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EU Supplement

This supplement sets out the main features of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union which is the subject of a referendum in Ireland on 31 May 2012.

It also briefly describes the Treaty on the European Stability Mechanism (ESM) which is due to be ratified before July 2012. The ESM treaty is not the subject of the referendum.

The Fiscal Treaty

The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union was signed on 2 March 2012 by 25 of the 27 member states of the European Union. One other member state of the EU (the Czech Republic) may sign the Treaty later; the UK does not intend to sign it. It is frequently described as the Stability Treaty or the Fiscal Treaty or the Fiscal Stability Treaty.

The Treaty cannot come into effect until it has been ratified by at least 12 euro area countries. Subsequently, other member states may ratify it if they wish. It is expected that the Treaty will come into effect on 1 January 2013.

The countries which have ratified the Treaty will then have one year in which to implement the Treaty in their own legislation.

A referendum will be held in Ireland on 31 May 2012 to ask the people to give the Government the power to ratify the Treaty.

Referendum

In the referendum, you will be asked to vote yes or no to adding the following to Article 29.4 of the Constitution of Ireland:

“The State may ratify the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union done at Brussels on the 2nd day of March 2012. No provision of this Constitution invalidates laws enacted, acts done or measures adopted by the State that are necessitated by the obligations of the State under that Treaty or prevents laws enacted, acts done or measures adopted by bodies competent under that Treaty from having the force of law in the State.”

If the majority vote yes, the Government will ratify the Treaty and will then introduce legislation to give effect to it. If the majority vote no, then the Treaty will not be ratified by Ireland but it could still come into effect if 12 other euro area countries ratify it.

The Bill providing for this referendum, passed by the Oireachtas on 20 April 2012, is the *Thirtieth Amendment of the Constitution (Treaty on Stability, Coordination and Governance in the Economic and Monetary Union) Bill 2012*. If the majority vote yes in the referendum, this Bill will be signed into law and the Constitution will be changed accordingly.

What is in the Fiscal Treaty?

The Treaty is mainly concerned with the rules on fiscal stability – that is, the rules on the level of government debts and deficits.

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There are already detailed EU rules in existence about fiscal stability. These rules are set out in the treaties which govern the EU and in a series of EU laws some of which were introduced in the 1990s. The collection of rules is generally called the Stability and Growth Pact (SGP). The Stability and Growth Pact has been amended a number of times and particularly in December 2011 when five of the six pieces of legislation in the so-called Six-Pack came into effect. There are proposals for further legislation which is likely to come into effect in 2012. These rules and proposed changes are summarised in *EU Supplement*, January 2012.

The Fiscal Treaty restates these rules and provides for more detailed rules on government deficits. It requires that these rules on government deficits be put into national law and that there be a national body with responsibility for monitoring their implementation. The fiscal stability rules in the Treaty are sometimes called the Fiscal Compact.

The Treaty also deals with economic co-ordination in the EU and how the euro area or zone is governed.

Fiscal stability

The Treaty requires the countries which ratify it to have:

- A structural deficit of not more than 0.5% of Gross Domestic Product (GDP) or be working towards that target within time limits specified by the EU (this is sometimes called the "deficit brake")
- General government debt of not more than 60% of GDP; if it is more than 60%, it must be reduced at the rate of one-twentieth each year (this is sometimes called the "debt brake")

Balanced budget/the deficit brake

The Treaty requires that the general government budget must be balanced or in surplus. This means that, in general, the Government's structural deficit must not be more than 0.5% of GDP. If it is more than this, the Government is obliged to work towards reducing it. This must be done within time limits set by the EU.

If government debt is significantly below 60% of GDP and the public finances are sustainable in the long term, the structural deficit may be up to 1% of GDP.

The structural deficit is the general government deficit adjusted for the economic cycle and for one-off or temporary measures. It must be estimated but it is difficult to do this accurately and precision is not possible.

The Treaty provides that the rules on the structural deficit are met if the deficit is at its "country-specific medium-term objective". This means that a separate objective is set for each country, taking the specific circumstances of each country into account. The objective is revised from time to time to take account of economic changes. Each country is obliged to work towards achieving the objective which has been set for it within a timetable set by the EU. The country may deviate from the timetable only in exceptional circumstances. Exceptional circumstances are:

- Unusual events outside the control of the country concerned which have a major impact on the financial position of the general government
- Periods of severe economic downturn

If there are significant deviations from the medium-term objective or the timetable set to achieve it, a correction mechanism is triggered. This will oblige the country to correct the deviation over a defined period.

Each country must put a correction mechanism in place. This mechanism will be based on common principles to be set out by the European Commission. These will deal with, among other things:

- The nature, size and timeframe of the corrective action to be undertaken
- The role and independence of the institutions which will have responsibility at national level for monitoring how the rules are put into effect

Level of government debt/the debt brake

Under the current rules, all countries are required to maintain their general government debt below 60% of GDP. The Treaty repeats that requirement. Where the debt is greater than 60%, it must be reduced by one-twentieth a year on average until the target is met.

Implementation and enforcement

Countries which have excessive deficits (technically, the countries which are in the excessive deficit procedure) are required to put in place a detailed programme of structural reforms which are designed to reduce the deficit. This is called a budgetary and economic partnership programme.

The content and format of these programmes will be set out in EU law. They will be monitored by the European Commission and the Council in the same way as the Stability and Growth Pact is monitored at present. Among other things, countries will be required to report their plans for issuing public debt to the Commission and the Council.

The monitoring of the Stability and Growth Pact includes the European Commission making recommendations for the correction of excessive deficits. This Treaty provides that, in general, the countries that have ratified it must support the Commission's proposals on dealing with excessive deficits. This obligation will not apply where a qualified majority of the euro area countries opposes the proposed recommendation or decision. This decision-making process is sometimes called "reverse qualified majority" voting (QMV).

If the Commission concludes that a country has failed to fully implement the deficit rules in national legislation or another country reaches this conclusion, the issue may be referred to the European Court of Justice (ECJ). The Court's ruling will be binding on all parties. If the country then fails to abide by the Court's ruling, the Court may impose financial sanctions on that country. The sanction may be a lump sum or penalty payment of not more than 0.1% of the country's GDP. (In the case of euro area countries, any such penalty will be payable to the European Stabilisation Mechanism).

Since December 2011, the Council has the power to apply financial sanctions to euro area member states that do not take adequate action to deal with their problems. Such a decision can also be made by the reverse QMV procedure.

In general, EU decisions are made in the following manner:

- The Commission makes a proposal
- The European Parliament and the Council then decide on that proposal by means of a qualified majority

Any decision to impose a financial sanction is taken differently:

- The Commission makes a recommendation to the Council
- The Council imposes the financial sanction unless a qualified majority of its members vote against it

As already stated, this procedure will also apply to decisions on Commission recommendations in respect of deficits.

Co-ordination of economic policies

The treaties governing the EU already provide for various economic co-ordination procedures and mechanisms including some which are specific to euro area countries – see *EU Supplement* January 2011 and January 2012. The countries which ratify the Fiscal Treaty restate their general commitment to take the measures necessary for the good functioning of the euro area in pursuit of the objectives of fostering competitiveness, promoting employment, contributing further to the sustainability of public finances and reinforcing financial stability.

The ratifying countries also agree to discuss planned economic policy reforms among themselves before they are implemented and, where appropriate, co-ordinate such reforms.

Governing the euro area

The Treaty formalises the present practice whereby the leaders of the euro area countries hold informal meetings. It requires that the heads of state or government of the euro area countries that ratify the Treaty must meet informally in Euro Summit meetings. The meetings must be held with the President of the European Commission. The President of the European Central Bank must be invited to take part and the President of the European Parliament may be invited.

A President of the Euro Summit will be appointed by the heads of state or government of the countries which have ratified the Treaty, by a simple majority, at the same time the European Council elects its President and for the same term of office. Euro Summit meetings must take place at least twice a year.

Effect on financial assistance/bail-out mechanisms

The preamble to the Fiscal Treaty states that the provisions of this Treaty do not change the conditions under which financial assistance has been granted to a country in a stabilisation programme – in effect, this Treaty does not change the conditions under which Ireland is getting a bail-out from the Troika. It also states that, from 1 March 2013, any future such bail-outs, involving the use of funds from the European Stability Mechanism, will be granted only to those countries which have ratified and implemented this Treaty. The ESM treaty also includes a similar condition.

Other issues

The Treaty provides for a conference of representatives of the European Parliament and national parliaments in order to discuss budgetary policies and other issues covered by this Treaty.

Status of the Fiscal Stability Treaty

This Treaty is an inter-governmental treaty which has been signed by 25 countries who are members of the EU and its implementation involves using the EU institutions. It is not an EU Treaty. It does not amend the existing EU treaties. It is not, therefore, in the same category as the Nice and Lisbon treaties.

Although it is not itself part of the treaties which govern the EU it is to be applied and interpreted in conformity with the EU treaties and with EU law.

The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

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It is the intention of the parties to this Treaty to incorporate its substance into the EU treaties as soon as possible and within five years at the latest. This provision of the Treaty is sometimes called the repatriation clause.

The full text of the Treaty is at: european-council.europa.eu/media/639235/st00tscg26_en12.pdf.

European Stability Mechanism

The European Stability Mechanism (ESM) is the permanent crisis mechanism to safeguard financial stability in the euro area (the permanent bail-out mechanism). It is expected to be set up in July 2012. The ESM will be able to provide help to euro area member states who are having financial difficulties. The help will be subject to various conditions in respect of economic and fiscal management.

The ESM treaty

The ESM is being set up under a treaty agreed by the 17 euro area member states. This treaty was signed on 2 February 2012. (The original treaty was signed in July 2011 but has been amended since then.) This treaty is separate from the Fiscal Treaty. The ESM treaty does refer to the Fiscal Stability Treaty and provides that assistance from the ESM from 1 March 2013 will be dependent on the country concerned having ratified the Fiscal Stability Treaty.

The ESM treaty must now be ratified by the 17 euro area states. This is expected to be done by July 2012. The ESM treaty will come into force when member states representing 90% of the capital commitments have ratified it.

Ireland will ratify the ESM treaty by means of legislation.

How the ESM will operate

The ESM treaty sets out the aims of the ESM and how it is to operate. The ESM will be an international financial institution based in Luxembourg. It will have a Board of Governors consisting of the Ministers of Finance of the euro area member states.

A decision to grant financial assistance will be made by the Board of Governors of the ESM following assessment by the European Central Bank (ECB) and European Commission. There will be strict conditions attached.

Some decisions, for example, the granting of aid to an ESM member state, must be made unanimously. However, emergency or urgent decisions may be made by a qualified majority of 85%.

Other decisions may be taken by qualified majority. A qualified majority will be measured by the number of shares allocated to the country in the capital stock of the ESM. Ireland has just under 1.6% of the votes.

The euro area member states will provide €80 billion capital to the ESM. It will be able to call on a further €620 billion so the combined ESM/EFSF will have a total lending capacity of €700 billion (this is sometimes referred to as the euro firewall). The original plan to have total lending capacity of €500 billion was changed at the end of March 2012.

All euro area countries will contribute capital in instalments as follows: in July 2012, October 2012, two further payments in 2013 and a final payment in the first half of 2014. These payments may be called in earlier if required. Ireland will contribute €1.27 billion (1.592% of €80 billion) in instalments starting in July 2012.

The full text of the ESM treaty is at:
www.european-council.europa.eu/media/582311/05-tesm2.en12.pdf.

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