



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 1 December 2009

16792/09

**FIN 543
PE 367
INST 193**

"I/A" ITEM NOTE

from : Budget Committee
to : Permanent Representatives Committee/Council
Subject : Joint declaration on transitional measures applicable to the budgetary procedure after the entry into force of the Lisbon Treaty

1. At the conciliation meeting of 18 November 2009, the European Parliament, the Council and the Commission agreed to reach an agreement on a joint declaration on transitional measures applicable to the budgetary procedure after the entry into force of the Lisbon Treaty before 1 December 2009.
2. On 30 November 2009, an agreement was reached on the text as set out in ANNEX I.
3. The Budget Committee invites the Permanent Representatives Committee to advise the Council to:
 - adopt the joint declaration on transitional measures applicable to the budgetary procedure after the entry into force of the Lisbon Treaty as set out in ANNEX I;
 - to enter it in the Council minutes and
 - to approve the draft letter in ANNEX II.

JOINT DECLARATION

**Transitional measures applicable to the budgetary procedure after the entry into force of the
Lisbon Treaty**

"The European Parliament, the Council and the Commission, hereinafter referred to collectively as "the institutions", have agreed as follows:

1. The purpose of this declaration is to agree on transitional measures needed to ensure continuity of EU action and a smooth transition to the new legal framework for the budgetary procedure deriving from the entry into force of Lisbon Treaty.
2. These transitional measures will apply until corresponding rules are established in the appropriate legislative framework.
3. This declaration does not alter the respective budgetary powers of the institutions as laid down by the Treaty, nor secondary legislation.

I. CALENDAR OF THE BUDGETARY PROCEDURE

4. The institutions confirm their intention to hold the trilogue on the budget priorities of the year, in due time before the adoption of the draft budget by the Commission, and at the latest in April.
5. The institutions agree that the following calendar, inspired by the current pragmatic calendar and the requirements of the new procedure, will be applicable to the 2011 budgetary procedure:
 - The Commission adopts the draft budget in week 17 (late April) or at the latest during week 18 (beginning of May).
 - The Council completes its reading by the end of week 30 (end of July) at the latest.

The institutions meet for an exchange of views, in good time before the Council's reading.

- The European Parliament's Committee on Budgets (COBU) votes on its reading by the end of week 39 (end September/early October).
- The European Parliament's Plenary votes on its reading in week 42 (mid October).

Until such time as the Conciliation Committee is convened, the Commission may, if necessary, amend the draft budget in accordance with Article 314(2) TFEU including updated expenditure estimates for agriculture. The Commission will submit information on updates to the two arms of the budget authority for their consideration as soon as they are available.

As soon as the European Parliament has voted on its reading by adopting amendments, as provided for in Article 314 (4) (c) TFEU, the President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the Conciliation Committee. For that purpose,

- The institutions cooperate closely with a view to completing the work of the Conciliation Committee within 21 days by the end of week 45 (mid-November).
- In order to prepare for an agreement on a joint text by the Conciliation Committee, the necessary documentation is exchanged between the institutions as soon as possible.

Once the Conciliation Committee has agreed a joint text, the European Parliament and the Council will endeavour to approve the outcome of the Conciliation Committee as soon as possible within the framework of Article 314(6) TFEU, in accordance with their respective internal rules of procedures.

6. Unless the institutions agree on an alternative calendar, the future budgetary procedures will follow a similar calendar.
7. The institutions confirm their intention to approve before the adoption of the draft budget for 2011 by the Commission, principles and modalities for the collaboration in the budgetary procedure, including the organisation of the Conciliation Committee.

II. INTERINSITUATIONAL COOPERATION ON AMENDING BUDGETS

General principles

8. Having in mind that amending budgets are frequently focused on specific and sometimes urgent issues, the institutions agree on the principles below to ensure appropriate interinstitutional cooperation for a smooth and swift adoption of the amending budgets while avoiding, as far as possible, to have to convene a conciliation meeting for amending budgets.
9. As far as possible, the institutions will endeavour to limit the number of amending budgets.

Calendar

10. The Commission will inform in advance the two arms of the budgetary authority of the possible dates of adoption of draft amending budgets without prejudice to the final date of adoption.
11. In accordance with its internal rules of procedure, each arm of the budgetary authority will endeavour to examine the draft amending budget proposed by the Commission at an early opportunity after adoption.
12. In order to speed up the procedure, the two arms of the budgetary authority will ensure that their respective calendars of work are coordinated as far as possible in order to enable proceedings to be conducted in a coherent and convergent fashion. They will therefore seek as soon as possible to establish an indicative timetable for the various stages leading to the final adoption of the amending budget.

The two arms of the budgetary authority will take into account the relative urgency of the amending budget and the need to approve it in due time to be effective during the year concerned.

Cooperation during the reading of each arm of the budgetary authority

13. The institutions will cooperate in good faith throughout the procedure clearing the way, as far as possible, for the adoption of amending budgets at an early stage of the procedure.

When appropriate and when there is a potential divergence, each arm of the budgetary authority, before taking its final position on the amending budget, or the Commission, may propose to convene a specific trilogue, to discuss the divergences and to try to reach a compromise.

14. All draft amending budgets proposed by the Commission and not yet finally approved will be systematically on the agenda of the trilogues planned for the annual budgetary procedure. The Commission will present the draft amending budgets and the two arms of the budgetary authority will, as far as possible, notify their respective position ahead of the trilogue.
15. If a compromise is reached during a trilogue, each arm of the budgetary authority undertakes to consider the results of the trilogue when deliberating on the amending budget in accordance with the Treaty and its internal rules of procedure.

Cooperation after the reading of each arm of the budgetary authority

16. If the European Parliament approves without amendments the position of the Council, the amending budget shall be adopted.
17. If the European Parliament adopts amendments by a majority of its component members, Article 314(4)(c) TFEU apply. However, before the Conciliation Committee meets a trilogue will be called.
 - If an agreement is reached during the trilogue and subject to the agreement of each arm of the budgetary authority on the results of the trilogue, the conciliation will be closed by an exchange of letters without a meeting of the Conciliation Committee.

- If no agreement is reached during the trilogue, the Conciliation Committee shall meet and organise its work in accordance with the circumstances, with a view of completing as much as possible the decision-making process before the twenty-one-day deadline laid down in Article 314(6) TFEU. The Conciliation Committee may conclude by an exchange of letters.

III. TRANSFERS

18. While provisions on transfers decided by the Commission and other institutions (notably articles 22 and 23 of the Financial regulation) are not affected by the entry into force of the Lisbon Treaty the institutions acknowledge that the provisions of Article 24 of the Financial Regulation, based on the distinction between compulsory and non-compulsory expenditure, are overtaken by the entry into force of the Lisbon Treaty due to the abolition of such distinction in the TFEU.
19. Until the provisions of Article 24 of the Financial Regulation have been amended, the institutions agree on the need to define operational procedures to ensure a smooth handling of transfers. To that end, they agree to apply provisionally current Article 24(4) of the Financial Regulation, which they acknowledge to be compatible with the powers of the two arms of the budgetary authority under the TFEU.
20. The transfer procedure shall run in practise as follows:
 - a) The Commission shall submit its proposal simultaneously to the two arms of the budgetary authority.
 - b) The budgetary authority shall take decisions on transfers of appropriations as provided for in paragraph c), save as otherwise provided in Title I of part two of the financial regulation.
 - c) Save in urgent circumstances, the Council, by a qualified majority, and the European Parliament, shall deliberate upon the Commission proposal within six weeks of the date on which the two institutions received the proposal for each transfer submitted to them.

- d) The transfer proposal shall be approved, if within the six-week period:
- both arms approve it;
 - one of the two arms approves it and the other refrains from acting;
 - both arms refrain from acting or have not taken a decision contrary to the Commission proposal.
- e) The six-week period referred to under point d) will be reduced to 3 weeks, unless one arm of the budgetary authority requests otherwise, when:
- i) the transfer represents less than 10% of the appropriations of the line from which the transfer is made and does not exceed EUR 5 million;
- or
- ii) the transfer concerns only payment appropriations and the overall amount of the transfer does not exceed EUR (100) million.
- f) If one of the two arms of the budgetary authority has amended the transfer while the other approved it or refrains from acting, or if both arms have amended the transfer, the smaller amount approved either by the European Parliament or the Council shall be deemed approved, unless the Commission withdraws its proposal."
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DRAFT LETTER

from: President of the Council

to: President of the European Parliament
President of the Commission

Sir,

I am pleased to inform you that the Council has adopted today the joint declaration on transitional measures applicable to the budgetary procedure after the entry into force of the Lisbon Treaty agreed on 30 November 2009.

(Complimentary close)
