

AMENDMENT FORM

Suggestion for amendment of Article : 33, Part II

Suggestion for protocol :

By Ms / Mr : **G.M. de Vries**
 T.J.A.M. de Bruijn

Status : **Members**

1. Without prejudice to the specific provisions laid down in Articles 24 of this Title, agreements between the Union and third states or international organisations shall be negotiated and concluded by the following procedure.
2. The Council shall authorise negotiations to be opened, adopt negotiating directives and conclude agreements.
3. The Commission, or the Union's Minister for Foreign Affairs where the agreement exclusively or principally relates to the common foreign and security policy, shall submit recommendations to the Council, authorising him to open negotiations. ~~The Commission and the Union's Minister for Foreign Affairs shall, where appropriate, present recommendations jointly.~~ The Minister for Foreign Affairs and the Commission may submit joint recommendations to the Council on matters covering both common foreign and security policy and other fields of external action
4. ~~In connection with the decision authorising negotiations, depending on the subject of the future agreement, the Council shall nominate the negotiator or leader of the Union's negotiating team.~~ The Commission shall conduct the negotiations. The Council shall nominate the negotiator in cases where the agreement exclusively or principally relates to the CFSP or on agreements relating to matters in criminal law.
5. The Council may address the negotiating directives to the negotiator of the agreement and may designate a special committee in consultation with which the negotiations must be held.

6. On a proposal from the agreement negotiator, the Council shall decide on the signing and, if necessary, provisional application of agreements before entry into force.
7. The Council shall conclude agreements on the proposal of the agreement negotiator. Except where agreements relate exclusively to the common foreign and security policy, the Council shall not conclude any agreement until the European Parliament has been consulted. The Parliament shall deliver its opinion within a time-limit which the Council may lay down according to the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act. However, the European Parliament's assent shall be required for association agreements, accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms and for agreements establishing a specific institutional framework by organising cooperation procedures, agreements with important budgetary implications for the Union and agreements covering fields to which the legislative procedure applies. The Council and the European Parliament may, in an urgent situation, agree upon a time-limit for the assent.
8. When concluding an agreement, the Council may, by way of derogation from the foregoing, authorise the negotiator of the agreement to approve modifications on the Union's behalf where the agreement provides for them to be adopted by a simplified procedure or by a body set up by the agreement; it may attach specific conditions to such authorisation.
- ~~9. The Council shall act by a qualified majority throughout the procedure. However, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of internal rules and for association agreements and accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms~~
9. The Council shall act by a qualified majority throughout the procedure. However, when the agreement covers a field for which unanimity is required for the adoption of internal rules, the Council shall act on this specific field with unanimity. In case of association agreements and accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms the Council shall act unanimously.
10. The Council, on a proposal from the Union's Minister for Foreign Affairs or the Commission, shall decide to suspend the application of an agreement, and establish the positions to be

adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt decisions having legal effects, with the exception of decisions supplementing or amending the institutional framework of the agreement.

11. The European Parliament shall be immediately and fully informed of all the stages of the procedure described in this Article.

12. The European Parliament, the Council, the Commission, the European Central Bank or a Member State may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the Constitution over which the Court of Justice has jurisdiction. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless the Constitution is revised in accordance with the procedure laid down in Article [N].

Explanation (if any) : As to paragraph 4: the amendment is a codification of standard practice: the Commission conducts the negotiations. As far as paragraph 9 is concerned: ‘abuse’ of unanimity voting should be avoided.

Furthermore, the Netherlands would like to remind the praesidium of a former amendment of the Netherlands, namely article 9a, part II:

“Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and with the competent international organisations.

Chapter 2,3 and 4 of this Title shall not affect the exercise of the Member States' competence to negotiate with third countries and in international fora and to conclude international agreements. When exercising these competences, the Member States shall abstain from measures contrary to measures taken by the Union on the basis of Chapter 2, 3 and 4 of this Title.”