

**Amendments submitted by Teija Tiilikainen and Antti Peltomäki 17 February 2003**

**[Option 1: If there is a provision on the Union's activities in accordance with Article 3bis above, draft Articles 11-15 could be deleted.]**

**[Option 2: In the absence of Article 3bis, Article 11 should read as follows:**

**Article 11: Exclusive competences**

1. **Subject to the provisions of Part Two of this Constitution,** the Union shall have exclusive competence [...] 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,
  - **competition rules, insofar as concerns the internal market.**
2. The Union shall have exclusive competence for the conclusion of an international agreement **insofar as the conclusion of the agreement could affect an act adopted by the Union; when the Union has in a legislative act expressly conferred on its institutions powers to negotiate with non-member countries or international organisations; or when internal competence of the Union can only be effectively exercised at the same time as external powers.]**

**Commentary:**

*The text should make it plain that the precise scope and nature of the Union's competence in each substantive policy area, even in the case of exclusive competence, is to be defined by the power-conferring provisions (legal bases) in Part Two. This would make it possible to take account of specific concerns of Member States in particular policy areas, such as common commercial policy.*

*The reference in paragraph 1 to free movement of persons, goods, services and capital as an area of exclusive Union competence is confusing in the light of the treatment of the internal market as an area of shared competence in Article 12, and should therefore be deleted. Competition law, insofar as concerns the internal market, could however be mentioned in paragraph 1 as one of the areas of the Union's exclusive competence.*

*Article 11, paragraph 2, should be rephrased as proposed to better reflect the current state of the law (cf., e.g., Opinion 1/94 [1994] ECR I-5267, paras 77, 89 and 95).*