peter Serracino-Inglott - Member

Mr John Inguanez - Alternate

Add to sub-article (1), 'as specified in Article 11' ;
Add to sub-article (2), 'as specified in Article 12' ;
Add to sub-article (3), 'as specified in Article 13' ;
Add to sub-article (4), 'as specified in Article 14' ;
Add to sub-article (5), 'as specified in Article 15' .

Explanation (if any) :

To comply with the usual practice in legal drafting.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 10

Déposée par Madame ou Monsieur : Mme PALACIO

Qualité : - Membre - Suppléant

Article 10: Catégories de compétences

1. Lorsque la Constitution attribue à l'Union une compétence exclusive dans un domaine déterminé, celle-ci seule peut légiférer et adopter des actes juridiquement obligatoires, les Etats membres ne pouvant le faire eux-mêmes que par habilitation de l'Union.

L'instrument d'habilitation délimite explicitement les objectifs, le contenu et la portée de l'habilitation et fixe les modalités de contrôle par les Institutions de l'Union.

2. Lorsque la Constitution attribue à l'Union une compétence partagée avec les Etats membres dans un domaine déterminé, l'Union et les Etats membres ont le pouvoir de légiférer et d'adopter des actes juridiquement obligatoires dans ce domaine. Les Etats membres exercent ~~leur~~ des compétences s seulement et dans la mesure où l'Union n'a pas exercé la sienne.

- ~~3. [L'Union dispose d'une compétence pour coordonner les politiques économiques des Etats membres].~~ L'Union est compétente pour veiller à la coordination des politiques économiques des Etats membres.

4. L'Union dispose d'une compétence pour la définition et la mise en œuvre d'une politique étrangère et de sécurité commune, y compris la définition progressive d'une politique de défense commune.
5. Dans certains domaines et dans les conditions prévues par la Constitution, l'Union a la compétence pour mener des actions pour coordonner, compléter ou appuyer l'action des Etats membres sans pour autant remplacer leur compétence dans ces domaines.
6. L'Union exerce ses compétences pour mettre en œuvre les politiques définies dans la Partie II de la Constitution conformément aux dispositions spécifiques à chaque domaine prévues dans celle-ci.

Explication :

Il faut fixer les règles minimales pour que l'Union puisse habilitier les États membres à adopter des actes juridiques dans un domaine de compétence exclusive de l'Union.

La rédaction de la deuxième phrase du paragraphe 2 est un peu confuse. L'amendement essaye de la clarifier.

Pour le paragraphe relatif aux politiques économiques voire l'article 13.

AMENDMENT FORM

Suggestion for amendment of Article : 10

By: Ms Linda McAvan

Status : - Member - Alternate

New 10.1

The Union shall exercise three categories of competence: exclusive, shared and complementary.

Explanation: clarifies what follows

Renumber remaining paras and amend as follows:

10.1 When the Constitution confers on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts. (*delete rest*)

Explanation: unnecessary wording

10.2 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. (*delete rest*).

Explanation: unnecessary wording

10.3 Delete

Explanation: this section is about categories of competences, not specific competences...move to article 12

10.4 Delete

Explanation: this section is about categories of competences, not specific competences...move to article 12

10.5 In certain areas and in the conditions laid down in the Constitution, the Union shall have competence to carry out actions to coordinate, **complement** or support the actions of the Member States, without thereby superseding their competence in these areas.

Explanation: wording should be same as in article 15 which speaks of complementary action.

Article 10.6 No change

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Mr : Gianfranco FINI

Status : - Member

Articolo 10: Categorie di competenze

1. Quando la Costituzione attribuisce all'Unione una competenza esclusiva in un determinato settore, l'Unione è l'unica a poter legiferare e adottare atti giuridicamente vincolanti. Gli Stati membri non possono farlo autonomamente se non previa autorizzazione dell'Unione.
2. Quando la Costituzione attribuisce all'Unione una competenza condivisa con gli Stati membri in un determinato settore, l'Unione e gli Stati membri hanno la facoltà di legiferare e adottare atti giuridicamente vincolanti in tale settore. **In accordo con il principio di sussidiarietà tale facoltà dell'Unione dovrà essere esercitata in modo da essere sempre complementare e mai sostitutiva rispetto a quella degli Stati membri.** ~~Gli Stati membri esercitano la loro competenza soltanto se e nella misura in cui l'Unione non ha esercitato la propria.~~
3. L'Unione ha competenza per il coordinamento delle politiche economiche degli Stati membri.
4. L'Unione ha competenza per la definizione e l'attuazione di una politica estera, di sicurezza e di **difesa** comune. ~~e di sicurezza comune, compresa la definizione progressiva di una politica comune di difesa.~~
5. Per taluni settori e alle condizioni previste dalla Costituzione, l'Unione ha competenza per svolgere azioni intese a coordinare, completare o sostenere l'azione degli Stati membri, senza tuttavia sostituirsi alla loro competenza in tali settori.
6. L'Unione esercita le proprie competenze per attuare le politiche definite nella parte II della Costituzione conformemente alle disposizioni specifiche a ciascun settore

previste dalla Costituzione stessa.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Ms / Mr : **Johannes Voggenhuber, Eva Lichtenberger**

Status : - Member - Alternate

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 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.
 - **education, vocational training and youth**
 - **culture/Audio-visual**
 - **sport**
 - **protection against disasters.**
 6. The Union shall exercise its competences to implement the policies defined in Part **Three** of the Constitution in accordance with the provisions specific to each area which are there set out.
-

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Mr Kirkhope MEP

Status : Member

1. When the simplifying Treaty confers on the Community exclusive competence in a specific area, only the Community may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Community providing such exclusivity has been unanimously agreed.
2. When the simplifying Treaty confers on the Community a competence shared with the Member States in a specific area, the Community and the Member States shall have the power to legislate and adopt legally binding acts in this area. The Community should exercise its competence only if and to the extent that the Member States have not exercised theirs.
3. DELETE
4. DELETE
5. In certain areas and in the conditions laid down in the simplifying Treaty, the Community 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, providing such actions have been unanimously agreed.
6. The Community shall exercise its competences to implement the policies defined in Part Two of the simplifying Treaty in accordance with the provisions specific to each area which are there set out.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Mr : Georgios Katiforis

Status : - Member

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 **european** foreign and security policy, including the progressive framing of a common **european** 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.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : Article 10.4

By Mr : Esko Seppänen

Status : Alternate

Unionilla on toimivalta määritellä ja toteuttaa yhteistä ulko- ja turvallisuuspolitiikkaa vain jos Eurooppa-neuvosto niin yksimielisesti päättää.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article 10

By Michael Frendo - Member

Add to sub-article (1), 'as specified in Article 11' ;
Add to sub-article (2), 'as specified in Article 12' ;
Add to sub-article (3), 'as specified in Article 13' ;
Add to sub-article (4), 'as specified in Article 14' ;
Add to sub-article (5), 'as specified in Article 15' .

Explanation (if any) :

To comply with the usual practice in legal drafting.

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Ms / Mr :

Ján FIGEL (Slovakia, National Council of the Slovak Republic)

Status : - **Member** - **Alternate**

Paragraph 4 will be changed:

The Union shall have competence to define and implement a common foreign and security policy, including ~~the progressive framing of a common defence policy~~

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of: Article 10

By: Lamberto Dini

Status : - Member

Aim:

Reformulate Article 10.4:

"The Union shall have competence to define and implement a common foreign, security **and defense** policy.

Explanation :

As formulated, Article 10.4, which refers to "the progressive framing of a common defence policy", is undoubtedly a step backwards. A distinction exists between a common policy for defence, a common defense policy and a common defence, three concepts that imply an increasing degree of integration. A common defence involves the creation of integrated structures and is referred to in Article 17 of the EU Treaty as an objective that is not for the immediate future but which can be attained through a simple decision of the European Council without having to revise the Treaties "...which might lead to a common defence,

if the Council should so decide"). This is the most advanced formulation and should be incorporated in Article 10 of the Constitution.

AMENDMENT FORM

Suggestion for amendment of Article 10

By : G.M de Vries,
F.C.G.M Timmermans (for article 10.6)
R. van der Linden (for article 10.6)

Th. J.A.M. de Bruijn,
W. van Eekelen (for article 10.6)

Status : Members - Alternate Members

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 and the Member States 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 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 and the Member States shall have competence in the area of freedom, security and justice, as defined in part II of this Constitution, to legislate and take coordinating or supporting action however, the exercise of that competence may not result in Member States being prevented from exercising their competence.

[6-7](#) 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.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article 10

By Dolores Cristina

- Alternate

Add to sub-article (1), 'as specified in Article 11' ;
Add to sub-article (2), 'as specified in Article 12' ;
Add to sub-article (3), 'as specified in Article 13' ;
Add to sub-article (4), 'as specified in Article 14' ;
Add to sub-article (5), 'as specified in Article 15' .

Explanation (if any) :

To comply with the usual practice in legal drafting.

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Mr Péter Balázs

Status : ☒ Member - ☐ Alternate

Article 10: Categories of competence

„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.~~

Explanation (if any):

The current second sentence seems not to be in line with the principle of subsidiarity.

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member ~~—Alternate~~

Artikel 10: Arten von Zuständigkeiten

(1) Die Union verfügt über legislative, exekutive und judikative Zuständigkeiten. Der Umfang dieser Zuständigkeiten ergibt sich aus den Bestimmungen des Teils II dieser Verfassung.

~~(2)~~ Weist **diese** Verfassung der Union ~~eine ausschließliche Zuständigkeit~~ für einen bestimmten Bereich **eine ausschließliche Zuständigkeit** zu, so ~~kann~~ **darf in diesem Bereich** nur diese gesetzgeberisch tätig werden und rechtlich verbindliche Rechtsakte erlassen; die Mitgliedstaaten dürfen ~~hier in einem solchen Fall~~ nur dann tätig werden, wenn sie von der Union hierzu ermächtigt worden sind.

~~(3)~~ Weist **diese** Verfassung der Union für einen bestimmten Bereich eine **geteilte** Zuständigkeit zu, ~~die sie mit den Mitgliedstaaten zu teilen hat~~, so **dürfen in diesem Bereich** ~~haben~~ die Union und die Mitgliedstaaten ~~die Befugnis, in diesem Bereich gesetzgeberisch tätig zu werden und rechtlich verbindliche Rechtsakte zu erlassen~~. Die Mitgliedstaaten **verlieren hier** ~~nehmen~~ ihre Zuständigkeit ~~nur wahr~~, sofern und soweit die Union von ihrer Zuständigkeit ~~keinen~~ Gebrauch gemacht hat.

~~(3)~~ Die Union verfügt über die Zuständigkeit für die Koordinierung der Wirtschaftspolitik der Mitgliedstaaten.

~~(4)~~ Die Union verfügt über die Zuständigkeit für die Erarbeitung und Verwirklichung einer gemeinsamen Außen- und Sicherheitspolitik einschließlich der schrittweisen Festlegung einer gemeinsamen Verteidigungspolitik.

~~(4)~~ In bestimmten Bereichen hat die Union unter in der Verfassung genannten Bedingungen die Zuständigkeit für die Durchführung von Maßnahmen zur Koordinierung, Ergänzung oder

~~Unterstützung der Maßnahmen der Mitgliedstaaten, ohne dass hierdurch eine Zuständigkeit der Union für diese Bereiche an die Stelle der Zuständigkeit der Mitgliedstaaten tritt.~~

Weist diese Verfassung der Union für einen bestimmten Bereich eine ergänzende Zuständigkeit zu, so dürfen in diesem Bereich die Union und die Mitgliedstaaten tätig werden. Macht die Union von ihrer Zuständigkeit Gebrauch, so bleibt die Zuständigkeit der Mitgliedstaaten hiervon unberührt.

~~(6) Die Union macht von ihren Zuständigkeiten Gebrauch, um die in Teil II der Verfassung festgelegten Politiken gemäß den dort für die einzelnen Bereiche vorgesehenen speziellen Bestimmungen durchzuführen.~~

Explanation (if any) :

neuer Absatz 1:

Diese Bestimmung stellt klar, daß der Union in allen drei Bereichen der hoheitlichen Gewalt Zuständigkeiten übertragen worden sind, und daß sich deren konkreter Umfang jeweils aus Teil II der Verfassung ergibt.

Absätze 1, 2 und 5 (jetzt Absätze 2, 3 und 4):

Die Beschreibung der Zuständigkeitsarten muß so einfach und klar wie möglich erfolgen. Der Wortlaut sollte nur dort unterschiedlich sein, wo auch die Unterschiede der Zuständigkeitsarten liegen. Zudem ist "unterstützende Maßnahmen" begrifflich keine Zuständigkeitsart.

Absätze 3 und 4:

Diese Bestimmungen beschreiben keine Zuständigkeitsart. Sie sind in Artikel 14 und Artikel 15 Absatz 2 zu erwähnen, die wie folgt lauten sollten:

Art. 14. Die Union verfügt über die Zuständigkeit zur Erarbeitung und Verwirklichung einer Gemeinsamen Außen- und Sicherheitspolitik.

Art. 15. (2) Die Union verfügt über die ergänzende Zuständigkeit für die Koordinierung der Wirtschafts-, Beschäftigungs- und Sozialpolitiken der Mitgliedstaaten.

Absatz 6:

Der Verweis auf Teil II der Verfassung sollte nur einmal und zwar für alle Zuständigkeitsarten erfolgen (siehe Absatz 1).

Die Zuordnung einzelner Politikbereiche in Artikel 11 bis 13 (ex-Art. 15) zu den in Artikel 10 Absatz 2 bis 4 aufgeführten Zuständigkeitsarten ist im wesentlichen nur für die Gesetzgebung zwingend erforderlich. Dadurch soll den Bürgerinnen und Bürgern verdeutlicht werden, in welchem Bereich die Union gesetzgeberisch tätig werden darf und mit welchen Konsequenzen dies für die Gesetzgebungskompetenz der Mitgliedstaaten verbunden ist.

AMENDMENT FORM

Suggestion for amendment of Article : 10, para 5

By Mr : MacCormick, Neil

Status : - Alternate

5- In certain areas....the actions of the Member States *or of their regional authorities or other internal territorial entities*, without thereby superseding their competence in these areas.

Explanation

For the avoidance of doubt, it should be made explicit that these authorities also do not have their powers superseded in this case.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 10

Déposée par Madame ou Monsieur : Rt Hon David Heathcoat-Amory, MP

Qualité : - Membre *X* - Suppléant

10.1 Delete

Explication éventuelle

There should be no exclusive competences : the Union should operate through voluntary agreements by participating states.

10.1 Delete « Constitution confers », insert « Treaty grants » [falls if above adopted]

Explication éventuelle

The powers of the Union are arise from and are attributed by Member States

10.1 Delete replace with « By this Treaty, the Member States confer on the Union certain exclusive and shared competences and define areas where the Union may take supporting action. The Union may exercise its competences only to the extent laid down in this Treaty. The conferment of powers on the Union shall not in itself restrict the powers of the Member States in respect of the same subject matter except in the area of exclusive competence expressly conferred on the Union by this Treaty. »

Explication éventuelle

This Article should make clear that the Member States confer competence, through this Treaty, and do not have it conferred upon them. Paragraph 1 should be substantially redrafted to reflect this, and also to explain the various ways in which competence might be partitioned. This would clarify and simplify the whole of the rest of the Article.

10.2 Delete « Constitution confers on the Union », insert « Treaty provides for Union activity in »

Explication éventuelle

The Union is a sum of its parts, not a state

10.2 Delete from «The Member States shall exercise». Insert « When an agreement has been reached by common accord, Member States shall refrain from legislating in the same area »

Explication éventuelle

The emphasis is here placed on national legislation, rather than what national parliaments are forbidden to do

10.3 Delete

Explication éventuelle

Member States, not the Union's institutions, should coordinate their economic policies between themselves

10.4 Delete

Explication éventuelle

The Union in the present treaties is the association of states coming together for common purposes, as made clear in Article 1 of both the Treaty on European Union and the Treaty Establishing the European Communities, which state that « the High Contracting Parties establish among themselves a European Union/Community ». By contrast, the Union set up by this constitution will be a legal body separate from the Member States.

10.5 At end, add «and incurring only administrative costs»

Explication éventuelle

Without this amendment, the intensity of the Union's action can be augmented by the high level of expenditure involved

10.6 At end, add «In any event of conflict between the two Parts of this Treaty, that element which is most favourable to the rights of the nation state is supreme»

Explication éventuelle

Where one part of the treaty evolves independently of the other, a conflict in interpretation may occur.

10.6 At end, add «and the amending procedures for each part shall in all cases be identical»

Explication éventuelle

It is essential to establish beyond doubt that all parties of this Treaty shall be amended in the same way

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 10

Déposée par Madame ou Monsieur : **M. Louis Michel, M. Karel de Gucht, M. Elio di Rupo, Mme Anne Van Lancker, membres de la Convention et M. Pierre Chevalier et Mme Marie Nagy, membres suppléants de la Convention**

Qualité : - Membre - Suppléant

-
1. Lorsque la Constitution attribue à l'Union une compétence exclusive dans un domaine déterminé, celle-ci seule peut légiférer et adopter des actes juridiquement obligatoires, les Etats membres ne pouvant le faire eux-mêmes que par habilitation de l'Union.
 2. Lorsque la Constitution attribue à l'Union une compétence partagée avec les Etats membres dans un domaine déterminé, l'Union **fixe les règles ou coordonne les politiques des Etats membres. L'Union** et les Etats membres ont le pouvoir de légiférer et d'adopter des actes juridiquement obligatoires dans ce domaine. Les Etats membres exercent leur compétence seulement et dans la mesure où l'Union n'a pas exercé la sienne.
 3. L'Union dispose d'une compétence pour coordonner les politiques économiques, **sociales et d'emploi** des Etats membres.
 4. L'Union dispose d'une compétence pour la définition et la mise en œuvre d'une politique étrangère et de sécurité commune, y ~~compris la définition progressive~~ d'une politique de défense commune.
 5. Dans certains domaines et dans les conditions prévues par la Constitution, l'Union a la compétence pour mener des actions pour coordonner, compléter ou appuyer l'action des Etats membres sans pour autant remplacer leur compétence dans ces domaines.
 6. L'Union exerce ses compétences pour mettre en œuvre les politiques définies dans la Partie II de la Constitution conformément aux dispositions spécifiques à chaque domaine prévues dans celle-ci.

Explication éventuelle :

Paragraphe 2 : Les compétences partagées peuvent être exercées soit par l'adoption de règles soit par une coordination des politiques.

Paragraphe 3 : Il convient d'assurer une coordination équilibrée entre la politique économique, sociale et de l'emploi.

Paragraphe 4 : le terme définition progressive, s'il pouvait se comprendre à titre de compromis politique dans une phase antérieure, doit être évité dans le cadre d'une Constitution.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 10

Déposée par Monsieur : Hannes FARNLEITNER

Qualité : - Membre

4. The Union shall have competence to define and implement a common foreign and security policy, including **a clause on mutual solidarity as well as** the progressive framing of a common defence policy **with the aim of establishing a common defence.**

(...)

Explication:

Since there has been a broad consensus in the Convention that the common defence policy should be strengthened the wording of Art.17 TEU should be adapted accordingly. See also Art.4c as proposed by the EPP.

AMENDMENT FORM

Suggestion for amendment of Article :art. 10

By Ms / Mr :Ernâni Lopes

Status : - Member

Article 10: Categories of competencies

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. In certain areas and in the conditions laid down in the Constitution, the Union shall have competence to carry out actions to co-ordinate, supplement or support the actions of the Member States, without thereby superseding their competence in these areas. **Legally binding acts adopted by the Union on the basis of the provisions specific to these areas in Part Two cannot entail harmonisation of Member States' laws or regulations.**
4. The Union shall exercise its competencies 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.
- ~~3. The Union shall have competence to co-ordinate 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 in the Constitution, the Union~~

~~shall have competence to carry out actions to co-ordinate, 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.~~

AMENDMENT FORM

Suggestion for amendment of Article : 10

By Mr Hain

Status : Member

-
1. By this Constitution, the Member States confer on the Union certain exclusive and shared competences and define areas where the Union may take supporting action. The Union may exercise its competences only to the extent laid down in this Constitution. The conferment of powers on the Union shall not in itself restrict the powers of the Member States in respect of the same subject matter except in the area of exclusive competence [expressly] conferred on the Union by this Constitution.

1.bis 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 may do so only if empowered by the Union.
 2. In the area of shared competence, the Union and the Member States shall have the power to legislate and adopt legally binding acts in this area. When the Union has acted in respect of a certain matter, the Member States shall respect the obligations imposed on them by the relevant Union measures [and the relevant provisions of this Constitution].
 3. *Delete. The Praesidium paragraph has been deleted, as it is inappropriate here and goes beyond the current Treaties.*
 4. The Union shall have a common foreign and security policy as defined by [the Member States through] the European Council which it shall implement in accordance with the relevant provisions in Part II of the Constitution. This will include all questions relating to the security of the Union, including the progressive framing of a common defence policy, which might lead to a common defence, should the European Council so decide.
 4. *Praesidium draft is okay.*
 5. *Praesidium draft is okay.*

Explanation (if any) :

Overall, this Article should make clear that the Member States confer competence, through this Treaty, and do not have it conferred upon them. Paragraph 1 should be substantially redrafted to reflect this, and also to explain the various ways in which competence might be partitioned. This would clarify and simplify the whole of the rest of the Article.

The statement of exclusive Union competence makes sense as Article 2 and flows from our suggested Article 1. It is similar to the Praesidium's suggested Article 1.

Paragraph 2 explains areas of shared competence, in a way that flows naturally from the explanation of exclusive competence in paragraph 1 and 1 bis, and will make subsequent Articles simpler.

I have slightly redrafted 'Competence to define and implement' as it is potentially misleading in the context of a single institutional structure.

AMENDMENT FORM 5

A. Amendment of Article 10 § 2

By: **M.J.CHABERT**

M.M.DAMMEYER

M.P.DEWAEL

Ms. C.du GRANRUT

M.C.MARTINI

M.R.VALCARCEL SISO

Status : - **Member** - **Alternate** - **Observer**

"RECOGNITION OF THE ROLE OF REGIONAL AND LOCAL AUTHORITIES"

Addition to Article 10 §2

*When the Constitution confers on the Union a competence shared with the Members States in a specific area, the Union and the Members States **or their regions, according to the constitutional provisions in each Member State**, shall have the power to legislate and adopt legally binding acts in this area. **They** shall exercise their competences only if and to extent that the Union has not exercised its.*

Explanation

AMENDMENT FORM

Suggestion for amendment of Article 10: Categories of competence

By Mr Dick Roche, Representative of the Government of Ireland

Status : Member

Article 10: Categories of competence – paragraph 2

2. When the **Member States in this** Constitution confers on the Union a competence shared with them ~~in 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 **competence or has ceased to exercise it.**

Explanation (if any) :

To bring greater clarity and certainty.

AMENDMENT FORM

Suggestion for amendment of Article 10: Categories of competence

By Mr Dick Roche, Representative of the Government of Ireland

Status : Member

Article 10: Categories of competence – paragraph 4

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~~ **with the objectives and principles set out in [insert reference to location of objectives and principles in Treaty].**

Explanation (if any) :

To reflect the existing wording of Article 11 TEU. The framing of common defence policy is comprehended within the above wording and is better expanded upon in Article 14.

All aspects of CFSP should more properly be set out in Article 14 and in subsequent Articles dealing with CFSP issues.

AMENDMENT FORM

Suggestion for amendment of Article 10 :

By Pervenche Berès, Olivier Duhamel, Maria Berger, Jacques Floch, Alain Lamassoure, Anne Van Lancker, Luis Marinho, Helle Thorning-Schmitt :

Status : Member

ARTICLE 10 : Catégories de compétences

alinéa 2 :

2. Lorsque la Constitution attribue à l'Union une compétence partagée avec les Etats membres dans un domaine déterminé, l'Union *fixe les règles générales ou coordonne les politiques des Etats membres. L'Union* et les Etats membres ont le pouvoir de légiférer et d'adopter des actes juridiquement obligatoires dans ce domaine. Les Etats membres exercent leur compétence seulement et dans la mesure où l'Union n'a pas exercé la sienne.

alinéa 3 : *supprimer*

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article 10: Categories of competence

By Mr Dick Roche, Representative of the Government of Ireland

Status : Member

Article 10: Categories of competence - paragraph 1

1. When **Member States in this** ~~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.

Explanation (if any) :

To make it clear that it is the Member States, not the Constitution, that confer competence on the Union

FICHE AMENDEMENT

Proposition d'amendement à l'Article : **10** (2ème alinéa)

Déposée par Monsieur : **Alain Lamassoure**

Qualité : **Membre**

Article 10 (2ème alinéa)

2. Lorsque la Constitution attribue à l'Union une compétence partagée avec les Etats membres dans un domaine déterminé, l'Union **fixe les règles générales ou coordonne les politiques des Etats membres. L'Union** et les Etats membres ont le pouvoir de légiférer et d'adopter des actes juridiquement obligatoires dans ce domaine. Les Etats membres exercent leur compétence seulement et dans la mesure où l'Union n'a pas exercé la sienne.

Explication :

AMENDMENT FORM

Suggestion for amendment of Article 10: Categories of competence

By Mr Dick Roche, Representative of the Government of Ireland

Status : Member

Article 10: Categories of competence – paragraph 3

Replace with :

3. **The Member States shall coordinate their economic policies within the Union.**

Explanation (if any) :

To more accurately reflect the responsibility of Member States for the conduct of their economic policies and the terms of current Article 99 TEC.

AMENDEMENT FORM 6

Amendment of Article 10 §6

By: M.J.CHABERT
M.M.DAMMEYER
M.P.DEWAEL
Ms. C. du GRANRUT
M.C.MARTINI
M.R.VALCARCEL SISO

Status : - Member - Alternate - Observer

"RECOGNITION OF THE ROLE OF REGIONAL AND LOCAL AUTHORITIES"

Addition to Article 10 §6:

"The Union recognises and valorises the contribution of the regional and local authorities of the Member States to the formulation and implementation of its laws and policies."

Explanation:

As **Vice-President J.-L. Dehaene** noted in his conclusions at the end of the plenary session of the 7 February 2003 on regional and local authorities, the debate showed the Convention's willingness to recognize the role of the regions and local authorities in the Constitutional Treaty from its opening articles onwards.

Under the draft Article 1(2) "The Union shall respect the national identities of its Member States." The draft Article 9(6), which expands on Article 1(3), does indeed lay down that:

"The Union shall respect the national identities of its Member States, inherent in their fundamental structures and essential State functions, especially their political and constitutional structure, including the organisation of public administration at national, regional and local level."

However, the debate showed that it was necessary to go beyond this, and that the text of the Constitution, while acknowledging that the internal structure of each Member State is solely a matter for that State – which is clear from the wording of Article 9(6) – should also recognize in a

positive way the role of regional and local authorities in the European Union.

In the same way as for respecting the internal distribution of powers, it would be possible to introduce for the Member States a reference to their regions and local authorities in Articles 8 to 13, 15 and 16. Such repetition, justified in legal terms, could be regarded as stylistically inelegant. It is therefore proposed that a general clause for this purpose be inserted for the whole of Title II covering the powers of the Union. Logically, this clause should appear in the article on "Categories of competence". It would have the legal consequence that any reference to the Member States is also equivalent to a reference to their regional and local authorities where applicable.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : **10** (1er alinéa)

Déposée par Monsieur : **Alain Lamassoure**

Qualité : **Membre**

Article 10 (1er alinéa)

1. Lorsque la Constitution attribue à l'Union une compétence **propre** dans un domaine déterminé, celle-ci seule peut légiférer et adopter des actes juridiquement obligatoires, les Etats membres ne pouvant le faire eux-mêmes que par habilitation de l'Union.

Explication : *Les travaux du Parlement européen ont montré que l'adjectif « exclusif », qui n'existe pas dans les traités, est inutile et fallacieux : même pour l'union douanière, les moyens d'application sont exclusivement ... entre les mains des Etats ! La bonne distinction est entre les « compétences propres » de l'Union, d'une part, et les « compétences partagées », d'autre part.*

AMENDMENT FORM

Suggestion for amendment of Article : Artículo 10

By Ms / Mr : Borrell (miembro), Carnero y López Garrido (miembros suplentes)

Status : - Member - Alternate

Punto 3: decir "*dispone*" en vez de dispondrá y añadir tras económicas "*sociales y de empleo*"

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : Artículo 10

By Ms / Mr : Borrell (miembro), Carnero y López Garrido (miembros suplentes)

Status : - Member - Alternate

Punto 4: añadir tras seguridad “y *defensa*”, diciendo “incluida la definición progresiva de una defensa común”

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article 10

Déposée par Monsieur William ABITBOL

Qualité : Suppléant

Article 10 :

1. Les Etats membres s'interdisent de légiférer dans les domaines de compétence exclusive de l'Union, sauf à y être expressément habilités par celle-ci.
2. Dans les domaines de compétence partagée, l'Union légifère seulement et dans la mesure où les Etat membres n'ont pas exercé leur compétence dans les délais voulus.

Explication éventuelle :

Ce texte remplace l'ensemble du texte original de l'article visé

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 11

Déposée par Madame ou Monsieur : **M. Louis Michel, M. Elio di Rupo, Mme Anne Van Lancker, membres de la Convention et M. Pierre Chevalier et Mme Marie Nagy, membres suppléants de la Convention**

Qualité : - Membre - Suppléant

-
1. L'Union dispose d'une compétence exclusive pour assurer la libre circulation des personnes, marchandises, services et capitaux et établir les règles de concurrence, au sein du marché intérieur, ainsi que dans les domaines suivants:
 - l'Union douanière,
 - la politique commerciale commune à **l'exception du commerce des services culturels et audiovisuels, des services d'éducation ainsi que des services sociaux et de santé humaine,**
 - la politique monétaire pour les Etats membres qui ont adopté l'euro,
 - la conservation des ressources biologiques de la mer dans le cadre de la politique commune de la pêche.
 - **l'accès au territoire de l'Union des personnes**
 - **les droits et obligations découlant de la citoyenneté de l'Union**
 - **le budget (recettes et dépenses) de l'Union**
 - **la représentation externe de l'Union.**
 2. L'Union dispose d'une compétence exclusive pour la conclusion d'un accord international lorsque cette conclusion est prévue dans un acte législatif de l'Union, qu'elle est nécessaire pour permettre à l'Union d'exercer sa compétence au niveau interne, ou qu'elle affecte un acte interne de l'Union.

AMENDMENT FORM

Suggestion for amendment of Article 11, par. 1

By Mr Poul Schlüter

Status : Alternate

Article 11: Exclusive competences

1. The Union shall have exclusive competence ~~to ensure the free movement of persons, goods, services and capital, and establish competition rules, within the internal market, and~~ in the following areas:

- customs union,
- common commercial policy,
- monetary policy for the Member States who have adopted the euro,
- ~~the conservation of marine biological resources under the common fisheries policy.~~

Explanation:

The Union does not have exclusive competence to ensure free movement and establish competition rules within the internal market. It follows from the case law of the ECJ that Union competence in this field is shared with the Member States. The internal market is in fact also listed in Article 14 as an area of shared competence. This seems self-contradictory and not in line with the objective of clarity.

The area of “conservation of marine biological resources under the common fisheries policy” is too small to be mentioned in the first part of the Constitutional Treaty alongside substantial policy areas such as the customs union etc.