

AMENDMENT FORM

**Suggestion for amendment of Article : 8**

**By MM : Kiljunen and Vanhanen**

**Status : - Members**

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1. The limits and use of Union competences are governed by the principles of conferral, subsidiarity and proportionality [~~delete~~].
  2. In accordance with the principle of conferral, the Union shall act within the limits of the competences conferred upon it by the Constitution to attain the objectives the Constitution sets out. Competences not conferred upon the Union by the Constitution remain with the Member States.  
  

[new para] Whenever **this Constitution** has created for the **Union** powers within its internal system for the purpose of attaining a specific objective, the **Union** 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.
  3. [As Presidency draft]
  4. [As Presidency draft]
  5. [~~Delete~~]
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**Explanation (if any) :**

*Title III on Union competences and actions should not deal with those fundamental principles which do not relate solely to the exercise of the Union's competence, but which concern the application of Union law in general. They should rather be placed in Title I.*

*The provision on the fundamental principles concerning competence should also lay down the principle, well-established by the case law of the European Court of Justice, 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). It should in other words be recognised in the Constitution that in general 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. Alternatively, this principle could be placed in Title V on instruments.*

*Mentioning the principle of loyal cooperation (as set out in the presidency article 8.5.) does not seem necessary here, therefore deleted.*