

AMENDMENT FORM

Suggestion for amendment of Article III-61, -62, -63, 64:

By **BROK, AZEVEDO, AKCAM, ALTMAIER, BREJC, DEMETRIOU, FIGEL, FOLLER, FREND, KAUPPI, KELAM, LENNMARKER, LIEPINA, MAIJ-WEGGEN, PIKS, RACK, SANTER, SZAJER, VAN DER LINDEN, VILEN, KAUPPI, VAN DIJK, WITTBRODT, WUERMELING**

on behalf of the EPP Convention Group

Status : Members / Alternates

Suggestion

Proposal to merge Article III-61 to III-64 in one internal market article

Article III-61 (ex Article 94)

~~A Council European framework law shall establish measures for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market. The Council shall act unanimously after consulting the European Parliament and the Economic and Social Committee.~~

Article III-62 (ex Article 95)

- ~~By way of derogation from [ex Article 94] and save where otherwise provided in the Constitution, this Article shall apply for the achievement of the objectives set out in [ex Article 14].~~ A European law or framework law shall establish measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market ***and eliminate appreciable distortions of competition***. It shall be adopted after consulting the Economic and Social Committee.
- Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons or to those relating to the rights and interests of employed persons, ***except for those which directly affect the establishment or functioning of the internal market and eliminate appreciable distortions of competition***.
- The Commission, in its proposals submitted under paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.
- If, after the adoption of a harmonisation measure by means of European law or framework law or a Commission regulation, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in [ex Article 30], or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

5. Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by means of a European law or framework law or a Commission regulation, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions and the reasons for them.
6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, adopt a European decision approving or rejecting the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market. In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved. When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.
7. When, pursuant to [paragraph 6], a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.
8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures.
9. By way of derogation from the procedure laid down in [ex Articles 226 and 227], the Commission and any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in this Article.
10. The harmonisation measures referred to in this Article shall, in appropriate cases, include a safeguard clause authorising the Member States to adopt, for one or more of the non-economic reasons referred to in [ex Article 30], provisional provisions subject to a Union control procedure.

~~Article III-63 (ex Article 96)~~

~~Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.~~

~~If such consultation does not achieve the desired result, a European framework law shall eliminate the distortion in question. Any other appropriate measures provided for in the Constitution may be adopted.~~

~~Article III-64 (ex Article 97)~~

- ~~1. Where there is a reason to fear that the adoption or amendment of a national provision laid down by law, regulation or administrative action may cause distortion within the meaning of [ex Arti-~~

~~ele 96], a Member State desiring to proceed therewith shall consult the Commission. After consulting the Member States, the Commission shall address to the Member States concerned a recommendation on such measures as may be appropriate to avoid the distortion in question.~~

- ~~2. If a Member State desiring to introduce or amend its own provisions does not comply with the recommendation addressed to it by the Commission, other Member States shall not be required, in pursuance of [ex Article 96], to amend their own provisions in order to eliminate such distortion. If the Member State which has ignored the recommendation of the Commission causes distortion detrimental only to itself, [ex Article 96] shall not apply.~~

Explanation:

It is suggested to merge, for reasons of simplification, Articles III-61 and III-62 and to eliminate Articles III-63 and III-64; the two latter never had any independent practical meaning next to the former Articles 94 and of the EC Treaty.

AMENDMENT FORM

Suggestion for amendment of Article : Article III-65 (new)

By Mr : Joachim Wuermeling

Status : - Alternate

Article III-65 (new)

In establishing an internal market, measures for the introduction of European instruments to provide uniform intellectual-property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements shall be established in a European law or framework law. **Accordingly, the Statute of European Companies shall be established in a European law.** The language arrangements for the instruments shall be established by a European law of the Council adopted unanimously on a proposal from the Commission. It shall act after consulting the European Parliament.

Explanation (if any) :

The presidency has proposed a new Article III-65 establishing a legal base for European instruments to provide uniform intellectual-property rights protection. Consequently, as Article 95 TEC allows for the approximation of laws, a separate article now provides for European measures concerning intellectual-property rights. However, the same situation applies for measures establishing European Companies (e.g. *Europäische Aktiengesellschaft*). Therefore, it is suggested to introduce a comparable provision for these cases.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Titre II Article III. 61 (ex-article 94)

Déposée par Monsieur Olivier Duhamel

Qualité : - Membre

Madame Pervenche Berès

Suppléante -

Modifier comme suit :

Article 61 (ex-article 94)

Une loi-cadre européenne ~~du Conseil~~ établit les mesures pour le rapprochement des dispositions législatives, réglementaires et administratives des États membres qui ont une incidence directe sur l'établissement ou le fonctionnement du marché intérieur. ~~Le Conseil statue à l'unanimité après consultation du Parlement européen et du Comité économique et social.~~

Justification : Le Parlement européen est colégislateur

AMENDMENT FORM

Suggestion for amendment of Article : Article III-61 (ex Article 94)

By Mr : Joachim Wuermeling

Status : - Alternate

APPROXIMATION OF LEGISLATION

Article III-61 (ex Article 94)

~~A Council European framework law shall establish measures for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market. The Council shall act unanimously after consulting the European Parliament and the Economic and Social Committee.~~

The Council shall after consulting the European Parliament and the Economic and Social Committee issue European laws and framework-laws for the approximation of such laws which directly affect the establishment or functioning of the single market.

Explanation (if any) :

.To create a single legal base for the internal market the two provisions should be merged.

FICHE AMENDEMENT

Proposition d'amendement à l'Article:	III-62 (ex 95)
Déposée par Monsieur:	Erwin Teufel
Qualité:	Membre

Texte du Praesidium

- (1) Soweit in der Verfassung nichts anderes bestimmt ist, gilt abweichend von [ex-Artikel 94] für die Verwirklichung der Ziele des [ex-Artikels 14] dieser Artikel. Die Angleichung der Rechts- und Verwaltungsvorschriften der Mitgliedstaaten, welche die Errichtung und das Funktionieren des Binnenmarkts zum Gegenstand haben, werden durch Europäische Gesetze oder Rahmengesetze festgelegt. Diese werden nach Anhörung des Wirtschafts- und Sozialausschusses angenommen.

Amendement proposé

- (1) Soweit in der Verfassung nichts anderes bestimmt ist, gilt abweichend von [ex-Artikel 94] für die Verwirklichung der Ziele des [ex-Artikels 14] dieser Artikel. Die Angleichung der Rechts- und Verwaltungsvorschriften der Mitgliedstaaten, welche **primär und unmittelbar** die Errichtung und das Funktionieren des Binnenmarkts zum Gegenstand haben, werden durch Europäische Gesetze oder Rahmengesetze festgelegt. Diese werden nach Anhörung des Wirtschafts- und Sozialausschusses angenommen. **Die Maßnahmen müssen tatsächlich zur Beseitigung von Hindernissen für den freien Waren-, Personen-, Dienstleistungs- oder Kapitalverkehr oder von spürbaren Wettbewerbsverzerrungen beitragen.**

Begründung:

Die bisherige Fassung von ex-Artikel 95 ist undeutlich. Sie hat in der Vergangenheit öfters zu unnötigen Konfrontationen zwischen der Gemeinschaft und Mitgliedstaaten geführt. Es entspricht dem Mandat von Nizza und Laeken, die Formulierung des Absatzes 1 zu präzisieren, um sein Ziel zu verdeutlichen, die tatsächlichen Hindernisse für den Ausbau und die Sicherung des freien Binnenmarktes zu beseitigen. Die vorgeschlagene Ergänzung folgt der Rechtsprechung des Gerichtshofes (Sammlung 2000, I – 8419, Rs C-376/98 „Verbot der Tabakwerbung“).

AMENDMENT FORM

Suggestion for amendment of Article : Article III-62 (ex Article 94)

By Mr : Joachim Wuermeling

Status : - Alternate

Article III-62 (ex Article 95)

~~1. By way of derogation from [ex Article 94] and save where otherwise provided in the Constitution, this Article shall apply for the achievement of the objectives set out in [ex Article 14]. A European law or framework law shall establish measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market. It shall be adopted after consulting the Economic and Social Committee.~~

2. Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons or to those relating to the rights and interests of employed persons.

3. The Commission, in its proposals submitted under paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.

4. If, after the adoption of a harmonisation measure by means of European law or framework law or a Commission regulation, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in [ex Article 30], or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

5. Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by means of a European law or framework law or a Commission regulation, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions and the reasons for them.

6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, adopt a European decision approving or rejecting the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market.

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph

may be extended for a further period of up to six months.

7. When, pursuant to [paragraph 6], a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.

8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures.

9. By way of derogation from the procedure laid down in [ex Articles 226 and 227], the Commission and any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in this Article.

10. The harmonisation measures referred to in this Article shall, in appropriate cases, include a safeguard clause authorising the Member States to adopt, for one or more of the non-economic reasons referred to in [ex Article 30], provisional provisions subject to a Union control procedure.

Explanation (if any) :

.To create a single legal base for the internal market the two provisions should be merged.

AMENDMENT FORM

Suggestion for amendment of Article : III - 63

Suggestion for protocol :

By Mr : Dick Roche

Status : - Member

Article III-63 (ex Article 96)

Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.

If such consultation does not achieve the desired result, **the Council shall, on a proposal from the Commission, adopt** a European framework law ~~shall~~ **to** eliminate the distortion in question. Any other appropriate measures provided for in the Constitution may be adopted.

Explanation (if any) : I am opposed to the move to the ordinary legislative procedure

FICHE AMENDEMENT

Proposition d'amendement à l'Article : Titre II Article III. 65 nouveau

Déposée par Monsieur Olivier Duhamel

Qualité : - Membre

Madame Pervenche Berès

Suppléante -

Modifier comme suit :

Article III-65 (nouveau)

Dans le cadre de la réalisation du marché intérieur, la loi ou la loi-cadre européenne établit les mesures relatives à la création de titres européens en vue d'assurer une protection uniforme des droits de propriété intellectuelle à travers l'Union, et à la mise en place de régimes d'autorisation, de coordination et de contrôle centralisés au niveau de l'Union. ~~Les régimes linguistiques des titres sont établis par une loi européenne du Conseil adoptée à l'unanimité sur proposition de la Commission. Il statue après consultation du Parlement européen.~~

Justification : Le Parlement européen est colégislateur

AMENDMENT FORM

Suggestion for amendment of Article : III-61

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

Status : - Member - ~~Alternate~~

Artikel III-61 (ex-Artikel 94)

Die Maßnahmen zur Angleichung derjenigen Rechts- und Verwaltungsvorschriften der Mitgliedstaaten, die sich unmittelbar auf die Errichtung oder das Funktionieren des Binnenmarkts auswirken, werden durch Europäische Rahmengesetze des Rates festgelegt. Der Rat beschließt einstimmig nach ~~Ankörung~~ **Zustimmung** des Europäischen Parlaments und des Wirtschafts- und Sozialausschusses.

Explanation (if any) :

Aufgrund der Grundrechtsrelevanz dieser Befugnis sollten diese Maßnahmen keinesfalls gegen den Willen des Europäischen Parlaments erlassen werden können.

FICHE AMENDEMENT 16

III EME PARTIE : LES POLITIQUES ET LE FONCTIONNEMENT DE L'UNION

TITRE III : POLITIQUES ET ACTIONS INTERNES

CHAPITRE I : MARCHÉ INTÉRIEUR

SECTION 7 : LE RAPPROCHEMENT DES LÉGISLATIONS

Proposition d'amendement pour l'article III-61

Déposée par: M.J.CHABERT

M.M.DAMMEYER

M.P.DEWAEL

Mme C. du GRANRUT

M.C.MARTINI

M.R.VALCARCEL SISO

Qualité : - Membre -Suppléant - Observateur

Ajouter :

Une loi-cadre européenne du Conseil établit les mesures pour le rapprochement des dispositions législatives, réglementaires et administratives des États membres qui ont une incidence directe sur l'établissement ou le fonctionnement du marché intérieur. Le Conseil statue à l'unanimité après consultation du Parlement européen du Comité des régions et du Comité économique et social.

Explication éventuelle :

Le traité CE dans sa forme actuelle prévoit la consultation du Comité économique et social, mais pas celle du Comité des régions. A défaut d'une clause générale prévoyant la consultation du Comité des Régions dans la procédure législative, il faut donc veiller à compléter cette base légale.

AMENDMENT FORM

Suggestion for amendment of Article 65

Suggestion for Part: III

By Ms / Mr : **G.M. de Vries**
 T.J.A.M. de Bruijn

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

In establishing an internal market, measures for the introduction of European instruments to provide uniform intellectual-property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements shall be established in a European law or framework law. ~~The language arrangements for the instruments shall be established by a European law of the Council adopted unanimously on a proposal from the Commission. It shall act after consulting the European Parliament.~~

Explanation (if any):

The language arrangements should not be excluded from the principle to vote with QMV.

AMENDMENT FORM

Suggestion for amendment of Article : 65, part III of the Constitution.

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

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

Article III-65 (new)

In establishing an internal market, measures for the introduction of European instruments to provide uniform ~~intellectual~~ **industrial** property rights protection throughout the Union and for the setting up of centralised Union-wide ~~authorisation, coordination and supervision~~ **application and registration** arrangements shall be established in a European law or framework law. The language arrangements for the instruments shall be established by a European law of the Council adopted unanimously on a proposal from the Commission. It shall act after consulting the European Parliament.

Explanation (if any) :

The application of this new article should be limited to industrial property rights, where there already at present exist EU-wide arrangements (e.g. the Community Trade Mark). Relating to copyright no corresponding arrangement would be envisaged, since the basic reasoning is completely different. International copyright conventions do not permit systems where the protection would be based on some specific formalities (e.g. registration). The text of the article should be reworded accordingly.

AMENDMENT FORM

Suggestion for amendment of Article : III - 65

Suggestion for protocol :

By Mr : Dick Roche

Status : - Member

Article III-65 (new)

In establishing an internal market, measures for the introduction of European instruments to provide uniform intellectual-property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements shall be established in a European law or framework law. The language arrangements for the instruments shall be established by a European law of the Council adopted unanimously on a proposal from the Commission. It shall act after consulting the European Parliament.

Explanation (if any) : It is not clear to what extent this Article would go beyond the existing considerable degree of harmonisation in the area of trade marks/designs, if national trade marks, patents and designs would disappear or if they would be replaced by a centralised Union-wide autorisation. This needs to be clarified. In relation to intellectual property (IP) protection, it may be that what is intended by this Article is to provide explicitly for what is already being done (much of IP protection is already determined by international agreements). This also needs clarification.

AMENDMENT FORM

Suggestion for amendment of Article III-65: Intellectual-property rights

By Member Mr Göran Lennmarker

In establishing an internal market, measures for the introduction of European instruments to provide uniform intellectual-property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements shall be established in a European law or framework law. ~~The language arrangements for the instruments shall be established by a European law of the Council adopted unanimously on a proposal from the Commission. It shall act after consulting the European Parliament.~~

Explanation:

All aspects of intellectual-property rights protection throughout the Union should be decided by the normal legislative procedure. There should not be any exception for the language arrangements.

AMENDMENT FORM

Suggestion for amendment of Article : III-65

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

Status : - Member - ~~Alternate~~

Artikel III-65 (neu)

Im Rahmen der Verwirklichung des Binnenmarkts werden durch Europäische Gesetze oder Rahmengesetze Maßnahmen zur Schaffung europäischer Rechtstitel mit dem Ziel, den einheitlichen Schutz der Rechte des geistigen Eigentums in der gesamten Union sicherzustellen, sowie zur Einführung von zentralisierten Zulassungs-, Koordinierungs- und Kontrollregelungen auf Unionsebene festgelegt. ~~Die Sprachenregelungen für die Rechtstitel werden durch ein Europäisches Gesetz festgelegt, das der Rat auf Vorschlag der Kommission einstimmig erlässt. Er beschließt nach Anhörung des Europäischen Parlaments.~~

Explanation (if any) :

Auch hinsichtlich der Sprachenregelung sollte das ordentliche Gesetzgebungsverfahren zur Anwendung kommen.

AMENDMENT FORM

Suggestion for amendment of Article : III-65

By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, national parliament representative.

Status : - **Member: Hjelm-Wallén and Lekberg**
 - **Alternate: Petersson**

Article III-65 (new)

In establishing an internal market, measures for the introduction of European instruments to provide uniform intellectual-property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements shall be established in a European law or framework law. ~~The language arrangements for the instruments shall be established by a European law of the Council adopted unanimously on a proposal from the Commission. It shall act after consulting the European Parliament.~~

Explanation:

We strongly welcome that a new specific legal basis for intellectual property is introduced. However, the maintained requirement of unanimity regarding certain aspects makes the proposal less progressive. Instead we suggest deletion of the requirement of unanimity in order to ensure that the Council should be able to decide on legislation concerning intellectual property by qualified majority. The legislative procedure should be followed.

AMENDMENT FORM

Suggestion for amendment of Article : [Article III-65 \(new\)](#)
By Mr Hain

Status : Member

[Article III-65 \(new\)](#)

In establishing an internal market, measures for the introduction of ~~European instruments~~ Union-wide to provide uniform intellectual-property rights to ensure uniform protection throughout the Union and for the setting up of ~~centralised Union-wide~~ authorisation, coordination and supervision arrangements for those rights shall be established in a European law or framework law. The language arrangements ~~for the instruments~~ shall be established by a European law of the Council adopted unanimously on a proposal from the Commission. It shall act after consulting the European Parliament.

Explanation (if any) :

This amendment is designed to clarify that the article is about intellectual property rights only.

FICHE AMENDEMENT

Proposition d'amendement à l'Article III-65

Déposée par MM. Barnier, Vitorino, O'Sullivan et Ponzano

Qualité : Membres et Suppléants

Article III-65 (nouveau) (propriété intellectuelle)

Dans le cadre de la réalisation du marché intérieur, la loi ou la loi-cadre européenne établit les mesures relatives à la création de titres européens en vue d'assurer une protection uniforme des droits de propriété intellectuelle à travers l'Union, et à la mise en place de régimes d'autorisation, de coordination et de contrôle centralisés au niveau de l'Union. ~~Les régimes linguistiques des titres sont établis par une loi européenne du Conseil adoptée à l'unanimité sur proposition de la Commission. Il statue après consultation du Parlement européen.~~

Explication :

La question du régime linguistique pour les titres européens de protection de la propriété intellectuelle est la source d'un blocage depuis longue date de la création d'un brevet communautaire. Il convient donc de permettre le Conseil de statuer sur cette question, dans l'intérêt des entreprises européennes, à la majorité qualifiée. Par ailleurs, le régime linguistique constitue une composante de l'ensemble du système des titres de propriété intellectuelle, dont la séparation des autres aspects serait totalement artificielle.

AMENDMENT FORM

Suggestion for amendment of Article : III - 63

Suggestion for protocol :

By Mr : Dick Roche

Status : - Member

Article III-63 (ex Article 96)

Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.

If such consultation does not result in agreement, **the Council shall, on a proposal from the Commission, and after consulting the European Parliament, adopt** a European framework law ~~shall~~ **to** eliminate the distortion in question. The Commission and the Council may take any other appropriate measures provided for in the Constitution.

Explanation (if any) : I am opposed to the move to the ordinary legislative procedure if the potentially very wide scope of this article is to be retained.

AMENDMENT FORM

Suggestion for amendment of Article : [Article III-63 \(ex Article 96\)](#)
By Mr Hain

Status : Member

[Article III-63 \(ex Article 96\)](#)

Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.

If such consultation does not ~~result in agreement~~ lead to action by the Member States concerned eliminating the distortion in question, a European framework law shall eliminate ~~the~~ that distortion in question. ~~The Commission and the Council may take any other appropriate measures provided for in the Constitution.~~ Any other appropriate measures provided for in the Constitution may be adopted.

Explanation (if any) :

The amendment seeks to clarify the provisions of the article.

Proposal to part III of the Convention

- on environmental protection

Contribution from Jens-Peter Bonde, proposed in collaboration with, Ulla Sandbæk and Bent Hindrup Andersen.

Introduction

The proposal has following aims:

Member States shall be allowed to pioneer higher standards for the protection of health, safety, workers environment, consumer protection, veterinary and environmental protection.

The measures shall be notified to the Commission and shall be deemed approved if not amended through the legislative procedure within 12 month after notification.

If the measures discriminate other Member States or are aimed for economic protectionism the Commission may propose an economic compensation to be paid by the Member States concerned to be paid to other member states or third countries.

When the EU legislates minimum rules shall always be preferred for total harmonisation.

Total harmonisation shall always be based at the highest standard for protection, eventually by permitting (temporary) derogation for some Member States.

Proposal

Art. III-62,3 (ex 95)

Concerning Commission proposals for health, safety, and environment protection.

Add: **veterinary and** environmental protection.

Change "high level" into "**highest** level" of protection.

Art. III-62,5 (ex 95)

Change "...based on **new** scientific evidence relating to the protection of the environment or the working environment **on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure**, it shall..."

Into "...based **on the precautionary principle or** on scientific evidence relating to the protection of the environment or the working environment, it shall..."

Art. III-62,6 (ex 95)

Delete "**...or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market...**" And the rest of the article.

Add instead:

If the Commission finds that the measures decided by a Member State or group of Member States for protecting the environment and the other purposes mentioned in art. III-62,3 and art. III-62,4 may disturb trade between Member States or the functioning of the internal market the Commission may propose measures or compensations to be adopted through the legislative procedure.

If a specific measure is not adopted within 12 month the measures introduced by the Member State or a group of Member States shall be deemed to have been approved.

Explanation

Harmonisation in the field of health, safety, working environment, veterinary standards, consumer protection and environmental protection shall always be based on the highest level of protection and not the more arbitrary "high level".

If the highest level rise problems for some Member States the Commission may propose temporary derogation for those countries without hindering countries to pioneer higher standards.

If Member States use the higher standards for protection as a mean for economic protectionism and discriminate import of products from other Member States the Commission may propose special measures or a compensation to be paid so that the pioneering of higher standards is not seen by poorer countries as economic discrimination.

Since the right balance may be rather sensitive such measures shall be adopted by elected representatives through the legislative procedure and not only by Commission civil servants.

By allowing pioneers to be innovative the EU can benefit from the experience in environment and animal friendly ways of protections. This can promote the decrees of diseases (like salmonella and mad cow disease) and be used to create more know-how used for export. This pioneer right would provide a reversed burden of proof opposite to the environmental guarantee art Art. III-62,4-5.

AMENDMENT FORM

Suggestion for amendment of Article : Article III-62 (ex Article 95)

By Ms / Mr : Ms Helle THORNING-SCHMIDT

Status : Alternate

Article III-62 (ex Article 95), paragraph 3

3. The Commission, in its proposals submitted under paragraph 1 *affecting [delete one word]* health, safety, environmental protection and consumer protection, will take as a base *the highest* level of protection *prevailing in any Member State and taking into account higher levels prevailing elsewhere [deletion of 11 words]*. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.

4. If, after the adoption of a harmonisation measure by means of European law or framework law or a Commission regulation, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in [Article III-40 (ex 30)], or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

5. Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by means of a European law or framework law or a Commission regulation, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment *or on the precautionary principle* or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions and the reasons for them.

Explanation (if any) :

The amendment to [Article 95(3)/Article III-62(3)] is intended to encourage harmonisation upward, rather than the level of the lowest common denominator. The proposed basis for Commission proposals should be seen as a minimum starting point, since in some cases, the highest level of protection prevailing in any member state may fall short of what is technically feasible and environmentally necessary. Where necessary or appropriate, a system of temporary derogations and financial assistance could be established under this Article. Also, see that in par.3 "scientific facts" is used, where in the par. 5 "scientific evidence".

FICHE AMENDEMENT

Proposition d'amendement à l'Article:

III-62 (ex 95)

Déposée par Messieurs:

Erwin Teufel, Peter Altmaier,
Joachim Wuermeling

Qualité:

Membre / Suppléant

Texte du Praesidium

- (1) Soweit in der Verfassung nichts anderes bestimmt ist, gilt abweichend von [Artikel III-61 (ex-94)] für die Verwirklichung der Ziele des [Artikels III-11 (ex-14)] dieser Artikel. Die Maßnahmen zur Angleichung der Rechts- und Verwaltungsvorschriften der Mitgliedstaaten, welche die Errichtung und das Funktionieren des Binnenmarkts zum Gegenstand haben, werden durch Europäische Gesetze oder Rahmengesetze festgelegt. Diese werden nach Anhörung des Wirtschafts- und Sozialausschusses erlassen.

Amendement proposé

- (1) Soweit in der Verfassung nichts anderes bestimmt ist, gilt abweichend von [Artikel III-61 (ex-94)] für die Verwirklichung der Ziele des [Artikels III-11 (ex-14)] dieser Artikel. Die Maßnahmen zur Angleichung der Rechts- und Verwaltungsvorschriften der Mitgliedstaaten, welche **primär und unmittelbar** die Errichtung und das Funktionieren des Binnenmarkts zum Gegenstand haben, werden durch Europäische Gesetze oder Rahmengesetze festgelegt. Diese werden nach Anhörung des Wirtschafts- und Sozialausschusses erlassen. **Die Maßnahmen müssen tatsächlich zur Beseitigung von Hindernissen für den freien Waren-, Personen-, Dienstleistungs- oder Kapitalverkehr oder von spürbaren Wettbewerbsverzerrungen beitragen.**

Begründung:

Die bisherige Fassung von ex-Artikel 95 ist undeutlich. Sie hat in der Vergangenheit öfters zu unnötigen Konfrontationen zwischen der Gemeinschaft und Mitgliedstaaten geführt. Es entspricht dem Mandat von Nizza und Laeken, die Formulierung des Absatzes 1 zu präzisieren, um sein Ziel zu verdeutlichen, die tatsächlichen Hindernisse für den Ausbau und die Sicherung des freien Bin-

nenmarktes zu beseitigen. Die vorgeschlagene Ergänzung folgt der Rechtsprechung des Gerichtshofes (Sammlung 2000, I – 8419, Rs C-376/98 „Verbot der Tabakwerbung“).

AMENDMENT FORM

Suggestion for amendment of Article : III-62 (4) and (5)

By Ms : Maij-Weggen

Status : - Member

(4) If, after the adoption by European Parliament and the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to {in Article 30}, or relating to the protection of the environment, ***the protection of animals*** or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

(5) Moreover, without prejudice to paragraph 4, if, after the adoption by the European Parliament and the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment, ***the protection of animals*** or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions and the reason for them

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article :III-62. 3 and 5

By Ms / Mr :

Status : - Member - Alternate

3. La Commission, dans ses propositions présentées au titre du paragraphe 1 en matière de santé, de sécurité, de protection de l'environnement et de protection des consommateurs, prend pour base un niveau de protection élevé ~~en tenant compte notamment de toute nouvelle évolution basée sur des faits scientifiques.~~ **The proposals shall, with application of the precautionary principle, the principle that preventive action should be taken and the principle of substitution, take account of any new development based on scientific facts¹.** Dans le cadre de leurs compétences respectives, le Parlement européen et le Conseil s'efforcent également d'atteindre cet objectif.

5. En outre, sans préjudice du paragraphe 4, si, après l'adoption d'une mesure d'harmonisation par une loi ou une loi-cadre européenne ou un règlement de la Commission, un État membre estime nécessaire d'introduire des dispositions nationales basées sur des preuves scientifiques nouvelles relatives à la protection de l'environnement ou du milieu de travail ~~en raison d'un problème spécifique de cet État membre, qui surgit après l'adoption de la mesure d'harmonisation,~~ il notifie à la Commission les dispositions envisagées ainsi que de leur motivation. **Such national provisions may only be introduced if they are necessary on grounds of a problem specific to that Member State, arising after the adoption of the harmonizing measure or if the new scientific evidence shows that the harmonizing measure does not imply such a high level of protection as referred to in Article III-62.3.²**

¹ Introduction of the precautionary principle and the substitution principle (to replace an environmentally harmful product with a less harmful product) into the basis for harmonisation.

² In order to enable Member States to take national measures when the protection level of the harmonised measure does not fulfil the criteria of Article III-62.3, as amended.

AMENDMENT FORM

Part III - Title III - Chapter I: Fiscal Provisions

Suggestion for amendment of Article : III-62

By Members: Mr Andrew Duff

Article III-62 (ex Article 95)

1. By way of derogation from [ex Article 94] and save where otherwise provided in the Constitution, this Article shall apply for the achievement of the objectives set out in [ex Article 14]. A European law or framework law shall establish measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market. It shall be adopted after consulting the Economic and Social Committee.

2. Paragraph 1 shall not apply to fiscal provisions, *with the exception of measures concerning the tax bases applicable to companies, administrative cooperation measures and the fight against tax fraud and tax evasion where such measures are necessary for the smooth functioning of the internal market and to avoid distortions of competition. It shall not apply either* to those relating to the free movement of persons or to those relating to the rights and interests of employed persons.

3.

Explanation:

The derogation from QMV for decisions on fiscal matters where the operation of the single market is concerned is wholly unjustified.

FICHE AMENDEMENT 17

III EME PARTIE : LES POLITIQUES ET LE FONCTIONNEMENT DE L'UNION

TITRE III : POLITIQUES ET ACTIONS INTERNES

CHAPITRE I : MARCHÉ INTÉRIEUR

SECTION 7 : LE RAPPROCHEMENT DES LÉGISLATIONS

Proposition d'amendement pour l'article III-62

Déposée par: M.J.CHABERT

M.M.DAMMEYER

M.P.DEWAEL

Mme C. du GRANRUT

M.C.MARTINI

M.R.VALCARCEL SISO

Qualité : - Membre -Suppléant - Observateur

Ajouter :

1. Par dérogation à [l'article III-61 (ex-94)] et sauf si la Constitution en dispose autrement, le présent article s'applique pour la réalisation des objectifs énoncés à [l'article III-11 (ex-14)]. La loi ou la loi-cadre européenne établit les mesures relatives au rapprochement des dispositions législatives, réglementaires et administratives des États membres qui ont pour objet l'établissement et le fonctionnement du marché intérieur. Elle est adoptée après consultation du **Comité des régions et du** Comité économique et social.

Explication éventuelle :

Le traité CE dans sa forme actuelle prévoit la consultation du Comité économique et social, mais pas celle du Comité des régions. A défaut d'une clause générale prévoyant la consultation du Comité des Régions dans la procédure législative, il faut donc veiller à compléter cette base légale.

AMENDMENT FORM

Suggestion for amendment of Article : III-62

By Ms / Mr : Mr Bonde

Status : **X - Member** - Alternate

Article III-62 (ex Article 95)

1. By way of derogation from [ex Article 94] and save where otherwise provided in the Constitution, this Article shall apply for the achievement of the objectives set out in [ex Article 14]. A European law or framework law shall establish measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market. It shall be adopted after consulting the Economic and Social Committee.
2. Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons or to those relating to the rights and interests of employed persons.
3. The Commission, in its proposals submitted under paragraph 1 concerning health, safety, **VETERINARY AND** environmental protection and consumer protection, will take as a base **THE HIGHEST** level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.
4. If, after the adoption of a harmonisation measure by means of European law or framework law or a Commission regulation, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in [ex Article 30], or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

5. Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by means of a European law or framework law or a Commission regulation, a Member State deems it necessary to introduce national provisions based on **THE PRECAUTIONARY PRINCIPLE** OR scientific evidence relating to the protection of the environment or the working environment **[DELETE: on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure,]** it shall notify the Commission of the envisaged provisions and the reasons for them.

6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, adopt a European decision approving or rejecting the national provisions involved after having verified whether or not they are a means of arbitrary discrimination **[Delete: or a disguised restriction on trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market.]** **IF THE COMMISSION FIND THAT THE MEASURES DECIDED BY A MEMBER STATE OR GROUP OF MEMBER STATES FOR PROTECTING THE ENVIROMENT AND THE OTHER PURPOSES MENTIONED IN ART III-62,3 AND ART. 62,4 MAY DISTURB TRADE BETWEEN MEMBER STATES OR THE FUNCTIONING OF THE INTERNAL MARKET THE COMMISSION MAY PROPOSE MEASURES OR COMPENSATIONS TO BE ADOPTED THROUGH THE LEGISLATIVE PROCEDURE.**
IF A SPECIFIC MEASURE IS NOT ADOPTED WITHIN 12 MONTH THE MEASURES INTRODUCED BY THE MEMBER STATES OR A GROUP OF MEMBER STATES SHALL BE DEEMED TO HAVE BEEN APPROVED.

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.

7. When, pursuant to [paragraph 6], a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.

8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures.

9. By way of derogation from the procedure laid down in [ex Articles 226 and 227], the Commission and any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in this Article.

10. The harmonisation measures referred to in this Article shall, in appropriate cases, include a safeguard clause authorising the Member States to adopt, for one or more of the non-economic reasons referred to in [ex Article 30], provisional provisions subject to a Union control procedure.

Explanation (if any) :

Harmonisation in the field of health, safety, working environment, veterinary standards, consumer protection and environmental protection shall always be based on the highest level of protection and not the more arbitrary “high level”.

If the highest level raises problems for some Member States the Commission may propose temporary derogations for those countries, without hindering countries wishing to pioneer higher standards.

If Member States use the higher standards of protection as a mean for economic protectionism and to discriminate against the import of products from other Member States the Commission may propose special measures or compensation to be paid so that the pioneering of higher standards is not seen by poorer countries as economic discrimination.

Since the right balance may be rather sensitive such measures shall be adopted by elected representatives through the legislative procedure and not only by Commission civil servants.

By allowing pioneers to be innovative the EU can benefit from the experience in environment and animal friendly ways of protections. This can promote the decrees of diseases (like salmonella and BSE) and be used to create more know-how used for export. This pioneer right would provide a reversed burden of proof opposite to the environmental guarantee Art. III-62,4-5.

FICHE AMENDEMENT

Proposition d'amendement à l'Article III-62

Déposée par MM. Barnier, Vitorino, O'Sullivan et Ponzano

Qualité : Membres et Suppléants

Article III-62 (ex-article 95)

(mesures fiscales nécessaires pour le bon fonctionnement du marché intérieur)

1. Par dérogation à [l'article III-61 (ex-94)] et sauf si la Constitution en dispose autrement, le présent article s'applique pour la réalisation des objectifs énoncés à [l'article III-11 (ex-14)]. La loi ou la loi-cadre européenne établit les mesures relatives au rapprochement des dispositions législatives, réglementaires et administratives des États membres qui ont pour objet l'établissement et le fonctionnement du marché intérieur. Elle est adoptée après consultation du Comité économique et social.
 2. Le paragraphe 1 ne s'applique pas aux dispositions fiscales, **à l'exception des mesures en matière de bases d'imposition applicables aux sociétés et des mesures de lutte contre la fraude et l'évasion fiscale, dans la mesure où elles sont nécessaires pour assurer le bon fonctionnement du marché intérieur et prévenir des distorsions de concurrence. Il ne s'applique pas non plus** aux dispositions relatives à la libre circulation des personnes et à celles relatives aux droits et intérêts des travailleurs salariés.
 3. *reste de l'article inchangé*
-

Explication :

Dans une Union de 25 Etats membres, le maintien de l'unanimité ne permettra pas de prendre de décisions dans le domaine fiscal. Certaines mesures dans le domaine de la fiscalité directe sont pourtant indispensables pour le bon fonctionnement du marché intérieur. Il conviendrait donc de supprimer l'exception à la majorité qualifiée qui résulte du deuxième paragraphe. Toutefois, compte tenu de la sensibilité de la matière, il est proposé de limiter à ce stade le passage à la majorité qualifiée au strict minimum nécessaire, à savoir la coopération administrative, les mesures de lutte contre la fraude et l'évasion fiscale, ainsi que des mesures en matière de base d'imposition applicables aux sociétés.

En effet, dans le marché intérieur, les entreprises ressentent de plus en plus les différences entre les législations nationales fiscales comme des sources de distorsion de concurrence et d'obstacles à la circulation des marchandises et des services. Cela vaut en particulier pour les impôts sur les sociétés. Les entreprises demandent une action européenne, ce que le maintien de l'unanimité rend très difficile, voire impossible. A noter que cette extension de la majorité qualifiée ne concerne pas les taux.

L'Union doit pouvoir agir de manière efficace et rapide en matière de fraude fiscale et d'évasion fiscale. Puisque les règles concernant le fonctionnement du marché unique sont décidées à la majorité qualifiée, il convient également que les utilisations abusives de ces règles soient combattues à la majorité qualifiée.

AMENDMENT FORM

Suggestion for amendment of Article III-61, -62, -63, 64:

By BROK, AZEVEDO, AKCAM, ALMEIDA GARRETT, ALTMAIER, BREJC, DEMETRIOU, FIGEL, FOGLER, FRENDON, KAUPPI, KELAM, LAMASSOURE, LENNMARKER, LIEPINA, MAIJ-WEGGEN, PIKS, RACK, SANTER, SZAJER, VAN DER LINDEN, VILEN, KAUPPI, VAN DIJK, WITTBRODT, WUERMELING

on behalf of the EPP Convention Group

Status : Members / Alternates

Suggestion

Proposal to merge Article III-61 to III-64 in one internal market article

Article III-61 (ex Article 94)

~~A Council European framework law shall establish measures for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market. The Council shall act unanimously after consulting the European Parliament and the Economic and Social Committee.~~

Article III-62 (ex Article 95)

- ~~By way of derogation from [ex Article 94] and save where otherwise provided in the Constitution, this Article shall apply for the achievement of the objectives set out in [ex Article 14].~~ A European law or framework law shall establish measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market ***and eliminate appreciable distortions of competition***. It shall be adopted after consulting the Economic and Social Committee.
- Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons or to those relating to the rights and interests of employed persons, ***except for those which directly affect the establishment or functioning of the internal market and eliminate appreciable distortions of competition***.
- The Commission, in its proposals submitted under paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.
- If, after the adoption of a harmonisation measure by means of European law or framework law or a Commission regulation, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in [ex Article 30], or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

5. Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by means of a European law or framework law or a Commission regulation, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions and the reasons for them.
6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, adopt a European decision approving or rejecting the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market. In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved. When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.
7. When, pursuant to [paragraph 6], a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.
8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures.
9. By way of derogation from the procedure laid down in [ex Articles 226 and 227], the Commission and any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in this Article.
10. The harmonisation measures referred to in this Article shall, in appropriate cases, include a safeguard clause authorising the Member States to adopt, for one or more of the non-economic reasons referred to in [ex Article 30], provisional provisions subject to a Union control procedure.

~~Article III-63 (ex Article 96)~~

~~Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.~~

~~If such consultation does not achieve the desired result, a European framework law shall eliminate the distortion in question. Any other appropriate measures provided for in the Constitution may be adopted.~~

~~Article III-64 (ex Article 97)~~

- ~~1. Where there is a reason to fear that the adoption or amendment of a national provision laid down by law, regulation or administrative action may cause distortion within the meaning of [ex Arti-~~

~~ele 96], a Member State desiring to proceed therewith shall consult the Commission. After consulting the Member States, the Commission shall address to the Member States concerned a recommendation on such measures as may be appropriate to avoid the distortion in question.~~

- ~~2. If a Member State desiring to introduce or amend its own provisions does not comply with the recommendation addressed to it by the Commission, other Member States shall not be required, in pursuance of [ex Article 96], to amend their own provisions in order to eliminate such distortion. If the Member State which has ignored the recommendation of the Commission causes distortion detrimental only to itself, [ex Article 96] shall not apply.~~

Explanation:

It is suggested to merge, for reasons of simplification, Articles III-61 and III-62 and to eliminate Articles III-63 and III-64; the two latter never had any independent practical meaning next to the former Articles 94 and of the EC Treaty.