**Supplementary Information about Key Provisions**

We divide the articles of the Treaty into “non-enforceable” (the preamble) and “enforceable” (the articles of the main part of the Treaty). We then use the Council’s press releases on the Treaty to determine whether portions of the enforceable section are “non-significant” or “significant”, to examine whether there is any difference in the ways of achieving agreement on the basis of the importance of disagreements. These press releases summarize key elements of the Treaty. In particular, the press release published on December 21, 2012, following Finland’s ratification, provides the most comprehensive summary of the key provisions of the Treaty. These central provisions are mainly concerning the “Title III Fiscal Compact”, which address the issue of fiscal rules and discipline, while several other provisions on the overall purpose of the Treaty (Article 1 (1)) and the procedures including the ratification process (Article 12 (2), Article 14 (2), and Article 16) are also included in the press release.[[1]](#footnote-1)

Specifically, Article 1 (1) is categorized as an important provision, as it outlines the purpose and the scope of the Treaty, and thus, significantly determines the underlying policy space of the Treaty as a whole. In particular, this article went through notable changes over the negotiation process. While the initial draft stated “to strengthen their budgetary discipline and to reinforce their economic policy coordination and governance” as a purpose of the Treaty, the 2nd draft added more specific goals to the previous provision by stating “to foster fiscal discipline and deeper integration in the internal market and stronger growth, enhanced competitiveness and social cohesion”. However, this change raised concerns in the UK as this issue may be discussed among the Contracting Parties excluding the UK. In the later drafts, the expression of “to foster […] deeper integration in the internal market” was replaced with “to strengthen the economic pillar of the Economic and Monetary Union by adopting a set of rules”, which is considered an important concession to the UK.

From Title III, five provisions are categorized as significant ones which went through modifications over the negotiation process. The Treaty provides, in Article 3 (1), that “the budgetary position of the general government shall be balanced or in surplus” under the balanced budget rule, a criterion that is met if the annual structural government deficit does not exceed 0.5% of GDP at market prices. They must also satisfy the country-specific medium-term budgetary objective, as defined in the revised SGP, otherwise an automatic correction mechanism will be triggered in the event of deviation from the balanced budget rule. This core provision of the Treaty, or the so-called “golden rule” went through important modifications. In the second draft, the expression of “but in any case no more than 1.0% of nominal GDP” was added to the stipulation that more than the 0.5% of structural deficit is permitted where the debt level is significantly below the 60 % reference value. In the fourth draft, the European Commission is empowered to propose the time frame for convergence towards the country-specific medium-term objectives considering each country’s sustainability risks.

One of the important innovations of the Fiscal Compact Treaty lies in the proposal to incorporate these fiscal rules into the national legal system. According to Article 3 (2) in the first draft, the rules mentioned above “shall be introduced in national binding provisions of a constitutional or equivalent nature”. However, as several countries, including Denmark, Finland and Ireland have indicated that they would have to hold referendums on constitutional amendments, the third draft watered down the previous requirement, and it now reads “The rules mentioned under paragraph 1 shall take effect in the national law of the Contracting Parties at the latest one year after the entry into force of this Treaty through provisions of binding force and permanent character, preferably constitutional, or otherwise guaranteed to be fully respected and adhered to throughout the national budgetary processes.”

According to Article 8 (1), the European Court of Justice can verify this national transposition of the balanced budget rule. Under the first draft, “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.” The second draft conferred an important role upon the European Commission by changing this provision as the following: “The European Commission may, on behalf of Contracting Parties, bring an action for an alleged infringement of Title III before the Court of Justice of the European Union.” Moreover, Article 8 (2) confers on the ECJ the power to impose fines on countries that have failed to implement balanced budget rule into national law. Under the fourth draft, it reads “If the Court finds that the Contracting Party concerned has not complied with its judgment, it may impose on it a lump sum or a penalty payment appropriate in the circumstances and that shall not exceed 0.1 % of its gross domestic product.”[[2]](#footnote-2) However, this provision never existed until the third draft of the Treaty.

The Fiscal Compact also reinforces budgetary rules by incorporating a commitment made by euro area contracting parties to adopt the recommendations and decisions submitted by the European Commission under the excessive deficit procedure unless opposed by a qualified majority (known as “reverse qualified majority”), as shown in Article 7. While this rule was never changed, the third draft limited its scope to national deficit with an exclusion of national debt, as a concession to Italy’s demand (Kreilinger 2012: 3).[[3]](#footnote-3)

In addition to Title III on the fiscal rules, the Council press release points out several important provisions on the governance of euro area, and on the legal procedures. First, although there have not been significant modifications except for the minor wording changes over the negotiations, the Council press release remarks on the requirement for Euro Summit meetings to take place at least twice a year (Article 12.2). Second, the press release also indicates the necessary steps to incorporate the provisions of the new treaty into the legal framework of the EU are to be taken within five years of its entry into force (Article 16). This provision was newly added in the second draft of the Treaty, and a slight wording change was made in the third draft. Lastly, it is notable that all the euro countries are not required to ratify for the Treaty to enter into force. In the first draft, only nine eurozone countries are required to ratify for the Treaty to come to have legal force and effect (Article 14 (2)). This number of countries changed into fifteen in the second draft, and finally twelve in the third draft.

We also included one additional change across drafts in the category of the important provisions: the title of the document. The title of the document changed from “International Agreement on Reinforced Economic Union” (1st draft), to “International Treaty on Reinforced Economic Union” (2nd draft), and finally to “Treaty on Stability, Co-ordination and Governance in the Economic and Monetary union” (3rd draft). The broad concept of a “reinforced economic union” which reflected early stages of negotiations has been specified as shown in the long title of the final version.

1. Note that only the provisions which went through any modification are included in our dataset. For example, Article 14 (4) and Article 14 (5) are briefly mentioned in this press release, but they are not included in our dataset as they did not go through any modification over the negotiation process. For the details, please refer to the author’s website: <http://sitemaker.umich.edu/tsebelis/fiscal_compact_data>. [↑](#footnote-ref-1)
2. Through a modification in the fifth draft, this final draft reads as the following: “The amounts imposed on a Contracting Party whose currency is the euro shall be payable to the European Stability Mechanism. In other cases, payments shall be made to the general budget of the European Union.” [↑](#footnote-ref-2)
3. The “reverse qualified majority” is a procedure that gives particular weight to the agenda setter of a process: The submitted proposal stands unless a qualified majority decides to change it. [↑](#footnote-ref-3)