

## AMENDMENT FORM

Suggestion for amendment of Article : Title ...: Area of freedom, security and justice, 12

Suggestion for protocol :

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

Status : - Member -

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### Article 12: [Immigration]

1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and ~~trafficking in human beings~~ facilitation of illegal entry and presence.

2.1. First indent: okay.

- ~~— definition of the rights of third country nationals residing legally in a Member State, including the conditions governing the freedom of movement and of residence in other Member States;~~
- ~~– The Council acting unanimously on a proposal from the Commission after consulting the European Parliament shall adopt laws and framework laws defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States.~~

Third indent - okay;

- ~~– combating facilitation of illegal entry and presence ~~trafficking in persons, in particular women and children~~.~~

3. The Union may conclude readmission agreements with third countries for the readmission of third-country nationals residing without authorisation to their countries of origin or provenance transit.

4. Okay, provided that this is clearly a complementary competence.

5. Measures adopted pursuant to paragraphs 2 and 3 of this Article shall not prevent any Member State from maintaining or introducing in the areas concerned national provisions which are compatible with this Treaty and with international agreements.

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**Explanation (if any) :**

**Article 12(1) :** *The amendment use more appropriate terminology; trafficking in human beings is not to be defined as cross border.*

**Article 12(2):** *The language of Article 63(4) TEC, “standards on procedures for the issue...” is clearer.) The amendment to indent 2 reproduces the language of Article 63(4) TEC. The working group report did not recommend any change in this area. The language found in the draft article, however, appears broader, and designed to cover the subject matter of Article 137(3) fourth indent. The Tampere justification in the commentary is disingenuous. The amendment also proposes the reintroduction of unanimity voting, since the provision clearly covers social security matters. As the working group report noted, its recommendation on QMV and co-decision was “without prejudice to the procedures for social security matters which should be considered in the context of other social policies”. *Indent 4 : Again, as for paragraph 1 above, our amendment uses more appropriate terminology.**

**Article 12(3) :** *The inclusion of provisions on transit are of fundamental importance if readmission agreements are to be fully effective. This has been recognised in the previous work of the Union in this area.*

**Article 12(4) :** *In due course, all the references in Part 2 of the Treaty to supporting/complementary action should be standardised, and the language should make it quite clear that such acts cannot entail harmonisation of Member States’ laws and regulations.*

**Article 12(5) :** *This amendment reintroduces language currently found at the end of Article 63 TEC. The Praesidium’s commentary says that it is not necessary to repeat this principle which follows from the fact that the sector is defined as one of shared competence. We consider its retention essential unless the final definition of shared competence in Part 1 makes the point absolutely clear.*

The working group recommended that the principle of responsibility sharing should be enshrined in the Treaty. Our amendments fully respect this recommendation. The intention of writing the principle of solidarity into the Treat is, however, presumably not that the European Union budget should bear the entire cost of Member States’ asylum and immigration systems, or to develop a mechanism for sharing the full costs between the Member States, which would not be realistic. The Union’s role is to promote solidarity. Our amendments make this clear.