

Bundesrat

zu Drucksache **864/11**

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EU - Fz - Wi

Unterrichtung
durch die Bundesregierung

**Entwurf eines völkerrechtlichen Vertrags über eine verstärkte
Wirtschaftsunion**

Auswärtiges Amt
Staatssekretärin

Berlin, den 4. Januar 2012

An den
Direktor des Bundesrates

Sehr geehrter Herr Direktor,

im Rahmen des Europäischen Rates am 08./09. Dezember haben die Euro-Mitgliedstaaten weitreichende strukturelle Maßnahmen in Richtung einer Stabilitätsunion beschlossen. Sie haben in einer Erklärung vereinbart, die Wirtschafts- und Währungsunion auf eine gestärkte vertragliche Grundlage zu stellen und in diesem Zusammenhang weitreichende Beschlüsse zur Schaffung verbindlicher Regeln zur Stärkung der Haushaltsdisziplin getroffen.

Da diese Punkte aufgrund der Positionierung Großbritanniens zum jetzigen Zeitpunkt nicht im Wege einer Änderung der EU-Verträge umgesetzt werden können, sollen sie im Rahmen eines separaten völkerrechtlichen Vertrages implementiert werden. Alle Nicht-Euro-Mitgliedstaaten außer Großbritannien wollen in Abstimmung mit ihren nationalen Parlamenten prüfen, sich den entsprechenden Regelungen anzuschließen. Die Staats- und Regierungschefs der Euro-Mitgliedstaaten sind sich einig, dass diese Bestimmungen so bald wie möglich in den EU-Rahmen überführt werden sollen.

Am 16. Dezember hatte das Ratssekretariat einen ersten Entwurf für einen solchen völkerrechtlichen Vertrag übersandt, der dem Bundesrat durch ein Schreiben von Staatsminister Dr. Hoyer vom 19. Dezember übermittelt wurde. In der Anlage übersende ich Ihnen den heute vom Ratssekretariat vorgelegten überarbeiteten zweiten Entwurf. Die Verhandlungen sollen noch im Januar 2012 abgeschlossen werden, damit der Vertrag bis spätestens März 2012 unterschrieben werden kann. Anschließend muss eine Ratifizierung nach den jeweiligen nationalen Vorschriften erfolgen.

Ich möchte Sie um Weiterleitung des beigefügten Vertragsentwurfs an die zuständigen Stellen des Bundesrates bitten. Die Bundesregierung wird den Bundesrat weiterhin unterrichten und einbeziehen.

Mit freundlichen Grüßen

Dr. Emily Haber

DRAFT

INTERNATIONAL TREATY 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 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 accordingly requires the introduction of specific rules to address this need, including the need to take necessary corrective action,

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 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 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 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 of calendars of convergence, as appropriate, for each Contracting Party,

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 an average rate of one twentieth per year as a benchmark,

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 of a global strategy to strengthen the Economic and Monetary Union,]

HAVE AGREED UPON the following provisions,

TITLE I

PURPOSE AND SCOPE

Article 1

1. By this Treaty, the Contracting Parties, as Member States of the European Union, agree on a “fiscal compact” and on a stronger coordination of economic policies, involving an enhanced governance to foster fiscal discipline and deeper integration in the internal market as well as stronger growth, enhanced competitiveness and social cohesion.
2. The provisions of this Treaty 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 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.
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. 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 Treaty.

TITLE III

FISCAL COMPACT

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) The budgetary position of the general government 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 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, that is in line with the country-specific medium-term objective referred to in Article 2(a) of Regulation (EC) No. 1466/97, as amended by Regulation (EC) No. 1175/2011, and 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 fiscal sustainability, also taking into account the budgetary impact of ageing. The Contracting Parties shall ensure convergence towards their respective country-specific reference value. The country specific reference value 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 b), but in any case no more than 1.0% of nominal GDP .

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 at national level and on the basis of commonly agreed principles, a correction mechanism to be triggered automatically in the event of significant deviations from the reference value or the adjustment path towards it, as specified under the law of the Union. . It shall include the obligation of the Contracting Parties to implement a programme to correct the deviations over a defined period of time. It shall fully respect responsibilities of national Parliaments.

3. For the purposes of this Article, definitions set out in Article 2 of Protocol No 12 shall apply. In addition, "annual structural deficit of the general government" refers to the annual cyclically-adjusted deficit net of one-off and temporary measures.

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(1a) of Regulation (EC) No. 1467/97 as amended by Regulation (EC) No. 1177/2011.

Article 5

1. 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 including a detailed description of the structural reforms necessary to ensure an effectively durable correction of their excessive deficits. The content and format of these programmes shall be defined in the law of the Union. They shall be submitted to the European Commission and the Council for endorsement.
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

The Contracting Parties shall coordinate their national debt issuance. For that purpose, they shall report ex-ante on their national debt issuance plans to the European Commission and to the Council.

Article 7

While fully respecting the procedural requirements of the Union Treaties, the Contracting Parties whose currency is the euro undertake to support the 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 deficit or debt criterion 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 Title III may bring the matter before the Court of Justice of the European Union. 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. 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 COORDINATION

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. In this context, particular attention shall be paid to all developments which, if allowed to persist, might threaten stability, competitiveness and future growth and job creation. To this aim, they will take all necessary actions, including through the Euro Plus Pact.

Article 10

In accordance with the procedural requirements of the 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 TFEU and 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 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

Article 12

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"), the president of the European Commission, the president of the Euro Group and the Commissioner responsible for Economic and Monetary Affairs shall meet informally in Euro Summit meetings. 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 13

Representatives of the competent Committees 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 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 the first day of the month following the deposit of the fifteenth instrument of ratification by a Contracting Party whose currency is the euro.
 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 of this Treaty shall apply to all Contracting Parties whose currency is the euro as from the date of the entry into force of the 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 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.
 6. 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, an initiative shall be launched, 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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