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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL RECOMMENDATION on the National Reform Programme 2013 for Slovenia and delivering a Council opinion on the Stability Programme of Slovenia, 2012-2016

COUNCIL RECOMMENDATION

of …

on the National Reform Programme 2013 for Slovenia and delivering a Council opinion on the Stability Programme of Slovenia, 2012-2016

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 121(2) and 148(4) thereof,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies[1], and in particular Article 5(2) thereof,

Having regard to Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances[2], and in particular Article 6(1) thereof,

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[1] OJ L 209, 2.8.1997, p. 1.
[2] OJ L 306, 23.11.2011, p. 25.

Having regard to the recommendation of the European Commission,

Having regard to the conclusions of the European Council,

Having regard to the opinion of the Employment Committee,

Having regard to the opinion of the Economic and Financial Committee,

Having regard to the opinion of the Social Protection Committee,

Having regard to the opinion of the Economic Policy Committee,

Whereas:

(1) On 26 March 2010, the European Council agreed to the Commission's proposal to launch a new strategy for jobs and growth, Europe 2020, based on enhanced coordination of economic policies, which focuses on the key areas where action is needed to boost Europe's potential for sustainable growth and competitiveness.

(2) On 13 July 2010, the Council adopted a recommendation on the broad guidelines for the economic policies of the Member States and the Union (2010 to 2014) and, on 21 October 2010, it adopted a decision on guidelines for the employment policies of the Member States[1], which together form the ‘integrated guidelines'. Member States were invited to take the integrated guidelines into account in their national economic and employment policies.

(3) On 29 June 2012, the Member States' Heads of State or Government decided on a Compact for Growth and Jobs, providing a coherent framework for action at national, EU and euro area levels using all possible levers, instruments and policies. They decided on action to be taken at the level of the Member States, in particular expressing full commitment to achieving the objectives of the Europe 2020 strategy and to implementing the country-specific recommendations.

[1] Maintained for 2013 by Council Decision 2013/208/EU of 22 April 2013 of 22 April 2013 on guidelines for the employment policies of the Member States (OJ L 118, 30.4.2013, p. 21).

(4) On 10 July 2012, the Council adopted a Recommendation[1] on Slovenia's National Reform Programme for 2012 and delivered its opinion on Slovenia's Stability Programme for 2012-2015.

(5) On 28 November 2012, the Commission adopted the Annual Growth Survey, marking the start of the 2013 European Semester for economic policy coordination. Also, on 28 November 2012, the Commission, on the basis of Regulation (EU) No 1176/2011, adopted the Alert Mechanism Report, in which it identified Slovenia as one of the Member States for which an in-depth review would be carried out.

(6) The European Parliament has been duly involved in the European Semester, in accordance with Regulation (EC) No 1466/97, and, on 7 February 2013, adopted a resolution on employment and social aspects in the Annual Growth Survey 2013 and a resolution on the contribution to the Annual Growth Survey 2013.

(7) On 14 March 2013, the European Council endorsed the priorities for ensuring financial stability, fiscal consolidation and action to foster growth. It underscored the need to pursue differentiated, growth-friendly fiscal consolidation, to restore normal lending conditions to the economy, to promote growth and competitiveness, to tackle unemployment and the social consequences of the crisis, and to modernise public administration.

[1] OJ C 219, 24.7.2012, p. 77.

(8) On 10 April 2013, the Commission published the results of its in-depth review for Slovenia, under Article 5 of Regulation (EU) No 1176/2011. The Commission's analysis led it to conclude that Slovenia is experiencing excessive macroeconomic imbalances. Urgent policy action is required to halt the rapid build-up of these imbalances and to manage their unwinding. Until now, the levels of private and public debt are below the alert thresholds of the scoreboard and also net external debt is relatively contained. However, the problem is not in the debt level but in its structure, which is highly concentrated in the corporate sector. In the context of accelerating negative economic trends, this undermines financial sector stability and complicates the deleveraging process, including through interlinkages with the level of sovereign debt. These risks are compounded by limited adjustment capacity in labour and capital markets and by an economic structure dominated by state-ownership. Periods of policy uncertainty and legal obstacles to reforms have prevented Slovenia from addressing its imbalances adequately and enhancing its adjustment capacity, thus increasing its vulnerability at a time of heightened sovereign funding stress.

(9) On 9 May 2013, Slovenia submitted its 2013 National Reform Programme and its Stability Programme for the period 2012-2016. In order to take account of their interlinkages, the two Programmes have been assessed at the same time.

(10) On 23 May 2013 the Slovene authorities sent a letter to the Commission recapitulating, amending and clarifying key commitments in the National Reform Programme.

(11) Based on the assessment of the Stability Programme pursuant to Regulation (EC) No 1466/97, the Council is of the opinion that despite considerable although back-loaded consolidation efforts that have brought the deficit down from 6,2 % of GDP in 2009 to 4,0 % of GDP in 2012, Slovenia is not expected to correct its excessive deficit by 2013 as recommended by the Council in late 2009. This is linked, in particular, to a worse economic environment than expected at the time. The macroeconomic scenario underpinning the budgetary projections in the Stability Programme is broadly plausible for 2013, but optimistic for 2014. In particular, the authorities anticipate that after a fall in GDP by 2,3 % in 2012 and 1,9 % in 2013, GDP will grow by 0,2 % in 2014, while assuming that fiscal measures are taken to reduce the general government deficit from 4,2 % of GDP (excluding bank recapitalisations) in 2013 to 2,6 % of GDP in 2014. However, the Commission forecasts that GDP will fall by 0,1 % in 2014 based on a no-policy-change assumption, a scenario which only takes into account measures that were adopted by mid-April 2013, and forecasts a deficit of 4,9 % of GDP for 2014. The main objectives of the budgetary strategy outlined in the Stability Programme are to correct the excessive deficit by 2014, one year after the deadline set by the Council in late 2009, to achieve a balanced structural position by 2017 and stabilise the debt ratio below 55 % of GDP. The Stability Programme confirms the medium-term objective (MTO), which is a balanced budget in structural terms. This MTO is not in line with the requirements of the Stability and Growth Pact because it does not adequately take into account the implicit liabilities related to ageing. The planned headline deficit targets in the Stability Programme are consistent with a correction of the excessive deficit by 2014.

However, given the optimistic growth forecast for that year, significant risks to revenue projections as well as insufficiently specified expenditure measures, the Council considers that it is not likely that the excessive deficit will be corrected by 2014. In these circumstances, additional structural consolidation measures should be specified, adopted and implemented to ensure that the excessive deficit is corrected by 2015, at the latest in a credible and sustainable manner as recommended by the Council on 21 June 2013. The general government debt-to-GDP ratio more than doubled from 22,0 % in 2008 to 54,1 % in 2012 and is projected to increase further to 66,5 % by 2014 according to the Commission services 2013 spring forecast. The authorities expect the debt-to-GDP ratio to peak at 63,2 % in 2014 and 2015 and then drop to 62,8 % in 2016. Risks to the debt-to-GDP ratio are tilted towards a higher ratio, also due to large contingent liabilities and likely stock-flow adjustments from asset transfers to the Bank Asset Management Company ("BAMC"), which is not included in programme projections.

(12) In May 2013, the authorities made important steps towards the consolidation of public finances. They achieved an agreement with social partners on an additional 1¼ % reduction in basic gross wages in the public sector, on top of the 3 % reduction that was agreed in the May 2012 Act on Balancing Public Finances. Furthermore, Parliament approved a constitutional basis for establishing a general government budget balance/surplus rule in structural terms. However, the complete transposition of the provisions of the Fiscal Compact will be made in a special constitutional implementation act, scheduled for parliamentary approval by November 2013. Finally, Parliament almost unanimously tightened the constitutional rules to call and win a referendum, which is expected to facilitate the introduction of fiscal consolidation measures. Given the rapidly increasing debt, it is all the more important that the 2013 budget strategy is reinforced and strictly implemented, and that substantial consolidation efforts are firmly pursued in subsequent years. While some taxes are below the EU average, reliance on tax increases cannot indefinitely postpone the need to tackle expenditure dynamics. It therefore seems appropriate to complement the revenue increasing measures with additional fiscal efforts through structural expenditure cuts. The medium-term budgetary framework and expenditure rule remain insufficiently focused on achieving the MTO and securing long-term sustainability. In addition, budget constraints on certain general government units, especially indirect budgetary users, do not appear to be fully enforced. Finally, international and domestic estimates suggest that the size of the shadow economy in Slovenia is above the EU average, which indicates room for improving tax compliance as also recognised by envisaged measures in the Stability Programme.

(13) A pension reform was passed in December 2012 and entered into force in January 2013. It addresses challenges identified in the 2012 recommendations, though not sufficiently as it is expected to have only a medium-term impact on public finances (until 2020). While this pension reform is an important step, it does not provide specific measures to contain age-related costs beyond 2020. Further reform efforts are required to improve the sustainability of pension expenditure in the long term, including through aligning the statutory retirement age with gains in life expectancy and by further restricting early retirement. In the area of long term care, demand for services outstrips supply while expenditure is still relatively low. Demand for long-term care and related expenditures are projected to rise substantially in light of the ageing trends. Further evaluations of existing measures would contribute to more evidence-based policy making in this area.

(14) While the size of the Slovenian banking sector is relatively small and less than half of the euro area average, the largest banks experience sustained pressure on capital buffers, which remain low in regional comparison, and their dependence on the state for capital is a substantial threat to the economy. Repeated recapitalisation needs are concentrated in state-owned domestic banks. While the levels of total private debt are below the euro-area average and the alert thresholds of the macroeconomic imbalances scoreboard, the issue is of structural nature. Most of the debt is concentrated in the corporate sector and many companies are over-indebted, which leads to further rises in non-performing loans. At the end of 2012, 23,7 % of corporate loans were in arrears of 90 days or more. Reviving credit to the corporate sector and deleveraging of enterprises are needed to facilitate investment, enhance productivity and competitiveness. Further recapitalisations are foreseen in the Stability Programme. The authorities have confirmed in writing the commitment to provide additional capital if needed. Credit is contracting and the interaction between weak banks and the sovereign has intensified. The interest rate on corporate credit (for loans above EUR 1 million) is more than 2 percentage points higher in Slovenia than in the euro area as a whole and this margin has increased again in 2012. Framework legislation for bank restructuring was passed but still needs to be implemented effectively. The BAMC remains the central institutional platform for bank rehabilitation. The National Reform Programme, complemented by recent information provided by the government describes plans for transfers to the BAMC based on bottom-up stress tests performed by the Bank of Slovenia.

The authorities have confirmed in writing that they stand ready to work with the Commission and the European Central Bank (ECB) to ensure that independent asset quality reviews are conducted for a selection of banks. The exercise should be system-wide to ensure lasting stability of the banking sector. In other countries such an approach proved to be key to regain confidence, credibility and market access. Information gained from a thorough, external assessment is a necessary basis for an overall financial sector strategy.

(15) The National Reform Programme does not describe any additional steps to strengthen bank supervision, which was identified as necessary in the 2013 in-depth review. In terms of supervisory actions vis-à-vis banks, the only new information in the National Reform Programme relates to the new Bank of Slovenia stress tests. A further examination of measures such as appropriate macro-prudential policies has not been provided. A review of microprudential supervision by an independent expert would also facilitate some of the above recommendations.

(16) A labour market reform was adopted in March 2013 to reduce labour market segmentation and increase flexibility on the labour market. The reform reduces protection of permanent contracts by simplifying dismissal procedures in case of individual and collective dismissals and by reducing dismissal costs. Regulation of fixed-term contracts has been further tightened to reduce misuse, while the use of temporary agency work is restricted. Although the reform goes in the right direction, it remains to be seen whether it is sufficiently ambitious to have a significant impact on labour market segmentation and flexibility, and on Slovenia's attractiveness for foreign direct investment. No sufficient measure has yet been taken to address the dual labour market caused by student work regulation. The National Reform Programme proposes measures in the right direction. The youth unemployment rate in Slovenia increased strongly, by 4,9 percentage points to 20,6 % in 2012, while the unemployment rate increased by 0,7 percentage points to 9 % in 2012. Despite rising unemployment, the number of unemployed people participating in active labour market policy measures, co-financed by the European Social Fund, decreased considerably in 2012 according to the preliminary national data. No measures have been taken to adapt work environments to longer working lives and only initial tailor-made lifelong learning or active labour market measures have been adopted to increase employment of young tertiary graduates, older workers and low-skilled workers. Slovenia has taken some measures to improve matching of skills to labour market needs. A pilot project on how to evaluate those needs is being carried out by the Public Employment Service but the cooperation with stakeholders needs to be further developed.

More is needed to improve the attractiveness of relevant vocational education and training programmes. Additional career orientation measures in SMEs are also being implemented. The role of employers in vocational education and training still needs to be strengthened. Improvements in these areas would increase productivity and competitiveness.

(17) Policy action to improve cost-competitiveness has only been partial. In 2012, the government cut nominal gross wages per employee in the public sector by around 3 %. A further reduction of labour costs in the public sector was agreed with social partners in mid-May 2013. The minimum wage is among the highest in the EU as a percentage of the average wage, is indexed to inflation, and was subject to a large discretionary increase in 2010. Although the growth rate of nominal compensation per employee was negative in 2012 (-0,4 %) nominal unit labour cost (NULC) registered a moderate positive growth in 2012 (0,7 %) due to more negative productivity growth (-1,1 %). Measures to lift productivity growth and sustained progress in reducing unit labour costs would help to regain competitiveness.

(18) State ownership has a significant role in the Slovenian economy with many features remaining unchanged since the transitional period of the 1990s. The privatisation and corporate restructuring tools adopted during the 1990s resulted in the state remaining dominant, especially in the financial sector. In 2011, state-owned enterprises accounted for one sixth of total value added of the Slovenian economy, around half of the total losses in the corporate sector, and employed one out of eight people. Moreover, state-controlled funds and enterprises have an impact on public finances through the interaction of elevated debt levels, recapitalisation needs and significant government guarantees. The size and weakness of state-owned enterprises hold back economic development and growth and contribute to existing imbalances. State dominance and a frequently malfunctioning governance of state assets impede private domestic and foreign investment, lowering productivity and competitiveness. The cross-ownership of state-owned enterprises in the non-financial sector with state-owned financial institutions creates contagion risks, limits adjustment and distorts resource allocation, especially with regards to new investment.

(19) The National Reform Programme outlines policy priorities in the areas of state ownership and corporate deleveraging, but it does not provide details of measures planned. The 2013 in-depth review outlined the economic outcomes in relation to state ownership, in terms of direct and contingent fiscal costs, and in terms of distortion of normal commercial operations. However, the National Reform Programme cites only the lack of co-ordination as a drawback to the state's conduct as an owner of non-financial enterprises. Overall, while the National Reform Programme contains positive elements, it does not provide sufficient information regarding the strategic orientation for companies that will remain in state ownership, and detailed, time-bound commitments to improve their financial performance and management. Some first steps have been taken to improve corporate governance, as recommended in the 2012 country-specific recommendations, and to privatise some state-owned enterprises. Legislation providing for the establishment of the future Slovenia Sovereign Holding (SSH) was enacted, but still needs to be implemented effectively. A register of management and supervisory board appointments in state-owned enterprises with requirements for disclosure of interests could help to increase transparency. The National Reform Programme announces the preparation of a privatisation strategy by the final quarter of 2013, which will be brought forward to the third quarter, following the letter of 23 May 2013. In the meantime, the Government has proposed to Parliament a list of 15 companies for privatisation. Besides minority stakes and SMEs, this list includes also important companies like the second largest bank, NKBM.

(20) Slovenia has a high number of regulated professions and there is scope for a significant reduction of entry barriers which would have a positive effect on employment and competition. The Slovenian authorities launched a reform process in 2012 to review numerous regulated professions with the objective of better defining existing regulated professions, reducing administrative costs and simplifying access to professions. A first set of laws in the field of craft, tourism and construction was due to be adopted by Parliament in early 2013. However, the reform is behind schedule except for the craft sector. Slovenia has set the legal pre-conditions for an independent Competition Protection Agency but still needs to ensure that appropriate staff levels will be continuously ensured. The legislation should be further amended to give the agency a separate budget line, as this is necessary to ensure its financial independence. First instance judicial proceedings in litigious civil and commercial cases as well as bankruptcy procedures are unduly long. Despite a visible positive trend in shortening lengths of civil and commercial cases continued effort is needed to address these issues, as they hamper business activity and reduce Slovenia's attractiveness for foreign direct investment. In this context, the foreseen cut in the number of judges per inhabitant as set out in the National Reform Programme would have to be counterbalanced by significant increases in effectiveness.

(21) The National Reform Programme asserts the need to restructure non-financial corporations in financial distress but the policy challenge and the policy response regarding corporate restructuring need further elaboration focusing on market-based solutions. Additional measures are needed to attract private investment, including foreign direct investment, and to ensure sufficient private burden-sharing preserving taxpayer resources. The restructuring process should lead to the sale of the restructured companies without involvement of public funding.

(22) Slovenia is in the process of amending legislation to increase the efficiency of insolvency procedures. The Government amended the law on Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act in April 2013. The amendments refine the definition of insolvency and introduce incentives for managers to file for insolvency on time. The current insolvency framework has insufficient incentives and sanctions to ensure that companies file for insolvency at an early stage. The compulsory settlement procedures (in-court reorganisation) are complex and debtor-friendly, particularly for SMEs and micro companies. There are insufficient incentives for early out-of-court settlement, which could help to ensure the continuation of viable businesses. New legislation has been announced to allow for financial restructuring of over-indebted companies early in the process, and the Ministry of Justice envisaged proposing legal changes to facilitate out-of-court restructuring and debt conversion by end of May 2013. A suitable legal framework developed according to an agreed timetable which provides compatible incentives for creditors, owners and management would be essential to facilitate the financial restructuring of illiquid but viable companies.

(23) In the context of the European Semester, the Commission has carried out a comprehensive analysis of Slovenia's economic policy. It has assessed the Stability Programme and National Reform Programme, and presented an in-depth review. It has taken into account not only their relevance for sustainable fiscal and socio-economic policy in Slovenia but also their compliance with EU rules and guidance, given the need to reinforce the overall economic governance of the Union by providing EU-level input into future national decisions. Its recommendations under the European Semester are reflected in recommendations (1) to (9) below.

(24) In the light of this assessment, the Council has examined the Stability Programme, and its opinion[1] is reflected in particular in recommendation (1) below.

(25) In the light of the Commission's in-depth review and this assessement, the Council has examined the National Reform Programme and the Stability Programme. Its recommendations under Article 6 of Regulation (EU) No. 1176/2011 are reflected in all recommendations below.

(26) In the context of the European Semester the Commission has also carried out an analysis of the economic policy of the euro area as a whole. On this basis, the Council has issued specific recommendations addressed to the Member States whose currency is the euro[2*]. As a country whose currency is the euro, Slovenia also should ensure the full and timely implementation of those recommendations,

HEREBY RECOMMENDS that Slovenia take action within the period 2013-2014 to:

[1] Under Article 5(2) of Regulation (EC) No 1466/97.
[2] OJ C …
[*] OJ : please insert reference for doc. st 11216/13.

1. For the year 2013 and beyond, implement and reinforce the budgetary strategy, supported by sufficiently specified structural measures, to ensure the correction of the excessive deficit by 2015 in a sustainable manner and the improvement of the structural balance specified in the Council recommendation under the EDP. After the correction of the excessive deficit, pursue a structural adjustment effort that will enable Slovenia to reach the MTO which should be set in line with the Stability and Growth Pact by 2017. Durable correction of the fiscal imbalances requires the implementation of ambitious structural reforms, which would increase the adjustment capacity of the economy and boost potential growth and employment. Safeguard growth-friendly spending, adopt measures to improve tax compliance and implement measures on the expenditure side underpinned by systematic reviews of public expenditure at all government levels. To improve the credibility of consolidation, complete the adoption of a general government budget balance/surplus rule in structural terms, make the medium-term budgetary framework binding, encompassing and transparent, and strengthen the role of independent bodies monitoring fiscal policy by end 2013. Take measures to gradually reduce the contingent liabilities of the state.

2. Strengthen the long-term sustainability of the pension system beyond 2020 by further adjusting all relevant parameters, including through linking the statutory retirement age to gains in life expectancy, while preserving the adequacy of pensions. Contain age-related expenditure on long-term care and improve access to services by refocusing care provision from institutional to home care, sharpening targeting of benefits, and reinforcing prevention to reduce disability/dependency.

3. Ensure that wage developments, including the minimum wage, support competitiveness and job creation. Monitor closely the effects of the recent labour market reform and if necessary identify the areas where further action is needed to foster job creation and tackle segmentation, including through the regulation for student work. Take further measures to increase employment of young tertiary graduates, older persons and the low-skilled by focusing resources on tailor-made active labour market policy measures while improving their effectiveness. Address the skills mismatch by improving the attractiveness of the relevant vocational education and training programmes and by further developing cooperation with the relevant stakeholders in assessing labour market needs.

4. Take the necessary steps, with input from European partners, to contract an independent external adviser in June 2013 to conduct a system-wide bank asset quality review. Complete this exercise in 2013, with faster progress in the cases of the two banks already subject to the state aid procedure, to accelerate their balance sheet repair. Stand ready to provide additional capital should the asset transfer or asset quality review reveal additional shortfalls. All measures, including objective assessments of capital needs, transfer of assets to Bank Asset Management Company, asset protection scheme, operational implementation of the restructuring measures should be implemented in full compliance with state aid rules in case state aid is involved. In parallel, develop by March 2014 and implement a comprehensive sector strategy to ensure arms-length management of reformed banks and to substantially improve governance, risk management and profitability in the sector, including through consolidation where appropriate. Swiftly proceed with preparations for the announced privatisation of NKBM and establish, by September 2013, an ambitious timetable for the divestment of direct and indirect state shareholdings of banks.

5. Review the bank regulatory framework by end 2013, and based on this review, strengthen supervisory capacity, transparency and statistical disclosure.

6. Accelerate the reform of regulated services, including a significant reduction of entry barriers. Improve the business environment, including through ensuring the independence of and providing sufficient and autonomous financing to the Competition Protection Agency.

7. Build on previous efforts to further reduce the length of judicial proceedings at first instance in litigious civil and commercial cases and the number of pending cases, in particular enforcement cases.

8. As part of the planned strategy of the Government, to be completed by September 2013, classify core and non-core state assets according to economic criteria, with a view to divesting non-core assets. Make the Slovenia Sovereign Holding (SSH) fully operational in a timely manner, and transfer both ownership and management of all stakes to the SSH, potentially excluding those that are on the list for immediate full privatisation. Ensure professional management of the SSH from the outset, potentially including international expertise, and a clearly defined arms' length relationship with the companies involved. For core stakes, develop sector-specific strategies to improve profitability and corporate governance. Introduce an obligatory and publicly available register of management and supervisory board appointments in state-owned enterprises with requirements for disclosure of interests. Ensure that the regulatory framework facilitates divestment of non-core state assets and that administrative hurdles are minimised.

9. Identify and start to work on removing all existing legal and administrative impediments to sustainable restructuring of over-indebted/undercapitalised but viable companies through market-based solutions. In this context, take measures to ensure sufficient private burden sharing, to increase private investment, including foreign direct investment, and to achieve efficiency gains in troubled companies as part of the restructuring process. Adopt the necessary legal framework for out-of-court restructuring by September 2013, ensuring that it is coherent with the existing provisions on insolvency and provides incentives for both creditors and shareholders to reach out-of-court restructuring agreements. Improve the enforcement of corporate insolvency procedures and in-court settlements, including swiftly resolving pending court cases related to bankruptcy procedures, in order to maximise recovery value and to facilitate the timely and efficient resolution of non-performing loans.

Done at Brussels,

For the Council
The President