

COMMENTS by ITALY, 29 December 2011.

General remarks

The amendments below fully reflect the 9th December Statement by the Heads of State and Government and their willingness to enshrine, in a new fiscal framework at the Treaty level, the enhanced fiscal discipline provided for in the “the six-pack”.

Italy strongly believes that fiscal discipline is essential for financial stability and we agree with the need to endow the fiscal framework with appropriate preventive and corrective tools. This is part of a comprehensive strategy that, to be effective, must include the full functioning of European stability mechanisms.

An important outcome of the 9 December Summit is the agreement to move towards a reinforced economic union that, alongside the fiscal compact, must include a fully-fledged strategy for convergence, growth and job creation, in particular by leveraging on the opportunities offered by swift progress of the Single Market. Alongside an enhanced framework for fiscal discipline, a dynamic internal market, stricter application of commonly agreed rules and deeper convergence of policies to promote competitiveness are essential elements of a reinforced economic pillar within the Economic and Monetary Union. To this end the content of Title IV must be significantly strengthened and include specific commitments, whose implementation has to be monitored with rigour. For this reason Italy reserves the faculty of further commenting Title IV in the course of the negotiations.

DRAFT

INTERNATIONAL AGREEMENT ON A REINFORCED ECONOMIC 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 more balanced and sustainable 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 coordination of the economic policies of the Contracting Parties, as Member States of the European Union, is based on the objective of sound and sustainable government finances as a means of strengthening the conditions for price stability and for strong sustainable growth underpinned by financial stability, thereby supporting the achievement of the Union's objectives for sustainable growth and employment,

BEARING IN MIND that the need for governments to prevent a government deficit becoming excessive is of an essential importance to safeguard the stability of the euro area as a whole, and contributes to reinforce the mechanisms established to this end. Accordingly, it requires the introduction of specific rules to address this need, including the need to take necessary corrective action, while strengthening economic policy coordination,

CONSCIOUS of the need to ensure that their deficits remain below 3 % of their gross domestic product at market prices and that government debt is below, or sufficiently ~~declining~~ diminishing and is approaching towards, the reference value of 60 % of their gross domestic product at market prices,

Commento [mn1]: Language reflecting Regulation 1177/2011, amending Regulation 1467/97.

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 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 remains to incorporate the provisions of this Agreement as soon as possible into the Treaties on which the European Union is founded,

TAKING NOTE, in this context, of the intention of the European Commission to present further legislative proposals within the framework of the Union Treaties regarding the establishment of 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 Agreement, 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,

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 reference values and on the basis of a proposal by the European Commission, of calendars of convergence, as appropriate, for each Contracting Party,

Commento [mn2]: Language reflecting the 9 December Statement by the euro area Heads of State and Government.

NOTING that compliance with the obligation to transpose the "Balanced Budget Rule" into national legal systems at constitutional or equivalent level 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,

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 satisfactory pace, with the differential with respect to the reference value decreasing over the previous three years at an average rate of one twentieth per year as a benchmark, taking into account the influence of the cycle.

Commento [mn3]: Language reflecting Regulation 1177/2011, amending Regulation 1467/97.

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,

STRESSING the importance of the Treaty establishing the European Stability Mechanism as ~~an~~ element a fundamental pillar of ~~the a global comprehensive~~ strategy to strengthen the Economic and Monetary Union,

HAVE AGREED UPON the following provisions,

TITLE I

PURPOSE AND SCOPE

Article 1

1. By this Agreement, the Contracting Parties, which are Member States of the European Union, agree to strengthen their budgetary discipline and to reinforce their economic policy coordination and governance. as a step towards a stronger economic union. This implies a new fiscal compact and strengthened economic policy coordination as well as the development of effective stabilization tools. Safeguarding the stability of the euro area shall underpin the Union strategy for growth, jobs and competitiveness.

Commento [mn4]: Language reflecting the 9 December Statement by the euro area Heads of State and Government.

2. The provisions of this Agreement shall apply to the Contracting Parties whose currency is the euro. They may also apply to the other Contracting Parties, under the conditions set out in Article 14.

TITLE II

CONSISTENCY AND RELATIONSHIP WITH THE LAW OF THE UNION

Article 2

1. This Agreement 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.

2. The provisions of this Agreement 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. In accordance with the case law of the Court of Justice of the European Union, European Union law has precedence over the provisions of this Agreement.

TITLE III

BUDGETARY DISCIPLINE

Article 3

1. The Contracting Parties shall apply the following rules, in addition to and without prejudice to the obligations derived from Union Law:

a) Revenues and expenditures of the general government budgets shall be balanced or in surplus. The Contracting Parties may temporarily incur deficits only to take into account the budgetary impact of the economic cycle and, beyond such impact, in case of exceptional economic circumstances, or in periods of a severe economic downturn, provided that this does not endanger ~~budgetary-fiscal~~ sustainability in medium term.

b) The rule under point a) above shall be deemed to be respected if the annual structural deficit of the general government does not exceed a country-specific reference value, which ensures an adequate safety margin with respect to the 3 % reference value mentioned under Article 1 of the Protocol (No 12) on the excessive deficit procedure annexed to the Treaty on European Union and to the TFEU (hereinafter 'Protocol No 12') as well as rapid progress towards sustainability, also taking into account the budgetary impact of ageing, ~~while leaving room for budgetary manoeuvre, in particular taking into account the need for public investment~~. The Contracting Parties shall ensure convergence towards their respective country-specific reference value, ~~according to a calendar proposed by the Commission~~. As a rule, the ~~country-specific reference value annual structural deficit~~ shall not exceed 0.5 % of nominal GDP.

c) Where the debt level is significantly below the 60 % reference value mentioned under Article 1 of Protocol No 12, the country-specific reference value for the annual structural ~~net~~ deficit may take a higher value than specified under point

e)d) ~~The Contracting Parties agree that the Commission shall assess the compliance with the rules mentioned under this paragraph in accordance with the powers and obligations derived from European Union Law. In particular, they agree that the Commission shall make a balanced overall assessment of all relevant factors, specifically the extent to which they affect the assessment of compliance with the abovementioned rules as aggravating or mitigating factors.~~

2. The rules mentioned under paragraph 1 shall be introduced in national binding provisions of a constitutional or equivalent nature. The Contracting Parties shall in particular put in place a correction mechanism to be triggered automatically in the event of significant deviations from the reference value or the adjustment path towards it. This mechanism shall be defined at national level, on the basis of commonly agreed principles ~~proposed by the European Commission~~. ~~It shall include the obligation of the Contracting Parties to present a programme to correct the deviations over a defined period of time.~~ It shall fully respect responsibilities of national Parliaments.

Commento [mn5]: Language reflecting Regulation 1175/2011, amending Regulation 1466/97.

Commento [mn6]: Language reflecting Regulation 1175/2011, amending Regulation 1466/97.

Commento [mn7]: Language reflecting the 9 December Statement by the euro area Heads of State and Government.

Commento [mn8]: Language reflecting the 9 December Statement by the euro area Heads of State and Government, whereby distinction is made between the country-specific reference value and the maximum deviation in structural terms, i.e. 0.5%.

Commento [mn9]: Language reflecting Regulation 1177/2011, amending Regulation 1467/97.

Commento [mn10]: According to the 9 December Statement by the euro area Heads of State and Government, the correction mechanism to be triggered in the event of significant deviations from the reference value does not include the obligation of the Contracting Parties to present a programme. The above mentioned provision shall instead apply in the case of Contracting Parties that are subject to an excessive deficit procedure (see Art. 5).

3. For the purposes of this Article, definitions set out in Article 2 of Protocol No 12 shall apply. In addition, the following definitions shall apply:

- "annual structural deficit of the general government" means the annual cyclically-adjusted deficit net of one-off and temporary measures;
- "exceptional economic circumstances" means an unusual event outside the control of the Contracting Party concerned, which has a major impact on the financial position of the general government.

Commento [mn11]: Language reflecting Regulation 1175/2011, amending Regulation 1466/97.

Article 4

When the ratio of their government debt to gross domestic product exceeds the 60 % reference value mentioned under Article 1 of Protocol No 12, the Contracting Parties undertake to reduce it at an average rate of one twentieth per year as a benchmark in accordance with Regulation (EC) No 1467/97 as amended by Council Regulation No 1177/2011 of 8 November 2011.

Commento [SG12]: It is important to avoid any ambiguity concerning the reference to the existing rules under the Stability and Growth Pact as revised by the "six pack". The 9 December Council has NOT decided to modify the agreed rules on the implementation of the debt reduction, such as the need to consider the transition period, the influence of the cycle, and all the relevant factors. Therefore, it is necessary to add in the text an explicit reference to Regulation 1177/2011 to make that clear.

This means, in particular, that the Contracting parties undertake to reduce their government debt at a satisfactory pace by ensuring that that differential with respect to the reference value has decreased over the previous three years at an average rate of one twentieth per year as a benchmark. In implementing the debt ratio adjustment benchmark, account shall be taken of the influence of the cycle on the pace of debt reduction. For a Member State subject to an excessive deficit procedure under the Union Treaties and for a period of three years from the correction of excessive deficit, the requirement under the debt criterion shall be considered fulfilled if the Member State concerned makes sufficient progress towards compliance. The Contracting Parties agree that the Commission shall assess the compliance with the debt rule in accordance with the powers and obligations derived from European Union Law. In particular, they agree that the Commission shall make a balanced overall assessment of all relevant factors, specifically the extent to which they affect the assessment of compliance with the abovementioned rules as aggravating or mitigating factors.

Article 5

The Contracting Parties that are subject to an excessive deficit procedure under the Union Treaties shall put in place a budgetary and economic partnership programme with binding value including a detailed description of the structural reforms necessary to ensure an effectively durable correction of their excessive deficits. Such programmes shall be submitted to the European Commission and the Council and shall be fully consistent and integrated with the existing instruments of the European Semester. The Contracting parties agree that the Commission shall monitor the implementation of the economic partnership programmes.

Commento [mn13]: We should avoid extra reporting and confusion. Notably, in the case of a Contracting Party presenting a budgetary and economic partnership programme, the latter would replace both the stability and convergence programme and the national reforms programme, in order to avoid overlapping.

Article 6

The Contracting Parties shall improve the reporting-coordination of their national debt issuance. For that purpose, a mechanism shall be put in place for they shall the ex-ante report-ing by Member States ex-ante on of their national debt issuance plans to the European Commission and the Council.

Commento [mn14]: Language reflecting the 9 December Statement by the euro area Heads of State and Government.

Article 7

While fully respecting the procedural requirements of the Union Treaties, the Contracting Parties whose currency is the euro undertake to support proposals or recommendations put forward by the European Commission where a Member State whose currency is the euro is recognised by the European Commission to be in breach of the 3 % ceiling in the framework of an excessive deficit procedure, unless a qualified majority of them is of another view. A qualified majority shall be

defined by analogy with Article 238(3)(a) TFEU and with Article 3 of Protocol N° 36 to the EU Treaties on transitional provisions and without taking into account the position of the Contracting Party concerned.

Article 8

Any Contracting Party which considers that another Contracting Party has failed to comply with Article 3(2) may bring the matter before the European Commission. The European Commission shall give a reasoned opinion on the matter, after giving the Contracting Party concerned the opportunity to submit its observations. If the non compliance persists, each Contracting Party can bring the matter before the Court of Justice of the European Union. 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. The implementation of the rules put in place by the Contracting Parties to comply with Article 3(2) will be subject to the review of the national Courts of the Contracting Parties.

[TITLE IV

ECONOMIC CONVERGENCE

Article 9

Without prejudice to the economic policy coordination as defined in the Treaty on the Functioning of the European Union, the Contracting Parties undertake to work jointly towards an economic policy fostering growth through enhanced convergence and competitiveness and improving the functioning of the Economic and Monetary Union. To this aim, they will take all necessary actions, including through the Euro Plus Pact.

Article 10

While fully respecting the procedural requirements of the Union Treaties, the Contracting Parties undertake to make recourse, whenever appropriate and necessary, to the enhanced cooperation on matters that are essential for the smooth functioning of the euro area, without undermining the internal market.

Article 11

With a view to benchmarking best practices, the Contracting Parties ensure that all major economic policy reforms that they plan to undertake will be discussed and coordinated among themselves. This coordination shall involve the institutions of the European Union as required by the law of the Union.]

Article 12

~~Representatives of the Committees in charge of economy and finance within 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 relevant Committee of the European Parliament.~~

Commento [z15]: This article has been moved to Title V since it relates to Governance.

TITLE V

EURO SUMMIT MEETINGS ECONOMIC GOVERNANCE

Article 13

1. The Heads of State or Government of the Contracting Parties whose currency is the euro, (hereinafter "the euro area Heads of State or Government") ~~and the president of the European Commission~~ shall meet informally in Euro Summit meetings. The President of the European Commission and 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 euro area Heads of State or Government by simple majority at the same time the European Council elects its President and for the same term of office.

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.

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.

4. The President of the Euro Summit shall keep 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 124

Representatives of the Committees in charge of economy and finance within 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 relevant Committee of the European Parliament.

TITLE VI

GENERAL AND FINAL PROVISIONS

Article 14

1. This Agreement 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.
2. This Agreement shall enter into force on the first day of the month following the deposit of the ninth instrument of ratification by a Contracting Party whose currency is the euro.
3. This Agreement 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 of this Agreement shall apply to all Contracting Parties whose currency is the euro as from the date of the entry into force of the Agreement.
5. This Agreement 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 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 Agreement.

