

16 February 2011

**Working document for the discussion in AFCO committee meeting of 17
February 2011**

**Council draft decision modifying Art 136TFUE
Mr Brok and Gualtieri report**

This working document presents the basic outline and the main political proposals of your rapporteurs.

1. Notes that the Council has not used all the possibilities provided for by the Treaties to fully enforce the Stability and Growth Pact (SGP) and to improve economic coordination at European level;
2. Considers that it is essential to go beyond the temporary measures aiming at stabilising the euro zone;
3. Is deeply concerned by the intention of Heads of State and Government to establish the permanent stability mechanism outside of the EU framework with the consequence that the European institutions will not be fully involved; underlines that Member States must at any rate respect Union law, and the prerogatives of the institutions laid down therein;
- 3b Support the Commissions intention to *"ensure consistency between the future mechanism and the Union's economic governance in the euro area in particular, while respecting the competences conferred on the Union and its institutions by the Treaty"*
4. Regrets that the present political situation has not allowed to explore all other possibilities existing in the Treaties for establishing a permanent stability mechanism; considers in particular that, in the framework of the present EU competences with regard to the economic and monetary union (Article 3(4) TEU) and the monetary policy for Member States whose currency is the euro (Article 3(1)(c) TFEU), it would have been appropriate to make use of the powers conferred on the Council by Article 136 TFEU, or in the alternative to have recourse to Article 352 TFEU in conjunction with Article 136 TFEU.
- 4b Underlines that the proposed draft European Council decision as amended would not increase the competences of the Union and therefore remain within the scope of the simplified Treaty revision procedure; notes, conversely, that that decision cannot reduce the competences of the Union institutions in the fields of economic and monetary policy and of monetary policy for Member States whose currency is the euro and, in any event, cannot prejudice the correct application of Union law, in particular does not

preclude the future use of Articles 122 for the adoption of specific solidarity mechanisms and of 143 TFEU, and its *acquis*;

5. Considers that the setting up and the functioning of the permanent stability mechanism should be brought [as much as possible] within the European Union framework and, accordingly, conditions its support of the draft Council decision upon:

a) a redrafting of the European Council draft decision as proposed in the amendments annexed to this resolution

or

b) a clear declaration by the European Council ensuring that:

- the operational features of the permanent stability mechanism and the conditionality measures (stringent programme of economic and fiscal adjustment) will be decided on the basis of a European Commission proposal, after consulting the European Parliament. The European Commission will be responsible for ensuring the full respect of these measures and for the precautionary use of the mechanism, regularly reporting back to the European Parliament;

- the European Commission will carry out all the necessary tasks in implementing and monitoring the permanent mechanism and in assessing the financial situation of the Member States, regularly reporting back to the European Parliament;

- the secretariat of the permanent stability mechanism will be assured by the European Commission.

Annex: Options for amendments to Article 136 TFEU (point c added to par. 1)

option a (rapporteur proposal)

“(c) on a recommendation from the Commission and after consulting the European Parliament, 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 decided on the basis of a European Commission proposal and be made subject to strict conditionality criteria in accordance with the principles and objectives of the Union.

The European Parliament and the Council shall lay down the principles and general conditions for conditionality of financial assistance under the mechanism and its control, in accordance with the procedure referred to in Article 121(6).

option b (as proposed by Mr Verhofstadt)

(c) to 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.

1 bis When applying the provisions of Article 121(4), to a Member State whose currency is the euro, the Commission's recommendation shall be deemed adopted unless the Council objects;

1 ter When applying the provisions of Article 126(6) to a Member State whose currency is the euro, the Commission's proposal shall be deemed adopted unless the Council objects;

2. For those measures set out in paragraph 1, ***1bis and 1ter***, only members of the Council representing Member States whose currency is the euro shall take part in the vote. A qualified majority of the said members shall be defined in accordance with Article 238(3)(a).

option c (correspond to Amendment 10 of adopted ECON opinion)

"(c) to establish a permanent stability mechanism to safeguard the stability of the euro area composed of the Member States whose currency is the euro. Member States whose currency is not the euro may decide to participate in the mechanism. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality consistent with the principles and objectives of the Union, as laid down in the Treaty on European Union and in this Treaty, and to contribute to long-term sustainable public finances."