

AMENDMENT FORM

Suggestion for amendment of Article 32

By : TIMOTHY KIRKHOPE MEP

Status : MEMBER

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
Article 32 1. The Union may commit itself through agreements concluded with one or more third countries or international organisations in cases where the provisions of the Constitution provide for the conclusion of such agreements. 2. The Union may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common action and special procedure. 3. The Union may conclude international agreements where conclusion is necessary to achieve a Union objective, where there is provision for it in a Union legislative act, or where the agreements affect one of the Union's internal acts. 4. Agreements concluded by the Union are binding upon the institutions of the Union and on its	Article 32 1. <u>In matters relating to humanitarian aid and trade with developing countries</u> , the <u>Community</u> may commit itself through agreements concluded with one or more third countries or international organisations in cases where the provisions of the <u>simplifying Treaty</u> provide for the conclusion of such agreements. 2. <u>In matters relating to humanitarian aid and trade with developing countries</u> , the <u>Community</u> may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common action and special procedure. 3. <u>In matters relating to humanitarian aid and trade with developing countries</u> , the <u>Community</u> may conclude international agreements where conclusion is necessary to achieve a <u>Community</u> objective, where there is provision for it in a <u>Community</u> legislative act, or where the agreements affect one of the <u>Community</u> 's internal acts. 4. Agreements concluded by the <u>Community</u> are binding upon the institutions of the Union and on its

Member States.	Member States.
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AMENDMENT FORM

Suggestion for amendment of Article : Article 32

Suggestion for protocol :

By Ms / Mr : David Heathcoat-Amory

Status : X - Member - Alternate

Article 32

1. *[Delete: The Union]* **Member States** may commit *[itself]* **themselves** through agreements concluded with one or more third countries or international organisations in cases where the provisions of the Constitution provide for the conclusion of such agreements.

2. The Union may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common action and special procedure.

[Delete: 3. The Union may conclude international agreements where conclusion is necessary to achieve a Union objective, where there is provision for it in a Union legislative act, or where the agreements affect one of the Union's internal acts.]

[Delete: 4. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.]

Explanation (if any) : The amendments are intended to place more emphasis on Member States as the driving force in international agreements involving the Union.

Explanation for deletion of article 3 : The power to conclude international agreements in pursuit of any Union objective is too general and should be deleted.

AMENDMENT FORM

Suggestion for amendment of Article : Entwurf der Artikel des Verfassungsvertrags, die das außenpolitische Handeln betreffen

Suggestion for protocol :

By Mr : Joachim Wuermeling

Status : - Alternate

KAPITEL 5: INTERNATIONALE ÜBEREINKÜNFTE

Artikel 33

(11) Das Europäische Parlament wird über alle Phasen des in diesem Artikel beschriebenen Verfahrens unverzüglich und umfassend unterrichtet. **Vertreter des Parlaments können zu allen Beratungen hinzugezogen werden.**

Explanation (if any) :

Insbesondere bei der Zustimmungsbedürftigkeit von Verträgen kann sich die Einbeziehung von Abgeordneten als sinnvoll erweisen.

AMENDMENT FORM

Suggestion for amendment of Article : Entwurf der Artikel des Verfassungsvertrags, die das außenpolitische Handeln betreffen

Suggestion for protocol :

By Mr : Joachim Wuermeling

Status : - Alternate

KAPITEL 5: INTERNATIONALE ÜBEREINKÜNFTE

Artikel 33

(2) Der Rat erteilt **nach Anhörung des Europäischen Parlaments** eine Ermächtigung zur Eröffnung von Verhandlungen, legt Verhandlungsrichtlinien fest und schließt die Übereinkünfte.

Explanation (if any) :

Wenn das Parlament den Abkommen später zustimmen muss, macht es Sinn, es vor Eintritt in die Verhandlungen anzuhören.

AMENDMENT FORM

Suggestion for amendment of Article : Entwurf der Artikel des Verfassungsvertrags, die das außenpolitische Handeln betreffen

Suggestion for protocol :

By Mr : Joachim Wuermeling

Status : - Alternate

KAPITEL 5: INTERNATIONALE ÜBEREINKÜNFTE

Artikel 33

...

(7) Der Rat schließt die Übereinkunft auf Vorschlag des Verhandlungsführers. Mit Ausnahme der Übereinkünfte, die ausschließlich die gemeinsame Außen- und Sicherheitspolitik betreffen, schließt der Rat die Übereinkunft nach **Anhörung Zustimmung** des Europäischen Parlaments. ~~Das Europäische Parlament gibt seine Stellungnahme innerhalb einer Frist ab, die der Rat entsprechend der Dringlichkeit festlegen kann. Ergeht innerhalb dieser Frist keine Stellungnahme, so kann der Rat einen Beschluss fassen. Die Zustimmung des Europäischen Parlaments ist jedoch erforderlich, wenn es um folgende Fälle geht: Assoziierungsabkommen; Beitritt zur Europäischen Konvention zum Schutze der Menschenrechte und Grundfreiheiten; Übereinkünfte, die durch Einführung von Zusammenarbeitsverfahren einen besonderen institutionellen Rahmen schaffen; Übereinkünfte mit erheblichen finanziellen Folgen für die Union; Übereinkünfte in Bereichen, für die das Gesetzgebungsverfahren gilt.~~ Der Rat und das Europäische Parlament können in dringenden Fällen eine Frist für die Zustimmung vereinbaren.

...

Explanation (if any) :

Jeder völkerrechtliche Vertrag, den die Europäische Union schließt, sollte der Zustimmung des Europäischen Parlaments unterliegen. Damit würde das Parlament dem Ministerrat gleichgestellt, wie es auch bei der Gesetzgebung in den letzten Jahren erreicht wurde. Die gegenwärtige Beschränkung der Zustimmung auf einige Sonderfälle entspricht angesichts der gewachsenen und weiter wachsenden Bedeutung der internationalen Verpflichtungen, die die Europäische Union eingeht, nicht den Erfordernissen an die demokratische Legitimation.

AMENDMENT FORM

Suggestion for amendment of Article : Entwurf der Artikel des Verfassungsvertrags, die das außenpolitische Handeln betreffen

Suggestion for protocol :

By Mr : Joachim Wuermeling

Status : - Alternate

KAPITEL 5: INTERNATIONALE ÜBEREINKÜNFTE

Artikel 33

(7) Der Rat schließt die Übereinkunft auf Vorschlag des Verhandlungsführers. Mit Ausnahme der Übereinkünfte, die ausschließlich die gemeinsame Außen- und Sicherheitspolitik betreffen, schließt der Rat die Übereinkunft nach Anhörung des Europäischen Parlaments. Das Europäische Parlament gibt seine Stellungnahme innerhalb einer Frist ab, die der Rat entsprechend der Dringlichkeit festlegen kann. Ergeht innerhalb dieser Frist keine Stellungnahme, so kann der Rat einen Beschluss fassen. Die Zustimmung des Europäischen Parlaments ist jedoch erforderlich, wenn es um folgende Fälle geht: Assoziierungsabkommen; Beitritt zur Europäischen Konvention zum Schutze der Menschenrechte und Grundfreiheiten; Übereinkünfte, die durch Einführung von Zusammenarbeitsverfahren einen besonderen institutionellen Rahmen schaffen; Übereinkünfte mit **erheblichen finanziellen Folgen finanzielle Verpflichtungen** für die Union; Übereinkünfte in Bereichen, für die das Gesetzgebungsverfahren gilt. Der Rat und das Europäische Parlament können in dringenden Fällen eine Frist für die Zustimmung vereinbaren.

Explanation (if any) :

Im Konvent herrscht Übereinstimmung, dass das Parlament das letzte Wort bei den EU-Ausgaben haben soll (AG Vereinfachung und AG Ergänzende Zuständigkeiten). Dann ist es konsequent, wenn Verpflichtungen gegenüber Dritten nur mit seiner Zustimmung übernommen werden dürfen.

AMENDMENT FORM

Suggestion for amendment of Article : 33 (PART TWO – TITLE B)

Suggestion for protocol :

By Mr : Ingvar SVENSSON

Status : - Alternate

Article 33

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~~ **it** to open negotiations. ~~The Commission and the Union's Minister for Foreign Affairs shall, where appropriate, present recommendations jointly.~~
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.
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.
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].

AMENDMENT FORM

Suggestion for amendment of Article:

33 (Part Two, CFSP)

By Mr:

Erwin Teufel

Status:

Member

Text of the Praesidium

- (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.

- (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].

Proposed Amendment

- (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. **As far as the participation of national parliaments is concerned, the Protocol on the role of national parliaments in the European Union shall be applied accordingly.**

- (12) The European Parliament, the Council, the Commission, the European Central Bank, a Member State, **a region within its legislative powers or any chamber of a national parliament** 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:**Paragraph 1**

The participation of national parliaments in the conclusion of international agreements is consistent with their participation in the internal legislative procedure.

Paragraph 12

It fits in with the principle of solidarity to apply this principle in scrutinising planned agreements, too. Consequently national parliaments and regions within their legislative powers should have the right to obtain the opinion of the Court of Justice, too.

FICHE AMENDEMENT

Proposition d'amendement à l'Article:

33 (Partie II, PESCE)

Déposée par Monsieur:

Erwin Teufel

Qualité:

Membre

Texte du Praesidium

- (1) Unbeschadet der besonderen Bestimmungen des Artikels 24 werden Übereinkünfte zwischen der Union und Drittstaaten oder internationalen Organisationen nach dem nachstehend beschriebenen Verfahren ausgehandelt und geschlossen.

- (12) Das Europäische Parlament, der Rat, die Kommission, die Europäische Zentralbank oder ein Mitgliedstaat kann ein Gutachten des Gerichtshofs über die Vereinbarkeit einer geplanten Übereinkunft mit den Bestimmungen dieser Verfassung, für die der Gerichtshof gerichtlich zuständig ist, einholen. Ist dieses Gutachten ablehnend, so kann die geplante Übereinkunft außer im Falle einer Änderung der Verfassung nach dem Verfahren des Artikels [N] nicht in Kraft treten.

Amendement proposé

- (1) Unbeschadet der besonderen Bestimmungen des Artikels 24 werden Übereinkünfte zwischen der Union und Drittstaaten oder internationalen Organisationen nach dem nachstehend beschriebenen Verfahren ausgehandelt und geschlossen. **Für die Beteiligung der nationalen Parlamente findet das diesem Verfassungsvertrag beigefügte Protokoll über die Rolle der einzelstaatlichen Parlamente in der Europäischen Union entsprechende Anwendung.**

- (12) Das Europäische Parlament, der Rat, die Kommission, die Europäische Zentralbank, ein Mitgliedstaat, **eine Region im Rahmen ihrer Gesetzgebungsbefugnisse oder eine Kammer eines nationalen Parlaments** kann ein Gutachten des Gerichtshofs über die Vereinbarkeit einer geplanten Übereinkunft mit den Bestimmungen dieser Verfassung, für die der Gerichtshof gerichtlich zuständig ist, einholen. Ist dieses Gutachten ablehnend, so kann die geplante Übereinkunft außer im Falle einer Änderung der Verfassung nach dem Verfahren des Artikels [N] nicht in Kraft treten.

Begründung:

Abs. 1

Es ist konsequent, die Beteiligung der nationalen Parlamente wie beim internen Gesetzgebungsverfahren auch beim Abschluss internationaler Übereinkünfte vorzusehen.

Abs. 12

Es entspricht dem Subsidiaritätsgrundsatz, dieses auch bei der Prüfung geplanter Übereinkünfte anzuwenden. Daher sollten auch die nationalen Parlamente und Regionen im Rahmen ihrer Gesetzgebungsbefugnisse das Recht erhalten, Gutachten des Gerichtshofes einzuholen.

AMENDMENT FORM

Suggestion for amendment of Article: 32 (Part Two, CFSP)
By Mr: Erwin Teufel
Status: Member

Text of the Praesidium

Proposed Amendment

(3) The Union may conclude international agreements where conclusion is necessary to achieve a Union objective, where there is provision for it in a Union legislative act, or where the agreements affect one of the Union's internal acts.

(3) The Union may conclude international agreements **whose scope is mirrored by the internal competencies of the Union.**

(4) Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

(4) Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

Explanation:

Paragraph 3

The Treaty should indicate that the Union is competent to conclude agreements dealing with issues falling under its internal competences, as it was recommended by Working Group VII, too. A reference to the objectives of the Union cannot be provided, as these cannot create any competences (cf. Part I Article 3 Paragraph 5, CONV 528/03). A reference to the Union's legal acts is not necessary as these have to be covered by an internal competence of the Union anyhow.

Paragraph 4

This amendment is for clarification purposes as foreseen in Article 26 Paragraph 2, Article 28 Paragraph 3, and Article 30 Paragraph 4, too.

FICHE AMENDEMENT

Proposition d'amendement à l'Article:	32 (Partie II, PESC)
Déposée par Monsieur:	Erwin Teufel
Qualité:	Membre

Texte du Praesidium

Amendement proposé

- | | |
|--|--|
| (3) Die Union kann die internationalen Übereinkünfte schließen, deren Abschluss zur Verwirklichung eines Ziels der Union erforderlich oder in einem Rechtsakt der Union vorgesehen ist bzw. die einen internen Rechtsakt der Union berühren. | (3) Die Union kann die internationalen Übereinkünfte schließen, für deren Anwendungsbereich eine interne Zuständigkeit der Union besteht. |
| (4) Die von der Union geschlossenen Übereinkünfte binden die Organe der Union und die Mitgliedstaaten. | (4) Die von der Union geschlossenen Übereinkünfte binden die Organe der Union und die Mitgliedstaaten. |

Unterabsatz 1 berührt nicht die Zuständigkeit der Mitgliedstaaten, in internationalen Gremien zu verhandeln und internationale Abkommen zu schließen.

Begründung:

Abs. 3

Im Vertrag sollte vorgesehen sein, dass die Union in Fragen, die unter ihre interne Zuständigkeit fallen, für den Abschluss von Übereinkünften zuständig ist. So hat es auch die Arbeitsgruppe VII empfohlen. Ein Verweis auf die Ziele der Union kann nicht vorgesehen werden, da diese keine Zuständigkeiten begründen (vgl. Teil I Artikel 3 Absatz 5, CONV 528/03). Ein Verweis auf Rechtsakte der Union ist nicht erforderlich, da für diese ohnehin eine interne Zuständigkeit der Union bestehen muss.

Abs. 4

Diese Änderung dient der Klarstellung, wie sie auch in Artikel 26 Absatz 2, Artikel 28 Absatz 3 und Artikel 30 Absatz 4 vorgesehen ist.

AMENDMENT FORM

Suggestion for amendment of PART TWO – CHAPTER 5: INTERNATIONAL AGREEMENTS, Article 33

By Ms : GIANNAKOU Marietta

Status : - Member

CHAPTER 5: INTERNATIONAL AGREEMENTS

Article 33

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.
4. In connection with the decision authorising negotiations, depending on the subject of the future agreement, the Council shall nominate *the Commission or the Union's Minister for Foreign Affairs as* the negotiator or leader of the Union's negotiating team.
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.~~ *The negotiations shall be conducted in consultation with a special committee designated by the Council to assist it in this task. This committee shall be composed of an equal number of representatives of the Foreign Affairs Council and the European Parliament.*

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, *trade agreements* 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.
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) :

Para 4: Should specify that either the Commission or the Union's Foreign minister can lead the negotiations team.

Para 5: A clear link between the Committee and the two legislating bodies has to be made.

Para 7: For trade agreements, the assent of the European Parliament is indispensable.

AMENDMENT FORM

Title B

Suggestion for amendment of Article : 33

By Members: Voggenhuber, Lichtenberger, Wagener, Nagy

Status : Members and alternate members.

Article 33

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 **in association with the European Parliament.**

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 and the **European Parliament** authorising ~~him to~~ **the opening of** negotiations. The Commission and the Union's Minister for Foreign Affairs shall, where appropriate, present recommendations jointly.

~~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.~~

~~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.~~

The Commission shall conduct these negotiations in consultation with special committees appointed by the Council to assist it in this task and within the

framework of such directives as the Council and the European Parliament may issue to it.

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 Union shall conclude agreements on the proposal of the Commission after the European Parliament has given its assent. ~~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.~~

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:

AMENDMENT FORM

Suggestion for amendment of Article 32

By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, Mr Göran Lennmarker and Mr Kenneth Kvist, national parliament representatives.

Status : **- Member: Hjelm-Wallén, Lekberg and Lennmarker**
 - Alternate: Petersson and Kvist

Article 32¹

1. The Union may commit itself through agreements concluded with one or more third countries or international organisations in cases where the provisions of the Constitution provide for the conclusion of such agreements.
2. The Union may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common action and special procedure.
3. The Union may conclude international agreements where conclusion is necessary to achieve a Union objective, where there is provision for it in a Union legislative act, or where the agreements affect one of the Union's internal acts.
4. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

¹ The competence in the fields of police and judicial cooperation in criminal matters, and in the fields of the common foreign and security policy, should primarily belong to the Member States. The level of the Union competence in this area as well as in other sensitive matters should be considered when drafting the provisions relating to the external competence of the Union.

AMENDMENT FORM

Suggestion for amendment of Article 33

By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, Mr Göran Lennmarker and Mr Kenneth Kvist, national parliament representatives.

**Status : - Member: Hjelm-Wallén, Lekberg and Lennmarker
- Alternate: Petersson and Kvist**

Article 33

1. Without prejudice to the specific provisions laid down in Articles 24 of tis 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 **either or both him¹** to open negotiations. The Commission and the Union's Minister for Foreign Affairs shall, where appropriate, present recommendations jointly.
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.
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

1 The mandate should be given by the Council to the most suitable body to carry out the negotiation

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~~² and accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.
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].

² The use of qualified majority when reaching association agreements should not be ruled out, since there may be cases where association agreements are confined to areas in which qualified majority is the decisionmaking rule.

AMENDMENT FORM

Suggestion for amendment of Article 32 of Part II

By Mr : O'Sullivan and Ponzano

Status : Alternates

Modify the first paragraph of Article 32 as follows:

« The Union may commit itself through agreements concluded with one or more third countries or international organisations **in order to implement its policies and** in cases where the provisions of the Constitution provide for the conclusion of such agreements.

Explanation :

As indicated in the commentary to Article 32, Working Group VII recommended that the Treaty should indicate that the Union is competent to conclude agreements dealing with issues falling within its internal competences, irrespective of whether this internal competence has been exercised or not (it should in this regard be noted that Article 33 paragraph 7 provides for the assent of the European Parliament whether the competence has been exercised internally or not).

However, the proposed text is not sufficiently clear on this parallelism, according to which both internal instruments (laws) and external instruments (agreements) may be used in a specific field of competence, under the conditions provided for by the Constitution.

It should be noted that the question of the exclusivity of the competence is different, and is covered by Article 11 paragraph 2 of Part I.

FICHE AMENDEMENT

Proposition d'amendement à l'article 32 de la partie II

Déposée par M. O'Sullivan et M. Ponzano

Qualité : Suppléants

Modifier le premier paragraphe de l'article 32 comme suit

« L'Union peut s'engager par la conclusion d'accords avec un ou plusieurs Etats tiers ou organisations internationales **en vue de mettre en œuvre de ses politiques ainsi que** dans les cas où les dispositions de la Constitution prévoient la conclusion de tels accords. »

Explication :

Comme l'indique le commentaire sur l'article 32, le groupe de travail sur l'action externe a conclu que le traité devrait disposer que l'Union est compétente pour conclure des accords portant sur les questions qui relèvent de ses compétences internes, donc que cette compétence interne ait ou non été exercée (il faut d'ailleurs remarquer que l'article 33 paragraphe 7 prévoit également l'avis conforme du parlement européen indépendamment de l'exercice de la compétence interne).

Or, le texte proposé n'est pas assez clair sur ce parallélisme permettant l'utilisation d'instruments tant interne (loi) qu'externe (accord) dans un domaine de compétence de l'Union, dans les conditions prévues par la constitution.

Il est à noter que la question de l'exclusivité, qui est une question distincte, est quant à elle régie par l'article 11 paragraphe 2 de la partie I.

AMENDMENT FORM

Suggestion for amendment of Article 34 of Part II

By Mr : O'Sullivan and Ponzano

Status : Alternates

The provision should be replaced as follows:

- « 1. *By way of derogation from Article 33, agreements between the Union and third countries or international organisations on an exchange-rate system for the Euro in relation to third-country currencies and agreements concerning monetary or foreign exchange regime matters shall be concluded by the following procedure:*
- *The Council shall, on a recommendation from the Commission, and after consulting the European Central Bank, authorise by qualified majority the opening of negotiations with one or more third States or international organisations. When exchange-rate systems for the Euro in relation to third-country currencies are concerned, the Council may also act on a recommendation from the ECB, and after consulting the Commission.*
 - *The Commission shall conduct the negotiations, without prejudice to the ESCB's tasks, if necessary in consultation with special committees designated by the Council to assist it in its task and within any directives given to it by the Council. It shall keep the European Parliament regularly informed of the progress of negotiations.*
 - *The Council shall conclude agreements on the recommendation of the European Central Bank or the Commission and after consulting the European Parliament. 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.*
 - *Throughout the procedure, the Council shall act unanimously where agreements concern an exchange-rate system for the Euro in relation to third-country currencies and by a qualified majority where agreements concern a monetary or foreign-exchange regime. It shall consult the ECB in an endeavour to reach a consensus consistent with the objective of price stability where agreements concern an exchange-rate system for the Euro in relation to third-country currencies.*
2. *The Council may, acting by a qualified majority on a recommendation from the European Central Bank and after consulting the Commission, or on a proposal from the Commission and after consulting the European Central Bank in an endeavour to reach a consensus consistent with price stability, adopt, adjust or abandon the central rates of the Euro within the exchange-rate system.*

3. *In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting by a qualified majority on a recommendation from the Commission after consulting the European Central Bank or, if necessary, on a recommendation from the European Central Bank after consulting the Commission, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.*
4. *For the purpose of this Article, the Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the European Central Bank, decide on the position of the Union at international level with respect to economic and monetary questions.*

The Commission shall represent the Union in international financial institutions and fora, without prejudice to the ESCB's tasks. The Commission shall act in close concert with the Council and the ECB.

In institutions of which the Union is not a member, the Union's position shall be closely co-ordinated and shall be expressed by the Member State on which the Council has conferred that task. The Member State concerned shall be assisted by the Commission.

5. *Without prejudice to Union competence as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.*
6. *For the purpose of this Article, the Council is composed by the representatives of the governments of the Member States that have adopted the Euro as a currency. »*

Explanation :

Such a presentation, inspired by the general structure of Article 33, is more readable than current Article 111 of the EC Treaty which served as the basis for the proposed provision.

Furthermore, in light of the recommendations of Working Party VII concerning the external representation of the Eurozone, it appears essential to provide for a single representation of the Union. The Commission must be entrusted with this task, as for other issues falling under the external aspects of the single market. A transition mechanism is provided for, given that the accession to the international financial institutions is a complex issue.

FICHE AMENDEMENT

Proposition d'amendement à l'article 34 de la partie II

Déposée par M. O'Sullivan et M. Ponzano

Qualité : Suppléants

Il est proposé de remplacer l'article comme suit :

- « 1. *Par dérogation à l'article 33, les accords entre l'Union et des États tiers ou organisations internationales portant sur un système de taux de change pour l'euro vis-à-vis des monnaies de pays tiers ainsi que les accords sur des questions se rapportant au régime monétaire ou de change sont conclus selon la procédure suivante:*
- *Le Conseil, statuant à la majorité qualifiée sur recommandation de la Commission et après consultation de la BCE, autorise l'ouverture de négociations avec un ou plusieurs Etats ou organisations internationales. Lorsque l'accord concerne des systèmes de taux de change pour l'euro vis-à-vis de monnaies de pays tiers, le Conseil peut également agir sur recommandation de la BCE et après consultation de la Commission.*
 - *Les négociations sont conduites par la Commission dans le cadre des directives que le Conseil peut lui adresser et en consultation avec des comités spéciaux que le Conseil peut désigner, sans préjudice des missions qui sont confiées au SEBC. Le Parlement européen est régulièrement tenu informé du déroulement des négociations par la Commission.*
 - *Le Conseil conclut l'accord sur recommandation de la Banque centrale européenne ou de la Commission et après consultation du Parlement européen. Le Parlement émet son avis dans un délai que le Conseil peut fixer en fonction de l'urgence. En l'absence d'avis, dans ce délai, le Conseil peut statuer.*
 - *Au cours de toute la procédure, le Conseil statue à l'unanimité lorsque l'accord porte sur un système de taux de change pour l'euro vis-à-vis des monnaies de pays tiers et à la majorité qualifiée lorsque l'accord portant sur le régime monétaire ou de change. Il consulte la BCE en vue de parvenir à un consensus compatible avec l'objectif de la stabilité des prix lorsque l'accord concerne des systèmes de taux de change pour l'euro vis-à-vis de monnaies de pays tiers.*
2. *Le Conseil, statuant à la majorité qualifiée sur recommandation de la Banque centrale européenne et après consultation de la Commission, ou sur proposition de la Commission et après consultation de la Banque centrale européenne en vue de parvenir à un consensus compatible avec la stabilité des prix, peut adopter, modifier ou abandonner les cours centraux de l'euro dans le système des taux de change.*

3. *En l'absence d'un système de taux de change vis-à-vis d'une ou de plusieurs monnaies de pays tiers au sens du paragraphe 1, le Conseil, statuant à la majorité qualifiée sur proposition de la Commission et après consultation de la Banque centrale européenne ou le cas échéant, sur recommandation de la Banque centrale européenne et après consultation de la Commission, peut formuler les orientations générales de politique de change vis-à-vis de ces monnaies. Ces orientations générales n'affectent pas l'objectif principal du Système européen de banques centrales, à savoir le maintien de la stabilité des prix.*
4. *Aux fins du présent article, le Conseil, statuant à la majorité qualifiée sur proposition de la Commission et après consultation de la Banque centrale européenne, décide de la position de l'Union au niveau international en ce qui concerne les questions économiques et monétaires.*

La Commission représente l'Union dans les institutions financières internationales, sans préjudice des missions qui sont confiées au SEBC. La Commission se consulte étroitement avec le Conseil et la BCE.

Dans les institutions dont l'Union n'est pas membre, la position de l'Union fait l'objet d'une étroite coordination et est exprimée par l'Etat membre auquel le Conseil a confié cette tâche. L'Etat membre en question est assisté par la Commission.

5. *Sans préjudice des compétences de l'Union dans le domaine de l'Union économique et monétaire, les États membres peuvent négocier dans les instances internationales et conclure des accords internationaux.*
6. *Aux fins du présent article, le Conseil est composé des représentants des gouvernements des Etats membres qui ont adopté l'euro comme monnaie. »*

Explication :

Une telle présentation, inspirée de la structure générale de l'article 33, est plus lisible que l'actuel article 111 du traité CE, qui est la base de l'article proposé.

En outre, il semble essentiel, à la lumière des recommandations du groupe de travail sur l'action externe relatives à la représentation externe de la zone euro, de prévoir que l'Union dispose d'une représentation unique. Cette tâche doit être confiée à la Commission, comme pour les autres matières relevant des aspects externes du marché intérieur. Une formule transitoire est prévue, l'adhésion aux institutions financières internationales étant complexe.

AMENDMENT FORM

Suggestion for amendment of Article 33 of Part II

By Mr : O’Sullivan and Ponzano

Status : Alternates

Modify paragraph 4 of Article 33 as follows.

« 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 conduct the negotiations.»

Explanation :

This drafting is clearer than the one proposed and more consistent with the general structure of Article 33; from a legal point of view, it therefore better ensures compliance with the various procedures involved (Community or CFSP).

Furthermore, this text, based on Article 300 paragraph 1 of the EC Treaty, is more precise than a reference to a “leader of a negotiating team”.

FICHE AMENDEMENT

Proposition d'amendement à l'article 33 de la partie II

Déposée par M. O'Sullivan et M. Ponzano

Qualité : Suppléants

Modifier le paragraphe 4 de l'article 33 comme suit.

« Les négociations sont conduites par la Commission ou, lorsque l'accord porte exclusivement ou principalement sur la politique étrangère et de sécurité commune, par le Ministre des affaires étrangères de l'Union ».

Explication :

Cette formulation est plus claire que celle proposée et plus cohérente avec la structure générale de l'article 33 et ainsi, d'un point de vue juridique, garantit mieux le respect de la diversité de chacune des procédures (communautaire ou PESC).

En outre, la terminologie inspirée de l'actuel article 300 paragraphe 1 du traité CE est plus précise qu'une référence à un « chef de file ».

AMENDMENT FORM

Title B - Part II

Suggestion for amendment of Article : 33

By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Peeter Kreitzberg, Mr Algirdas Gričius, Mr Puiu Hasotti, Mr Jelko Kacin, Mr Zekeriya Akçam and Mr Eugenijus Maldeikis; and Alternate Members: Ms Lone Dybkjaer, Mr Willem Van Eekelen, Lord MacLennan of Rogart, Mr Nesrin Uzun, Mr Marios Matsakis, Mrs Androula Vassiliou, Mr Istvan Szent-Ivanyi, Mr Péter Eckstein-Kovacs, Mr Ibrahim Ozal and Mr Gintautas Sivickas.

Status : Members and alternate members.

Article 33

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 *[Minister of Foreign Affairs/Secretary of the Union]* where the agreement exclusively or principally relates to the common foreign and security policy, shall submit recommendations to the Council, authorising *the opening of* negotiations. The Commission and the Union's Minister for Foreign Affairs shall, where appropriate, present recommendations jointly.
4. *The negotiations are to be conducted by the Commission, or, where the agreement exclusively or principally relates to the common foreign and security policy, by the [Minister of Foreign Affairs/Secretary of the Union].*

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.
[Delete] 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, *trade, development and cooperation agreement*, 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 by enhanced qualified majority when the agreement covers a field for which enhanced qualified majority 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.

10. The Council, on a proposal from the [*Minister of Foreign Affairs/Secretary of the Union*] 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:

The Commission should be the sole negotiator, except in the area of CFSP, where it should be the Secretary of the Union.

In paragraph 5 we include the precise list of agreements that will require European Parliament assent.

In Paragraph 7, we remove the exception for consultation by the EP for CFSP agreements. The EP will not have a role in ratifying the agreement, but should be entitled to give its Opinion on such an agreement

AMENDMENT FORM

Title B - Part II

Suggestion for amendment of Article : 34

By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Peeter Kreitzberg, Mr Algirdas Gričius, Mr Puiu Hasotti, Mr Jelko Kacin, Mr Zekeriya Akçam and Mr Eugenijus Maldeikis; and Alternate Members: Ms Lone Dybkjaer, Mr Willem Van Eekelen, Mr Nesrin Uzun, Mr Marios Matsakis, Mrs Androula Vassiliou, Mr Istvan Szent-Ivanyi, Mr Péter Eckstein-Kovacs, Mr Ibrahim Ozal and Mr Gintautas Sivickas.

Status : Members and alternate members.

Article 34

1. By way of derogation from Article 33, the Council, acting unanimously on a recommendation from the European Central Bank or from the Commission, and following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability, and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the European Central Bank or the Commission, and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.

2. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting by a qualified majority on a recommendation from the Commission after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies.

These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

3. By way of derogation from Article 33, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more States or international organisations, the Council shall, acting by a qualified majority on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. ***The Commission, in close consultation with the Council and the ECB, shall represent the Union in such negotiations.***

4. Subject to paragraph 1, the Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the European Central Bank, decide on the position occupied by the Union at international level in relation to questions having particular interest for the Economic and Monetary Union.

The Commission represents the Union in international financial organisations, without prejudice to the missions attributed to the ESCB. The Commission keeps in close contact with the Council and the ECB.

5. Without prejudice to Union competence as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

Explanation:

The Commission should represent the Union in all international financial institutions.

FICHE AMENDEMENT

Proposition d'amendement à l'Article 33, partie II – titre B - de la Constitution:

L'ACTION EXTERIEURE DE L'UNION

Déposée par Mme Linda McAVAN, Mme Anne VAN LANCKER, M. Olivier DUHAMEL, M. Luis MARINHO, Mme Pervenche BERÈS, Mme Elena PACIOTTI, Mme Helle THORNING-SCHMIDT

Qualité: - Membres et Suppléants

CHAPTER 2 : COMMON COMMERCIAL POLICY

ARTICLE 33

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, **agreements covered by Article 24**, 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.

Explication éventuelle:

AMENDMENT FORM

Suggestion for amendment to PART TWO, Title B, Article 32

By Mr Hannes Farnleitner

Status : - Member

CHAPTER 5: INTERNATIONAL AGREEMENTS

Article 32

1. The Union may commit itself through agreements concluded with one or more third countries or international organisations in cases where the provisions of the Constitution provide for the conclusion of such agreements **as well as in cases where the conclusion of such agreements is necessary to achieve a Union objective, where there is provision for it in a Union legislative act, or where the agreements affect one of the Union's internal acts.**
 2. The Union may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common action and special procedure.
 3. ~~The Union may conclude international agreements where conclusion is necessary to achieve a Union objective, where there is provision for it in a Union legislative act, or where the agreements affect one of the Union's internal acts.~~
 4. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.
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Explanation :

Following the internal logic of the cases in which the Union shall be competent to conclude agreements with third countries or international organisations it is proposed to add on para. 3 directly to para. 1.

AMENDMENT FORM

Suggestion for amendment to PART TWO, Title B, Article 33

By Mr Hannes Farnleitner

Status : - Member

Article 33

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, **authorise the signing of agreements** 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.
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.
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 after the assent of the European Parliament has been obtained. ~~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 **unless otherwise provided for in the Constitution**. 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.

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 :

In para. 2 the signing of agreements referred to in para. 6 should be mentioned.

Para. 7 must reflect the right of the European Parliament to give its assent to all agreements to be concluded by the Union.

In para. 9 care is taken of the fact that other articles of the Constitution, e.g. Art. 24 para. 4 on common commercial policy, provide for cases in which the Council acts unanimously when deciding on the conclusion of agreements.

With the deletion in para. 12 it is made clear that the ECJ shall be competent to give opinions, if so requested, on the compatibility of agreements to be concluded by the Union in all fields of external action.

AMENDMENT FORM

Suggestion for amendment to PART TWO, Title B, Article 34 :

By Mr Hannes FARNLEITNER :

Status : - Member

Article 34

1. By way of derogation from Article 33, the Council, acting unanimously on a recommendation from the European Central Bank or from the Commission, and following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability, and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the European Central Bank or the Commission, and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.
2. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting by a qualified majority on a recommendation from the Commission after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.
3. By way of derogation from Article 33, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more States or international organisations, the Council shall, acting by a qualified majority on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations.
4. Subject to paragraph 1, the Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the European Central Bank, **adopt a single** position of the Union at international level in relation to questions having particular interest for the Economic and Monetary Union **while enabling**

all Member States in the euro area to be fully involved in each stage of preparing this position.

- 5. Consistent with the requirement of unity in the international representation of the Union, the Council shall, under the procedure of para 4, decide on the Union's external representation, taking account of the competences of Commission and European Central Bank.**
 6. Without prejudice to Union competence as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.
-

Explanation :

The external representation of the Union should be defined in a comprehensive manner in one single article of the Constitution as foreseen by the preliminary draft Constitutional treaty (First Part Art. 41). Whereas the Union representation in CFSP matters is provided for in Art. 5 (2) and the representation of the Union in international financial organizations is dealt with in paragraph 5 no draft text has yet been presented for the Union external representation in other policy areas falling under the current first pillar.

AMENDMENT FORM

Suggestion for amendment of Article : 33, Chapter 5

Suggestion for protocol :

By Mr : John Gormley

Status : Alternate

Article 33.3 Delete both references to the ‘Union’s Minister for Foreign Affairs’ and insert in both cases the words **“Commissioner for External Affairs”**

Article 33.10 Delete ‘Union’s Minister for Foreign Affairs’ and insert **“Commissioner for External Affairs”**

Explanation (if any) :

FICHE AMENDEMENT

Titre B - Partie II

Proposition d'amendement à l'Article : Artigo 32.º

Déposée par Monsieur Luís Queiró

Qualité: Suppléant

1. A União pode contrair obrigações mediante a celebração de acordos com um ou mais Estados terceiros ou organizações internacionais, nos casos em que as disposições **do Tratado** prevejam a celebração de tais acordos.
 2. A União pode celebrar acordos de associação com um ou mais Estados terceiros ou organizações internacionais. Esses acordos criam uma associação, caracterizada por direitos e obrigações recíprocos, acções em comum e procedimentos especiais, com um ou vários Estados terceiros ou organizações internacionais.
 3. A União pode celebrar os acordos internacionais cuja celebração seja necessária para alcançar um objectivo da União ou esteja prevista num acto legislativo da União, ou que afectem um acto interno da União.
 4. Os acordos celebrados pela União vinculam as instituições da União e os Estados-Membros
-

Explication éventuelle :

FICHE AMENDEMENT

Titre B - Partie II

Proposition d'amendement à l'Article : Artigo 33.º

Déposée par Monsieur Luís Queiró

Qualité: Suppléant

1. Sem prejuízo das disposições específicas do artigo 24.º do presente Título, os acordos entre a União e Estados terceiros ou organizações internacionais são negociados e celebrados de acordo com o processo a seguir enunciado.
2. O Conselho autoriza a abertura das negociações, aprova as directrizes de negociação e celebra os acordos.
3. A Comissão ou o **Representante Europeu para as Relações Externas**, caso o acordo incida exclusiva ou principalmente na Política Externa e de Segurança Comum, apresenta recomendações ao Conselho, que lhe dá autorização para iniciar as negociações. A Comissão e o **Representante Europeu para as Relações Externas** apresentam, se for caso disso, recomendações conjuntas.
4. O Conselho designa, no âmbito da decisão de autorização das negociações, em função da matéria do futuro acordo, o negociador ou o chefe da equipa de negociação da União.
5. O Conselho pode endereçar directrizes de negociação ao negociador do acordo e pode designar um comité especial, que deverá ser consultado para efeitos da condução das negociações.
6. Sob proposta do negociador do acordo, o Conselho decide da sua assinatura e, se for caso disso, da sua aplicação provisória antes da entrada em vigor.
7. O Conselho celebra o acordo sob proposta do negociador. Excepto nos casos em que o acordo incida exclusivamente sobre a Política Externa e de Segurança Comum, o Conselho só o celebra após consulta ao Parlamento Europeu. O Parlamento dará parecer num prazo que o Conselho pode fixar em função da urgência da questão. Na ausência de parecer dentro desse prazo, o Conselho pode deliberar. O parecer favorável do Parlamento Europeu é todavia obrigatório para os acordos de associação, para a adesão à Convenção Europeia para a Protecção dos Direitos do Homem e das Liberdades Fundamentais, bem como para os acordos que criem um quadro institucional específico

mediante a organização de processos de cooperação, os acordos com consequências orçamentais significativas para a União e os acordos que abranjam domínios aos quais seja aplicável o processo legislativo. O Conselho e o Parlamento Europeu podem, em caso de urgência, fixar um prazo para o parecer favorável.

8. Ao celebrar um acordo, o Conselho pode, em derrogação das disposições precedentes, conferir poderes ao negociador do acordo para aprovar alterações, em nome da União, caso o acordo preveja que essas alterações devem ser aprovadas por um processo simplificado ou por um órgão criado pelo acordo; o Conselho poderá submeter essa atribuição de poderes a certas condições específicas.

9. Ao longo de todo o processo, o Conselho delibera por maioria qualificada. Todavia, o Conselho deliberará por unanimidade se o acordo incidir sobre um domínio em que seja exigida a unanimidade para a adopção de normas internas, bem como no caso de um acordo de associação e em caso de adesão à Convenção Europeia para a Protecção dos Direitos do Homem e das Liberdades Fundamentais.

10. O Conselho, sob proposta do **Representante Europeu para as Relações Externas** ou da Comissão, decide da suspensão da aplicação de um acordo e define as posições a tomar em nome da União numa instância criada por um acordo, quando essa instância for chamada a aprovar decisões que produzam efeitos jurídicos, com excepção das decisões que completem ou alterem o quadro institucional do acordo.

11. O Parlamento Europeu será imediata e plenamente informado de todas as etapas do processo enunciado no presente artigo.

12. O Parlamento Europeu, o Conselho, a Comissão, o Banco Central Europeu ou qualquer Estado-Membro podem obter previamente o parecer do Tribunal de Justiça sobre a compatibilidade de um acordo projectado com as disposições **do Tratado** abrangidas pela competência jurisdicional do Tribunal de Justiça. Em caso de parecer negativo do Tribunal de Justiça, o acordo projectado não pode entrar em vigor, salvo revisão da Constituição nos termos do processo previsto no artigo [N], .

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article : Article 32

Suggestion for protocol :

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen

Status : Tiilikainen, Kiljunen, Vanhanen - Members
Peltomäki, Korhonen - Alternates

Article 32

1. The Union may commit itself through agreements concluded with one or more third countries or international organisations in cases where the provisions of the Constitution provide for the conclusion of such agreements.
2. ~~The Union may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common action and special procedure.~~
3. The Union may conclude international agreements where this Constitution has created for the Union powers within its internal system for the purpose of attaining a specific conclusion is necessary to achieve a Union-objective and the conclusion of agreement is necessary for the attainment of that objective, where there is provision for it in a Union legislative act, or ~~where insofar as~~ the agreements affects one of the Union's internal acts.
4. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

New Article 32bis

The Union may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations,

Explanation (if any) :

Explanation 32(2) and 32bis: There should be a separate Article for association agreements due to their specific nature and importance. This concerns especially the Union's neighbouring areas. In addition, this provision is of substantive nature where as the rest of Article 32 contains horizontal provisions applicable to all international agreements. Therefore, we propose a new Article 32bis.

Explanation 32(3): Both 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).

AMENDMENT FORM

Suggestion for amendment of Article : Article 33

Suggestion for protocol :

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen

**Status : Tiilikainen, Kiljunen, Vanhanen - Members
Peltomäki, Korhonen - Alternates**

Article 33

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.
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.
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.~~
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) :

Explanation 33(9): A large consensus has emerged in the Convention supporting the Union's accession to the Convention for the Protection of Human Rights and Fundamental Freedoms. Therefore, the accession should not be conditioned to unanimity.

AMENDMENT FORM

Suggestion for amendment of Article : Article 34

Suggestion for protocol :

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen

**Status : Tiilikainen, Kiljunen, Vanhanen - Members
Peltomäki, Korhonen - Alternates**

Article 34

1. By way of derogation from Article 33, the Council, acting unanimously on a recommendation from the European Central Bank or from the Commission, and following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability, and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the European Central Bank or the Commission, and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.
2. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting by a qualified majority on a recommendation from the Commission after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.
3. By way of derogation from Article 33, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union

and one or more States or international organisations, the Council shall, acting by a qualified majority on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations.

4. Subject to paragraph 1, the Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the European Central Bank, decide on the position occupied by the Union at international level in relation to questions having particular interest for the Economic and Monetary Union and on the Union's representation, while complying with the allocation of competences laid down in Articles X [formerly 99] and Y [formerly 105].
5. Without prejudice to Union competence as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

Explanation (if any) :

Explanation: The clarity of the Constitution requires that this Article be moved under the Title on "Economic and Monetary Union".

AMENDMENT FORM

Suggestion for amendment of Article : 33

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member - ~~Alternate~~

Artikel 33

(1) Unbeschadet der besonderen Bestimmungen des Artikels 24 werden Übereinkünfte zwischen der Union und Drittstaaten oder internationalen Organisationen nach dem nachstehend beschriebenen Verfahren ausgehandelt und geschlossen.

~~(2) Der Rat erteilt eine Ermächtigung zur Eröffnung von Verhandlungen, legt Verhandlungsrichtlinien fest und schließt die Übereinkünfte.~~

(3) Die Kommission oder, wenn sich die Übereinkunft ausschließlich oder hauptsächlich auf die Gemeinsame Außen- und Sicherheitspolitik bezieht, der ~~Minister für auswärtige Angelegenheiten der Union~~ **Außenminister** legt dem Rat Empfehlungen vor; dieser ermächtigt sie bzw. ihn **nach Anhörung des Europäischen Parlaments** zur Eröffnung der Verhandlungen. Die Kommission und der ~~Minister für auswärtige Angelegenheiten der Union~~ **Außenminister** legen gegebenenfalls gemeinsame Empfehlungen vor.

(4) Der Rat benennt ~~im Rahmen des Beschlusses~~ **in dem Beschluss** über die Ermächtigung zur Aufnahme von Verhandlungen ~~nach Maßgabe des Gegenstands der künftigen Übereinkunft~~ den Verhandlungsführer oder den Leiter des Verhandlungsteams der Union.

(5) Der Rat kann ~~dem für die Aushandlung der Übereinkunft benannten~~ **in dem Beschluss über die Ermächtigung zur Aufnahme von Verhandlungen dem** Verhandlungsführer Richtlinien erteilen und einen Sonderausschuss einsetzen; die Verhandlungen sind im Benehmen mit diesem Ausschuss zu führen.

(6) Auf Vorschlag des Verhandlungsführers beschließt der Rat **nach Anhörung des Europäischen Parlaments**, die Übereinkunft zu unterzeichnen und gegebenenfalls vor ihrem Inkrafttreten vorläufig anzuwenden.

(7) Der Rat schließt die Übereinkunft auf Vorschlag des Verhandlungsführers. ~~Mit Ausnahme der Übereinkünfte, die ausschließlich die gemeinsame Außen- und Sicherheitspolitik betreffen, schließt der~~ **Der Rat schließt** die Übereinkunft nach Anhörung des Europäischen Parlaments. Das Europäische Parlament gibt seine Stellungnahme innerhalb einer Frist ab, die der Rat entsprechend der Dringlichkeit festlegen kann. Ergeht innerhalb dieser Frist keine Stellungnahme, so kann der Rat einen Beschluss fassen. Die Zustimmung des Europäischen Parlaments ist jedoch erforderlich, wenn es um folgende Fälle geht: Assoziierungsabkommen; Beitritt zur Europäischen Konvention zum Schutze der Menschenrechte und Grundfreiheiten **oder anderen internationalen Konventionen zum Schutz der Menschenrechte**; Übereinkünfte, die durch Einführung von Zusammenarbeitsverfahren einen besonderen institutionellen Rahmen schaffen; Übereinkünfte mit erheblichen finanziellen Folgen für die Union; Übereinkünfte in Bereichen, für die das Gesetzgebungsverfahren gilt. Der Rat und das Europäische Parlament können in dringenden Fällen eine Frist für die Zustimmung vereinbaren.

(8) Abweichend von den vorstehenden Bestimmungen kann der Rat den Verhandlungsführer bei Abschluss einer Übereinkunft ermächtigen, Änderungen, die nach jener Übereinkunft im Weg eines vereinfachten Verfahrens oder durch ein durch die Übereinkunft geschaffenes Organ anzunehmen sind, im Namen der Union zu billigen; der Rat kann diese Ermächtigung gegebenenfalls mit besonderen Bedingungen verbinden. **Der Rat beschließt die Ermächtigung nach Anhörung des Europäischen Parlaments. In Bezug auf eine Übereinkunft, deren Abschluss die Zustimmung des Europäischen Parlaments erfordert, beschließt der Rat die Ermächtigung nach Zustimmung des Europäischen Parlaments.**

(9) Der Rat beschließt im Verlauf des ganzen Verfahrens ~~mit qualifizierter Mehrheit. Er beschließt jedoch~~ einstimmig, wenn die Übereinkunft einen Bereich betrifft, in dem für die Annahme interner Vorschriften Einstimmigkeit vorgesehen ist, sowie dann, wenn es um Assoziierungsabkommen ~~oder den Beitritt zur Europäischen Konvention zum Schutze der Menschenrechte und Grundfreiheiten~~ geht.

(10) Der Rat beschließt auf Vorschlag des ~~Ministers für auswärtige Angelegenheiten~~ **Außenministers der Union** oder der Kommission die Aussetzung der Anwendung einer Übereinkunft und legt die Standpunkte fest, die im Namen der Union in einem durch eine Übereinkunft eingesetzten Gremium zu vertreten sind, sobald dieses Gremium rechtswirksame Beschlüsse - mit Ausnahme von Beschlüssen zur Ergänzung oder Änderung des institutionellen Rahmens der betreffenden Übereinkunft - zu fassen hat. **In Bezug auf eine Übereinkunft, deren Abschluß die Zustimmung des**

Europäischen Parlaments erfordert, bedarf der Beschluss des Rates der Genehmigung durch das Europäische Parlament binnen einer Frist von einem Monat.

(11) Das Europäische Parlament wird über alle Phasen des in diesem Artikel beschriebenen Verfahrens unverzüglich, ***kontinuierlich*** und umfassend unterrichtet.

(12) Das Europäische Parlament, der Rat, die Kommission, die Europäische Zentralbank oder ein Mitgliedstaat kann ein Gutachten des Gerichtshofs über die Vereinbarkeit einer geplanten Übereinkunft mit den Bestimmungen dieser Verfassung, für die der Gerichtshof gerichtlich zuständig ist, einholen. Ist dieses Gutachten ablehnend, so kann die geplante Übereinkunft außer im Falle einer Änderung der Verfassung nach dem Verfahren des Artikels [N] nicht in Kraft treten.

Explanation (if any) :

Absatz 2:

Streichen. Dieser Absatz wiederholt lediglich Inhalte der Absätze 3, 5 und 7 dieses Artikels.

Absatz 9:

Der Grundsatz, dass der Rat Beschlüsse mit qualifizierter Mehrheit fasst, ergibt sich bereits aus Artikel 17 Absatz 3 des Teils I der Verfassung.

AMENDMENT FORM

Suggestion for amendment of Article : 34

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member - ~~Alternate~~

Artikel 34

(1) Abweichend von Artikel 33 kann der Rat einstimmig *entweder* auf Empfehlung ~~der EZB oder der Kommission und nach Anhörung der EZB in dem Bemühen, zu einem mit dem Ziel der Preisstabilität im Einklang stehenden Konsens zu gelangen,~~ *oder auf Empfehlung der Europäischen Zentralbank* nach Anhörung des Europäischen Parlaments gemäß den in Absatz 3 für die Festlegung von Modalitäten vorgesehenen Verfahren förmliche Vereinbarungen über ein Wechselkursystem für die ECU gegenüber Drittländswährungen treffen. Der Rat kann ~~mit qualifizierter Mehrheit auf Empfehlung der EZB oder der Kommission und nach Anhörung der EZB in dem Bemühen, zu einem mit dem Ziel der Preisstabilität im Einklang stehenden Konsens zu gelangen,~~ *entweder auf Empfehlung der Kommission und nach Anhörung der Europäischen Zentralbank oder auf Empfehlung der Europäischen Zentralbank* die ECU-Leitkurse innerhalb des Wechselkurssystems festlegen, ändern oder aufgeben. Der Präsident des Rates unterrichtet das Europäische Parlament von der Festlegung, Änderung oder Aufgabe der ECU-Leitkurse.

(2) Besteht gegenüber einer oder mehreren Drittländswährungen kein Wechselkurssystem nach Absatz 1, so kann der Rat ~~mit qualifizierter Mehrheit~~ entweder auf Empfehlung der Kommission und nach Anhörung der Europäischen Zentralbank oder auf Empfehlung der Europäischen Zentralbank allgemeine Orientierungen für die Wechselkurspolitik gegenüber diesen Währungen aufstellen. Diese allgemeinen Orientierungen dürfen das vorrangige Ziel des Europäischen Zentralbanksystems, die Preisstabilität zu gewährleisten, nicht beeinträchtigen.

(3) Wenn von der ~~Gemeinschaft~~ *Union* mit einem oder mehreren Staaten oder internationalen Organisationen Vereinbarungen im Zusammenhang mit Währungsfragen oder Devisenregelungen auszuhandeln sind, beschließt der Rat ~~abweichend von Artikel 33 mit qualifizierter Mehrheit~~ auf Empfehlung der Kommission und nach Anhörung der EZB die Modalitäten für die Aushandlung und den Abschluss solcher Vereinbarungen. Mit diesen Modalitäten wird gewährleistet, dass die ~~Gemeinschaft~~ *Union* einen einheitlichen Standpunkt vertritt. Die Kommission wird an den Ver-

handlungen in vollem Umfang beteiligt. ***Im übrigen bleibt Artikel 33 unberührt.***

4) Vorbehaltlich des Absatzes 1 befindet der Rat ~~mit qualifizierter Mehrheit auf Vorschlag der Kommission und~~ nach Anhörung der EZB über den Standpunkt der Gemeinschaft auf internationaler Ebene zu Fragen, die von besonderer Bedeutung für die Wirtschafts- und Währungsunion sind, sowie über ihre Vertretung unter Einhaltung der in den Artikeln X [ex-Artikel 99] und Y [ex-Artikel 105] vorgesehenen Zuständigkeitsverteilung.

(5) Die Mitgliedstaaten haben das Recht, unbeschadet der Zuständigkeiten und der Übereinkünfte der Union im Bereich der Wirtschafts- und Währungsunion in internationalen Gremien Verhandlungen zu führen und internationale Übereinkünfte zu schließen.

Explanation (if any) :

Absatz 1:

Vereinfachung.

Absatz 2:

Die Regelung zur Beschlussfassung des Rates mit qualifizierter Mehrheit ist bereits in Artikel 17 Absatz 3 des Präsidiumsentwurfs zu Teils I der Verfassung festgelegt.

Absatz 4:

Das Vorschlagsrecht der Kommission ergibt sich bereits aus Art. 18 Absatz 2 des Teils I der Verfassung, und die Regelung zur Beschlussfassung im Rat ist bereits in Artikel 17 Absatz 3 des Teils I der Verfassung festgelegt

FICHE AMENDEMENT

Proposition d'amendement à l'Article 33

Déposée par Monsieur de Villepin

Qualité : - Membre

Article 33

1. Sans préjudice des dispositions particulières de l'article 24 du présent Titre, les accords entre l'Union et des États tiers ou organisations internationales sont négociés et conclus selon la procédure suivante.
2. Le Conseil autorise l'ouverture des négociations, arrête les directives de négociation et conclut les accords.
3. La Commission, ou le Ministre des Affaires étrangères de l'Union ~~lorsque l'accord porte exclusivement ou principalement sur la politique étrangère et de sécurité commune, dans les domaines de compétences de celui-ci fixés à l'article 19 de la partie I, présente des recommandations au Conseil qui l'autorise à ouvrir des négociations. La Commission et le Ministre des Affaires étrangères de l'Union, présentent, le cas échéant, des recommandations conjointes.~~
4. Le Conseil désigne dans le cadre de la décision d'autorisation des négociations, en fonction de la matière du futur accord, le négociateur ou le chef de file de l'équipe de négociation de l'Union.
5. Le Conseil peut adresser des directives des négociations au négociateur de l'accord et peut désigner un comité spécial en consultation avec lequel les négociations doivent être conduites.

6. Sur proposition du négociateur de l'accord, le Conseil en décide la signature et, le cas échéant, son application provisoire avant son entrée en vigueur.
7. Le Conseil conclut l'accord sur proposition du négociateur de l'accord. Sauf lorsque l'accord porte exclusivement sur la politique étrangère et de sécurité commune, le Conseil ne conclut l'accord qu'après consultation du Parlement européen. Le Parlement émet son avis dans un délai que le Conseil peut fixer en fonction de l'urgence. En l'absence d'avis, dans ce délai, le Conseil peut statuer. L'avis conforme du Parlement européen est cependant requis en cas d'accord d'association, en cas d'adhésion à la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales ainsi que d'accords créant un cadre institutionnel spécifique en organisant des procédures de coopération, les accords ayant des implications budgétaires notables pour l'Union et les accords couvrant des domaines auxquels s'applique la procédure législative. Le Conseil et le Parlement européen peuvent, en cas d'urgence, convenir d'un délai pour l'avis conforme.
8. Par dérogation aux dispositions qui précèdent, le Conseil peut, lors de la conclusion d'un accord, habiliter le négociateur de l'accord à approuver les modifications au nom de l'Union lorsque l'accord prévoit que ces modifications doivent être adoptées selon une procédure simplifiée ou par une instance créée par ledit accord ; le Conseil peut assortir cette habilitation de certaines conditions spécifiques.
9. Au cours de toute la procédure, le Conseil statue à la majorité qualifiée, conformément, pour la politique étrangère et de sécurité commune, aux dispositions de l'article 9. Il statue cependant à l'unanimité lorsque l'accord porte sur un domaine pour lequel l'unanimité est requise pour l'adoption de règles internes ainsi qu'en cas d'accord d'association et en cas d'adhésion à la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales.
10. Le Conseil, sur proposition du Ministre des Affaires étrangères de l'Union ou de la Commission, décide de la suspension de l'application d'un accord et établit les positions à prendre au nom de l'Union dans une instance créée par un accord, lorsque cette instance est appelée à adopter des décisions ayant des effets juridiques, à l'exception des décisions complétant ou modifiant le cadre institutionnel de l'accord.

11. Le Parlement européen est immédiatement et pleinement informé de toutes les étapes de la procédure décrite au présent article.
12. Le Parlement européen, le Conseil, la Commission, la Banque centrale européenne ou un État membre peut recueillir l'avis de la Cour de justice sur la compatibilité d'un accord envisagé avec les dispositions de la Constitution auxquelles s'étend la compétence juridictionnelle de la Cour de justice. En cas d'avis négatif de la Cour de Justice, l'accord envisagé ne peut entrer en vigueur sauf révision de la Constitution selon la procédure prévue à l'article [N].

Explication éventuelle :

La rédaction du paragraphe 3 telle que proposée par le præsidium laisse subsister une ambiguïté quant à l'appartenance du Ministre des affaires étrangères à la Commission. L'amendement proposé au paragraphe 3 vise à lever cette ambiguïté, tout en gardant l'esprit de la rédaction initiale. Cette clarification faite, la modification du paragraphe 10 n'est pas nécessaire.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 33

Déposée par Madame ou Monsieur : **M. Louis Michel, M. Elio di Rupo, Mme Anne Van Lancker, membres de la Convention et M. Pierre Chevalier, membre suppléant de la Convention**

Qualité : - Membre - Suppléant

Article 33

1. Sans préjudice des dispositions particulières de l'article 24 du présent Titre, les accords entre l'Union et des États tiers ou organisations internationales sont négociés et conclus selon la procédure suivante.
2. Le Conseil autorise l'ouverture des négociations, arrête les directives de négociation et conclut les accords.
3. La Commission, ou le Ministre des Affaires étrangères de l'Union lorsque l'accord porte exclusivement ~~ou principalement~~ sur la politique étrangère et de sécurité commune, présente des recommandations au Conseil qui l'autorise à ouvrir des négociations. ~~La Commission et le Ministre des Affaires étrangères de l'Union, présentent, le cas échéant, des recommandations conjointes.~~
4. ~~Le Conseil désigne dans le cadre de la décision d'autorisation des négociations, en fonction de la matière du futur accord, le négociateur ou le chef de file de l'équipe de négociation de l'Union.~~ **Les négociations sont conduites par la Commission ou lorsque l'accord porte exclusivement sur la politique étrangère et de sécurité commune par le Ministre des Affaires Etrangères.**
5. Le Conseil peut adresser des directives des négociations au négociateur de l'accord et peut désigner un comité spécial en consultation avec lequel les négociations doivent être conduites.
6. Sur proposition du négociateur de l'accord, le Conseil en décide la signature et, le cas échéant, son application provisoire avant son entrée en vigueur.
7. Le Conseil conclut l'accord sur proposition du négociateur de l'accord. Sauf lorsque l'accord porte exclusivement sur la politique étrangère et de sécurité commune, le Conseil ne conclut l'accord qu'après consultation du Parlement européen. Le Parlement émet son avis dans un délai que le Conseil peut fixer en fonction de l'urgence. En l'absence d'avis, dans ce délai, le Conseil peut statuer. L'avis conforme du Parlement européen est cependant requis en cas d'accord d'association, en cas d'adhésion à la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales **ou à d'autres accords internationaux de protection des droits fondamentaux** ainsi que d'accords créant un cadre institutionnel spécifique en organisant des procédures de coopération, les accords ayant des implications budgétaires notables pour l'Union et les accords couvrant des domaines auxquels s'applique la procédure législative. Le Conseil et le Parlement européen peuvent, en cas d'urgence,

convenir d'un délai pour l'avis conforme.

8. Par dérogation aux dispositions qui précèdent, le Conseil peut, lors de la conclusion d'un accord, habiliter le négociateur de l'accord à approuver les modifications au nom de l'Union lorsque l'accord prévoit que ces modifications doivent être adoptées selon une procédure simplifiée ou par une instance créée par ledit accord ; le Conseil peut assortir cette habilitation de certaines conditions spécifiques.
9. Au cours de toute la procédure, le Conseil statue à la majorité qualifiée. Il statue cependant à l'unanimité lorsque l'accord porte sur un domaine pour lequel l'unanimité est requise pour l'adoption de règles internes ainsi qu'en cas d'accord d'association et en cas d'adhésion à la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales **ou à d'autres accords internationaux de protection des droits fondamentaux.**
10. Le Conseil, sur proposition du Ministre des Affaires étrangères de l'Union ou de la Commission, décide de la suspension de l'application d'un accord et établit les positions à prendre au nom de l'Union dans une instance créée par un accord, lorsque cette instance est appelée à adopter des décisions ayant des effets juridiques, à l'exception des décisions complétant ou modifiant le cadre institutionnel de l'accord.
11. Le Parlement européen est immédiatement et pleinement informé de toutes les étapes de la procédure décrite au présent article.
12. Le Parlement européen, le Conseil, la Commission, la Banque centrale européenne ou un État membre peut recueillir l'avis de la Cour de justice sur la compatibilité d'un accord envisagé avec les dispositions de la Constitution ~~auxquelles s'étend la compétence juridictionnelle de la Cour de justice.~~ En cas d'avis négatif de la Cour de Justice, l'accord envisagé ne peut entrer en vigueur sauf révision de la Constitution selon la procédure prévue à l'article [N].

Explication éventuelle :

La Commission doit, sauf lorsque l'accord porte exclusivement sur la PESC, être en charge de la négociation.

La compétence de la Cour doit pouvoir s'appliquer de manière générale lorsqu'il s'agit de vérifier la légalité d'un accord au regard de la Constitution.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 34

Déposée par Madame ou Monsieur : M. Louis Michel, M. Elio di Rupo, Mme Anne Van Lancker, membres de la Convention et M. Pierre Chevalier et Mme Marie Nagy, membres suppléants de la Convention

Qualité : - Membre - Suppléant

-

Explication éventuelle :

Pas d'amendement à ce stade mais article devra être revu à la lumière du projet global d'article 41 sur la représentation externe de l'Union.

AMENDMENT FORM

Suggestion for amendment of Article : Chapter 5

By Member of the Convention Mr Jens-Peter Bonde

Article 32

1. The Union may commit itself through agreements concluded with one or more third countries or international organisations in cases where the provisions of the Constitution provide for the conclusion of such agreements.
2. 2. The Union may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common action and special procedure.
3. The Union may conclude international agreements where conclusion is necessary to achieve a Union objective, where there is provision for it in a Union legislative act, or where the agreements affect one of the Union's internal acts.
4. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

AMENDMENT FORM

Suggestion for amendment of Article : Chapter 5

By Member of the Convention Mr Jens-Peter Bonde

Article 33

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 [**DELETE:** Commission, or the Union's Minister for Foreign Affairs] **PRESIDENCY** 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. [**DELETE:** The Commission and the Union's Minister for Foreign Affairs shall, where appropriate, present recommendations jointly] .
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.
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 **OR WHERE A MEMBER STATE PARLIAMENT DECIDES THAT A VITAL NATIONAL INTEREST IS AT STAKE AND THE PRIME MINISTER IS PREPARED TO DEFEND THE VETO AT THE NEXT EUROPEAN SUMMIT. .**
10. The Council, [**DELETE:** 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]

AMENDMENT FORM

Suggestion for amendment of Article : Chapter 5

By Member of the Convention Mr Jens-Peter Bonde

Article 34

1. By way of derogation from Article 33, the Council, acting unanimously on a recommendation from the European Central Bank or from the Commission, and following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability, and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the European Central Bank or the Commission, and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.
1. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting by a qualified majority on a recommendation from the Commission after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.
2. By way of derogation from Article 33, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more States or international organisations, the Council shall, acting by a qualified majority on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Community expresses a single position. The Commission

shall be fully associated with the negotiations.

3. Subject to paragraph 1, the Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the European Central Bank, decide on the position occupied by the Union at international level in relation to questions having particular interest for the Economic and Monetary Union and on the Union's representation, while complying with the allocation of competences laid down in Articles X [formerly 99] and Y [formerly 105].

Without prejudice to Union competence as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

FICHE AMENDEMENT

Proposition d'amendement : Capítulo 5, Artículo 33

Déposée par Messieurs : Borrell (miembro), Carnero y López Garrido (suplentes)

Artículo 33

Modificar los puntos 1, 2, 7 y 9:

1. Sin perjuicio de las disposiciones particulares *de los artículos 24 y 34* del presente Título, para la negociación y celebración de acuerdos entre la Unión y terceros Estados u organizaciones internacionales se aplicará el procedimiento siguiente.
2. El Consejo, *manteniendo debidamente informado y consultado al Parlamento Europeo*, autorizará la apertura de negociaciones, aprobará las directrices de negociación y celebrará los acuerdos.
7. El Consejo celebrará el acuerdo a propuesta del negociador del acuerdo. *Será preceptivo el dictamen conforme del Parlamento Europeo para la celebración de todo acuerdo internacional de la Unión; la Cámara se pronunciará por mayoría de sus miembros.* En caso de urgencia, el Consejo y el Parlamento Europeo podrán convenir en un plazo para la emisión del dictamen conforme.
9. El Consejo actuará por mayoría cualificada durante todo el procedimiento. No obstante, decidirá por unanimidad cuando el acuerdo se refiera a una cuestión en la que se requiera la unanimidad para la adopción de decisiones internas. *(resto suprimido)*

AMENDMENT FORM

Suggestion for amendment of Article : 33

Suggestion for PART TWO – CHAPTER 5: INTERNATIONAL AGREEMENTS

By Ms / Mr : BROK; SANTER; TAJANI; VAN DER LINDEN; ALMEIDA GARRETT; ALTMAIER; AZEVEDO; BASILE; BREJC; CUSHNAHAN; DEMETRIOU; DOLORES; FOGLER; FRENDON; GIANNAKOU; KAUPPI; KELEMEN; KORHONEN; KRASTS; KROUPA; MAIJ-WEGGEN; MLADENOV; PIKS; RACK; VAN DIJK; WITTBRODT; ZIELENIEC; ZILE

on behalf of the EPP Convention Group

Status : - Member - Alternate

CHAPTER 5: INTERNATIONAL AGREEMENTS

Article 33

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.
4. In connection with the decision authorising negotiations, depending on the subject of the future agreement, the Council shall nominate *the Commission or the Union's Minister for Foreign Affairs* as the negotiator or leader of the Union's negotiating team.

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.~~
The negotiations shall be conducted in consultation with a special committee to assist it in this task. This committee shall be composed of an equal number of representatives of the Foreign Affairs Council and the European Parliament.
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, *trade agreements* 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.~~
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) :

Para 4: Should specify that either the Commission or the Union's Foreign minister can lead the negotiations team.

Para 5: A clear link between the Committee and the two legislating bodies has to be made.

Para 7: For trade agreements, the assent of the European Parliament is indispensable.

AMENDMENT FORM

Suggestion for amendment of Article : 34

Suggestion for PART TWO – CHAPTER 5: INTERNATIONAL AGREEMENTS

By Ms / Mr : BROK; SANTER; STYLIANIDIS; TAJANI; VAN DER LINDEN; ALMEIDA GARRETT; ALTMAIER; AZEVEDO; BASILE; BREJC; CUSHNAHAN; DEMETRIOU; DOLORES; FOGLER; FRENDON; GIANNAKOU; KAUPPI; KELEMEN; KORHONEN; KRASTS; KROUPA; LENNMARKER; LEQUILLER; MAIJ-WEGGEN; MLADENOV; PIKS; RACK; VAN DIJK; WITTBRODT; ZIELENIEC; ZILE

on behalf of the EPP Convention Group

Status : - Member - Alternate

CHAPTER 5: INTERNATIONAL AGREEMENTS

Article 34

1. By way of derogation from Article 33, the Council, acting unanimously on a recommendation from the European Central Bank or from the Commission, and following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability, and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the European Central Bank or the Commission, and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.
2. In the absence of an exchange rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting by a qualified majority on a recommendation from the Commission after consulting the European Central Bank, may formulate general orientations for exchange rate policy in relation to these currencies. These general

orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

3. By way of derogation from Article 33, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more States or international organisations, the Council shall, acting by a qualified majority on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations.
4. Subject to paragraph 1, the Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the European Central Bank, decide on the position occupied by the Union at international level in relation to questions having particular interest for the Economic and Monetary Union and on the Union's representation, while complying with the allocation of competences laid down in Articles X [formerly 99] and Y [formerly 105]. *The Council shall mandate the Commission to conduct negotiations on behalf of the Union.*
5. Without prejudice to Union competence as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

Explanation (if any) :

The external representation of the Union in EMU-affairs should be strengthened by mandating the Commission to negotiate on economic and monetary affairs.

AMENDMENT FORM

Suggestion for amendment of Article : II 33

Suggestion for protocol :

By: **Mr Caspar EINEM**

Status : **Member**

Artikel 33

(1) Unbeschadet der besonderen Bestimmungen des Artikels 24 werden Übereinkünfte zwischen der Union und Drittstaaten oder internationalen Organisationen nach dem nachstehend beschriebenen Verfahren ausgehandelt und geschlossen.

(2) Der Rat erteilt **nach Zustimmung des Europäischen Parlaments** eine Ermächtigung zur Eröffnung von Verhandlungen **und** legt Verhandlungsrichtlinien fest und ~~schließt die Übereinkünfte~~ **erteilt der Kommission ein Mandat für den Abschluss des Vertrages.**

(3) Die Kommission oder, wenn sich die Übereinkunft ausschließlich oder hauptsächlich auf die Gemeinsame Außen- und Sicherheitspolitik bezieht, der Minister für auswärtige Angelegenheiten der Union legt dem Rat **und dem Europäischen Parlament** Empfehlungen vor; ~~dieser der Rat~~ ermächtigt sie bzw. ihn **nach Zustimmung des Europäischen Parlaments** zur Eröffnung der Verhandlungen. Die Kommission und der Minister für auswärtige Angelegenheiten der Union legen gegebenenfalls gemeinsame Empfehlungen vor.

(4) Der Rat benennt im Rahmen des Beschlusses über die Ermächtigung zur Aufnahme von Verhandlungen nach Maßgabe des Gegenstands der künftigen Übereinkunft den Verhandlungsführer oder den Leiter des Verhandlungsteams der Union **aus dem Kreis der Kommission**¹.

¹ Der Außenminister der Union ist Vizepräsident der Kommission und als solcher auch Kommissionsmitglied.

(5) Der Rat kann dem für die Aushandlung der Übereinkunft benannten Verhandlungsführer Richtlinien erteilen und einen Sonderausschuss einsetzen; die Verhandlungen sind im Benehmen mit diesem Ausschuss zu führen.

(6) Auf Vorschlag des Verhandlungsführers beschließt der Rat **ein Mandat zum Abschluss, das die Kommission ermächtigt**, die Übereinkunft **nach Anhörung des Europäischen Parlaments** zu unterzeichnen und gegebenenfalls vor ihrem Inkrafttreten vorläufig anzuwenden.

(7) ~~Der Rat schließt die Übereinkunft auf Vorschlag des Verhandlungsführers. Mit Ausnahme der Übereinkünfte, die ausschließlich die gemeinsame Außen- und Sicherheitspolitik betreffen, schließt der Rat die Übereinkunft nach Anhörung des Europäischen Parlaments.~~ Das Europäische Parlament gibt seine Stellungnahme innerhalb einer Frist ab, die der Rat entsprechend der Dringlichkeit festlegen kann. Ergeht innerhalb dieser Frist keine Stellungnahme, so kann der Rat einen Beschluss fassen. Die Zustimmung des Europäischen Parlaments ist jedoch erforderlich, wenn es um folgende Fälle geht: Assoziierungsabkommen; Beitritt zur Europäischen Konvention zum Schutze der Menschenrechte und Grundfreiheiten; Übereinkünfte, die durch Einführung von Zusammenarbeitsverfahren einen besonderen institutionellen Rahmen schaffen; Übereinkünfte mit erheblichen finanziellen Folgen für die Union; Übereinkünfte in Bereichen, für die das Gesetzgebungsverfahren gilt. Der Rat und das Europäische Parlament können in dringenden Fällen eine Frist für die Zustimmung vereinbaren.

(8) Abweichend von den vorstehenden Bestimmungen kann der Rat ~~den Verhandlungsführer~~ **die Kommission** bei Abschluss einer Übereinkunft ermächtigen, Änderungen, die nach jener Übereinkunft im Weg eines vereinfachten Verfahrens oder durch ein durch die Übereinkunft geschaffenes Organ anzunehmen sind, im Namen der Union zu billigen; der Rat kann diese Ermächtigung gegebenenfalls mit besonderen Bedingungen verbinden.

(9) Der Rat beschließt im Verlauf des ganzen Verfahrens mit qualifizierter Mehrheit. Er beschließt jedoch einstimmig, wenn die Übereinkunft einen Bereich betrifft, in dem für die Annahme interner Vorschriften Einstimmigkeit vorgesehen ist, sowie dann, wenn es um Assoziierungsabkommen oder den Beitritt zur Europäischen Konvention zum Schutze der Menschenrechte und Grundfreiheiten geht.

(10) Der Rat beschließt auf Vorschlag ~~des Ministers für auswärtige Angelegenheiten der Union oder der Kommission~~ **und nach Anhörung des Europäischen Parlaments** die Aussetzung

der Anwendung einer Übereinkunft und legt die Standpunkte fest, die im Namen der Union in einem durch eine Übereinkunft eingesetzten Gremium zu vertreten sind, sobald dieses Gremium rechtswirksame Beschlüsse - mit Ausnahme von Beschlüssen zur Ergänzung oder Änderung des institutionellen Rahmens der betreffenden Übereinkunft - zu fassen hat.

(11) Das Europäische Parlament wird über alle Phasen des in diesem Artikel beschriebenen Verfahrens unverzüglich und umfassend unterrichtet.

(12) Das Europäische Parlament, der Rat, die Kommission, die Europäische Zentralbank oder ein Mitgliedstaat kann ein Gutachten des Gerichtshofs über die Vereinbarkeit einer geplanten Übereinkunft mit den Bestimmungen dieser Verfassung, für die der Gerichtshof gerichtlich zuständig ist, einholen. Ist dieses Gutachten ablehnend, so kann die geplante Übereinkunft außer im Falle einer Änderung der Verfassung nach dem Verfahren des Artikels [N] nicht in Kraft treten.

Explanation (if any) :

Die Außenvertretung der Union soll durch die Kommission bzw. eines ihrer Mitglieder erfolgen. Der Außenminister gehört der Kommission als Vizepräsident an. Die Außenvertretung soll im Rahmen klarer Mandatverhältnisse erfolgen, wobei das Europäische Parlament in die Mandatserteilung einbezogen werden soll.

AMENDMENT FORM

Suggestion for amendment of Article : II B 34

Suggestion for protocol :

By:

Mr Caspar EINEM

Status :

Member

Artikel 34

(1) Abweichend von Artikel 33 kann der Rat einstimmig auf Empfehlung der EZB oder der Kommission und nach Anhörung der EZB in dem Bemühen, zu einem mit ~~dem Ziel der Preisstabilität~~ **ihren Zielen (vgl. Artikel IV 21 Abs. 2)** im Einklang stehenden Konsens zu gelangen, nach Anhörung des Europäischen Parlaments gemäß den in Absatz 3 für die Festlegung von Modalitäten vorgesehenen Verfahren förmliche Vereinbarungen über ein Wechselkurssystem für die ECU gegenüber Drittländswährungen treffen. Der Rat kann mit qualifizierter Mehrheit auf Empfehlung der EZB oder der Kommission und nach Anhörung der EZB in dem Bemühen, zu einem mit dem Ziel der Preisstabilität im Einklang stehenden Konsens zu gelangen, die ECU-Leitkurse innerhalb des Wechselkurssystems festlegen, ändern oder aufgeben. Der Präsident des Rates unterrichtet das Europäische Parlament von der Festlegung, Änderung oder Aufgabe der ECU-Leitkurse.

(2) Besteht gegenüber einer oder mehreren Drittländswährungen kein Wechselkurssystem nach Absatz 1, so kann der Rat mit qualifizierter Mehrheit entweder auf Empfehlung der Kommission und nach Anhörung der Europäischen Zentralbank oder auf Empfehlung der Europäischen Zentralbank allgemeine Orientierungen für die Wechselkurspolitik gegenüber diesen Währungen aufstellen. Diese allgemeinen Orientierungen dürfen **die Ziele** ~~das vorrangige Ziel~~ des Europäischen Zentralbanksystems, die Preisstabilität zu gewährleisten, nicht beeinträchtigen.

Explanation (if any) :

Im Sinne meines Abänderungsvorschlages zu Artikel IV 21 Abs. 2 wird auch hier auf die erweiterte Zielsetzung des EZB Bedacht genommen.

FICHE AMENDEMENT

Proposition d'amendement à l'Article : 33 de la Partie II

Déposée par Messieurs Santer, Helminger et Fayot (Titulaires, Luxembourg) et Mme Wagener et M. Schmit (Suppléants, Luxembourg)

Article 9

(inchangé)

9. Au cours de toute la procédure, le Conseil statue à la majorité qualifiée. Il statue cependant à l'unanimité lorsque l'accord porte sur un domaine pour lequel l'unanimité est requise pour l'adoption de règles internes ainsi qu'en cas d'accord d'association ~~et en cas d'adhésion à la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales.~~

Explication éventuelle :

L'adhésion à la Convention européenne de sauvegarde des droits de l'Homme et des libertés fondamentales doit se faire par une décision du Conseil à la majorité qualifiée et non pas à l'unanimité.

AMENDMENT FORM

Suggestion for amendment of Article 33

By : TIMOTHY KIRKHOPE MEP

Status : MEMBER

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
Article 33 <p>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.</p> <p>2. The Council shall authorise negotiations to be opened, adopt negotiating directives and conclude agreements.</p> <p>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.</p> <p>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.</p>	Article 33 <p>1. <u>In matters relating to humanitarian aid and trade with developing countries</u>, the <u>Community</u>, without prejudice to the specific provisions laid down in Articles 24 of this Title, agreements between the <u>Community</u> and third states or international organisations shall be negotiated and concluded by the following procedure.</p> <p>2. <u>In matters relating to humanitarian aid and trade with developing countries</u>, the <u>Community</u>, the Council shall authorise negotiations to be opened, adopt negotiating directives and conclude agreements.</p> <p>3. <u>In matters relating to humanitarian aid and trade with developing countries</u>, the <u>Community</u>, the Commission shall submit recommendations to the Council, <u>after which the Council may</u> open negotiations.</p> <p>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 <u>Community's</u> negotiating</p>

<p>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.</p> <p>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.</p> <p>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.</p> <p>8. When concluding an agreement, the Council may, by way of derogation from the foregoing,</p>	<p>team.</p> <p>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.</p> <p>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.</p> <p>7. <u>In matters relating to humanitarian aid and trade with developing countries</u>, the Council shall conclude agreements on the proposal of the agreement negotiator. 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 <u>Community</u> 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.</p> <p>8. When concluding an agreement <u>on humanitarian aid or trade with developing countries</u>, the Council may, by way of derogation from the foregoing,</p>
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<p>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.</p> <p>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.</p> <p>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.</p> <p>11. The European Parliament shall be immediately and fully informed of all the stages of the procedure described in this Article.</p> <p>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</p>	<p>authorise the negotiator of the agreement to approve modifications on the <u>Community</u>'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.</p> <p>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.</p> <p>10. The Council shall decide to suspend the application of an agreement, and establish the positions to be adopted on the <u>Community</u>'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.</p> <p>11. The European Parliament shall be immediately and fully informed of all the stages of the procedure described in this Article.</p> <p>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 <u>simplifying Treaty</u> over which the Court of Justice has jurisdiction. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not</p>
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adverse, the agreement envisaged may not enter into force unless the Constitution is revised in accordance with the procedure laid down in Article [N].

enter into force unless the *simplifying Treaty* is revised in accordance with the procedure laid down in Article [N].

AMENDMENT FORM

Suggestion for amendment of Article 34

By : TIMOTHY KIRKHOPE MEP

Status : MEMBER

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
<p>Article 34</p> <p>1. By way of derogation from Article 33, the Council, acting unanimously on a recommendation from the European Central Bank or from the Commission, and following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability, and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the European Central Bank or the Commission, and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.</p> <p>2. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting by a</p>	<p>Article 34</p> <p>1. By way of derogation from Article 33, <u>Member States which are part of the Eurozone</u>, acting unanimously on a recommendation from the European Central Bank or from the Commission, and following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability, and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-<u>Community</u> currencies. <u>Member States which are part of the Eurozone</u>, acting by a qualified majority on a recommendation from the European Central Bank or the Commission, and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.</p> <p>2. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, <u>Member States which are</u></p>

<p>qualified majority on a recommendation from the Commission after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.</p> <p>3. By way of derogation from Article 33, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more States or international organisations, the Council shall, acting by a qualified majority on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations.</p> <p>4. Subject to paragraph 1, the Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the European Central Bank, decide on the position occupied by the Union at international level in relation to questions having particular interest for the Economic and Monetary Union and on the Union's representation, while complying with the allocation of competences laid down in Articles X [formerly 99] and Y [formerly 105].</p> <p>5. Without prejudice to Union competence as regards economic and monetary union,</p>	<p><u>part of the Eurozone</u>, acting by a qualified majority on a recommendation from the Commission after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.</p> <p>3. By way of derogation from Article 33, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the <u>Community</u> and one or more States or international organisations, <u>Member States which are part of the Eurozone</u> shall, acting by a qualified majority on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations.</p> <p>4. Subject to paragraph 1, <u>Member States which are part of the Eurozone</u> shall, acting by a qualified majority on a proposal from the Commission and after consulting the European Central Bank, decide on the position occupied by the <u>Eurozone</u> at international level in relation to questions having particular interest for the Economic and Monetary Union and on the <u>Eurozone's</u> representation, while complying with the allocation of competences laid down in Articles X [formerly 99] and Y [formerly 105].</p> <p>5. Without prejudice to <u>Eurozone's</u> competence as regards economic and monetary union,</p>
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Member States may negotiate in international bodies and conclude international agreements.

Member States may negotiate in international bodies and conclude international agreements.

Explanation: References to the Eurozone pertain to Member States who have the Euro as their national currency.

AMENDMENT FORM

Suggestion for amendment of Article : 32

By Mr Joschka Fischer

Status : - Member

Artikel 32

- (1) Die Union kann durch den Abschluss von Übereinkünften mit einem oder mehreren Drittstaaten oder einer oder mehreren internationalen Organisationen in all den Fällen Verpflichtungen eingehen, in denen die Verfassung den Abschluss derartiger Übereinkünfte vorsieht.
- (2) Die Union kann mit einem oder mehreren Drittstaaten oder einer oder mehreren internationalen Organisationen Assoziierungsabkommen schließen. Durch diese Abkommen wird mit einem oder mehreren Drittstaaten oder einer oder mehreren internationalen Organisationen eine Assoziierung mit gegenseitigen Rechten und Pflichten, gemeinsamem Vorgehen und besonderen Verfahren hergestellt.
- (3) Die Union kann die internationalen Übereinkünfte schließen, deren Abschluss zur Verwirklichung eines Ziels der Union erforderlich oder in einem gemäß anderen Zuständigkeitsbestimmungen erlassenen Rechtsakt der Union vorgesehen ist bzw. soweit deren Abschluss die einen internen Rechtsakt der Union berühren ~~beeinträchtigen kann~~.
- (4) Die von der Union geschlossenen Übereinkünfte binden die Organe der Union und die Mitgliedstaaten.
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Explanation (if any) :

Sprachliche Präzisierung entspricht EuGH-Rechtsprechung.

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.”

AMENDMENT FORM

Title B - Part II

Suggestion for amendment of Article : 33.7

By Ms. Dybkjær

Status : - Member **X Alternate**

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, **trade, development and cooperation agreements, and** accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms and for agreements establishing a specific institutional framework by organisation 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.

Explanation (if any) :

The procedure for trade, development and cooperation agreements should be the same as for association agreements. This will harmonize the legislative procedure and ensure a clear role for the European Parliament in the decision-making process.

FICHE AMENDEMENT

**Proposition d'amendement après l'Article 34, dans le Titre VI sur la vie démocratique,
Partie I de la Constitution**

Déposée par M. Jacques FLOCH, Membre suppléant

Après l'Article 34, insérer l'article 34 bis suivant

Article 34 bis : Le Congrès des Peuples d'Europe

1. Le Congrès des Peuples de l'Europe est l'instance de rencontre et de réflexion de la vie politique européenne. Il se réunit au moins une fois par an. Ses sessions sont publiques. Le Président du Parlement européen les convoque et les préside.
2. Le Congrès n'intervient pas dans la procédure législative de l'Union.
3. Le Président du Conseil européen fait rapport sur l'état de l'Union. Le Président de la Commission présente le programme législatif.
4. Le Congrès est composé pour un tiers de membres du Parlement européen et pour les deux tiers de représentants des Parlements nationaux. Le total ne dépasse pas sept cents.
5. Le Congrès se tient à Strasbourg, au Parlement européen.

Explication éventuelle :

AMENDMENT FORM

Suggestion for amendment of Article : 33 of Part II, Title B

Suggestion for protocol :

By Mr : Dick Roche

Status : - Member

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 **proposed negotiations agreement** exclusively or principally relates to the common foreign and security policy, shall submit recommendations to the Council, authorising ~~him to open the~~ **opening of negotiations on behalf of the Union**. The Commission and the Union's Minister for Foreign Affairs shall, where appropriate, present recommendations jointly.
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.
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 Freedom
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) : I have indicated my strong views on the areas where unanimity should continue to apply. If there is a further extension of QMV, the external read-across will have to be examined carefully, in particular those set out at 33.9.

The amendments proposed at subsection 3 reflect circumstances in which it is not appropriate for the Union Minister for Foreign Affairs to open negotiations on behalf of the Union (the current text would appear to preclude the Commission from acting in this respect).

While it is appreciated that the final sentence of 33.12 is based on existing Treaty text, in the context of a simplifying Treaty consideration should be given to whether it is necessary.

AMENDMENT FORM

Suggestion for amendment of Article : 34 of Part II, Title B

Suggestion for protocol :

By Mr : Dick Roche

Status : - Member

1. By way of derogation from Article 33, the Council, acting unanimously on a recommendation from the European Central Bank or from the Commission, and following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability, and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the European Central Bank or the Commission, and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.
2. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting by a qualified majority on a recommendation from the Commission after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.
3. By way of derogation from Article 33, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more States or international organisations, the Council shall, acting by a qualified majority on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Community expresses a single

position. The Commission shall be fully associated with the negotiations.

4. Subject to paragraph 1, the Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the European Central Bank, **agree on a common position and the appropriate European Union institution to present the common position to the international financial institutions**~~decide on the position occupied by the Union at international level in relation to questions having particular interest for the Economic and Monetary Union and on the Union's representation, while complying with the allocation of competences laid down in Articles X [formerly 99] and Y [formerly 105].~~
5. Without prejudice to Union competence as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

Explanation (if any) :

AMENDMENT FORM

Title B - Part II

Suggestion for amendment of Article 33

By Mr. Adrian Severin

Status : Alternate Member.

The paragraph 4 should be replaced by the following one:

- 4. The Commission shall conduct the negotiations, except where the agreements refer to the common foreign and security policy. The Union's Minister for Foreign Affairs shall conduct the negotiations where the agreements refer to the common foreign and security policy.**

In the paragraph 7 the first part of the second sentence should be deleted:

7. The Council shall conclude agreements on the proposal of the agreement negotiator. **[Delete]** 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.
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Explanation:

- 1. As a general rule, the Commission should be the negotiator of the Union, except in the area of CFSP, where it should be the Union's Minister for Foreign Affairs.*
- 2. The EP should be consulted in the CFSP agreements, too. There is no reason to introduce an exception where agreements refer to the common foreign and security policy.*

AMENDMENT FORM

Suggestion for amendment of Article : **Part II, Title B, Article 32**

Suggestion for protocol :

By Ms / Mr : **Hain**

Status : - Member - ~~Alternate~~

32.1 The Union may commit itself through agreements concluded with one or more third countries or international organisations in cases where the provisions of the Constitution provide for the conclusion of such agreements and according to the procedures set out in the Constitution.

32.2 The Union may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common action and special procedure.

~~32.3 The Union may conclude international agreement where conclusion is necessary to achieve a Union objective, where there is provision for it in a Union legislative act, or where the agreements affect one of the Union's internal acts.~~

32.4 Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

Explanation (if any) :

32.1 and 32.3: to make clear that different procedures apply to different types of agreements.

Comment: The proposed wording does not recognise the special nature of international agreements in the field of police and judicial co-operation as noted by the Working Group X and highlighted in the UK's amendments to Article 31, Part I of the draft Constitution. It will be necessary therefore to include appropriate language in Chapter 3 (Judicial co-operation in criminal matters) and Chapter 4 (Police Co-operation) of the Area of Freedom,

Security and Justice Title in Part II.

We will also need amendments to Chapter 2 of the Freedom, Security and Justice Title relating to agreements with third countries in the field of civil judicial co-operation.

We will propose Treaty language in due course.

AMENDMENT FORM

Suggestion for amendment of Article : Part II, Title B, Article 33 (and proposal for new Article 34)

Suggestion for protocol :

By Ms / Mr : Hain

Status : - Member - Alternate

33.1 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.

33.2 The Council shall authorise negotiations to be opened, adopt negotiating directives and conclude agreements.

33.3 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.

33.4 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.

33.5 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.

33.6 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.

33.7 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 co-operation 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.

33.8 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.

33.9 The Council shall act by a qualified majority throughout the procedure. However, it shall act unanimously when the agreement [covers a field includes provisions](#) 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.

33.10 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.

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

33.12 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].

[The new Article 34 would consist of Art 33 paras 1-10 with the following 4 changes \(ie no equivalent of 33.11 and 33.12\):](#)

[1. Article 33, paragraphs 1-10 apply to agreements negotiated and concluded under the common foreign and security policy with the following changes:](#)

- [a\) In paragraph 3, the words "The Commission" are replaced by the words "The Union's Minister for Foreign Affairs where the agreement relates exclusively or principally to the CFSP";](#)
- [b\) Paragraph 7 would consist of only one sentence : "The Council shall conclude agreements on the proposal of the agreement negotiator";](#)
- [c\) Paragraph 9 would consist of only one sentence : "The Council shall act by unanimity throughout the procedure".](#)

- d) Paragraph 10 would be the same as Art 33.10, but with the addition of « acting by unanimity » at the end of the first two words.

Explanation (if any) :

To make clear that different procedures apply to different types of agreement.

33.9: to ensure consistency with Art 24.4.

AMENDMENT FORM

Suggestion for amendment of Article : Part II, Title B, Article 34

Suggestion for protocol :

By Ms / Mr : Hain

Status : - Member - ~~Alternate~~

34.2: In the absence of an exchange-rate system in relation to one or more third-country currencies s referred to in paragraph 1, the Council, acting by a qualified majority [either](#) on a recommendation from the Commission after consulting the European Central Bank, [or on a recommendation from the European Central Bank](#), may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

Explanation (if any) :

This article should reflect the existing institutional balance, This means that the ECB should be able to make recommendations in 34.2 (exclusion of this procedure in 34.2 and not 34.1 seems gratuitous).

AMENDMENT FORM

Suggestion for amendment of Article : Chapter 5, Article 33

Suggestion for protocol :

By : Mr. John Cushnahan

Status : Alternate

CHAPTER 5 - INTERNATIONAL AGREEMENTS

Article 33 - Paragraph 7

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, ***agreements covered by Article 24***, 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.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 33

Suggestion for PART TWO – CHAPTER 5: INTERNATIONAL AGREEMENTS

By : Mr. John Cushnahan

Status : -Alternate

CHAPTER 5: INTERNATIONAL AGREEMENTS

Article 33

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.
4. In connection with the decision authorising negotiations, ~~depending on the subject of the future agreement~~, the Council shall nominate *the Commission or the Union's Minister for Foreign Affairs* as the negotiator or leader of the Union's negotiating team.
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.~~ *The negotiations shall be conducted in consultation with a special committee to assist it in this task. This committee shall be composed of an equal number of representatives of the Foreign Affairs Council and the European Parliament. EP Members will be also integrated*

in EU delegations to international conferences, and major bilateral and multilateral agreements.

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, *trade agreements* 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.
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) : The proposed texts seeks to introduce more simplification and democratic accountability by avoiding unnecessary complications "ratione materiae"

Amendment 2

CHAPTER 5: INTERNATIONAL AGREEMENT

Suggestion for amendment of Article : 33- paragraph 7

By Mrs: Piia-Noora KAUPPI

Status : Alternate

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, **agreements covered by Article 24**, 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.

AMENDMENT FORM

Suggestion for amendment to Article III-222

By Mr Hannes Farnleitner

Status : - Member

Article III-222

1. Agreements between the Union and third states or international organisations shall be negotiated and concluded in accordance with the following procedure.
2. The Council shall authorise negotiations to be opened, adopt negotiating directives, **authorise the signing of agreements** 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, which shall authorise the opening of negotiations.
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.
5. Without prejudice to the specific provisions laid down in Article 24, the Council may address 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 **after the assent of the European Parliament has been obtained**. ~~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. The European Parliament's assent shall be required for association agreements, for Union 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. **In the absence of an assent within that time-limit, the Council may act.**

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 **unless otherwise provided for in the Constitution**. However, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.
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 shall 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.
12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the Constitution. 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 :

In para. 2 the authorisation to be given by the Council for the signing of agreements referred to in para. 6 should be mentioned as a separate step in the process.

Para. 7 must reflect the right of the European Parliament to give its assent to all agreements to be concluded by the Union.

In para. 9 care needs to be taken of the fact that other articles of the Constitution, e.g. Art. III-212 para. 4 on common commercial policy, provide for cases in which the Council acts unanimously when deciding on the conclusion of agreements.

FICHE AMENDEMENT

Proposition d'amendement à l'Article III-222

Déposée par Monsieur de Villepin

Qualité : - Membre

1. Les accords entre l'Union et des États tiers ou organisations internationales sont négociés et conclus selon la procédure suivante.
2. Le Conseil autorise l'ouverture des négociations, arrête les directives de négociation et conclut les accords.
3. La Commission, ou le Ministre des Affaires étrangères de l'Union **dans les domaines de compétences de celui-ci fixés à l'article 19 de la partie I,** ~~lorsque l'accord porte exclusivement ou principalement sur la politique étrangère et de sécurité commune,~~ présente des recommandations au Conseil qui autorise l'ouverture des négociations

[paragrophes 4, 5, 6, 7 et 8 sans changements].

9. Au cours de toute la procédure, le Conseil statue à la majorité qualifiée, **conformément, pour la politique étrangère et de sécurité commune, aux dispositions de l'article III-196 (ex article 9).** Il statue cependant à l'unanimité lorsque l'accord porte sur un domaine pour lequel l'unanimité est requise pour l'adoption d'un acte de l'Union ainsi qu'en cas d'accord d'association et dans le cas de l'adhésion de l'Union à la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales.

[Le reste est sans changement]

Explication éventuelle :

AMENDMENT FORM

**Suggestion for amendment of: PART III OF THE CONSTITUTION:
Article III-222**

**By BROK, AZEVEDO, LEQUILLER, AKCAM, ALTMAIER, BREJC, DEMETRIOU,
FIGEL, FOGLER, FREND, GIANNAKOU, KAUPPI, KELAM, LENNMARKER,
LIEPINA, MAIJ-WEGGEN, PIKS, RACK, SANTER, STOCKTON, SZAJER, TEUFEL,
VAN DER LINDEN, VILEN, KAUPPI, VAN DIJK, WITTBRODT, WUERMEILING**

On behalf of the EPP Convention Group

Status : - Member - Alternate

Suggestion

Article III-222 (ex Article 33)

1. Agreements between the Union and third states or international organisations shall be negotiated and concluded in accordance with 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, which shall authorise the opening of negotiations.
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.
5. Without prejudice to the specific provisions laid down in Article 24, the Council may address 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. The European Parliament's assent shall be required for association agreements, for Union 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, *agreements according to Article III-212* 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 a Union act as well as for association agreements and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. The Council, on a proposal from the Union's Minister for Foreign Affairs or the Commission, shall take a decision to suspend the application of an agreement and shall 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 at all stages of the procedure.

12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the Constitution. 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) :

Para 7: For trade policy, the assent of the European Parliament is indispensable.

AMENDMENT FORM

Suggestion for amendment of Article : Artikel III-222 (ex-Artikel 33)

By Mr : Joachim Wuermeling

Status : - Alternate

Artikel III-222 (ex-Artikel 33)

(7) Der Rat schließt die Übereinkunft auf Vorschlag des Verhandlungsführers. Mit Ausnahme der Übereinkünfte, die ausschließlich die gemeinsame Außen- und Sicherheitspolitik betreffen, schließt der Rat die Übereinkunft nach Anhörung des Europäischen Parlaments. Das Europäische Parlament gibt seine Stellungnahme innerhalb einer Frist ab, die der Rat entsprechend der Dringlichkeit festlegen kann. Ergeht innerhalb dieser Frist keine Stellungnahme, so kann der Rat einen Beschluss fassen. Die Zustimmung des Europäischen Parlaments ist ~~jedoch~~ erforderlich, wenn es um folgende Fälle geht: **Handelspolitische Verträge**, Assoziierungsabkommen; Beitritt **der Union** zur Europäischen Konvention zum Schutze der Menschenrechte und Grundfreiheiten; Übereinkünfte, die durch Einführung von Zusammenarbeitsverfahren einen besonderen institutionellen Rahmen schaffen; Übereinkünfte mit erheblichen finanziellen Folgen für die Union; Übereinkünfte in Bereichen, für die das Gesetzgebungsverfahren gilt. Der Rat und das Europäische Parlament können in dringenden Fällen eine Frist für die Zustimmung vereinbaren.

Explanation (if any) :

AMENDMENT FORM

Suggestion for amendment of Article : 223 (ex Article 34), part III of the Constitution

By Ms / Mr : Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Jari Vilén, Hannu Takkula and Esko Helle

**Status : Tiilikainen, Kiljunen, Vilén - Members
 Peltomäki, Takkula and Helle - Alternates**

[Article III-223 (ex Article 34)]

1. By way of derogation from [Article III-222 (ex 33)], the Council, acting unanimously on a recommendation from the European Central Bank or from the Commission, following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the European Central Bank or the Commission and after consulting the European Central Bank in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.
2. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting either on a recommendation from the Commission and after consulting the European Central Bank or on a recommendation from the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.
3. By way of derogation from [Article III-222 (ex 33)], where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more States or international organisations, the Council shall, acting on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Union expresses a single position. The Commission shall be fully associated with the negotiations.
4. Without prejudice to Union competence and agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.]

Explanation (if any) :

Transferred to new Article III-80a (unamended).

Matters concerning exchange rate mechanisms form an inseparable part of the monetary policy. Therefore, the present text of Article III-223 should be moved to the EMU chapter, as a new Article III-80 a. A reference to it should be made in Chapter VI of Title V.

AMENDMENT FORM

Suggestion for amendment of Article : III-223

Suggestion for protocol :

By Mr : Dick Roche

Status : - Member

Article III-223 (ex Article 34)

1. By way of derogation from [Article III-222 (ex 33)], the Council, acting unanimously on a recommendation from the European Central Bank or from the Commission, following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the European Central Bank or the Commission and after consulting the European Central Bank in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.
2. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting either on a recommendation from the Commission and after consulting the European Central Bank or on a recommendation from the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.
3. By way of derogation from [Article III-222 (ex 33)], where ~~agreements on matters relating to the monetary or exchange-rate system~~ **agreements concerning monetary or foreign-exchange regime matters** are to be the subject of negotiations between the Union and one or more States or international organisations, the Council shall, acting on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Union expresses a single position. The Commission shall be fully associated with the negotiations.
4. Without prejudice to Union competence and agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

Explanation (if any) : The amendment reflects the text of the existing Article 111. There is a danger that the replacement of the word “regime” with “system” could unintentionally broaden the scope of the Article.

AMENDMENT FORM

Suggestion for amendment of Article : III-223

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member - ~~Alternate~~

Artikel III-223 (ex-Artikel 34)

(1) ...

(2) ...

(3) Wenn von der ~~Gemeinschaft~~ **Union** mit einem oder mehreren Staaten oder internationalen Organisationen Vereinbarungen im Zusammenhang mit Währungsfragen oder Devisenregelungen auszuhandeln sind, beschließt der Rat abweichend von [Artikel III-222 (ex-33)] auf Empfehlung der Kommission und nach Anhörung der Europäischen Zentralbank die Modalitäten für die Aushandlung und den Abschluss solcher Vereinbarungen. Mit diesen Modalitäten wird gewährleistet, dass die Gemeinschaft einen einheitlichen Standpunkt vertritt. Die Kommission wird an den Verhandlungen in vollem Umfang beteiligt. ***Im übrigen bleibt Artikel III-222 unberührt.***

(4) ...

Explanation (if any) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article III-223

Déposée par MM. Barnier, Vitorino, O'Sullivan et Ponzano

Qualité : Membres et Suppléants

Article III-223

(Accords internationaux sur un système de taux de change vis-à-vis des monnaies non-Union)

1. Par dérogation à [l'article III-222 (ex-33)], le Conseil, statuant ~~à l'unanimité~~ sur recommandation de la Banque centrale européenne ou de la Commission, après consultation de la Banque centrale européenne en vue de parvenir à un consensus compatible avec l'objectif de la stabilité des prix et après consultation du Parlement européen, selon la procédure visée au paragraphe 3 pour les arrangements y mentionnés, peut conclure des accords formels portant sur un système de taux de change pour l'euro, vis-à-vis des monnaies non-Union. Le Conseil, statuant à la majorité qualifiée sur recommandation de la Banque centrale européenne ou de la Commission et après consultation de la Banque centrale européenne en vue de parvenir à un consensus compatible avec l'objectif de la stabilité des prix, peut adopter, modifier ou abandonner les cours centraux de l'euro dans le système des taux de change. Le président du Conseil informe le Parlement européen de l'adoption, de la modification ou de l'abandon des cours centraux de l'euro.

reste de l'article inchangé

Explication :

Dans une Union à 25 ou plus Etats membres, le maintien de l'unanimité risque de mener à l'inaction. Il n'existe pas de raisons pour exiger l'unanimité pour conclure un accord qui porte sur un système de taux de change pour l'euro vis-à-vis la monnaie d'un pays tiers.

AMENDMENT FORM

Suggestion for amendment of Article 222

Suggestion for Part: III

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

Status : **Member** **Alternate**

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 on article 9a, part II).

AMENDMENT FORM

Suggestion for amendment of Article : III-222

By Ms / Mr : Voggenhuber, Wagener, Lichtenberger, MacCormick, Nagy, Gormley

Status : - Member - Alternate

Artikel III-222

Article III-222 (ex Article 33)

1. Without prejudice to the specific provisions laid down in (Article III-212 (ex 24)), agreements between the Union and third states or international organisations shall be negotiated and concluded in accordance with the following procedure.
2. The Council **together with the European Parliament.** 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 **and the European Parliament who** shall authorise the opening of negotiations.
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.~~
[Delete]
5. ~~The Council may address negotiating directives to the negotiator of the agreement and may designate a special committee in consultation with which the negotiations must be held.~~
The Commission shall conduct these negotiations in consultation with special committees appointed by the Council to assist it in this task and within the framework of such directives as the Council and European Parliament may issue to it.
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 **Union** shall conclude agreements on the proposal of the **Commission after the European Parliament has given its assent.**
~~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. The European Parliament's consent shall be required for association agreements, for Union 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 consent.~~

~~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 [Delete]~~

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 a Union act as well as for association agreements and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. The Council, on a proposal from the Union's Minister for Foreign Affairs or the Commission, shall take a decision to suspend the application of an agreement and shall 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 at all stages of the procedure.

12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the Constitution. 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 IV-6].

Explanation (if any) :

The EU is a global power in international trade. Trade policy now touches heavily upon social, environmental and developmental issues as well as economic ones. It is not a coincidence that anti-globalisation sentiments run high. Effective parliamentary scrutiny of the formulation and negotiation of trade policy therefore becomes ever more necessary in protection of the public interest.

AMENDMENT FORM

Suggestion for amendment of Article : 222 (ex Article 33), part III of the Constitution

By Ms / Mr : Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Jari Vilén, Hannu Takkula and Esko Helle

**Status : Tiilikainen, Kiljunen, Vilén - Members
 Peltomäki, Takkula and Helle - Alternates**

Article III-222 (ex Article 33)

1. Without prejudice to the specific provisions laid down in [Article III-212 (ex 24)], agreements between the Union and third states or international organisations shall be negotiated and concluded in accordance with 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, which shall authorise the opening of negotiations.
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.
5. The Council may address 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. The European Parliament's consent shall be required for association agreements, for Union 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 consent.

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 a Union act as well as for association agreements ~~and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.~~

10. The Council, on a proposal from the Union's Minister for Foreign Affairs or the Commission, shall take a decision to suspend the application of an agreement and shall 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 at all stages of the procedure.

12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the Constitution. 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 IV-6].

Explanation (if any) :

A strong commitment for acceding to the Convention is already made in Part I of the Constitution. Therefore, the accession should not be conditioned by unanimity in Part III of the Constitution.

AMENDMENT FORM

Suggestion for amendment of Article : Article III-222 (ex Article 24)

By Ms / Mr : Ms Helle THORNING-SCHMIDT

Status : Alternate

Article III-222 (ex Article 24), paragraphe 3

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, which, *after consultation of the European Parliament*, shall authorise the opening of negotiations.

Article III-222 (ex Article 24), paragraphe 7

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 Council and the European Parliament may, in an urgent situation, agree upon a time-limit for Parliament's opinion.* 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. The European Parliament's consent shall be required for association agreements, *for international trade rounds*, for Union 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 consent.

Explanation (if any) :

In order for EP consultation to be meaningful, consultation should start formally at the negotiating mandate stage, and Parliament and Council should jointly agree the time-limit for delivering the EP opinion. Parliament should be consulted before approval of all trade agreements, again with jointly agreed time-scales, and Parliamentary assent should be given on completion of major trade rounds, as for the Uruguay/WTO round.

AMENDMENT FORM

Suggestion for amendment of Article : III-222

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status : - Member - ~~Alternate~~

Artikel III-222 (ex-Artikel 33)

(1) ...

~~(2) Der Rat erteilt eine Ermächtigung zur Aufnahme von Verhandlungen, legt Verhandlungsrichtlinien fest und schließt die Übereinkünfte.~~

(3) Die Kommission oder, wenn sich die Übereinkunft ausschließlich oder hauptsächlich auf die Gemeinsame Außen- und Sicherheitspolitik bezieht, der Außenminister der Union legt dem Rat Empfehlungen vor; dieser ermächtigt sie bzw. ihn **nach Anhörung des Europäischen Parlaments** zur Eröffnung der Verhandlungen **und benennt sie bzw. ihn damit zugleich zum Verhandlungsführer**.

~~(4) Der Rat benennt im Rahmen des Beschlusses über die Ermächtigung zur Aufnahme von Verhandlungen nach Maßgabe des Gegenstands der künftigen Übereinkunft den Verhandlungsführer oder den Leiter des Verhandlungsteams der Union.~~

(5) Der Rat kann dem ~~für die Aushandlung der Übereinkunft benannten~~ Verhandlungsführer **nach Anhörung des Europäischen Parlaments** Richtlinien erteilen und einen Sonderausschuss einsetzen; die Verhandlungen sind im Benehmen mit diesem Ausschuss zu führen.

(6) Auf Vorschlag des Verhandlungsführers beschließt der Rat **nach Anhörung des Europäischen Parlaments**, die Übereinkunft zu unterzeichnen und gegebenenfalls vor ihrem Inkrafttreten vorläufig anzuwenden.

(7) Der Rat schließt die Übereinkunft auf Vorschlag des Verhandlungsführers. Mit Ausnahme der Übereinkünfte, die ausschließlich die gemeinsame Außen- und Sicherheitspolitik

betreffen, schließt der Rat die Übereinkunft nach Anhörung des Europäischen Parlaments. Das Europäische Parlament gibt seine Stellungnahme innerhalb einer Frist ab, die der Rat entsprechend der Dringlichkeit festlegen kann. Ergeht innerhalb dieser Frist keine Stellungnahme, so kann der Rat einen Beschluss fassen. Die Zustimmung des Europäischen Parlaments ist erforderlich, wenn es um folgende Fälle geht: Assoziierungsabkommen; Beitritt der Union zur Europäischen Konvention zum Schutze der Menschenrechte und Grundfreiheiten *oder anderen internationalen Konventionen zum Schutz der Menschenrechte; Handelsabkommen*; Übereinkünfte, die durch Einführung von Zusammenarbeitsverfahren einen besonderen institutionellen Rahmen schaffen; Übereinkünfte mit erheblichen finanziellen Folgen für die Union; Übereinkünfte in Bereichen, für die das Gesetzgebungsverfahren gilt. Der Rat und das Europäische Parlament können in dringenden Fällen eine Frist für die Zustimmung vereinbaren.

(8) Abweichend von den vorstehenden Bestimmungen kann der Rat den Verhandlungsführer bei Abschluss einer Übereinkunft ermächtigen, Änderungen, die nach jener Übereinkunft im Weg eines vereinfachten Verfahrens oder durch ein durch die Übereinkunft geschaffenes Organ anzunehmen sind, im Namen der Union zu billigen; der Rat kann diese Ermächtigung gegebenenfalls mit besonderen Bedingungen verbinden. *Der Rat beschließt die Ermächtigung nach Anhörung des Europäischen Parlaments. In Bezug auf eine Übereinkunft, deren Abschluss die Zustimmung des Europäischen Parlaments erfordert, beschließt der Rat die Ermächtigung nach Zustimmung des Europäischen Parlaments.*

(9) ...

(10) Der Rat beschließt auf Vorschlag des Außenministers der Union oder der Kommission die Aussetzung der Anwendung einer Übereinkunft und legt die Standpunkte fest, die im Namen der Union in einem durch eine Übereinkunft eingesetzten Gremium zu vertreten sind, sobald dieses Gremium rechtswirksame Beschlüsse - mit Ausnahme von Beschlüssen zur Ergänzung oder Änderung des institutionellen Rahmens der betreffenden Übereinkunft - zu erlassen hat. *In Bezug auf eine Übereinkunft, deren Abschluss die Zustimmung des Europäischen Parlaments erfordert, bedarf der Beschluss des Rates der Genehmigung durch das Europäische Parlament binnen einer Frist von einem Monat.*

(11) ...

(12) ...

Explanation (if any) :

Absatz 4:

Die Verantwortlichkeit für die Verhandlungsführung sollte stets bei der Kommission oder dem Außenminister liegen, deren bzw. dessen Ermächtigung auf Grundlage des Absatzes 3 erfolgt.

AMENDMENT FORM

Suggestion for amendment of Article: III-222.9

By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, national parliament representative.

**Status : - Member: Hjelm-Wallén and Lekberg
- Alternate: Petersson**

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 a Union act ~~as well as for association agreements~~¹ and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

¹ The use of qualified majority when reaching association agreements should not be ruled out, since there may be cases where association agreements are confined to areas in which qualified majority is the decisionmaking rule.

AMENDMENT FORM

Suggestion for amendment of Article : Part III, Title V, Article 222 (ex Art. 33)

Suggestion for protocol :

By Ms / Mr : Hain

Status : - Member - ~~Alternate~~

Delete current language and replace with:

1. In fields of Union external action other than the common foreign and security policy, agreements between the Union and third states or international organisations shall be negotiated and concluded in accordance with the following procedure.
2. The Council shall authorise negotiations to be opened, adopt negotiating directives and conclude agreements.
3. The Commission shall submit recommendations to the Council, which shall authorise the opening of negotiations.
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.
5. Without prejudice to the specific provisions laid down in Article 24, the Council may address 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. 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. The European Parliament's assent shall be required for association agreements, for Union 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 a Union act as well as for

association agreements and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. The Council, on a proposal from the Commission, shall take a decision to suspend the application of an agreement and shall 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 at all stage of the procedure.

12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the Constitution. 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) :

In order to make clear the distinct procedures for CFSP. This redrafted Art 222 covers non CFSP agreements, the new draft Art 199 bis covers CFSP agreements.

AMENDMENT FORM

Part III - Title V Chapter VI: International Agreements

Suggestion for amendment of Article : III-222

By Members: Mr Andrew Duff

Article III-222 (ex Article 33)

1. Agreements between the Union and third states or international organisations shall be negotiated and concluded in accordance with 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, which shall authorise the opening of negotiations.
4. *The negotiations are to be conducted by the Commission, or, where the agreement exclusively or principally relates to the common foreign and security policy, by the Minister of Foreign Affairs.*
5. Without prejudice to the specific provisions laid down in Article 24, the Council may address 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**. **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. The European Parliament's assent shall be required for association agreements, for Union 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, **trade, development and cooperation agreement**, 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 a Union act as well as for association agreements and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. The Council, on a proposal from the Union's Minister for Foreign Affairs or the Commission, shall take a decision to suspend the application of an agreement and shall 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 at all stages of the procedure.

12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the Constitution. 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:

4. The Commission should be the normal negotiator outside the area of CFSP.

7. We list all the areas of agreement in a precise list where the Parliament will enjoy the right of consent.

AMENDMENT FORM

**Suggestion for amendment of: PART III OF THE CONSTITUTION:
Article III-222**

By BROK, AZEVEDO, LEQUILLER, AKCAM, ALTMAIER, BREJC, DEMETRIOU, FIGEL, FOGLER, FREND, GIANNAKOU, KAUPPI, KELAM, LAMASSOURE, LENNMARKER, LIEPINA, MAIJ-WEGGEN, PIKS, RACK, SANTER, STOCKTON, SZAJER, TEUFEL, VAN DER LINDEN, VAN DIJK, WITTBRODT, WUERMELING

On behalf of the EPP Convention Group

Status : - Member - Alternate

Suggestion

Article III-222 (ex Article 33)

1. Agreements between the Union and third states or international organisations shall be negotiated and concluded in accordance with 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, which shall authorise the opening of negotiations.
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.
5. Without prejudice to the specific provisions laid down in Article 24, the Council may address 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. The European Parliament's assent shall be required for association agreements, for Union 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, ***agreements according to Article III-212*** 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 a Union act as well as for association agreements and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. The Council, on a proposal from the Union's Minister for Foreign Affairs or the Commission, shall take a decision to suspend the application of an agreement and shall 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 at all stages of the procedure.

12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the Constitution. 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) :

Para 7: For trade policy, the assent of the European Parliament is indispensable.

AMENDMENT FORM

Suggestion for amendment of Article : III-222

By Ms / Mr : Mr Bonde

Status : **X - Member** - Alternate

Article III-222 (ex Article 33)

1. Agreements between the Union and third states or international organisations shall be negotiated and concluded in accordance with 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, which shall authorise the opening of negotiations.
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.
5. Without prejudice to the specific provisions laid down in Article 24, the Council may address 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.

MEMBER STATES CAN DECIDE INDIVIDUALLY IF THEY WILL BE PART OF AN INTERNATIONAL AGREEMENT NEGOTIATED BY THE EU AS AN ENTITY. IF A MEMBER STATE DOES NOT WANT TO BE PART OF A NEGOTIATION THE COUNCIL WILL TAKE THE NECESSARY MEASURES AND ALLOW THE POSSIBILITY FOR ECONOMIC DISPENSATION.

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. The European Parliament's assent shall be required for association agreements, for Union 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 a Union act as well as for association agreements and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. The Council, on a proposal from the Union's Minister for Foreign Affairs or the Commission, shall take a decision to suspend the application of an agreement and shall 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 at all stages of the procedure.

12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the Constitution. 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) :

FICHE AMENDEMENT

Proposition d'amendement à l'Article III-222

Déposée par MM. Barnier, Vitorino, O'Sullivan et Ponzano

Qualité : Membres et Suppléants

Article III-222, paragraphe 9

(Procédure de conclusion d'accords internationaux)

9. Au cours de toute la procédure, le Conseil statue à la majorité qualifiée. Il statue cependant à l'unanimité lorsque l'accord porte sur un domaine pour lequel l'unanimité est requise pour l'adoption d'un acte de l'Union ~~ainsi qu'en cas d'accord d'association et dans le cas de l'adhésion de l'Union à la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales.~~

Explication :

Comme l'article I- 7 prévoit que « l'Union s'emploie à adhérer à la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales », il est contradictoire de prévoir que cette adhésion devra être décidée à l'unanimité.

Par ailleurs, il n'existe pas de raisons pour exiger l'unanimité pour conclure un accord d'association avec un pays tiers, puisqu'il s'agit en réalité d'un faisceau de droits et d'obligations convenu entre l'Union et un pays tiers, qui pourraient être convenus également dans une série d'accords séparés. Ce n'est que lorsque cet accord porterait également sur un domaine pour lequel l'unanimité serait encore requise pour l'adoption de règles internes que le maintien de l'unanimité serait défendable, mais ce cas est prévu (art. III-222, paragraphe 9, début de la phrase).

AMENDMENT FORM

Suggestion for amendment of Article : Part III, Title V, Article 221 (ex Art. 32a)

Suggestion for protocol :

By Ms / Mr : Hain

Status : - Member - ~~Alternate~~

1. In fields of the Union's external action, except the field of the common foreign and security policy, the Union may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common actions and special procedures.

Explanation (if any) :

In order to make clear the distinct procedures for CFSP.

AMENDMENT FORM

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

By Ms / Mr : Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Jari Vilén, Hannu Takkula and Esko Helle

Status : **Tiilikainen, Kiljunen, Vilén - Members**
 Peltomäki, Takkula and Helle - Alternates

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.
-

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).

AMENDMENT FORM

Suggestion for amendment of Article : III - 220

Suggestion for protocol :

By Mr : Dick Roche

Status : - Member

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 objectives fixed by this Constitution within the framework of the Union's policies, where there is provision for it in a binding Union legislative act, or where it 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.
3. **The provisions of this article shall in no way modify the delimitation of competences between the Union and the Member States.**

Explanation (if any) : The Praesidium commentary on the initial draft of this article states that this provision should in no way modify the delimitation of competences between the Union and the Member States. The appropriate location for this statement is in the body of the article.

AMENDMENT FORM

Suggestion for amendment of Article III-220.1

By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, national parliament representative.

**Status : - Member: Hjelm-Wallén and Lekberg
- Alternate: Petersson**

1. The Union may, **within the competences conferred on it by the Member States¹**, 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, where there is provision for it in a binding Union legislative act or where it affects one of the Union's internal acts.

¹ It should be clarified that the competence of the Union to conclude international agreements is limited to the extent to which the Member States have conferred powers on it. There should thus be a parallelism in the internal and external competence of the Union.

AMENDMENT FORM

Suggestion for amendment of Article : Part III, Title V, Article 220 (ex Art. 32)

Suggestion for protocol :

By Ms / Mr : Hain

Status : - Member - ~~Alternate~~

TITLE OF CH VI: INTERNATIONAL AGREEMENTS IN FIELDS OTHER THAN THE COMMON FOREIGN AND SECURITY POLICY

1. In fields of external action other than the field of the common foreign and security policy, and without prejudice to the ability of the Member States to maintain agreements in the areas of Member State competence, 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 objectives fixed by this Constitution within the framework of the Union's policies, where there is provision for it in a binding Union legislative act or where it affects one of the Union's internal acts.
2. Such agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

Explanation (if any) :

In order to make clear the distinct procedures for CFSP.

AMENDMENT FORM

Suggestion for amendment of Article : III-220

By Mr Joschka Fischer

Status : - Member

Artikel III-220 (ex-Artikel 32)

(1) Die Union kann Übereinkünfte mit einem oder mehreren Drittstaaten oder einer oder mehreren internationalen Organisationen schließen, sofern dies in der Verfassung vorgesehen ist oder wenn der Abschluss einer Übereinkunft zur Verwirklichung eines der Ziele der Union erforderlich ist, in einem Rechtsakt der Union vorgesehen ist oder einen internen Rechtsakt der Union ~~berührt~~ beeinträchtigt.

(2) Die von der Union geschlossenen Übereinkünfte binden die Organe der Union und die Mitgliedstaaten.

Explanation (if any) :

Sprachliche Präzisierung entspricht der Rechtsprechung des EuGH.

AMENDMENT FORM

Suggestion for amendment of: **PART III OF THE CONSTITUTION:** **Article III-222**

By Mr Giuliano Amato, Mr Elmar Brok and Mr Andrew Duff

Article III-222 (ex Article 33)

1. Agreements between the Union and third states or international organisations shall be negotiated and concluded in accordance with 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, which shall authorise the opening of negotiations.
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.
5. Without prejudice to the specific provisions laid down in Article 24, the Council may address 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. The European Parliament's assent shall be required for association agreements, for Union 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, ***agreements according to Article III-212*** 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 a Union act as well as for association agreements and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. The Council, on a proposal from the Union's Minister for Foreign Affairs or the Commission, shall take a decision to suspend the application of an agreement and shall 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 at all stages of the procedure.

12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the Constitution. 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) :

Para 7: For trade policy, the assent of the European Parliament is indispensable.