

## AMENDMENT FORM

**Suggestion for amendment of Article : Title ...: Area of freedom, security and justice, 11**

**Suggestion for protocol :**

**By / Mr : Hain With the support of Lord Tomlinson, substitute**

Status : - Member -

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### **Article 11: [Asylum]**

1. Okay.
2. For this purpose, the European Parliament and the Council, in accordance with the legislative procedure, shall adopt laws or framework laws to establish a common European asylum system ~~comprising~~ with the following objectives:
  - fairly and rapidly identifying nationals of third countries in need of international protection and providing them with an appropriate status, on the basis of a shared understanding of who qualifies for refugee status or other forms of protection;
  - providing protection in the region of origin of nationals of third country in need of international protection where practicable;
  - facilitating the resettlement in the Union where appropriate of persons found to be in need of international protection ;
  - facilitating processing of asylum applications in countries of transit and ensuring that applicants for asylum lodge their applications in the first safe country they reach;
  - managing efficiently mixed flows of persons in need of international protection and persons migrating for other reasons, reducing secondary flows within the Union and ensuring that asylum procedures are not open to misuse;
  - reducing differences in asylum procedures and reception conditions in the Member States which result in an inequitable distribution of applicants for asylum.

~~a uniform status of asylum for nationals of third countries, valid throughout the Union;~~

~~a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;~~

[New paragraph] 2A : The legislation referred to in the previous paragraph shall be complemented by effective operational co-operation co-ordinated by the committee established under Article 5, and effective administrative co-operation in accordance with Article 7.

3. Okay.

4. A Member State may for exceptional reasons, where public policy or national security so require, introduce emergency measures [for a maximum of one year] derogating from the laws and framework laws referred to in paragraph 2. The Council may, by qualified majority after consulting the European Parliament, adopt regulations or decisions comprising provisional measures for the benefit of the Member State concerned or a decision that the emergency measures should no longer apply.

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**–Explanation (if any) :**

**Article 11 :** *This is a fundamentally important amendment. Working group X rightly recommended the creation of a general legal base enabling the adoption of the measures needed to put in place a common European asylum system. The draft articles do not yet, in the UK's view, achieve this. First, they do not cover at all the absolutely vital external dimension to asylum. The European Union will only succeed in creating a common policy on asylum if it is prepared to act in relation to countries and regions of origin and transit. Second, the Tampere conclusions nowhere said that the second stage of work on a common system should consist of converting the minimum standards under negotiation as part of the first stage into common rules. The Treaty should therefore not contain a catalogue of measures to be taken, but should establish a more general legal base underpinned by a series of objectives or desired outcomes on the face of the Treaty to steer future action in this area. The UK appreciates that the Praesidium may have been seeking to accommodate the concerns of those Member States which have reservations about moving from unanimity to qualified majority voting in this area while at the same time moving to a general legal base; we consider that this is better addressed by allowing individual Member States to adopt emergency measures if public policy or national security reasons arise. The Council would exercise a degree of oversight over these emergency measures.*

**Article 11(2)A :** *This amendment is designed to make it clear that legislation alone is insufficient to create an effective common approach to asylum. There also needs to be effective operational and administrative co-operation.*

**Article 11(3) :** *It would be helpful to have clarification of how European Parliament consultation*

*could operate quickly in relation to emergency provisional measures. Article 64(2) TEC does not currently envisage a Parliamentary procedure.*

**Article 11(4)** : See comments on paragraph 2 above. The emergency clause has been modelled on Article 2(2) of the Schengen agreement.