

AMENDMENT FORM

Suggestion for amendment of Article : 220 (ex Article 32), part III of the Constitution

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Article III-220 (ex Article 32)

1. The Union may conclude agreements with one or more third countries or international organisations where the Constitution so provides or where ~~the conclusion of an agreement is necessary in order to achieve one of the Union's objectives~~ **the Constitution has created for the Union powers within its internal system for the purpose of attaining a specific objective and the conclusion of agreement is necessary for the attainment of that objective**, where there is provision for it in a binding Union legislative act or ~~where it~~ **insofar as the agreement** affects one of the Union's internal acts.
 2. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.
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Explanation (if any) :

The suggested amendments aim at a more accurate codification of the relevant case law of the European Court of Justice. Insofar as concerns the so-called principle of parallelism, the Court has stated that “whenever Community law has created for the institutions of the Community powers within its internal system for the purpose of attaining a specific objective, the Community is empowered to enter into the international commitments necessary for attainment of that objective even in the absence of an express provision to that effect” (Opinion 2/94 [1996] ECR I-1759, para. 26). This means that the Union's competence can also be exercised by the way of conclusion of international agreements whenever that is necessary for the pursuance of the Union's objectives even if no external competence has expressly been provided for.

As regards, secondly, the so-called ERTA principle, the Court has made it plain that the Union's external competence only arises insofar as the conclusion of an international agreement could affect one of the Union's internal acts (e.g., Opinion 1/94 [1994] ECR I-5267, para. 77).