

## AMENDMENT FORM

**Suggestion for amendment of Article : Part III, Title V, Article 212 (ex Art. 24)**

**Suggestion for protocol :**

**By Ms / Mr : Hain**

**Status :            - Member                            - Alternate**

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1.    The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods, ~~and services and the commercial aspects of intellectual property, foreign direct investment~~, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. ~~The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action, as set out in Article 1 of this Title.~~
2.    A European law or framework law shall establish the measures required to implement the common commercial policy. The Council shall act by qualified majority on a proposal from the Commission and after consulting the European Parliament.
4.    The Common Commercial Policy shall also apply to the negotiation and conclusion of agreements in the fields of trade in services and the trade-related aspects of intellectual property. Paragraph 3 shall apply to the negotiation and conclusion of such agreements. For the negotiation and conclusion of agreements in the fields of trade in services, ~~involving the movement of persons and the trade-related commercial~~ aspects of intellectual property, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.  
  
This paragraph shall not affect the rights of the Member States to maintain and conclude agreements with third countries or international organisations insofar as such agreements comply with this Constitution.
5.    ~~The exercise of the competences conferred by this Article in the field of commercial policy shall not affect the delimitation of internal competences between the Union and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of Member States insofar as the Constitution excludes such harmonisation.~~ An agreement may not be concluded by the Council if it includes provision which would go beyond the Union's internal powers, in particular by leading to the harmonisation of the laws or regulations of Member States in an area for which this Treaty rules out such harmonisation.

5 bis:

“The negotiation and conclusion of international agreements in the field of transport shall continue to be governed by the provisions of Article III-222.”

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**Explanation (if any) :**

1. *This paragraph introduces a significant change from the current Article 133, by placing trade in services and commercial aspects of intellectual property on the same basis as trade in goods rather than limiting the application of the Common Commercial Policy in these areas to the negotiation and conclusion of agreements in the fields of trade.*

*We raised in our earlier comments concerns that this leaves the text ambiguous and potentially provides conflicting legal bases for action given provisions in other articles relating to services and intellectual property. These concerns have not been addressed. These concerns have not been addressed and we cannot support the present formulation.*

*The last sentence duplicates Article III- 188 and should be removed.*

2. *We support the intention to give the European Parliament a greater role, but providing for co-decision on all European laws and framework laws is impractical and may lead to long delays. Currently, many autonomous instruments under the CCP are adopted very rapidly to ensure the smooth operation of annual Community import licensing or quota regimes. The appropriate level of scrutiny for the European Parliament would be consultation, in line with the procedure under [Article 33] paragraph 7 and consent for major agreements. This paragraph should also provide for QMV and consultation on internal common commercial policy measures, such as agreeing WTO accessions, where legislation is not required.*

4 *We support the intention to replicate some of the derogations laid down in the existing Article 133 (5), but it is not clear that this draft will have the same effect as 133 (5). This should be the subject of further reflection. The last sub-paragraph of 133(5) should be reinstated.*

5. *The UK supports the intention behind this paragraph, but believes it is expressed better in the current text of Article 133(6), first sub-paragraph. We propose reverting to the current language.*

5bis. *We note the removal of specific derogation for Transport (Article 133 (6) last sub-paragraph). In our view, transport should remain outside the scope of the CCP. This needs to be clarified in the Treaty, by reinstating the Nice wording.*