

AMENDMENT FORM

Suggestion for amendment of Article : III – 196 (ex Art 9)

By Mr : George Vella

Status : – Alternate

Article III-196 (ex Art 9)

1. European decisions under this Chapter shall be taken by the Council acting unanimously. Abstentions by members present in person or represented shall not prevent the adoption of such decisions.

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 European decision, but shall accept that the latter commits the Union. In a spirit of mutual solidarity, the Member State concerned shall refrain from initiating any action, or from enhancing or strengthening any existing 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 at least one third of the Member states representing at least one third of the population of the Union, the decision shall not be adopted.

Explanation (if any) :

The inclusion of the words “initiating” and “or from enhancing or strengthening any existing action”.

Article III-196 as it stands allows for "constructive abstention". This is a provision which neutral countries within the European Union can resort to if they feel that certain contemplated measures would impinge on their constitutional obligations and status. However as the Article stands, it could mean that member states invoking the privilege of "constructive abstention", could still be made to stop or dismantle any action which would be deemed "likely to conflict with or impede Union

action based on that decision..." and hence possibly be asked to dismantle relations including those of a commercial, economic, or financial nature which could have been in place years before. The suggested amendments provide for the abstaining member state, invoking "constructive abstention" to keep existing relationships with a targeted third country, without however initiating any new initiative, or strengthening or enhancing already existing measures in the sector in which the punitive Union action is taken. This would be more in keeping with the "neutral" status of certain member states.