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PROPOSAL

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: ANNEX to the proposal for an Interinstitutional agreement between the
European Parliament, the Council and the Commission on budgetary
discipline, on cooperation in budgetary matters and on sound financial
management

Delegations will find attached document COM(2018) 323 final - ANNEX.

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Brussels, 2.5.2018
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ANNEX

ANNEX

to the

proposal for an Interinstitutional agreement

between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management

ANNEX - INTERINSTITUTIONAL COOPERATION DURING THE BUDGETARY PROCEDURE

Part A. Calendar of the budgetary procedure

1. The institutions shall agree a pragmatic calendar each year in due time before the start of the budgetary procedure on the basis of present practice.

Part B. Priorities for the budgetary procedure

2. In due time before the adoption of the draft budget by the Commission, a trilogue shall be convened to discuss the possible priorities for the budget of the coming financial year.

Part C. Establishment of the draft budget and updating of estimates

3. The institutions, other than the Commission, are invited to adopt their statement of estimates before the end of March.
4. The Commission shall, each year, present a draft budget showing the Union's actual financing requirements.

It shall take into account:

- (a) forecasts provided by the Member States in relation to the Structural Funds;
 - (b) the capacity for utilising appropriations, while endeavouring to maintain a strict relationship between appropriations for commitments and appropriations for payments;
 - (c) possibilities for starting up new policies through pilot projects, new preparatory actions or both, or for continuing multiannual actions which are coming to an end, after assessing whether it is possible to secure a basic act, within the meaning of the Financial Regulation (definition of a basic act, necessity of a basic act for implementation and exceptions);
 - (d) the need to ensure that any change in expenditure in relation to the previous year is in accordance with the constraints of budgetary discipline.
5. The institutions shall, as far as possible, avoid entering items in the budget involving insignificant amounts of expenditure on operations.
 6. The European Parliament and the Council also undertake to bear in mind the assessment of the possibilities for implementing the budget made by the Commission in its drafts and in connection with the implementation of the current budget.
 7. In the interests of sound financial management and owing to the effect of major changes in the titles and chapters of the budget nomenclature on the management reporting responsibilities of Commission departments, the European Parliament and

the Council undertake to discuss any major changes with the Commission during the conciliation.

8. In the interest of loyal and sound institutional cooperation, the European Parliament and the Council commit to maintaining regular and active contacts at all levels, through their respective negotiators, throughout the whole budgetary procedure and, in particular, during the conciliation period. The European Parliament and the Council undertake to ensure the timely and constant mutual exchange of relevant information and documents at both formal and informal levels, as well as to hold technical or informal meetings as needed, during the conciliation period, in cooperation with the Commission. The Commission shall ensure timely and equal access to information and documents for the European Parliament and the Council.
9. Until such time as the Conciliation Committee is convened, the Commission may, if necessary, submit letters of amendment to the draft budget in accordance with Article 314(2) TFEU, including a letter of amendment updating, in particular expenditure estimates for agriculture. The Commission shall submit information on updates to the European Parliament and the Council for their consideration as soon as it is available. It shall supply the European Parliament and the Council with all the duly justified reasons they may require.

Part D. Budgetary procedure before the conciliation procedure

10. A trilogue shall be convened in good time before the Council's reading, to allow the institutions to have an exchange of views on the draft budget.
11. In order for the Commission to be able to assess in due time the executability of amendments, envisaged by the European Parliament and the Council, which create new preparatory actions or pilot projects or which prolong existing ones, the European Parliament and the Council shall inform the Commission of their intentions in this regard, so that a first discussion may already take place at that trilogue.
12. A trilogue could be convened before the votes in plenary of the European Parliament.

Part E. Conciliation procedure

13. If the European Parliament adopts amendments to the Council's position, the President of the Council shall, during the same plenary sitting, take note of the differences in the position of the two institutions and give his/her agreement for the President of the European Parliament to convene the Conciliation Committee immediately. The letter convening the Conciliation Committee shall be sent at the latest on the first working day of the week following the end of the parliamentary part-session during which the plenary vote was delivered, and the conciliation period shall start on the following day. The 21-day time period shall be calculated in accordance with Regulation (EEC, Euratom) No 1182/71 of the Council ⁽¹⁾.

¹ Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

14. If the Council cannot agree on all the amendments adopted by the European Parliament, it should confirm its position by letter sent before the first meeting foreseen during the conciliation period. In such case, the Conciliation Committee shall proceed in accordance with the conditions laid down in the following points.
15. The Conciliation Committee shall be chaired jointly by representatives of the European Parliament and of the Council. Meetings of the Conciliation Committee shall be chaired by the co-chair from the institution hosting the meeting. Each institution, in accordance with its own rules of procedure, shall designate its participants for each meeting and define its mandate for the negotiations. The European Parliament and the Council shall be represented at an appropriate level in the Conciliation Committee, such that each delegation can commit politically its respective institution, and that actual progress towards the final agreement may be made.
16. In accordance with the second subparagraph of Article 314(5) TFEU, the Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.
17. Trilogues shall take place throughout the conciliation procedure, at different levels of representation, with the aim of resolving outstanding issues and preparing the ground for an agreement to be reached in the Conciliation Committee.
18. Meetings of the Conciliation Committee and trilogues shall be held alternately at the premises of the European Parliament and of the Council, with a view to an equal sharing of facilities, including interpretation facilities.
19. The dates of the meetings of the Conciliation Committee and the trilogues shall be set in advance by agreement of the three institutions.
20. A common set of documents ('input documents') comparing the various steps of the budgetary procedure shall be made available to the Conciliation Committee ⁽²⁾. Those documents shall include 'line by line' figures, totals by MFF headings and a consolidated document with figures and remarks for all budget lines deemed technically 'open'. Without prejudice to the final decision of the Conciliation Committee, a specific document shall list all budget lines deemed technically closed ⁽³⁾. Those documents shall be classified by budgetary nomenclature.

Other documents shall also be attached to the input documents for the Conciliation Committee, including a letter of executability from the Commission on the Council's position and the European Parliament's amendments, and any letter(s) from other

² The various steps include: the budget of the current financial year (including adopted amending budgets); the initial draft budget; the Council's position on the draft budget; the European Parliament's amendments to the Council's position and the letters of amendment presented by the Commission (if not yet fully approved by all institutions).

³ A budget line deemed technically closed is a line for which there is no disagreement between the European Parliament and the Council, and for which no letter of amendment has been presented.

institutions concerning the Council's position or the European Parliament's amendments.

21. With a view to reaching agreement by the end of the conciliation period, trilogues shall:
 - define the scope of the negotiations on the budgetary issues to be addressed,
 - endorse the list of the budget lines deemed technically closed, subject to the final agreement on the entire budget of the financial year,
 - discuss issues identified under the first indent with a view to reaching possible agreements to be endorsed by the Conciliation Committee,
 - address thematic issues, including by headings of the MFF.

Tentative conclusions shall be drawn jointly during or immediately after each trilogue, and, simultaneously, the agenda of the following meeting shall be agreed. Those conclusions shall be registered by the institution hosting the trilogue and shall be deemed provisionally approved after 24 hours, without prejudice to the final decision of the Conciliation Committee.

22. The conclusions of trilogues and a document for possible endorsement shall be available to the Conciliation Committee at its meetings, together with the budget lines in respect of which an agreement has been tentatively reached during the trilogues.
23. The joint text provided for in Article 314(5) TFEU shall be established by the secretariats of the European Parliament and of the Council with the assistance of the Commission. It shall consist of a letter of transmission addressed by the chairs of the two delegations to the Presidents of the European Parliament and Council, containing the date of the agreement at the Conciliation Committee, and annexes which shall include:
 - line by line figures for all budget items and summary figures by MFF headings,
 - a consolidated document, indicating the figures and final text of all lines that have been modified during the conciliation procedure,
 - the list of the lines not modified with regard to the draft budget or the Council's position on it.

The Conciliation Committee may also approve conclusions and possible joint statements in relation to the budget.

24. The joint text shall be translated into the official languages of the institutions of the Union (by the services of the European Parliament) and shall be submitted for the approval of the European Parliament and the Council within a period of 14 days from the date of the agreement on the joint text pursuant to point 23.

The budget shall be subject to legal-linguistic finalisation after the adoption of the joint text by integrating the annexes of the joint text with the budget lines not modified during the conciliation procedure.

25. The institution hosting the meeting (trilogue or conciliation) shall provide interpretation facilities with a full linguistic regime applicable to the Conciliation Committee meetings and an ad hoc linguistic regime for the trilogues.

The institution hosting the meeting shall provide for the copying and distribution of room documents.

The services of the three institutions shall cooperate in the encoding of the results of the negotiations in order to finalise the joint text.

Part F. Amending Budgets

General principles

26. Bearing in mind that amending budgets are frequently focused on specific and sometimes urgent issues, the institutions agree on the following principles to ensure appropriate interinstitutional cooperation for a smooth and swift decision-making process for amending budgets while avoiding, as far as possible, having to convene a conciliation meeting for amending budgets.
27. As far as possible, the institutions shall endeavour to limit the number of amending budgets.

Calendar

28. The Commission shall inform the European Parliament and the Council in advance of the possible dates of adoption of draft amending budgets, without prejudice to the final date of adoption.
29. Each in accordance with its internal rules of procedure, the European Parliament and the Council shall endeavour to examine the draft amending budget proposed by the Commission at an early opportunity after its adoption by the Commission.
30. In order to speed up the procedure, the European Parliament and the Council shall 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 shall 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 European Parliament and the Council shall take into account the relative urgency of the amending budget and the need to approve it in due time to be effective during the financial year concerned.

Cooperation during the readings

31. The institutions shall 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, the European Parliament or the Council, before each takes its final position on the amending budget, or the Commission at any time, may propose that a specific trilogue be convened to discuss the divergences and to try to reach a compromise.

32. All draft amending budgets proposed by the Commission and not yet finally approved shall be entered systematically on the agenda of trilogues planned for the annual budgetary procedure. The Commission shall present the draft amending budgets and the European Parliament and the Council shall, as far as possible, make known their respective positions ahead of the trilogue.
33. If a compromise is reached during a trilogue, the European Parliament and the Council undertake to consider the results of the trilogue when deliberating on the amending budget in accordance with the TFEU and their rules of procedure.

Cooperation after the readings

34. If the European Parliament approves the position of the Council without amendments, the amending budget shall be adopted in accordance with the TFEU.
35. If the European Parliament adopts amendments by a majority of its component members, Article 314(4)(c) TFEU shall apply. However, before the Conciliation Committee meets, a trilogue shall be called:
- if an agreement is reached during the trilogue and subject to the agreement of the European Parliament and the Council on the results of the trilogue, the conciliation shall 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 to completing the decision-making process as much as possible before the 21-day deadline laid down in Article 314(5) TFEU. The Conciliation Committee may conclude by an exchange of letters.

Part G. *Reste à liquider (RAL)*

36. Given the need to ensure an orderly progression of the total appropriations for payments in relation to the appropriations for commitments so as to avoid any abnormal shift of RAL from one year to another, the European Parliament, the Council and the Commission agree to monitor closely the level of the RAL so as to mitigate the risk of hampering the implementation of Union programmes because of a lack of payment appropriations at the end of the MFF.

In order to ensure a manageable level and profile for the payments in all headings, de-commitment rules shall be applied strictly in all headings, in particular the rules for automatic de-commitments.

In the course of the budgetary procedure, the institutions shall meet regularly with a view to jointly assessing the state of play and the outlook for budgetary implementation in the current and future years. This shall take the form of dedicated interinstitutional meetings at the appropriate level, before which the Commission shall provide the detailed state of play, broken down by fund and Member State, on payment implementation, reimbursement claims received and revised forecasts. In particular, in order to ensure that the Union can fulfill all its financial obligations stemming from existing and future commitments in the period 2021 to 2027 in accordance with Article 323 TFEU, the European Parliament and the Council shall analyse and discuss the Commission's estimates as to the required level of payment appropriations.