EUROPEAN COUNCIL

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COVER NOTE

from :	General Secretariat of the Council
to :	Delegations
Subject :	**EUROPEAN COUNCIL** **16-17 DECEMBER 2010** **CONCLUSIONS**

Delegations will find attached the conclusions of the European Council (16-17 December 2010).

Throughout the crisis, we have taken decisive action to preserve financial stability and promote the return to sustainable growth. We will continue to do so and the EU and the euro area will emerge stronger from the crisis.

Growth prospects are strengthening and the fundamentals of the European economy are sound. The temporary stability tools put in place earlier this year have proved their utility, but the crisis has demonstrated that there can be no complacency. This is why we agreed today on the text of a limited amendment to the Treaty on the establishment of a future permanent mechanism to safeguard the financial stability of the euro area as a whole. This amendment should enter into force on 1 January 2013. We also reiterated our commitment to reach agreement on the legislative proposals on economic governance by the end of June 2011 with the aim of strengthening the economic pillar of the Economic and Monetary Union and to continue to implement the Europe 2020 strategy.

I. ECONOMIC POLICY

1. The European Council welcomed the report presented by its President following up on its conclusions of 28 and 29 October 2010. It agreed that the Treaty should be amended in order for a permanent mechanism to be established by the Member States of the euro area to safeguard the financial stability of the euro area as whole (European Stability Mechanism). This mechanism will replace the European Financial Stability Facility (EFSF) and the European Financial Stabilisation Mechanism (EFSM), which will remain in force until June 2013. As this mechanism is designed to safeguard the financial stability of the euro area as a whole, the European Council agreed that Article 122(2) TFEU will no longer be needed for such purposes. Heads of State or Government therefore agreed that it should not be used for such purposes.

2. The European Council agreed on the text of the draft Decision amending the TFEU set out in Annex I. It decided to immediately launch the simplified revision procedure provided for in Article 48(6) TEU. The consultation of the institutions concerned should be concluded in time to allow the formal adoption of the Decision in March 2011, completion of national approval procedures by the end of 2012, and entry into force on 1 January 2013.

3. The European Council also called for Finance Ministers of the euro area and the Commission to finalise work on the intergovernmental arrangement setting up the future mechanism by March 2011, integrating the general features set out in the Eurogroup statement of 28 November 2010, which the European Council endorsed (Annex II). The mechanism will be activated by mutual agreement of the euro area Member States in the case of risk to the stability of the euro area as a whole.

4. Member States whose currency is not the euro will, if they so wish, be involved in this work. They may decide to participate in operations conducted by the mechanism on an ad hoc basis.

5. The European Council called for the acceleration of the work on the six legislative proposals on economic governance, building on the recommendations of the Task Force endorsed last October and keeping a high level of ambition, so that they can be adopted by June 2011. It welcomed the Council's report on the treatment of systemic pension reform under the Stability and Growth Pact and called for the report to be reflected in the specifications on the implementation of the reformed SGP.

6. Recalling its conclusions of October 2010, the European Council looked forward to the Commission's intention to make proposals for the new multiannual financial framework by June 2011 and invited the institutions to cooperate in order to facilitate its timely adoption.

7. The new Europe 2020 strategy for jobs and growth will continue to guide the Union and the Member States in responding to the crisis and promoting the delivery of structural reforms. The European Council welcomed the progress achieved since the launch of the strategy, as shown in the report presented by the Presidency.

8. The European Council welcomed the Statement by the Heads of State or Government of the euro area and the EU institutions (Annex III).

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II. OTHER ISSUES

9. The European Council welcomed the first progress report presented by the High Representative on the European Union's relations with its strategic partners. On this basis, the European Council invited the High Representative, in close cooperation with the Commission and the Foreign Affairs Council, to take this work forward in line with its conclusions of September 2010, setting out common European interests and identifying all possible leverages to achieve them. The European Council will take stock of progress once a year and, where necessary, set orientations. The launch of the EEAS and its coordinating role provide a valuable opportunity to step up this work.

10. The European Council endorsed the Council's conclusions of 14 December 2010 on enlargement and agreed to give Montenegro the status of candidate country.

11. The European Council condemned the violence perpetrated since the second round of the presidential election in Côte d'Ivoire, in particular the recourse to violence against civilians on 16 December. It called firmly on all the parties to act with restraint. It recalled the availability expressed by the International Criminal Court to prosecute the persons responsible for such acts. It called on all Ivorian leaders, both civilian and military, who have not yet done so to place themselves under the authority of the democratically elected President, Mr°Alassan Ouattara. It confirmed the determination of the EU to take targeted restrictive measures against those who would continue to obstruct the respect of the sovereign will expressed by the Ivorian people.

12. The European Council welcomed the successful outcome of the COP-16 in Cancun as an important step forward in global efforts to reach the agreed objective of staying below 2°C increase in global temperatures, and noted with satisfaction the successful implementation of the strategy it agreed in March.

ANNEX I

DRAFT EUROPEAN COUNCIL DECISION

of …

amending Article 136 of the Treaty on the Functioning of the European Union with regard to a stability mechanism for Member States whose currency is the euro

THE EUROPEAN COUNCIL,

Having regard to the Treaty on European Union, and in particular Article 48(6) thereof,

Having regard to the proposal for revising Article 136 of the Treaty on the Functioning of the European Union submitted to the European Council by the Belgian Government on 16 December 2010,

[Having regard to the opinion of the European Parliament,[1]]

[Having regard to the opinion of the European Commission,[2]]

[After obtaining the opinion of the European Central Bank,[3]]

[1] Opinion of … (not yet published in the Official Journal).
[2] Opinion of … (not yet published in the Official Journal).
[3] Opinion of … (not yet published in the Official Journal).

Whereas:

(1) Article 48(6) of the Treaty on European Union (TEU) allows the European Council, acting by unanimity after consulting the European Parliament, the Commission and, in certain cases, the European Central Bank, to adopt a decision amending all or part of the provisions of Part Three of the Treaty on the Functioning of the European Union (TFEU). Such a decision may not increase the competences conferred on the Union in the Treaties and its entry into force is conditional upon its subsequent approval by the Member States in accordance with their respective constitutional requirements.

(2) At the meeting of the European Council of 28 and 29 October 2010, the Heads of State or Government agreed on the need for Member States to establish a permanent crisis mechanism to safeguard the financial stability of the euro area as a whole and invited the President of the European Council to undertake consultations with the members of the European Council on a limited treaty change required to that effect.

(3) On 16 December 2010, the Belgian Government submitted, in accordance with Article 48(6), first subparagraph, of the TEU, a proposal for revising Article 136 of the TFEU by adding a paragraph under which the Member States whose currency is the euro may establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole and stating that the granting of any required financial assistance under the mechanism will be made subject to strict conditionality. At the same time, the European Council adopted conclusions about the future stability mechanism (paragraphs 1 to 4).

(4) The stability mechanism will provide the necessary tool for dealing with such cases of risk to the financial stability of the euro area as a whole as have been experienced in 2010, and hence help preserve the economic and financial stability of the Union itself. At its meeting of 16 December 2010, the European Council agreed that, as this mechanism is designed to safeguard the financial stability of the euro area as whole, Article 122(2) of the TFEU will no longer be needed for such purposes. The Heads of State or Government therefore agreed that it should not be used for such purposes.

(5) On 16 December 2010, the European Council decided to consult, in accordance with Article 48(6), second subparagraph, of the TEU, the European Parliament and the Commission, on the proposal. It also decided to consult the European Central Bank. [On […dates…], the European Parliament, the Commission and the European Central Bank, respectively, adopted opinions on the proposal.]

(6) The amendment concerns a provision contained in Part Three of the TFEU and it does not increase the competences conferred on the Union in the Treaties,

HAS ADOPTED THIS DECISION:

Article 1

The following paragraph shall be added to Article 136 of the Treaty on the Functioning of the European Union:

"3. The Member States whose currency is the euro may establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality."

Article 2

Member States shall notify the Secretary-General of the Council without delay of the completion of the procedures for the approval of this Decision in accordance with their respective constitutional requirements.

This Decision shall enter into force on 1 January 2013, provided that all the notifications referred to in the first paragraph have been received, or, failing that, on the first day of the month following receipt of the last of the notifications referred to in the first paragraph.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at,

For the European Council
The President

ANNEX II

GENERAL FEATURES OF THE FUTURE MECHANISM
EUROGROUP STATEMENT OF 28 NOVEMBER 2010

"The recent events have demonstrated that financial distress in one Member State can rapidly threaten macro-financial stability of the EU as a whole through various contagion channels. This is particularly true for the euro area where the economies, and the financial sectors in particular, are closely intertwined.

Throughout the current crisis, euro area Member States have demonstrated their determination to take decisive and coordinated action to safeguard financial stability in the euro area as a whole, if needed and return growth to a sustainable path.

In particular, the European Financial Stability Facility (EFSF) has been set up to provide for swift and effective liquidity assistance, together with the European Financial Stabilisation Mechanism (EFSM) and the International Monetary Fund, and on the basis of stringent programmes of economic and fiscal policy adjustments to be implemented by the affected Member State and ensuring debt sustainability.

On 28 - 29 October the European Council agreed on the need to set up a permanent crisis mechanism to safeguard the financial stability of the euro area as a whole. Eurogroup Ministers agreed that this European Stability Mechanism (ESM) will be based on the European Financial Stability Facility capable of providing financial assistance packages to euro area Member States under strict conditionality functioning according to the rules of the current EFSF.

The ESM will complement the new framework of reinforced economic governance, aiming at an effective and rigorous economic surveillance, which will focus on prevention and will substantially reduce the probability of a crisis arising in the future.

Rules will be adapted to provide for a case by case participation of private sector creditors, fully consistent with IMF policies. In all cases, in order to protect taxpayers' money, and to send a clear signal to private creditors that their claims are subordinated to those of the official sector, an ESM loan will enjoy preferred creditor status, junior only to the IMF loan.

Assistance provided to a euro area Member State will be based on a stringent programme of economic and fiscal adjustment and on a rigorous debt sustainability analysis conducted by the European Commission and the IMF, in liaison with the ECB.

On this basis, the Eurogroup Ministers will take a unanimous decision on providing assistance.

For countries considered solvent, on the basis of the debt sustainability analysis conducted by the Commission and the IMF, in liaison with the ECB, the private sector creditors would be encouraged to maintain their exposure according to international rules and fully in line with the IMF practices. In the unexpected event that a country would appear to be insolvent , the Member State has to negotiate a comprehensive restructuring plan with its private sector creditors, in line with IMF practices with a view to restoring debt sustainability. If debt sustainability can be reached through these measures, the ESM may provide liquidity assistance.

In order to facilitate this process, standardized and identical collective action clauses (CACs) will be included, in such a way as to preserve market liquidity, in the terms and conditions of all new euro area government bonds starting in June 2013. Those CACs would be consistent with those common under UK and US law after the G10 report on CACs, including aggregation clauses allowing all debt securities issued by a Member State to be considered together in negotiations. This would enable the creditors to pass a qualified majority decision agreeing a legally binding change to the terms of payment (standstill, extension of the maturity, interest-rate cut and/or haircut) in the event that the debtor is unable to pay.

Member States will strive to lengthen the maturities of their new bond emissions in the medium-term to avoid refinancing peaks.

The overall effectiveness of this framework will be evaluated in 2016 by the Commission, in liaison with the ECB.

We restate that any private sector involvement based on these terms and conditions would not be effective before mid-2013.

President of the European Council Herman Van Rompuy has indicated that his proposal on limited treaty change to the European Council at its next meeting will reflect today's decision."

ANNEX III

STATEMENT BY THE HEADS OF STATE OR GOVERNMENT OF THE EURO AREA AND THE EU INSTITUTIONS

The Heads of State or Government of the euro area and the EU institutions have made it clear, as set out below, that they stand ready to do whatever is required to ensure the stability of the euro area as a whole. The euro is and will remain a central part of European integration. In particular, the Heads called for determined action in the following areas:

a) **Fully implementing existing programmes:** we welcome the impressive progress made in implementing the Greek programme and the agreed adjustment programme for Ireland, including the adoption of the 2011 budget.

b) **Keeping up fiscal responsibility:** we are all committed to strictly implementing the budgetary policy recommendations, fully respecting the fiscal targets for 2010 and 2011, and to correcting excessive deficits within the agreed deadlines.

c) **Stepping up growth-enhancing structural reforms:** we are determined to accelerate structural reforms to enhance growth.

d) **Strengthening the Stability and Growth Pact and implementing a new macro-surveillance framework** from summer 2011.

e) **Ensuring the availability of adequate financial support through the EFSF pending the entry into force of the permanent mechanism:** we note that only a very limited amount has been committed from the EFSF to support the Irish programme.

f) **Further strengthening of the financial system** both as regards the regulatory and supervisory frameworks and conducting new stress tests in the banking sector.

g) **Expressing full support for ECB action:** we support the ECB in its independent responsibility to ensure price stability, solidly anchor inflation expectations and thereby contribute to financial stability of the euro area. We are committed to ensuring the financial independence of the central banks of the Eurosystem.

Elements of this strategy will be further developed in the coming months as a comprehensive response to any challenges, as part of our new economic governance.