

DRAFT

1 TREATY ON STABILITY, COORDINATION AND GOVERNANCE
IN THE ECONOMIC AND MONETARY UNION

THE CONTRACTING PARTIES.....

CONSCIOUS of the obligation of the Contracting Parties, as Member States of the European Union, to regard their economic policies as a matter of common concern,

DESIRING to promote conditions for stronger economic growth in the European Union and, to that end, to develop ever-closer coordination of economic policies within the euro area,

BEARING IN MIND that the need for governments to maintain sound and sustainable public finances and to prevent a government deficit becoming excessive is of an essential importance to safeguard the stability of the euro area as a whole, and accordingly requires the introduction of specific rules to address this need, including a balanced budget rule and an automatic mechanism to take corrective action,

CONSCIOUS of the need to ensure that their deficits do not exceed 3 % of their gross domestic product at market prices and that government debt does not exceed, or is sufficiently declining towards, 60 % of their gross domestic product at market prices,

RECALLING that the Contracting Parties, as Member States of the European Union, should refrain from adopting any measure which could jeopardise the attainment of the Union's objectives in the framework of the economic union, notably the practice of accumulating debt outside the general government accounts,

BEARING IN MIND that the Heads of State or Government of the euro area Member States agreed on 9 December 2011 on a reinforced architecture for Economic and Monetary Union, building upon the European Union Treaties and facilitating the implementation of measures taken on the basis of Articles 121, 126 and 136 of the Treaty on the Functioning of the European Union,

BEARING IN MIND that the objective of the Heads of State or Government of the euro area Member States and of other Member States of the European Union is to incorporate the provisions of this Agreement as soon as possible into the Treaties on which the European Union is founded,

- 2 WELCOMING the legislative proposals made by the European Commission within the framework of the European Union Treaties on 23 November 2011 and TAKING NOTE of its intention to present further legislative proposals regarding a mechanism of ex ante reporting of debt issuance plans of the Member States of the European Union, a procedure of economic partnership programmes detailing structural reforms for euro area Member States in excessive deficit procedure as well as a new coordination procedure at the level of the euro area for major economic policy reform plans,

TAKING NOTE that, when reviewing and monitoring the budgetary commitments under this Treaty, the European Commission will act within the framework of its powers as provided by the Treaty on the functioning of the European Union, in particular Articles 121, 126 and 136 thereof,

- 3 NOTING in particular that, for the application of the budgetary "Balanced Budget Rule" described in Article 3 of this Agreement, this monitoring will be made through the setting up of country specific medium term objectives and of calendars of convergence, as appropriate, for each Contracting Party. Temporary deviation from the medium-term objective will only be allowed in cases of unusual event outside the control of the contracting party with a major impact on the financial position of the general government or in periods of severe economic downturn for the euro area, the EU or the concerned Contracting party as defined in the revised Stability and Growth Pact.
- 4 NOTING that the medium term objectives should be updated regularly on the basis of a commonly agreed method, the main parameters of which are also to be reviewed regularly, reflecting appropriately the risks of explicit and implicit liabilities for public finance, as embodied in the aims of the Stability and Growth Pact,
- 5 NOTING that sufficient progress towards the medium term objectives should be evaluated on the basis of an overall assessment with the structural balance as a reference, including an analysis of expenditure net of discretionary revenue measures, in line with the provisions specified under the law of the Union, in particular Regulation (EC) No. 1466/97, as amended by Regulation (EC) No. 1175/2011,

(6)

NOTING that compliance with the obligation to transpose the "Balanced Budget Rule" into national legal systems through binding and permanent provisions, preferably constitutional, should be subject to the jurisdiction of the Court of Justice of the European Union, in accordance with Article 273 of the Treaty on the Functioning of the European Union,

(7)

RECALLING the need to facilitate the adoption of measures under the excessive deficit procedure of the European Union for euro area Contracting Parties whose planned or actual government deficit to gross domestic product exceeds 3%, whilst strongly reinforcing the objective of that procedure, namely to encourage and, if necessary, compel the Member State concerned to reduce a deficit which might be identified,

RECALLING the need for those Contracting Parties whose government debt exceeds the 60 % reference value to reduce it at an average rate of one twentieth per year as a benchmark,

BEARING IN MIND the need to respect the role of social partners, as it is foreseen in the law of each of the Contracting Parties, in the implementation of this Treaty,

STRESSING that none of the provisions of this Treaty is to be interpreted as altering in any way the economic policy conditions under which financial assistance has been granted to a Contracting Party in a stabilisation programme involving the European Union, its Member States and the International Monetary Fund,

(8) (9)

RECALLING the agreement of the Heads of State or Government of the euro area Member States on 26 October 2011 to improve the governance of the euro area, including the holding of at least two Euro Summit meetings per year, as well as the endorsement of the Euro Plus Pact by the Heads of State or Government of the euro area Member States and of other Member States of the European Union on 25 March 2011,

- 10** STRESSING the importance of the Treaty establishing the European Stability Mechanism as an element of a global strategy to strengthen the Economic and Monetary Union and POINTING OUT that compliance with Article 3(2) shall be considered as a condition for the granting of assistance under the European Stability Mechanism as soon as the transposition period mentioned in Article 3(2) has expired,

(11)

HAVE AGREED UPON the following provisions:

TITLE I

PURPOSE AND SCOPE

Article 1

- 12** 1. By this Treaty, the Contracting Parties agree, as Member States of the European Union, to strengthen the economic pillar of the Economic and Monetary Union by adopting a set of rules intended to foster budgetary discipline through a fiscal compact, to strengthen the coordination of economic policies and to improve the governance of the euro area, thereby supporting the achievement of the European Union's objectives for sustainable growth and employment.
2. The provisions of this Treaty shall apply in full to the Contracting Parties whose currency is the euro. They shall also apply to the other Contracting Parties to the extent and under the conditions set out in Article 14.

TITLE II

CONSISTENCY AND RELATIONSHIP WITH THE LAW OF THE UNION

Article 2

1. This Treaty shall be applied by the Contracting Parties in conformity with the Treaties on which the European Union is founded, in particular Article 4(3) of the Treaty on European Union, and with European Union law.
- 13 2. The provisions of this Treaty shall apply insofar as they are compatible with the Treaties on which the Union is founded and with European Union law. They shall not encroach upon the competences of the Union to act in the area of the economic union.

TITLE III

FISCAL COMPACT

Article 3

- 14 1. The Contracting Parties shall apply the following rules, in addition to and without prejudice to the obligations derived from Union law:
 - a) The budgetary position of the general government shall be balanced or in surplus.
 - b) The rule under point a) above shall be deemed to be respected if the annual structural balance of the general government is at its country-specific medium-term objective as defined in the revised Stability and Growth Pact (Regulation (EU) No. 1175/2011) with a deficit not exceeding 0.5 % of the gross domestic product at market prices. The Contracting Parties shall ensure convergence towards their respective medium-term objective. Convergence shall be evaluated on the basis of an overall assessment with the structural balance as a reference, including an analysis of expenditure net of discretionary revenue measures, in line with the provisions of the revised Stability and Growth Pact.
 - c) The Contracting Parties may temporarily deviate from their medium-term objective in case of an unusual event outside the control of the Contracting Party concerned which has a major impact on the financial position of the government or in periods of a severe economic downturn as defined in the revised Stability and Growth Pact, provided that this does not endanger fiscal sustainability in the medium term.
 - d) Where the ratio of government debt to gross domestic product at market prices is significantly below 60 % and where risks in terms of long-term sustainability of public finances are low, the lower limit of the medium-term objective specified under point b) can reach a deficit of maximum 1.0 % of the gross domestic product at market prices.

- 15** 2. The rules mentioned under paragraph 1 shall take effect in the national law of the Contracting Parties within one year of the entry into force of this Treaty through provisions of binding force and permanent character, preferably constitutional, that are guaranteed to be respected throughout the national budgetary processes. The Contracting Parties shall in particular put in place at national level, on the basis of principles agreed on a proposal from the European Commission, a correction mechanism to be triggered automatically in the event of significant deviations from the medium term objective or the adjustment path towards it, as specified in the revised Stability and Growth Pact. The mechanism shall include the obligation of the Contracting Parties to implement measures to correct the deviations over a defined period of time. It shall fully respect the responsibilities of national Parliaments.
- 16** 3. For the purposes of this Article, definitions set out in Article 2 of Protocol (No 12) on the excessive deficit procedure annexed to the European Union Treaties shall apply. In addition, "annual structural balance of the general government" refers to the annual cyclically-adjusted balance net of one-off and temporary measures.

Article 4

- 17** When the ratio of their general government debt to gross domestic product exceeds the 60 % reference value mentioned under Article 1 of Protocol (No 12), the Contracting Parties shall reduce it at an average rate of one twentieth per year as a benchmark, as provided for in Article 2 of Regulation (EC) No. 1467/97 as amended by Regulation (EU) No. 1177/2011.

Article 5

- 18** 1. The Contracting Parties that are subject to an excessive deficit procedure under the European Union Treaties shall put in place a budgetary and economic partnership programme including a detailed description of the structural reforms which must be put in place and implemented to ensure an effective and durable correction of their excessive deficits. The content and format of these programmes shall be defined in the law of the Union. Their submission to the European Commission and the Council for endorsement and their monitoring will take place within the context of the existing surveillance procedures of the Stability and Growth Pact.
- 19** 2. The implementation of the programme, and the yearly budgetary plans consistent with it, will be monitored by the Commission and by the Council.

Article 6

- 20** With a view to better coordinating the planning of their national debt issuance, the Contracting Parties shall report ex-ante on their public debt issuance plans to the European Commission and to the Council.

Article 7

- 21** While fully respecting the procedural requirements of the European Union Treaties, the Contracting Parties whose currency is the euro commit to support the proposals or recommendations submitted by the European Commission where a Member State whose currency is the euro is considered by the European Commission to be in breach of the deficit criterion in the framework of an excessive deficit procedure. This obligation shall not apply where it is apparent among the Contracting Parties whose currency is the euro that a qualified majority of them, calculated by analogy with the relevant provisions of the European Union Treaties without taking into account the position of the Contracting Party concerned, is of another view.

Article 8

- 22** Any Contracting Party which considers that another Contracting Party has failed to comply with Article 3(2) may bring the matter before the Court of Justice of the European Union or invite the European Commission to issue a report on the matter. In the latter case, if the European Commission, after having given the Contracting Party concerned the opportunity to submit its observations, confirms non compliance in its report, the matter will be brought to the Court of Justice by the Contracting Parties. The judgment of the Court of Justice of the European Union shall be binding on the parties in the procedure, which shall take the necessary measures to comply with the judgment within a period to be decided by said Court.

(23) (24)

TITLE IV

ECONOMIC POLICY COORDINATION AND CONVERGENCE

Article 9

- 25** Building upon the economic policy coordination as defined in the Treaty on the Functioning of the European Union, the Contracting Parties undertake to work jointly towards a common economic policy fostering the smooth functioning of the Economic and Monetary Union and economic growth through enhanced convergence and competitiveness. To that end, the Contracting Parties shall take the necessary actions and measures in all the domains which are essential to the good functioning of the euro area, as mentioned in the Euro Plus Pact.

Article 10

- 26** In accordance with the requirements of the European Union Treaties, the Contracting Parties undertake to make recourse, whenever appropriate and necessary, to measures specific to those Member States whose currency is the euro as provided for in Article 136 of the Treaty on the Functioning of the European Union and to the enhanced cooperation as provided for in Article 20 of the Treaty on European Union and in Articles 326 to 334 of the treaty on the Functioning of the European Union on matters that are essential for the smooth functioning of the euro area, without undermining the internal market.

Article 11

- 27** With a view to benchmarking best practices and working towards a common economic policy, the Contracting Parties ensure that all major economic policy reforms that they plan to undertake will be discussed ex-ante and, where appropriate, coordinated among themselves. This coordination shall involve the institutions of the European Union as required by the law of the Union.

TITLE V

GOVERNANCE OF THE EURO AREA

Article 12

- 28** 1. The Heads of State or Government of the Contracting Parties whose currency is the euro shall meet informally in Euro Summit meetings, together with the President of the European Commission. The President of the European Central Bank shall be invited to take part in such meetings. The President of the Euro Summit shall be appointed by the Heads of State or Government of the Contracting Parties whose currency is the euro by simple majority at the same time the European Council elects its President and for the same term of office.
- 29** 2. Euro Summit meetings shall take place, when necessary, and at least twice a year, to discuss questions related to the specific responsibilities those Member States share with regard to the single currency, other issues concerning the governance of the euro area and the rules that apply to it, and in particular strategic orientations for the conduct of economic policies and for improved competitiveness and increased convergence in the euro area.
- 31** 3. Euro Summit meetings shall be prepared by the President of the Euro Summit, in close cooperation with the President of the European Commission, and by the Euro Group. The follow-up to the meetings shall be ensured in the same manner.

(30)

4. The President of the Euro Summit shall keep the Contracting Parties whose currency is not the euro and the other Member States of the European Union closely informed of the preparation and outcome of the Euro Summit meetings. The President will also inform the European Parliament of the outcome of the Euro Summit meetings.

Article 13

32 Representatives of the Parliaments of the Contracting Parties will be invited to meet regularly to discuss in particular the conduct of economic and budgetary policies, in close association with representatives of the European Parliament.

TITLE VI

GENERAL AND FINAL PROVISIONS

Article 14

1. This Treaty shall be ratified by the Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the General Secretariat of the Council of the European Union.

33 2. This Treaty shall enter into force on 1 January 2013, provided that [twelve] Contracting Parties whose currency is the euro have deposited their instrument of ratification, or on the first day of the month following the deposit of the [twelfth] instrument of ratification by a Contracting Party whose currency is the euro, whichever is the earlier.

3. This Treaty shall apply as from the day of entry into force amongst the Contracting Parties whose currency is the euro and which have ratified it. It shall apply to the other Contracting Parties whose currency is the euro as from the first day of the month following the deposit of their respective instrument of ratification.

4. By derogation to paragraph 3, Title V shall apply to all Contracting Parties whose currency is the euro as from the date of the entry into force of this Treaty.

5. This Treaty shall apply to the Contracting Parties with a derogation as defined in Article 139(1) of the Treaty on the Functioning of the European Union, or with an exemption as defined in Protocol No 16 on certain provisions related to Denmark annexed to the European Union Treaties, which have ratified it, as from the day when the decision abrogating that derogation or exemption takes effect, unless the Contracting Party concerned declares its intention to be bound at an earlier date by all or part of the provisions in Titles III and IV of this Treaty.

Article 15

- 34** This Treaty shall be open to accession by Member States of the European Union other than the Contracting Parties upon application that any such Member State may file with the Depositary.

The Contracting parties shall approve the application by common agreement. Following such approval, the applicant Member State shall accede upon the deposit of the instruments of accession with the Depositary, who shall notify the other Contracting Parties thereof.

Article 16

- 35** Within five years at most following the entry into force of this Treaty, on the basis of an assessment of the experience with its implementation, the necessary steps shall be taken, in compliance with the provisions of the Treaty on the European Union and the Treaty on the Functioning of the European Union, with the aim of incorporating the substance of this Treaty into the legal framework of the European Union.
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