

AMENDMENT FORM

Suggestion for amendment of Article 11

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Status : **Members and alternate member.**

Article 11: Exclusive competences

11.1. *In accordance with Article 10.1*, the Union shall have exclusive competence to ensure the free movement of persons, goods, services and capital, and establish competition rules, in the following areas:

- customs union,
- *internal market, with the exception of fiscal policy,*
- common commercial policy,
- monetary policy for the Member States who have adopted the euro.

11.2 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.

Explanation:

11.1 It would be useful to refer to the description of this category in Article 10.1.

Confusingly, the Praesidium's draft has the four principles behind the foundation and operation of the internal market in the 'exclusive' category but again refers to the internal market as a shared competence in Article 12.4 in which case, under the provisions of Article 10.2, Member States may act only if the Union has not done so.

*If we elevate the internal market to the exclusive category, as we propose here, Member States may act only if empowered to do so by the Union. In the field of the internal market the scope of integration and the scale of activity is already very extensive in the existing Union. There is certainly no question of going back on the *acquis communautaire*. But the recategorisation of the*

internal market as an exclusive competence would strengthen the Union's role in making a reality of the four freedoms in the enlarged, and possibly more centrifugal Union.

The exclusion of fiscal policy is a safeguard for the Member States in a sensitive area involving national sovereignty. The question of tax harmonisation should therefore be specified as the exception to the rule and remain a shared competence (see Article 12.4).

Moreover, the proposed extension of the application of the principle of subsidiarity into the exclusive category (see Article 9.2) provides an extra assurance.

The reader of the Constitution must be able to see quickly that the Union's principal competence lies in the economic field. Given that the Convention has decided to install this catalogue of exclusive competences, let us not define it either rigidly or absurdly.

For that reason he or she would be confused by the reference to the conservation of marine resources, a lesser issue which is part and parcel of the common fisheries policy (shared competence). An alternative approach would be to elevate the whole Common Fisheries Policy - and, by inference, the Common Agricultural Policy - to the exclusive category. Why not?