COUNCIL OF
THE EUROPEAN UNION

Brussels, 7 December 2010

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NOTE

from:	The General Secretariat of the Council
to:	COREPER/General Affairs Council
Subject:	European Council (16-17 December 2010) - Draft conclusions

In accordance with article 2(3)(a) of the Council's Rules of Procedure, delegations will find attached the draft conclusions prepared by the President of the European Council, in close cooperation with the member of the European Council representing the Member State holding the six-monthly Presidency of the Council and with the President of the Commission.

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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 crisis mechanism to be established by Member States of the euro area to safeguard the financial stability of the euro area as whole.

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 on 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 euro area Member States and the Commission to finalize work on the future mechanism by March 2011, on the basis of the general features set out in the Eurogroup statement of 28 November 2010 (annex II). Member States whose currency is not the euro will be associated to this work.

4. The European Council took note of the Council's report on the treatment of systemic pension reform under the Stability and Growth Pact. […]

5. 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. It will continue to reflect on how to use the budget to secure the objectives of the treaty in a context of pressure on public finances across the European Union.

II. OTHER ISSUES

6. The European Council welcomed the progress report presented by the High Representative on the European Union's relations with its strategic partners, which had a particular emphasis on China, the United State and Russia. 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 and to begin similar work on the Union's other strategic partners with a view to reporting back by March 2011. The launch of the EEAS and its coordinating role provide a valuable opportunity to step up this work.

7. p.m. Montenegro

DRAFT EUROPEAN COUNCIL DECISION

p.m.

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."