

AMENDMENT FORM

Suggestion for amendment of Article: III-212 *Common commercial policy*

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Status : - Member

Article III-212 (ex Article 24)

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.

3. Where agreements with one or more States or international organisations need to be negotiated, the relevant provisions of [Article III-222 (ex 33)] of this Title shall apply. The Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of agreements in the fields of trade in services involving the movement of persons and the 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. **Agreements relating to trade in cultural and audiovisual services, educational services, and social and human health services, shall fall within the shared competence of the Union and its Member States. They shall be negotiated and concluded jointly by the Union and its Member States.**

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.

6. This provision shall not affect the right of the Member States to maintain and conclude agreements with third countries or international organisations in so far as such agreements comply with the Union law and other relevant international agreements.

Explanation:

***Paragraph 4:** The principles on common commercial policy included in the current Nice Treaty should be maintained in their entirety. Consequently, the exceptions to the Union's exclusive competence in accordance with the second subparagraph of Article 133(6), relating to trade in cultural and audiovisual services, educational services, and social and human health services should be maintained in this article.*

***Paragraph 6:** It is important to maintain the provisions of the current TEC Article 133, paragraph 5, fourth subparagraph concerning the right of Member States' to maintain and conclude bilateral agreements provided they are compatible with the Common Commercial Policy. This would allow, e.g. in the field of transport, to maintain and conclude agreements which may be necessary for a particular Member State but irrelevant from the point of view of the whole Union.*