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'I' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Cooperation between the European Parliament and the Council during the annual discharge procedure
– *Endorsement*

1. Article 319 TFEU sets out the discharge procedure for the EU budget: "*The European Parliament, acting on a recommendation from the Council shall give the discharge to the Commission in respect of the implementation of the budget*". However, the European Parliament developed unilaterally a practice of delivering individual discharge decisions about other institutions. This habit is not a Treaty provision.
2. The budget of the **European Council** and the Council is a section of the EU budget (Section II). Despite the overall positive evaluation of the Council's financial management by the Court of Auditors, the European Parliament has voted resolutions refusing discharge for the **European Council/Council** section of the EU budget from the 2009 budget onwards. These European Parliament resolutions have no legal effect.

3. In order to address this issue related to the discharge process, the Council proposed in 2011 a "memorandum of understanding" between the European Parliament and the Council which would cover their cooperation during the annual discharge procedure.
4. On 9 November 2017, the Council received a letter from the Chair of the European Parliament's Committee on Budgetary Control, Ms Ingeborg Grässle, containing an official counterproposal to the abovementioned "memorandum of understanding" suggested by the Council in 2011.
6. On 25 April 2018, the Permanent Representatives Committee adopted a new counterproposal ("counterproposal 2") that was submitted to the European Parliament on 2 May 2018.
7. On 16 July 2018, the Chair of the European Parliament's Committee on Budgetary Control sent a letter to the Council with a number of amendments to the Council text.
8. On 29 July 2019, the Council received a letter from the new Chair of the European Parliament's Committee on Budgetary Control, Ms Monika Hohlmeier, requesting a reply on the letter sent by the former Chair in 2018.
9. On 1 October 2019, the Budget Committee invited the Secretariat to draft a counterproposal ("counterproposal 3") to the European Parliament's revision of counterproposal 2. This counterproposal 3 was examined by the Budget Committee on 24 October 2019 and endorsed on 29 October 2019.
10. The Permanent Representatives Committee is consequently invited to:
 - endorse the Council's proposal (counterproposal 3) recorded in the ANNEX;
 - invite the Secretary-General of the Council to enter into a dialogue with the European Parliament on the basis of this proposal.

"Non-paper"

**on the cooperation between the European Parliament and the Council
during the annual discharge procedure**

The European Parliament and the Council of the European Union

Taking into account:

- A. that according to Articles 14(1) and 16(1) of the Treaty on European Union (TEU), the European Parliament and the Council jointly exercise budgetary function,
- B. that according to Article 319 of the Treaty on the Functioning of the European Union (TFEU), the European Parliament, acting on a recommendation from the Council, gives a discharge to the Commission in respect of the implementation of the budget,
- C. that Article 13(2) TEU calls on the institutions to practice mutual sincere cooperation,
- D. the discharge-related articles in the Financial Regulation (Articles 260 - 263),
- E. the fundamental democratic principles of transparency and accountability,
- F. the aim of further improving the sound financial management of EU expenditure,
- G. the aim of further improving effectiveness, efficiency and economy in the implementation of the EU budget,
- H. that the combined effect of an open and transparent EU administration and the need to protect the Union's financial interests (Article 325 TFEU) requires an open and transparent discharge procedure.

Acknowledge that:

1. In order for the institutions to fulfil their respective roles, the TFEU and the Financial Regulation stipulate that a certain number of documents are to be put at the disposal of the institutions responsible for the discharge:
 - the annual report by the European Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, including the statement of assurance and any other special reports of the European Court of Auditors,
 - the Annual Activity Report(s),
 - accounts of the preceding financial year relating to the implementation of the budget,
 - a financial statement of the assets and liabilities,
 - a report on budgetary and financial management,
 - a report summarising the number and type of internal audits carried out, the recommendations made and the action taken on those recommendations.
2. Notwithstanding the difference between their respective roles in the discharge procedure, the Parliament and the Council need a similar factual basis to deliver a recommendation or to take a decision.
3. The Council and the Parliament, assuming their respective roles under Article 319 TFEU, may submit to each other questions that are formulated in writing and that directly relate to the observations made on their respective sections of the budget by the Court of Auditors in its annual report or to the content of other documents mentioned in point 1.
4. The Council and the Parliament will reply in writing to the questions referred to in point 3 so as to allow, respectively, the Parliament to adopt the decision on giving discharge to the Commission in respect of the implementation of the budget and the Council to adopt the recommendation to the Parliament for that purpose.

5. Before the end of January each year, the Budgetary Control committee of the European Parliament will organize a public meeting on discharge matters related to points 3 and 4 to which the Council will be invited.
6. The Budget Committee of the Council may invite the European Parliament to a meeting on discharge matters related to points 3 and 4.
7. The modalities of the meetings in points 5 and 6 will be agreed beforehand between the Chair of the European Parliament's Budgetary Control committee and the Secretary-General of the Council.
8. The incumbent Council Presidency will participate in the Parliament's plenary debate on giving a discharge in respect of the implementation of the budget in accordance with Article 319 TFEU.
