

AMENDMENT FORM

Suggestion for amendment to Art I-39

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Status : - Member

Chapter II

Article I-39: Specific provisions for implementing common foreign and security policy

1. The European Union shall conduct a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions.
2. The European Council shall identify the Union's strategic interests and determine the objectives of its common foreign and security policy. The Council of Ministers shall frame this policy within the framework of the strategic guidelines established by the European Council and in accordance with the arrangements in Part Three of the Constitution.
- ~~3. The European Council and the Council of Ministers shall adopt the necessary decisions.~~
- 3 4. The common foreign and security policy shall be put into effect by the Union's Minister for Foreign Affairs, **by the Commission** and by the Member States, using national and Union resources.
- ~~4 5.~~ Member States shall consult one another within the Council and the European Council on any foreign and security policy issue which is of general interest in order to determine a common approach. Before undertaking any action on the international scene or any commitment which **could** affect the Union's interests, each Member State shall consult the others within the Council or the European Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene. Member States shall show mutual solidarity.
- 5 6. The European Parliament shall be regularly consulted on the main aspects and basic choices of the common foreign and security policy, and shall be kept informed of how it evolves.
- ~~6 7.~~ Decisions relating to the common foreign and security policy shall be adopted by ~~the European Council and the Council of Ministers unanimously, except in the cases referred to~~ **in accordance with Art. III-196 in Part Three** of the

Constitution. ~~Discussion~~ **The Council shall act** ~~be based on a proposal from a Member State, or or from the Union's Minister for Foreign Affairs or from the Commission or from the Minister for Foreign Affairs acting jointly with the Commission 's support. alone or together with the Commission. Laws and framework laws are excluded.~~

- 7 8. ~~The European Council may unanimously decide that the Council should act by qualified majority in cases other than those referred to in Part Three of the Constitution.~~

Foreign, Security and Defence Policy aspects of a particular measure and the implementation of the Foreign, Security and Defence Policy shall not affect the competences listed in Articles 11 to 13, 15 and 16 of the Constitution.

The Court of Justice shall have jurisdiction to monitor compliance with this article.

Explanation:

Ad ex-para.3 and 7:

The European Council should not act as a legislative institution.

Furthermore, for reasons of flexibility and against the background of recent experience there is no reason to rule out categorically the use of legislative acts.

Ad par.7:

Qualified Majority should be the rule, unanimity the exception.

Art. III-196 should read:

- 1. Decisions under this Chapter shall be taken by the Council.***
- 2. The Council shall act unanimously when acting on the basis of a proposal from a Member State or when adopting any decision having military or defence implications.***

Abstentions by members present in person or represented shall not prevent the adoption of a decision to be taken unanimously.

When abstaining in a vote, any member of the Council may qualify its abstention by making a formal declaration under the present subparagraph. In that case, it shall not be obliged to apply the decision, but shall accept that the decision commits the Union. In a spirit of mutual solidarity, the Member State concerned shall refrain from any action likely to conflict with or impede Union action based on that

decision and the other Member States shall respect its position. If the members of the Council qualifying their abstention in this way represent more than one third of the votes weighted in accordance with Article X of the Constitution, the decision shall not be adopted.

- 3. If a member of the Council declares that, for important and stated reasons of national policy, it intends to oppose the adoption of a decision to be taken in accordance with par.1 , a vote shall not be taken. The Council may, acting by a qualified majority, request that the matter be referred to the European Council for decision by qualified majority.***

ad 7):

The substance of Art. 47 TEU should be preserved. The proposed Art. III/204 does not reflect this idea properly. In accordance with my overall view that the Court of Justice shall have jurisdiction in CFSP matters (see amendment to delete art. 240a, CONV 734/03) it shall also have jurisdiction to monitor compliance in this specific case.