

AMENDMENT FORM

Suggestion for amendment of Article : I-12

By Mr : Hain

Status : - Member -

1. The Union shall have exclusive competence ~~to establish competition rules within the internal market~~, and in the following areas:

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

2.

~~2. Where the Union has~~ The Union shall have exclusive competence for the conclusion of an international agreement ~~when its conclusion is provided for in a legislative act of the Union, is necessary to enable the Union to exercise its competence internally, or affects an internal Union act.~~

in accordance with Article 32(3) of Part 2 that competence shall be exclusive:

- where a legislative act of the Union confers exclusive competence;
- where the conclusion of the agreement is necessary to enable the Union to exercise its competence internally, or
- to the extent that the agreement would affect the Union's common rules or distort their scope.

Explanation (if any) :

1. *Competition policy is not an exclusive competence. It is a shared competence. We have therefore inserted it in article 13.*
2. *This is a more accurate reflection of case law. The current Praesidium draft results in over-simplification (on a strict reading of their draft concerning the effect of legislative acts, if a legislative act provides for the conclusion of an international agreement (whichever body is permitted to exercise competence), the Union would have exclusive competence). In the final tiret 'or distorts' has been added as this reflects the wording of the AETR judgement. 'Internal acts' has been changed to common rules as this reflects the language of the jurisprudence in the AETR and Open Skies case.*