

DRAFT

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 Treaty as soon as possible into the Treaties on which the European Union is founded,

WELCOMING the legislative proposals made by the European Commission for the euro area within the framework of the European Union Treaties on 23 November 2011, on the strengthening of economic and budgetary surveillance of Member States experiencing or threatened with serious difficulties with respect to their financial stability, and on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States, and TAKING NOTE of the Commission's intention to present further legislative proposals concerning, in particular, ex ante reporting of debt issuance plans of the Member States of the European Union, economic partnership programmes detailing structural reforms for euro area Member States in excessive deficit procedure as well as coordination of major economic policy reform plans for euro area Member States,

EXPRESSING their readiness to support proposals which the Commission might present to further strengthen the Stability and Growth Pact by introducing, for Member States whose currency is the euro, a new range for medium term objectives in line with the limits established in this Treaty,

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,

NOTING in particular that, for the application of the budgetary "Balanced Budget Rule" described in Article 3 of this Treaty, 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,

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,

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 European Union law, in particular Council Regulation (EC) No. 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of budgetary policies, as amended by Regulation (EU) No. 1175/2011 of the European Parliament and of the Council of 16 November 2011 (hereinafter "the revised Stability and Growth Pact"),

NOTING that the correction mechanism to be introduced by the Contracting Parties should aim at correcting deviations from the medium-term objective or the adjustment path including their cumulated impact on government debt dynamics,

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,

RECALLING that Article 260 of the Treaty on the Functioning of the European Union empowers the Court of Justice of the European Union to impose the payment of a lump sum or penalty on a Member State of the European Union having failed to comply with one of its judgments and that the European Commission has established criteria for the determination of the lump sum or penalty to be paid in the framework of that Article,

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, in the implementation of this Treaty, the specific role of the social partners, as it is recognized in the laws or national systems of each of the Contracting Parties,

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,

NOTING that the smooth functioning of the Economic and Monetary Union makes it necessary that the Contracting Parties work jointly towards an economic policy where, whilst building upon the mechanisms of economic policy coordination as defined in the European Union Treaties, they take the necessary actions and measures in all the domains which are essential to the good functioning of the euro area,

NOTING, in particular, the wish of the Contracting Parties to make more active use of 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, without undermining the internal market, as well as to make full recourse to measures specific to the Member States whose currency is the euro pursuant to Article 136 of the Treaty on the Functioning of the European Union, and to a procedure for the ex ante discussion and coordination among the Contracting Parties whose currency is the euro of all major economic policy reforms planned by them, with a view to benchmarking best practices,

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 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 of the Euro Plus Pact which identifies the issues that are essential to fostering competitiveness in the euro area,

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 the granting of assistance in the framework of new programmes under the European Stability Mechanism will be conditional, as of 1 March 2013, on the ratification of this Treaty by the Contracting Party concerned and, as soon as the transposition period mentioned in Article 3(2) has expired, on compliance with the requirements of this Article,

NOTING that ... are Contracting Parties whose currency is the euro and that, as such, they will be bound by the provisions of this Treaty from the first day of the month following the deposit of their instrument of ratification if the Treaty is in force at that date; NOTING ALSO that ... are Contracting Parties which, as Member States of the European Union, have, at the date of signature of this Treaty, a derogation or an exemption from participation in the single currency and may be bound, as long as this derogation or exemption is not abrogated, only by those provisions of Titles III and IV by which they declare, on depositing their instrument of ratification or at a later date, that they intend to be bound,

HAVE AGREED UPON the following provisions:

TITLE I

PURPOSE AND SCOPE

Article 1

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, employment, competitiveness and social cohesion.

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 and interpreted 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, including procedural law whenever the adoption of secondary legislation is required.
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

1. The Contracting Parties shall apply the following rules, in addition and without prejudice to the obligations derived from European Union law:
 - a) The budgetary position of the general government shall be balanced or in surplus.
 - b) The rule under point a) 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 with a lower limit of a structural deficit of 0.5 % of the gross domestic product at market prices. The Contracting Parties shall ensure rapid convergence towards their respective medium-term objective. The time frame for such convergence will be proposed by the Commission taking into consideration country-specific sustainability risks. Progress towards and respect of the medium-term objective 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 or the adjustment path towards it only in exceptional circumstances as defined in paragraph 3.

- 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 structural deficit of at most 1.0 % of the gross domestic product at market prices.
- e) In the event of significant observed deviations from the medium-term objective or the adjustment path towards it, a correction mechanism shall be triggered automatically. The mechanism shall include the obligation of the Contracting Party concerned to implement measures to correct the deviations over a defined period of time.

2. 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. The Contracting Parties shall put in place at national level the correction mechanism mentioned in paragraph 1.e) on the basis of common principles to be proposed by the European Commission, concerning in particular the nature, the size and the time-frame of the corrective action to be undertaken, also in the case of exceptional circumstances, and the role and independence of the institutions responsible at national level for monitoring the observance of the rules. This mechanism shall fully respect the prerogatives of national Parliaments.

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. "Exceptional circumstances" refer to the case of an unusual event outside the control of the Contracting Party concerned which has a major impact on the financial position of the general government or to periods of severe economic downturn as defined in the revised Stability and Growth Pact, provided that the temporary deviation of the Contracting Party concerned does not endanger fiscal sustainability in the medium term.

Article 4

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 Council Regulation (EC) No. 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure, as amended by Council Regulation (EU) No. 1177/2011 of 8 November 2011.

Article 5

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 European Union law. 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.
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

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

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 it considers that a Member State of the European Union whose currency is the euro is in breach of the deficit criterion in the framework of an excessive deficit procedure. This obligation shall not apply where it is established 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 opposed to the decision proposed or recommended.

Article 8

1. The European Commission is invited to present in due time to the Contracting Parties a report on the provisions adopted by each of them in compliance with Article 3(2). If the European Commission, after having given the Contracting Party concerned the opportunity to submit its observations, concludes in its report that a Contracting Party has failed to comply with Article 3(2), the matter will be brought to the Court of Justice of the European Union by one or more of the Contracting Parties. Where a Contracting Party considers, independently of the Commission's report, that another Contracting Party has failed to comply with Article 3 (2), it may also bring the matter to the Court of Justice. In both cases, the judgment of the Court of Justice 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 the Court.

2. If, on the basis of its own assessment or of an assessment by the European Commission, a Contracting Party considers that another Contracting Party has not taken the necessary measures to comply with the judgment of the Court of Justice referred to in paragraph 1, it may bring the case before the Court of Justice and request the imposition of financial sanctions following criteria established by the Commission in the framework of Article 260 of the Treaty on the Functioning of the European Union. 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. 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.

3. This Article constitutes a special agreement between the Contracting Parties within the meaning of Article 273 of the Treaty on the Functioning of the European Union

TITLE IV

ECONOMIC POLICY COORDINATION AND CONVERGENCE

Article 9

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 an 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 in pursuit of the objectives of fostering competitiveness, promoting employment, contributing further to the sustainability of public finances and reinforcing financial stability.

Article 10

In accordance with the requirements of the European Union Treaties, the Contracting Parties will 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 use 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

With a view to benchmarking best practices and working towards a more closely coordinated 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 European Union law.

TITLE V

GOVERNANCE OF THE EURO AREA

Article 12

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 the 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.
2. Euro Summit meetings shall take place, when necessary, and at least twice a year, to discuss questions related to the specific responsibilities which the Contracting Parties whose currency is the euro 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. The President of the Euro Summit shall ensure the preparation and continuity of Euro Summit meetings, in close cooperation with the President of the European Commission. The body charged with the preparation and follow up of the Euro Summit meetings shall be the Euro Group and its president may be invited to attend the Euro Summit meetings for that purpose.
4. The President of the European Parliament may be invited to be heard. The President of the Euro Summit shall present a report to the European Parliament after each of the meetings of the Euro Summit.
5. 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.

6. In order to discuss specific issues concerning the implementation of this Treaty, the President of the Euro Summit will invite, when appropriate and at least once a year, to a meeting of the Euro Summit the Heads of State or Government of Contracting Parties, other than those whose currency is the euro, who have ratified this Treaty.

Article 13

As foreseen in Title II of Protocol (No 1) on the role of national Parliaments in the European Union annexed to the European Union Treaties, the European Parliament and the national Parliaments of the Contracting Parties will together determine the organisation and promotion of a conference of representatives of the relevant committees of the national Parliaments and representatives of the relevant committees of the European Parliament in order to discuss budgetary policies and other issues covered by this Treaty.

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.

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, Article 12 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

This Treaty shall be open to accession by Member States of the European Union other than the Contracting Parties. Accession shall be effective upon the deposit of the instruments of accession with the Depositary, who shall notify the other Contracting Parties thereof.

Article 16

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.

Done at Brussels on the ... of ... in the year two thousand and twelve in a single original whose Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish texts are equally authentic, which shall be deposited in the archives of the Depositary which will transmit a certified copy to each of the Contracting Parties.
