"ANALYSING THE STRINGENT TROIKA CONDITIONALITY REGIME AS A RESPONSE TO GREECE DEBT CRISIS"

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DISSERTATION

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This dissertation is submitted in partial fulfillment of the degree of

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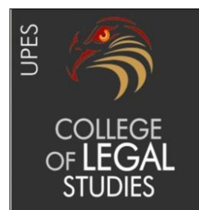

College of Legal Studies

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Dehradun

2015

CERTIFICATE

This is to certify that the research work entitled "Analysing the stringent troika conditionality regime as a response to Greece Debt Crisis" is the work done by Arpit Singh under my guidance and supervision for the partial fulfilment of the requirement of B.A., LL.B. (Hons.) at College of Legal Studies, University of Petroleum and Energy Studies, Dehradun.

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Date: 12th April, 2016

DECLARATION

I declare that the dissertation entitled "Analysing the stringent troika conditionality regime as a response to Greece Debt Crisis" is the outcome of my own work conducted under the supervision of Asst. Professor Pallavi Arora at College of Legal Studies, University of Petroleum and Energy Studies, Dehradun.

I declare that the dissertation comprises only of my original work and due acknowledgement has been made in the text to all other material used.

Arpit Singh

Date: 12th April, 2016

ABSTRACT

The World Financial Crisis of 2007-08 raised innumerable issues regarding our contemporary world economic setup. The issues that have been raised are not new but have been discussed since time immemorial and the discussion strived as the history recorded the continuous cycle of boom and bust in the world economies.

What intrigues the global community is why these financial crises keep happening and how to stop them from happening? Also how to deal with the affects of the crises?

Neo-liberal policies of International institutions and of states have led to globalisation which has bound the world economies together. Economic Crisis in one part of the globe inadvertently affects other parts of the globe as a result of globalisation. This was realised in World Financial Crisis, 2007 where crisis majorly occurring in America spread throughout the world.

It can be appreciated that subject of study is intricate and it is hard to analyse the subject matter under cause and effect doctrine. Hence this dissertation evaluates and illuminates larger issues by doing a case study and what's better than picking up the Greek Financial Crisis which is the direct result of World Financial Crisis[1].

Greece debt crisis is only a pretext to portray larger issues in our current economic order. The crisis has challenged the fundamental economic principles on which economic systems are based and has made the whole global community to rethink their objectives in light of lessons learnt from the crisis. Also, the crisis is a failure on face of Economic and Monetary Union (EMU) in Europe and hence has raised question as to the effectiveness and feasibility of the European Union itself.

Firstly, it is to be inquired as to what led to the Greek Debt crisis in light of World Financial Crisis and contribution of European Union mandates in building up of the crisis. Secondly, as the crisis still continues and Troika has negotiated Bailout

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[1] Although there are other countries which suffered as a result of World Financial Crisis, Greece Debt Crisis has been chosen to be studied because the crisis is ongoing and has been highlighted by media more than any other country's crisis. Along with that there are major developments which aim to tackle the crisis i.e. the bailout agreement. Such developments warrant enquiry in order to determine their efficiency in dealing with the crisis.

Agreement to revive Greek economy in order to enable them to repay its creditors, analysis of the Bailout Agreement is warranted in order to find legal and economic implications of the bailout agreement and also to determine whether the underlying principles under the agreement are really feasible and truly have the best interest of Greece and its creditors.

This dissertation aims to conduct the aforesaid enquires and hence provide insight into them.

Keywords: Grexit, Economic and Monetary Union, Bailout, Economic Adjustment Programme.

ACKNOWLEDGMENT

It took a lot of strength for me to take this topic. I being a student of law was a little hesitant at first while taking a topic which has economic dimensions as well but I had in mind that the eras of pure law are gone and in this epoch, law's evolution is dependent upon its now intersection with other social sciences. No one can study law without gaining an acute understanding of other social sciences and keeping that in mind I accepted the challenge. The problem that I faced the most was the time constraint offering a point of view on such an intricate subject of study requires in depth consideration of all the academic material available pertinent to the topic. I don't know how successful I was but I am happy because I tried to do my best.

It goes without saying that producing anything of value is never a work of an individual but host of individuals who aid in the path for the successful completion of an undertaking. First, of all I would extend my gratitude to Milton Friedman whose series "Free to Choose" instigated my interest in economic theory and Dr. Raghuram Rajan, Governor of R.B.I who provided me with a perspective as to the purpose of economics.

I would like to thank Mrs. Pallavi Arora who honoured me by giving me a challenging topic which has gratified my interest in law and economics. Her initial guidance was quintessential and this dissertation is framed along the initial discussion that we had upon the subject matter. I would also like to extend my warmest gratitude to Mr. Krishna Deo Singh Chauhan for the discussions over the issues and queries I had while I was working on the dissertation. I would like to especially give a vote of thanks to my father who believed that I could offer a justified approach to the topic of my dissertation.

Lastly, I am grateful for the academicians whose works I relied upon to form a conceptual understanding about the subject matter and hopefully offered and added something new to the existing knowledge regarding the subject matter.

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ABBREVIATIONS

- ATHEX: Athens Stock Exchange
- BRRD: Bank Recovery Regulation, Greece
- CDO: Collateralised debt obligation
- CDS: Credit Default Swaps
- EAM: National Liberation Front
- EAP: Economic Adjustment Programme
- EC: European Commission
- ECB: European Central Bank
- ECJ: European Court of Justice
- EFSF: European Financial Stability Facility
- ELA: Emergency Liquidity Assistance
- ELSTAT: Hellenic Statistical Authority
- ENA: Athens Exchange
- ENFIA: Uniform tax on real estate property
- ETAD: Greece Public Properties Company
- EWG: Euro Working Group
- GMI: Guaranteed Minimum Income
- HCA: Hellenic Court of Auditors
- HDAT: Electronic Secondary Securities Market
- HFSF: Hellenic Financial Safety Fund
- ICJ: International Court of Justice
- IMF: International Monetary Fund
- INN: International non-proprietary name
- IOUs: "I Owe you"- Informal document that acknowledges a debt owed
- MBS: Mortgage Backed Securities
- MoU: Memorandum of Understanding(Bail-out Agreement)
- MTFS: Multilateral Trading Facilities
- OECD: Organisation for economic co-operation and Development
- SDOE: Financial Crime Squad
- TROIKA: Abbreviation representing E.C, I.M.F and E.C.B

- *Statement of Problem*

The financial crises that happened throughout the world have multifarious underlying causes and the resolution of such causes has become pertinent to avoid such crises in future. There exist inherent defects in the current economic system which is required to be addressed as soon as possible. Greece's financial crisis is a predicament from which extrication has become impossible despite several attempts. Issues regarding Greece and World Economy remain at large and addressing of such issues has become most important in the contemporary world. Several Institutions/persons are to be blamed for the crisis and rationally identifying the causes of these crises has become relevant. Radical steps are required to be taken in order to extricate not only Greece but whole of the affected party from the crisis and also to ensure that such crisis does not take place in future.

- *Objectives of Study*

This dissertation is an attempt to analyse the conditionalities imposed by Troika on Greece through various MoU containing Economic Adjustment Programme/Bailout Agreement and their feasibility and provide a point of view as to the effectiveness of the bailout agreements which aims at reviving of Greek Economy. The dissertation will discuss the recent MoU in detail in light of previous MoU entered by Greece which will be discussed only in brief.

It is to be made a matter of enquiry as to why the bailout has been unable to revive the Greek Economy whereas under the similar circumstances of Asian Financial Crisis the economies recovered as a result of bail out and economic restructuring.

The Greece debt crisis has been discussed only as a pretext to highlight bigger issues in our current world economic order. The imposition of neo-liberal agendas by the International Institutions such as E.U and IMF has been criticised and it has been tried to prove that such imposition is the only thing which has led to the formation of the bubble and hence the crisis.

- *Scope and Significance of the Study*

This dissertation is particularly a case study on Greece's financial predicament which aims to highlight bigger issues in our International Economic Order. The critical analysis of the causes of the World Financial Crisis, Greece Financial Crisis and Greece's bail out agreement for restoration of Greek Economy illuminates the defects in the World Economic Setup and the approach of stakeholders which can be judged by perusal of the Bail-out agreement that has been drafted for Greece, for its restoration.

The study conducted would revolve around Greece's financial crisis. Comparisons with situation in other jurisdiction would be made to better elucidate the actual causes of the crisis and also to recommend how to better tackle a crisis such as Greece's Crisis.

The Greece debt crisis among other are models to be studied by various countries such as India so that they could avoid falling into crisis situation in future.

- *Research Questions*

The dissertation through the research undertaken aims to answer the following research questions:

1. What was the impact of World Financial Crisis on Greece?
2. How did the Greece debt crisis happen?
3. Whether the terms and conditions of the Greece Bailout Agreement imposed by Troika from time to time are effective in tackling the crisis?
4. Whether the approach undertaken in MoU/Bailout Agreement/EAM effective enough to revive Greek Economy?
5. Whether austerity measures work in a country already undergoing a Crisis to tackle such crisis?
6. Whether the principle on which Euro's Economic and Monetary Union is based, is feasible and serve the interests of its constituents?

- *Hypothesis*

The continuous cycle of boom and bust in economies are due to the faults inherent in the economic setup of countries. Greece is not able to recover because of being a part of EMU in Europe although it has its own faults in building up the crisis. The only plausible way of reviving greek economy for good lies in leaving of E.U by Greece.

- *Methodology*

Methodology adopted in conducting of research is Doctrinal or Non-Empirical Research Methodology. Along with that Analytical, Comparative and Historical Methodology is used in order to derive inferences to develop a point of view towards the subject matter.

- *Literature Review*

1. Anil Kashyap, A Primer on the Greek Crisis, University of Chicago (29, June, 2015)

This primer encompasses various issues regarding Greek Crisis that are what led to the greek crisis, how was the crisis dealt with by the authorities, why the measures taken by the authorities under bail out agreement failed in reviving the greece economy etc.

2. C.J Polychroniou, Greece's Bailouts and the economics of Social Disasters, Levy Economics Institute of Bard College (2012)

This policy note happens to be a criticises Bail Out Agreements, arguing that austerity measures implemented as a result of bail out are a curse on the greece's economy causing socially disastrous results. It points out that I.M.F neo-liberal agenda to establish free-market eutopia has been a complete failure as the Economic Adjustment Programmes were designed to do just that and failed badly.

It also traces the history in order to identify that the crisis was inevitable because of the pre-existing economic situation of Greece when it was to join European Union in 1992.

3. Daniel Harari, Greek debt crisis: background and developments in 2015, BRIEFING PAPER Number 7114, House of Commons Library, U.K (13 October 2015)

This paper discusses the recent developments in Greek crisis and discusses the new bail out agreement in terms of the first two. Hence it discusses the issues being raised against the austerity measures under the 3rd Bail Out Agreement in Greece by Greek Authorities and its citizens. It criticises the surrendering of Greece's sovereignty in order to agree to bail out terms.

4. Dimirios Papadimitriou, The debt crisis in Greece, CBS (August 2011)

This paper explore the origin of the greek crisis in terms of political, social, economic, environmental, technological and legal analyses and also discusses the management of the crises under the first economic adjustment programme.

5. Economic Adjustment Programmes for Greece/MoU

These are MoUs reached between Troika and Greece Government which enumerated various conditionalities imposed on Greece which are required to be fulfilled for receiving Bailout Money in subsequent stages. MoUs require several austerity measures to be taken by Greek government to receive Bailout money and require Greece to forego its sovereignty and exercise its sovereign prerogatives in light of the MoUs.

6. Huwart, Jean-Yves and Loïc Verdier (2013), "The 2008 financial crisis – A crisis of globalisation?", in Economic Globalisation: Origins and consequences, OECD Publishing. http://dx.doi.org/10.1787/9789264111905-9-en

This paper argues that the financial crisis was exacerbated by globalisation or financial globalisation to be more precise.

7. Link Laters, Legal implications of the Greek debt crisis, Eurozone Bulletin (30, June, 2015)

This report assesses the legal implication of the Bail Out Agreement with respect to Greece's measures and European Union's laws.

Part I analyses the Greek capital controls, the practicalities of their implementation and enforcement, and their legality under the applicable legal frameworks. Part II discusses the practical impact the Greek measures may have on the enforceability of contracts and the performance obligations of contractual counterparties and Part III considers the issues surrounding potential payment defaults by the Greek government, the possibility of IOUs being issued, the future of Greek banks and the potential for Greece exiting the eurozone.

8. NewYork Times

Since the subject matter of the dissertation is still at developmental stage and hence, continuously remaining updated requires reading of newspaper's opinion, blogs etc. in order to develop a point of view on the subject matter.

9. Paul De Grauwe, Design Failures in the Eurozone: Can they be fixed?, LEQS Paper No. 57/2013

(February 2013)

This paper analyses the nature of the design failures of the Eurozone. It argues first that the endogenous dynamics of booms and busts that are endemic in capitalism continued to work at the national level in the Eurozone and that the monetary union in no way disciplined these into a union-wide dynamics. On the contrary the monetary union probably exacerbated these national booms and busts. Second, the existing stabilizers that existed at the national level prior to the start of the union were stripped away from the member-states without being transposed at the monetary union level. This left the member states "naked" and fragile, unable to deal with the coming national disturbances. I study the way these failures can be overcome. This paper stresses the role of the ECB as a lender of last resort and the need to make macroeconomic policies more symmetric so as to avoid a deflationary bias in the Eurozone. The paper concludes with some thoughts on political unification.

10. Silvia Ardagna and Francesco Caselli, The Political Economy of the Greek Debt Crisis: A Tale of Two Bailouts (January, 2014)

This paper reviews the events that led to the May 2010 and July 2011 bailout agreements in Greece and interpret the bailouts as outcomes of political-economy equilibria. It is argued that these equilibria were likely not on the Pareto frontier, and sketch political-economy arguments for why collective policy making in the Euro area may lead to suboptimal outcomes.

11. Shelby Woods, The Greek Sovereign Debt Crisis: Politics and Economics in the Eurozone

This paper seeks to answer three main questions: (1) what were the causes of the Greek sovereign debt crisis, (2) what are the potential policy solutions to the Greek debt problem, and (3) what are the implications of the crisis on the future of the European Union as a whole?

This paper analyses both the policies of the EU (in bailing out and financially strengthening Greece) and the institutional defects of theEurozone (e.g., the ECB has limited power and banking regulations are still national) according to the interests of major European political actors. I evaluate proposed solutions according to which would present the greatest benefits for the fewest costs, in terms economic competitiveness and efficiency and political feasibility. This paper finds that the Greek debt crisis was caused largely by incentives created by the European political environment and secondarily by the institutional structure of the Economic Monetary Union. Thus, to move forward, the European Union must take an active role in restructuring its institutions to promote both economic and political convergence. Correspondingly, it must develop strong political leadership, a polity that identifies with the European project, and a democratic process that provides legitimacy without forgoing its technocratic efficiency.

I. BACKGROUND: WORLD FINANCIAL CRISIS, 2007

It is an acclaimed fact that the World Financial Crisis of 2007 was a prelude to debt and financial crises that were observed throughout the world. The effects of collapse of World's Financial Sector were seen throughout the world and hence it became a subject of constant inquiry as to what led to the Financial Crisis at the first place. Also, how the bubble leading to the crisis remained unnoticed till it was too late to be stopped.[2]

The Financial Sector collapse was a result of a grand scheme which took its root when during late 1970s Lewis Rainieri[3] of Salomon Brothers using his ingenuity invented a financial instrument known as Mortgage Backed Security[4] (MBS).This instrument, hence, introduced securitisation which in turn made banking business more profitable. It brought a new epoch in Financial Sector in America along with the subsequent development of several other complex financial instruments such as Credit Default Swaps/Credit Derivative Contracts[5], Collateralised Debt Obligation[6] etc. Invention of Securitisation led to formation of complex financial order which eventually collapsed in 2007.

Let us understand now in brief how this financial bubble was created leading to the financial crisis. In order to make money banks need to give out loan. Interest charged over such loan is the profit that a bank would make over a specific loan but Bank cannot give out loans to everyone because there is chance of default on part of the

[2] Some people did predict the crisis but were disregarded by the political and economist's community. For example in 2005, in a presentation given by Raguram Rajan in meeting of prominent economists and bankers at Jackson Hole, Wyo., he argued that "*increasingly complex markets, which spewed out complicated instruments like credit-default swaps and mortgage-backed securities in ever greater quantities, had made the global financial system a riskier place, not less so as many believed*."
For further information read his paper titled "Has Financial Development Made the World Riskier?" Accessed at http://gsbwww.uchicago.edu/fac/raghuram.rajan/research/finrisk.pdf

[3] See http://www.investopedia.com/terms/l/lewis_ranieri.asp

[4] MBS are a type of bond representing an investment in a pool of real estate loans. The bond pays interest on the investment when the loanee pays the instalments.
See further http://www.investopedia.com/terms/m/mbs.asp

[5] CDS is an instrument which shifts the risk of default by the borrower to Insurance Companies for a certain premium. The risk is primarily held by lender or bond holder etc. which is shifted to insurance companies. Hence in case of default insurance company will indemnify the lender or bond holder etc.
See further http://www.investopedia.com/terms/c/creditdefaultswap.asp

[6] CDO are structured financial instrument backed by a pool of assets such as loan, bonds, mortgages etc. which are essentially debt obligations that serve as collateral for the CDO. See further http://www.investopedia.com/terms/c/cdo.asp

entity taking such loan. Such default is liable to cause banks financial loss. Banks because of the risk of default do not give out loans easily and only do so after fulfilment of conditions of eligibility by the entity asking for loan.

In order to mitigate the risk of default, banks want to secure their loan through assets of the loanee and as a consequence banks are comfortable to give out loans by issuing mortgage as the loan would be secured by the immovable property under the mortgage. Everyone had this common notion that there is least chance of default in case of loan given to people for buying houses as even if the default takes place they can take over the mortgaged property (house) and sell the mortgaged property to satisfy the loan amount.

Banks in USA began to give out loan for buying property by issuing mortgage. It was at this time that the idea of Mortgage backed security was introduced.[7] The idea behind this was a loan given out and the interest to be charged thereon would be realised over a certain period of time (hereinafter called 'loan period') and banks would have to wait out the loan period to realise the interest which is its profit.[8] So in order to make this venture more profitable, banks started issuing Mortgage back securities. They issued MBS to prospective investors and shared a certain part of the interest/profit that was supposed to be realised when the loanee paid back the loan amount during the loan period. Since there was common notion that default was very unlikely in the case of mortgage and also that loan under the mortgage is secured by immovable property, MBS was considered to be best securities investment[9] by the investors and were given the highest rating by the Credit Rating Agencies (which rated the viability of particular investment).[10] This created a demand amongst investors for MBS which caused the housing boom.[11] Loans were given out by banks

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[7] Ibid 3.
[8] It is to be noted that by the time will realise the profit/interest over loan period several factor would weigh in while determining the actual profit, most important of them being inflation. Inflation would render the profits made from interest charged over loan to fall.
[9] Besides MBS, government bonds were considered the most secured investment but due to less rate of return/profit arising from government bonds the investor shifted to MBS
[10]MBS generated asignificant new revenue stream for rating agencies.
See He, Jie, Jun Qian, and Philip E. Strahan. 2011. "Credit Ratings and the Evolution of the Mortgage-Backed Securities Market." American Economic Review, 101(3): 131-35. Accessed at http://www.aeaweb.org/articles.php?doi=10.1257/aer.101.3.131
[11] Id. 10.

through issuance of mortgages in order to create more MBS. Now, it is important to understand at this point that growth has its limit and it cannot last forever.

The problem hence became that there were not enough MBS available to be issued/sold but there was a large demand for them. The banks were making enormous amounts of money through these MBS and on the belief that issuing mortgage loans is safe, banks began to give out mortgage loan thinking that even if the default occurs they would still have the mortgaged property to sell. Hence, issuing mortgage loans became a priority for banks so that they could generate and sell MBS. Eventually loans were given out to entities not having financial capability[12] to pay back the loan which later proved out to be catastrophic. These mortgages issued to entities with poor credit histories were termed as subprime mortgages and MBS created from these subprime mortgages were also being issued to investor. No doubt these MBS were not rated as good by CRAs but the promised rates of return to investors were higher if the default didn't take place.

"*Unlike the corporate bond market, a small number of large issuers of MBS brought many deals to the ratings agencies and thus had substantial bargaining power over them.*"[13] This bargaining power over rating agencies was used to manipulate the rating of the MBS. MBS generated from sub-prime mortgages began to mount.

Alongside the aforesaid event, there began to spring out several other financial instrument to profit from the sale of MBS. Insurance companies generated instrument such CDSs which provided insurance to investor in case the MBS failed. On similar lines to that of MBS, CDO was invented to expand the horizons of securitisation market. CDOs also included loans given against assets other than immovable property.

Now let us understand how the securitisation scheme elaborated above collapsed. As already observed introduction of MBS led to boom in housing sector. The prices of houses increased due to increased demand of house because of the fact that banks were readily providing loans to entities to buy real estate through issuance of mortgage. When there became scarcity of MBS, MBS from subprime mortgages was

[12] The mortgages issued to these entities with poor credit histories were generally termed financially incapable to take loans.
[13] Id. 10.

created in order to meet the investor's ever growing demand for MBS. This in turn created a bubble as the subprime mortgages were predestined for defaults. When the defaults commenced, the bank acquired the mortgaged property. Normally bank would have not have suffered that much but the amount of sub-prime mortgages were too much. The default rate was sky-rocketing and though the bank acquired the mortgaged property, due to the high rate of default the prices of property plummeted. This happened also because there was comparatively negligible demand for houses as compared to the defaults under MBS. As the prices dropped people paying back on their mortgages to bank realised that the price of the property on which they are paying mortgages have considerably dropped and hence they also decided to default. This led to the collapse in the housing sector and eventually the whole financial sector.

Now, the question arises how the whole world was affected as a result of this financial collapse? It is believed by many economist that this was the result of process of Financial Globalisation.

Financial Globalisation[14] opened international capital markets to investors and firms all over the world and as a result people all around the world had an opportunity to invest in MBS existing in U.S.A. Seeing the U.S's financial sector prospering similar trends followed in many European countries which adapted similar financial instruments to make banking profitable. Eventually the same fate followed and the whole globe was engulfed in the worst financial crisis ever to be seen. As the Global Financial Sector trembled the countries which were dependant the most on international investment suffered the most as the investor started to take out their money due to their loss in confidence.

[14]See further Huwart, Jean-Yves and Loïc Verdier (2013), "The 2008 financial crisis – A crisis of globalisation?", in Economic Globalisation: Origins and consequences, OECD Publishing. http://dx.doi.org/10.1787/9789264111905-9-en

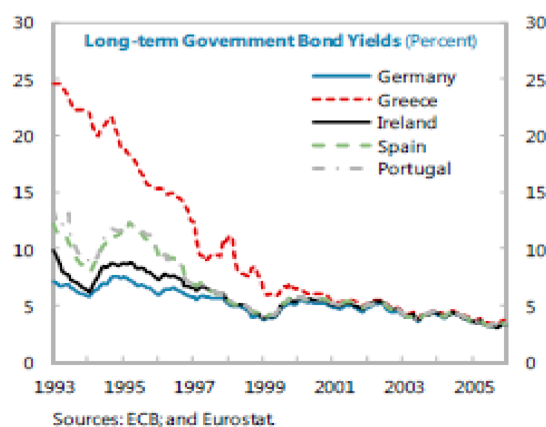
II. INTRODUCTION :GREECE DEBT CRISIS

The financial crisis discussed above was soon to be followed by many crises. The Greece economy was driven by foreign investments and as soon as the world's financial sector collapse, it resulted in instantaneous outflow of money from the Greece's leading to Greece Debt Crisis. Let us now discuss in detail as to what led to the crisis.

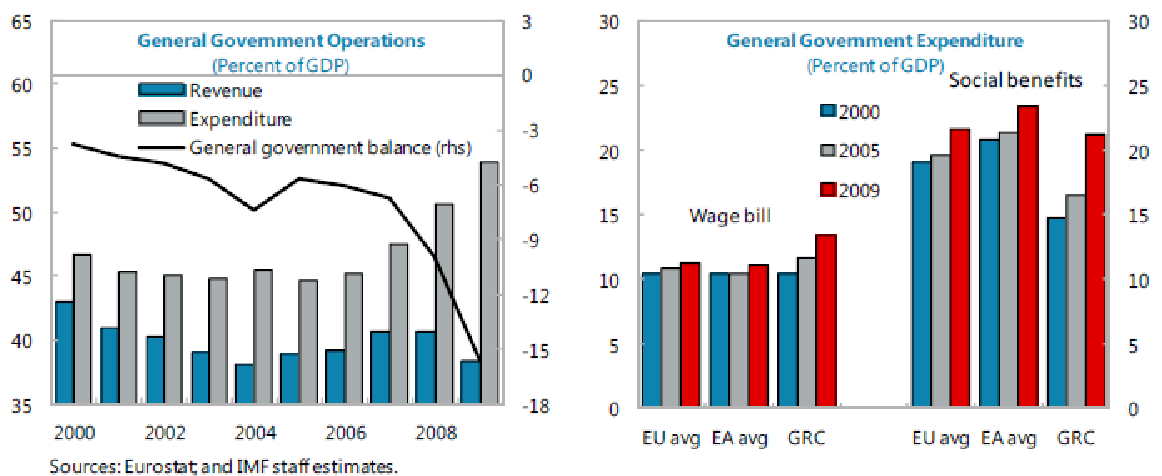
1. Causes of the Crisis

1.1.Building up of the Crisis

The creation of Euro zone brought economic prosperity in Europe. As Euro became the currency of Europe and the credit was easily available in the international financial market, after banking became more profitable for the stakeholders, Greece gained easy access to credit/borrowing that financed the Greece's government spending. The growth in financial sector as a result of financial liberalization boosted consumption amongst consumer in Greece. Real GDP growth was about 4 percent from 2000–07, higher than in all euro area countries except for Ireland and Luxembourg. Although asset price inflation and household indebtedness remained moderate, government debt mounted rapidly.



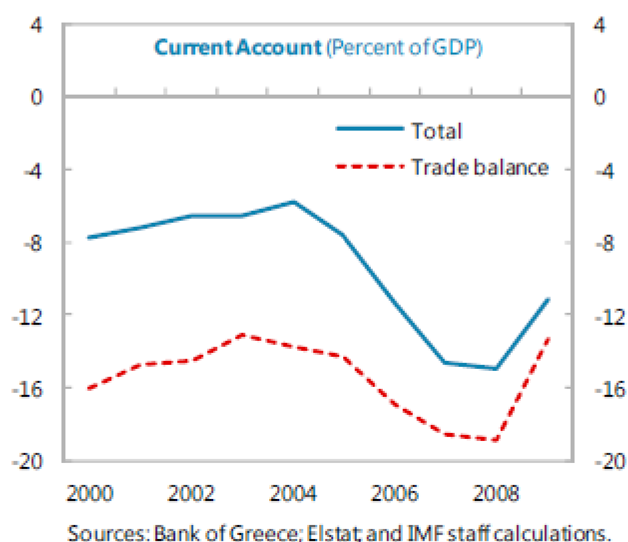
Fiscal policy was pro-cyclical. Some argue that "*Greece gained the most by becoming the member of Europe*"[15] with borrowing costs falling sharply. As a direct result, *"fiscal dividend, government interest expenditure dropped from 11½ percent of GDP in the mid-1990s to 5 percent of GDP in the mid-2000s"*[16] However, "*these savings were more than swallowed up by increased spending on wages and pensions. The economy turned down in the wake of the Lehman crisis and the general government deficit reached 15½ percent of GDP (after incorporating data revisions), up from 4 percent of GDP in 2001. Public debt was 129 percent of GDP at end-2009, with 75 percent held by foreigners."*[17] The liability that arose was of contingent nature as PSUs borrowed money on the basis of guarantee offered by Greece. As the money was made accessible generously there was soon scarcity of money in pension funds. Also, because the amount of aging population increasing continuously in Greece, generous entitlements only resulted in diminishing of the Pension Fund.



As a result of such schemes the current account deficit was deteriorating day by day. As against the decline in government saving, there existed "*sharply widening current account deficit that reached 15 percent of GDP in 2008.*"[18] The economic growth brought by financial liberalisation and a lack of competition in domestic market of Greece kept wages and price inflation above Euro zone averages in Greece. "*Competitiveness, as measured by the unit labor cost (ULC) -based real effective*

[15] Fernandez-Villaverde, Jesus, Luis Garicano and Tano Santos, March 2013, "Political credit cycles: The case of the euro zone," National Bureau of Economic Research, Working Paper 18899, www.nber.org/papers/w18899, 2013
[16] Id. 15.
[17] Ibid 15.
[18] Id. 15.

exchange rate (REER), declined by 20-30 percent in the decade following euro adoption."[19]



There began to rise and hence began to exist doubts about the quality of Greece's economy in terms of deficit and debt statisitics. The concerns regarding such data "*had flared up in 2004 when upward revisions to the fiscal deficit numbers raised questions about whether Greece had ever met the Maastricht deficit criterion of an annual fiscal deficit of 3 percent of GDP. The European Commission (EC) attempted to coax Greece into reducing its deficit via the Excessive Deficit Procedure of the Stability and Growth Pact."*[20]

1.2.Factors triggering the Greek crisis

Now when the World Financial Crisis happened in 2007, the credit was made unavailable and since the Greece growth model was based on excessive lending, the model became destined to collapse. *"Greece's economic boom was propelled by large foreign-funded fiscal deficits that enabled demand to outpace output."*[21] After the Collapse of Lehmann Brothers in September 2008, "*the spreads on Greek government bonds over 10-year bunds jumped to 300 bps compared to about 50 bps before the crisis. Standard and Poor's downgraded Greece from A+ to A in January 2009 citing*

[19] *See* IMF Country Report No. 13/156, June, 2013
[20] Id. 19.
[21] Id. 19.

a loss of competitiveness worsened by the global financial crisis."[22] The problem exacerbated when there came a stop in flow of capital inside Greece from private players.

The revision of fiscal and data revealed that Greece had no longer a robust market but a market with a bubble which was going to burst anytime. In October 2009, when the new government took office and announced that the fiscal and debt data statements were not true the confidence of the investors trembled. "*The projected budget deficit for 2009 was revised up from 4 to 12½ percent of GDP (still 3 percentage points short of the final estimate). Public debt estimates were also marked up sharply. Fitch responded by downgrading Greece's sovereign rating from A- to BBB+. Global markets, already roiled by events in Dubai in November 2009, sold off further.*"[23] With the loss in confidence of investors in Greece due to its sovereign debt, they began to scrutinise other countries in Europe and the investors lost the confidence in the European market itself.

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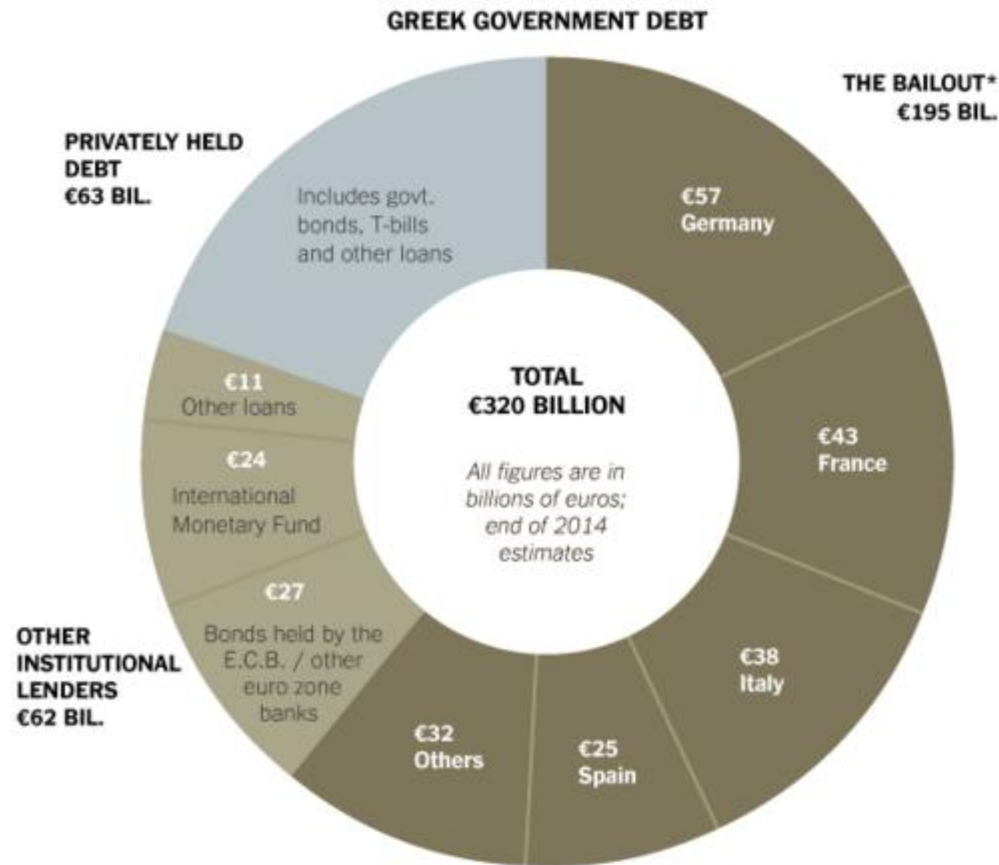
[22] Id. 19

[23] Id. 19.



1.3.Responses to the Crisis

When the crisis was at its initial stages the European authorities sought a European solution. "*In December 2009, Greece committed to achieve fiscal consolidation via a Stability Program with the European Community.*"[24] With this measure, the Greek authorities expected not to rely on seeking Fund. They still underestimated the predicament that they were facing. Following Greece's reaction other European Countries agreed and proposed that that financial assistance from the Fund was not

[24] Id. 19.

"*appropriate or welcome*"[25]. Nevertheless, the Greek government recognized that the government mechanism pertaining to tax administration and expenditure management were extremely weak and hence they began to seek technical advice from the EFSF. "*Missions that visited Athens in early 2010 provided initial roadmaps for fiscal structural reforms."*[26]

Greece finally assented and hence agreed to a fiscal consolidation plan with the European Commission in order to restore investors trust as the capital was continuously flowing out of the Greece's economy. "*Greece's 2010 Stability Program submitted to the EC in January 2010 aimed to cut the deficit from 12½ percent of GDP to 8¾ percent of GDP in 2010 and by a further 3 percentage points in 2011 and in 2012 (the "4- 3-3" plan)."*[27]Greece commenced the process of financial consolidation and in pursuance of that Greek authorities announced "*freezing of public sector wages, partial cancellation of civil servant bonuses, and increases in indirect taxes."*

However, investors and other markets around the world still doubted whether these steps would be sufficient as the financing conditions became progressively more difficult as the crisis had hit the investors and the financial market really hard. "*Greece was able to raise €5 billion on two occasions in March 2010 at spreads of about 300 bps, but by the second issue, the foreign bid had dropped off appreciably. Spreads in the secondary market rose further in April, while large amortizations were coming due in May."*[28]

As a result of this setback, "*a request for a Fund program was made*"[29] as it was now realised that mere fiscal consolidation measures won't bring Greece out of the crisis. After this realisation, "*the euro zone decided in April 2010*" that the Fund should be made a formal part of Greece's rescue from its debt crisis. Then followed the negotiations with the newly-established Troika (the Fund, the EC and the European Central Bank (ECB)), to reach an agreement on a program to assist Greece. Terms and conditions were agreed to and hence there was an agreement reached in early

[25] Mackenzie, James, January 14, 2010, "Eurogroup's Juncker says no need for Greece IMF aid," Reuters, http://www.reuters.com/article/2010/01/14/eu-juncker-greeceidUSPAB00809520100114
[26] Supra. 19.
[27] Supra. 19.
[28] Supra 19.
[29] Supra 19.

May. *"Total financing was €110 billion, of which the Fund committed €30 billion under an SBA (approved May 9). The remainder of the financing took the form of bilateral loans from euro area countries to be pooled by the EC under the Greek Loan Facility."*[30]

"*The process of building a firewall began. Contagion from Greece was a major concern for euro area members given the considerable exposure of their banks to the sovereign debt of the euro area periphery.*"[31] To prevent the crisis from disgorging a financial safety net was created by European Union for its member countries.

"*In early May 2010, agreement was reached to set up the European Financial Stability Facility (EFSF) with €500 billion in financing."*[32] European Union and its Fund officials confirmed that these resources under the EFSF could be supplemented by an additional €250 billion in lending from the Fund provided on a country by country basis.[33]

ECB gave additional assistance seeing the need to set up Securities Markets Program (SMP) which was established in May 2010 for purchasing public debt securities in secondary markets which was stagnant in the absence of any investors. The ECB had to further relax its eligibility requirements as Greek government debt instruments became be investment grade and the instruments were not in a position to be put as collateral for European Central Bank Financing as per the previous eligibility criteria. If the eligibility standards would not have been relaxed Greece couldn't have borrowed anything.

As of now, there have been 3 EAPs for Greece for restoring the economy which will be discussed in the IVth Chapter at length. To what length they have been successful and whether they are proceeding in the right direction would be soon answered.

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[30] Supra 19.

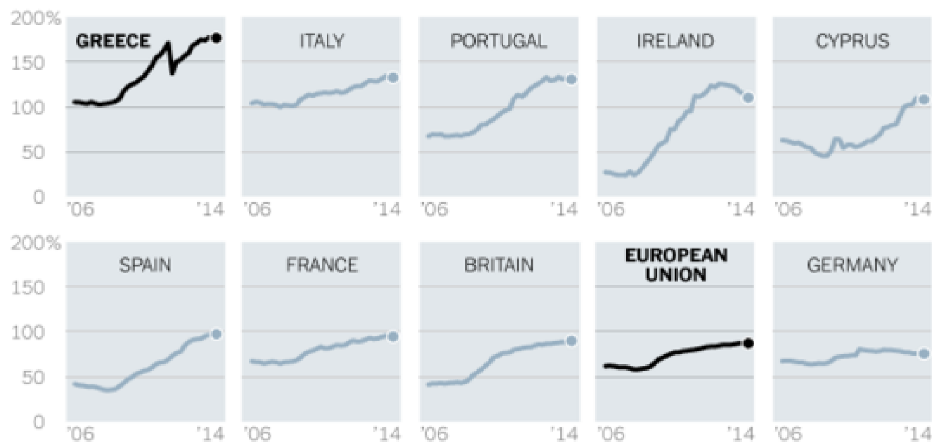
[31] The ECB argued that the financial integration associated with monetary union - a benefit during normal times – served to intensify systemic spillover effects during periods of stress. See European Central Bank, July 2011, "The European Stability Mechanism," Monthly Bulletin 07/2011, available at http://www.ecb.int/pub/pdf/mobu/mb201107en.pdf

[32] The EFSF was incorporated as a company in Luxembourg on June 7, 2010 with a lending capacity of €440 billion that would be combined with loans from the European Financial Stabilization Mechanism (EFSM) of €60 billion. The EFSF was created as a temporary rescue mechanism; in December 2010, a decision to create a permanent crisis resolution mechanism, the European Stabilization Mechanism (ESM), was announced.

[33] Supra. 19.

2. Comparison of other crises in Europe with Greece Debt Crisis

Several other countries in Europe are facing the same problems as Greece. The only difference remains in the degree of debt and economic infirmity faced by each country. Lets now see in brief the causes of crisis as seen in other countries.



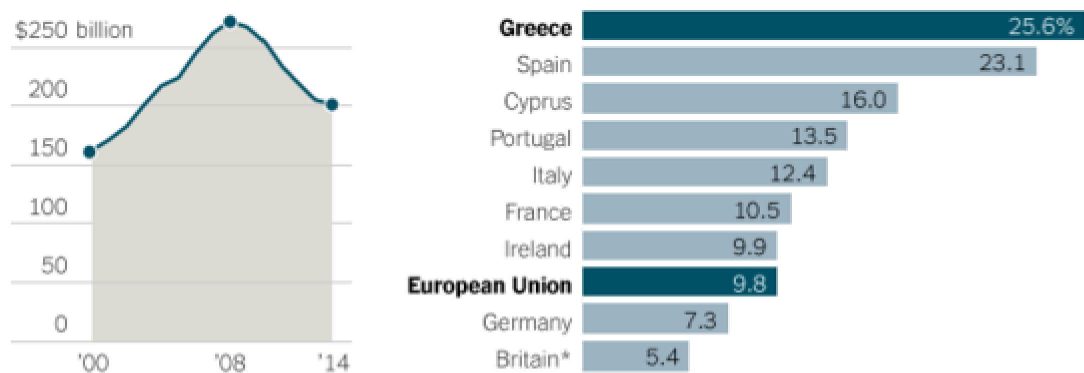
Talking about Finland, the government there is not corrupt or irresponsible which are the attributes of the governments in the South Europe. Finland can be said to have the most ideal government with sound finances and honest government in Europe so why is it suffering from the crisis if it is claimed that the crisis in Greece was caused due to corrupt and irresponsible government?

"It's also in the eighth year of a slump that has cut real gross domestic product per capita by 10 percent and shows no sign of ending. In fact, if it weren't for the nightmare in southern Europe, the troubles facing the Finnish economy might well be seen as an epic disaster."[34]

There are other countries as well with much varying attributes having none that were blamed for causing the crisis. Denmark though not a part of Europe, Netherlands are doing much worse than France which doing comparatively good..

[34] See http://www.nytimes.com/2015/07/03/opinion/paul-krugman-europes-many-disasters.html?smid=fb-share&_r=0

Now let us consider Southern Europe outside Greece. "*European officials have been hyping the recovery in Spain, which did everything it was supposed to do and whose economy has finally started to grow again and even to create jobs. But success, European-style, means an unemployment rate that is still almost 23 percent and real income per capita that is still down 7 percent from its pre-crisis level. Portugal has also obediently implemented harsh austerity and is 6 percent poorer than it used to be.*"[35]



It has become clear that Europe has been engulfed in economic disasters but the question still remains why are there so many of them? What is shocking even more is that the stories of origin in each country's crisis differ to great extent which has made difficult to determine the domestic causes of the crisis with certainty. Everybody knows that the Greek government borrowed too much but the Spanish government didn't do that then why is it in crisis situation? Spain is facing crisis because of private lending and a housing bubble. On the other hand, Finland's crisis doesn't involve debt at all. Crisis in Finland happened because of the weak demand for forest products in international market. Forest product is a major national export and decline in demand has affected Finish Economy. Also, since the failure of Nokia, Finnish Manufacturing segment has further declined creating unemployment and recession.

[35] Id. 35

Now answering the question requires us to see what all of these economies had in common that they all are under crisis situation. The thing that is common is that they are all part of Economic and Monetary Union in the Euro-zone. When these countries adopted Euro as there currency they lost the power to devalue their currency. "*Finland had a very severe economic crisis at the end of the 1980s much worse, at the beginning, than what it's going through now. But it was able to engineer a fairly quick recovery in large part by sharply devaluing its currency, making its exports more competitive. This time, unfortunately, it had no currency to devalue. And the same goes for Europe's other trouble spots.*"[36]

So the question remains, whether the creation of economic and monetary union was not economically feasible? Well in the light of aforesaid arguments and the arguments that would be made in the upcoming chapters it would become even more clearer that yes it was indeed a mistake.

[36] Id. 35

III. EUROPEAN ECONOMIC AND MONETARY UNION: ANALYSIS

1. How the Euro was created?

1.1. The European Monetary system

In 1971, with the collapse of Bretton Wood under the auspices of President Richard Nixxon of the United States the fixed link between the dollar and the official price of gold was broken. This system which had ensured global monetary stability after the Second World War came to an end which in turn called for new international economic order. This also put an end to the system of fixed exchange rates. "*The governors of the EEC countries' central banks decided to limit exchange rate fluctuations between their currencies to no more than 2.25 %, thus, creating the 'European monetary system'.*"[37]

1.2. From European Monetary System to Economic and Monetary Union

"*At the European Council in Madrid in June 1989, EU leaders adopted a three-stage plan for economic and monetary union (EMU). This plan became part of the Maastricht Treaty on European Union adopted by the European Council in December 1991.*"[38]

2. Economic and Monetary Union

1.1.The Three Stages

"*The first stage, which began on 1 July 1990, involved:*

- *completely free movement of capital within the EU (abolition of exchange controls);*
- *increasing the Structural Funds so as to step up efforts to remove inequalities between European regions;*
- *economic convergence, through the multilateral surveillance of Member States' economic policies.*
- *The second stage began on 1 January 1994. It involved:*

[37] See Pascal Fontaine, Europe in 12 lessons, pg.24, available at http://eeas.europa.eu/delegations/india/documents/publications/europe_12_lessons_en.pdf

[38] Id. 37.

- *setting up the European Monetary Institute (EMI) in Frankfurt; the EMI was made up of the governors of the central banks of the EU countries;*
- *making (or keeping) national central banks independent of government control;*
- *introducing rules to curb national budget deficits.*

The third stage was the birth process of the euro. From 1 January 1999 to 1 January 2002, the euro was phased in as the common currency of EU countries that participated (Belgium, Germany, Ireland, Spain, France, Greece, Italy, Luxembourg, the Netherlands, Austria, Portugal and Finland). The European Central Bank (ECB) took over from the EMI and became responsible for monetary policy, which was now defined and implemented in the new currency.

Three countries (Denmark, Sweden and the United Kingdom) decided, for political and technical reasons, not to adopt the euro when it was launched. Slovenia joined the euro area in 2007, followed by Cyprus and Malta in 2008, Slovakia in 2009, Estonia in 2011 and Latvia in 2014. The euro area thus embraces 18 EU countries, and each of the new Member States will join once it has met the necessary conditions."[39]

2.2.Convergence Criteria

"*In order to join the euro area, each EU country must meet the following five convergence criteria.*

- *Price stability: the rate of inflation may not exceed by more than 1.5 % the average rates of inflation of the three Member States with the lowest inflation.*
- *Interest rates: long-term interest rates may not vary by more than 2 % in relation to the average interest rates of the three Member States with the lowest interest rates.*
- *Deficits: national budget deficits must be below 3 % of GDP.*
- *Public debt: this may not exceed 60 % of GDP.*
- *Exchange rate stability: exchange rates must have remained within the authorised margin of fluctuation for the previous 2 years*."[40]

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[39] Ibid 37.
[40] Ibid 37 at pg. 25

2.3.The Stability and Growth Pact

"*June 1997, the Amsterdam European Council adopted a Stability and Growth Pact. This was a permanent commitment to budgetary stability, and made it possible for penalties to be imposed on any country in the euro area whose budget deficit exceeded 3 % of GDP. The pact was reinforced in 2011. The same idea was further strengthened in 2012 when the governments of 25 EU countries signed an international agreement entitled the 'Treaty on Stability, Coordination and Governance in the Economic and Monetary Union'.*

It is also known as the 'Fiscal Compact' and obliged the participating countries to enshrine rules on a balanced budget into national law."[41]

2.4.Euro-Group

"*The Eurogroup consists of the finance ministers from the euro area countries. They meet to coordinate their economic policies and to monitor their countries' budgetary and financial policies. The Eurogroup also represents the euro's interests in international forums.*

In January 2013, the Dutch finance minister, Jeroen Dijsselbloem, was elected President of the Eurogroup for a period of two and a half years."[42]

2.5.European Stability Mechanism

"*The 2008 financial crisis considerably increased public debt in most EU countries. Nevertheless, the euro shielded the most vulnerable economies from the risk of devaluation as they endured the crisis and faced attacks by speculators.*

At the start of the crisis, many banks ran into trouble leading them to be bailed out by national governments, thereby increasing public debt. Attention subsequently turned to government debt, as some heavily indebted countries with worsening budget deficits were particularly targeted during the winter of 2009–10. It was for this reason that EU leaders set up the 'European Stability Mechanism'. This 'firewall' has a lending capacity of €500 billion in funds guaranteed by the euro countries, and is used to safeguard financial stability in the euro area. During the years 2010–13, five

[41] Id. 37 at pg. 25.
[42] Id. 37 at pg. 25.

countries have made agreements with the various EU bodies and the IMF for financial assistance (Ireland, Greece, Spain, Cyprus and Portugal). The agreements were adapted to the situation in each country, but typically included reforms to improve the efficiency of the public sector in the country concerned. By the end of 2013 Ireland was the first country to successfully complete the agreed economic adjustment programme and to begin again to borrow money directly on the capital markets."[43]

3. Economic and Monetary Union – Criticism and Comparison with U.S.A

Any economic arrangement or common currency arrangement for that matter must be put in place after considering the circumstances in a particular case. One setup may be good in one set of circumstances and may be bad in other set of circumstances. *"Whether it is good or bad depends primarily on the adjustment mechanisms that are available to absorb the economic shocks and dislocations that impinge on the various entities that are considering a common currency. Flexible exchange rates are a powerful adjustment mechanism for shocks that affect the entities differently. It is worth dispensing with this mechanism to gain the advantage of lower transaction costs and external discipline only if there are adequate alternative adjustment mechanisms."*[44]

In United States common currency has played wonders and it can be said that U.S.A is recovering faster from World Financial Crisis, 2008 than Europe because of this reason only. U.S has fifty states, with its resident speaking the same language and almost share common culture. They can and do move freely from one part of the country to another; goods and capital move freely from state to state; wages and prices are moderately flexible; and the national government raises in taxes and spends roughly twice as much as state and local governments. Fiscal policies differ from state to state, but the differences are minor compared to the common national policy.

"*Unexpected shocks may well affect one part of the United States more than others -- as, for example, the Middle East embargo on oil did in the 1970s, creating an increased demand for labor and boom conditions in some states, such as Texas, and*

[43] Id. 37 at pg. 26.
[44] Milton Friedman, The Euro: Monetary Unity To Political Disunity?, available at http://www.project-syndicate.org/commentary/the-euro--monetary-unity-to-political-disunity#kJRmVQdDl7tyxsUR.01

unemployment and depressed conditions in others, such as the oil-importing states of the industrial Midwest. The different short-run effects were soon mediated by movements of people and goods, by offsetting financial flows from the national to the state and local governments, and by adjustments in prices and wages."[45]

By contrast, Europe's common market can be said to be unfavorable to a common currency. It is composed of separate nations, whose residents speak different languages, have different customs, and have far greater loyalty and attachment to their own country than to the common market or to the idea of "Europe." "*Despite being a free trade area, goods move less freely than in the United States, and so does capital."*[46]

The European Commission based in Brussels, indeed, spends a small fraction of the total spent by governments in the member countries. They, not the European Union's bureaucracies, are the important political entities. Moreover, regulation of industrial and employment practices is more extensive than in the United States, and differs far more from country to country than from American state to American state. As a result, wages and prices in Europe are more rigid, and labor less mobile. In those circumstances, flexible exchange rates provide an extremely useful adjustment mechanism.

If one country is affected by negative shocks that call for, say, lower wages relative to other countries, that can be achieved by a change in one price, the exchange rate, rather than by requiring changes in thousands on thousands of separate wage rates, or the emigration of labor. The hardships imposed on France by its "franc fort" policy illustrate the cost of a politically inspired determination not to use the exchange rate to adjust to the impact of German unification. Britain's economic growth after it abandoned the European Exchange Rate Mechanism a few years ago to refloat the pound illustrates the effectiveness of the exchange rate as an adjustment mechanism.

Proponents of the "Euro" often cite the gold standard era from 1879 to 1914 as demonstrating the benefits of a common currency. But the gold standard also had its costs. The period was characterized by declining prices from 1879 to 1896, rising prices thereafter, and sharp fluctuations within each period, especially severe in the

[45] Id. 45.
[46] Id. 45.

1890s. The standard was viable only because governments were small (spending in the neighborhood of 10 percent of the national income rather than 50 or more percent as now), prices and wages were highly flexible, and the public was willing to tolerate, or had no way to moderate, wide swings in output and employment. Take away the rose-colored glasses and it was hardly a period or a system to emulate.

There is so much diversity in European Union that only countries like, Germany, Aurstria and the Benelux countries are the only one's which satisfy conditions for common currency to some extent and they currently have the equivalent of a common currency i.e. Deutschmark. Germany, Austria and the Benelux have linked their currencies to the Deutschmark, inter alia, for facilitation of trade and commerce, etc. Even after linking their currencies, these counties have not given away any of their Central Banks hence retaining the power to devalue their currency. As they still retain their central banks they can break the link with Deutschmark at will. Also, any country that wishes to link to the Deutschmark can do so easily by replacing its central bank with a currency board. Some countries such as Estonia who are outside the EU have done this in order to facilitate trade activities.

It is most widely and vehemently argued now that the European Debt Crisis has taken place that the creation of Euro was because of political reasons and not for economic ones. The purpose behind creating Euro was to link Germany and France so as to make a future European war impossible. Milton Freidman argued "*that creation of euro is bound to have an opposite effect. It would exacerbate political tensions by converting divergent shocks that could have been readily accommodated by exchange rate changes into divisive political issues. Political unity can pave the way for monetary unity. Monetary unity imposed under unfavorable conditions will prove a barrier to the achievement of political unity.*"[47] It now appears that his prediction came true and Euro-zone is now engulfed in crises as whole and extrication from the predicament has become stressful job for authorities in Euro-zone.

[47] Id. 45.

IV. ECONOMIC ADJUSTMENT PROGRAMMES FOR GREECE – OVERVIEW

Tri-Partite Committee aka TROIKA led by the European Commission (Eurogroup) with the European Central Bank and the International Monetary Fund, have organised loans to the governments of Greece, Ireland, Portugal, and Cyprus.

Greece has been receiving financial support from euro area Member States and the International Monetary Fund (IMF) to cope with its financial difficulties and economic challenges since May 2010 and there have been 3 EAP since then.

1. First EAP

"*On 2 May 2010, Under the First Economic Adjustment Programme the Eurogroup agreed to provide bilateral loans pooled by the European Commission (so-called "Greek Loan Facility" – GLF) for a total amount of €80 billion to be disbursed over the period May 2010 through June 2013. (This amount was eventually reduced by €2.7 billion, because Slovakia decided not to participate in the Greek Loan Facility Agreement while Ireland and Portugal stepped down from the facility as they requested financial assistance themselves). The financial assistance agreed by euro-area Member States was part of a joint package, with the IMF committing additional €30 billion under a stand-by arrangement (SBA).*"[48]

2. Second EAP

"On 14 March 2012, euro area finance ministers approved financing of the Second Economic Adjustment Programme for Greece. The euro area Member States and the IMF committed the undisbursed amounts of the first programme (Greek Loan Facility) plus an additional €130 billion for the years 2012-14. Whereas the financing of the first programme was based on bilateral loans, it was agreed that - on the side of euro area Member States - the second programme would be financed by the European Financial Stability Facility (EFSF), which had been fully operational since August 2010.

In total, the second programme foresaw financial assistance of €164.5 billion until the end of 2014 (the period was later extended to end of June 2015). Of this amount,

[48] See http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/index_en.htm

the euro area commitment amounts to €144.7 billion to be provided via the EFSF, while the IMF contributes €19.8 billion. (This is part of a four-year €28 billion arrangement under the Extended Fund Facility for Greece that the IMF approved in March 2012).

Additionally, when launching the second programme it was agreed that there should be private sector involvement (PSI) to improve the sustainability of Greece's debt. The high participation to Greece's debt exchange offer in spring 2012 made a significant contribution to this end. Out of a total of €205.6 billion in bonds eligible for the exchange offer, approximately €197 billion, or 95.7% have been exchanged.

The release of the disbursements of the financial assistance is based on observance of quantitative performance criteria and a positive evaluation of progress made with respect to policy criteria, detailed in Council Decision 2011/734/EU of 12 July 2011 (as amended in November 2011, 13 March and 4 December 2012) and the Memorandum of Understanding setting the economic policy conditionality."[49]

2.1.Implementation

"In spring 2012, continued political instability resulted in elections that created a very tense environment, where uncertainty about the possible outcome of a second election led to an acceleration of capital outflows and doubts about the capacity of Greece to implement the adjustment programme. Ultimately, the 17 June election resulted in the formation of a coalition government comprised of three political parties with the mandate to secure Greece's future in the euro area, and hence to implement the economic adjustment programme resolutely. The new government and the administration quickly took up the challenge of identifying and taking the measures needed for catching up on the implementation of the programme. The difficulty to fulfil the conditionality in the immediate aftermath of the elections significantly delayed the disbursement of the next tranches of the loans from international lenders and, while justified, this has taken a heavy toll from the economy.

[49] Ibid

Against this background, and taking into account the action taken by the authorities, on 26-27 November 2012 the euro area Finance ministers and the IMF agreed to extend the fiscal adjustment path by two years, involving a reduction of the primary surplus target for 2014 from 4.5% of GDP to 1.5% of GDP and an even annual adjustment of 1.5% of GDP until a primary surplus of 4.5% of GDP is achieved in 2016. They also agreed on a package of measures aimed at reducing Greece's debt to 124% of GDP by 2020. The euro area Member States agreed to the following initiatives:

- *A lowering by 100 bps of the interest rate charged to Greece on the loans provided in the context of the Greek Loan Facility.*
- *A lowering by 10 bps of the guarantee fee costs paid by Greece on the EFSF loans.*
- *An extension of the maturities of the bilateral and EFSF loans by 15 years and a deferral of interest payments of Greece on EFSF loans by 10 years.*
- *A commitment by Member States to pass on to Greece's segregated account, an amount equivalent to the income on the Securities Markets Programme (SMP) portfolio accruing to their national central bank as from budget year 2013.*

In parallel, Greece informed that it was considering certain debt reduction measures (debt buy-back operation), through public debt tender purchases of the various categories of sovereign obligations.

On 12 December 2012, following the finalisation of the relevant national procedures and after having reviewed the outcome of the debt buy back operation conducted by Greece, the Eurogroup approved the second instalment under the Second Economic Adjustment Programme for Greece. On that basis, Member States authorised the EFSF to release the next instalment for a total amount of €49.1 billion. The disbursement would be made in several tranches. €34.3 billion was paid out to Greece in December 2012. The remaining amount would be disbursed in the first quarter of 2013. First, a further amount of €7.2 billion would be made available to cover bank recapitalization and resolution costs. Second, funds to cover budgetary financing would be disbursed in three sub-tranches, linked to the implementation of specific Memorandum of Understanding milestones agreed by the Troika. The next tranches of €2.0 billion, €2.8 billion and €2.8 billion have been paid out on 31

January 2013, 28 February 2013 and 3 May 2013, following the endorsement by euro area Member States of the Commission's assessment of achievement of the January, February and March milestones respectively.

On 15 April 2013, staff teams from the European Commission, the ECB and the IMF concluded their mission to Greece in the context of the second review of the second adjustment programme. The mission reached staff-level agreement with the authorities on the economic and financial policies needed to ensure the program remains on track to achieve its objectives. On 13 May 2013, the Eurogroup concluded that all necessary elements were in place for Member States to finalise the required national procedures for the approval of the next instalment, which would be disbursed in two sub-tranches. Following the completion of national procedures and the full implementation of the relevant prior actions, the first sub-tranche of € 4.2bn was approved by the EWG and EFSF Board of Directors, and was disbursed on 17 May 2013. The second sub-tranche amounting to € 3.3bn was disbursed on 25 June 2013, following the approval by the EWG and Board of Directors on 13 June 2013. The approval was based on the relevant recommendation made by the European Commission staff, in liaison with ECB and IMF staff, after their assessment of the implementation of the three specific MoU milestones.

The third review of the Second Adjustment Programme was concluded on 8 July 2013, with the staff teams reaching a staff-level agreement, ad referendum, with the Greek authorities. On the same day, the Eurogroup noted with satisfaction that the programme was broadly on track and mandated the EWG and EFSF Board of Directors to approve the next EFSF instalment of €3.0 bn which would take place in two sub-tranches. At the same time, the Eurogroup mandated the EWG and the EFSF to also approve the disbursement of an amount of €2.0bn, equivalent to the income on the SMP portfolio accruing to euro area national central banks, to Greece's segregated account, to take place in a similar way in two sub-tranches. The first sub-tranche of €2.5bn was approved on 26 July 2013 by the EWG and the EFSF Board following the full implementation of the prior actions; the amount was disbursed on 31 July 2013, after Member States finalised their relevant national procedures. The sub-tranche of €1.5bn income on the SMP portfolio was paid at the same occasion. The second sub-tranche of €0.5bn was approved on 17 December 2013 by the EWG and the EFSF Board following the full implementation of all related milestones; on

the same day this amount was disbursed. Similarly to the previous sub-tranche, the sub-tranche of €0.5bn income on the SMP portfolio was paid at the same occasion.

In the context of the fourth review under the second adjustment programme, on 19 March 2014 the teams from the European Commission, the ECB and the IMF reached a staff-level agreement with the authorities on the economic and financial policies needed to ensure the programme remains on track to achieve its objectives.

Based on the assessment by the Commission in liaison with the ECB, the Eurogroup of 1 April 2014 concluded that the necessary elements were in place for the approval of an EFSF instalment of €8.3 billion, to be disbursed in three sub-tranches, conditional to the fulfilment of prior actions and milestones. A first tranche of €6.3 billion was disbursed to Greece on 28 April 2014, following full implementation of the related prior actions and finalisation of Member States' relevant national procedures. Following the implementation of the first set of milestones, due by end-May 2014, the EWG and the EFSF Board of Directors approved respectively on 4 and 7 July the disbursement of the second tranche of €1 billion. The disbursement to Greece took place on 9 July 2014. Similarly, the disbursement of the third and final sub-tranche of €1 billion, was approved by the EWG and the EFSF Board of Directors on 13 August 2014 after the implementation of the second set of milestones due by the end of June. The disbursement took place on 14 August.

A full mission of EC/ECB/IMF teams arrived in Athens on 29 September 2014, starting policy discussions in the context of the fifth review of the Second Adjustment Programme for Greece.

Discussions were interrupted in early December 2014, when the process to elect a new Greek president was launched, and, following the procedure provided by the Greek Constitution after the third unsuccessful vote on 29 December, snap parliamentary elections were called for 25 January 2015. This raised significantly political uncertainty, also in view of the scheduled expiry of the Programme by 28 February. The elections saw the success of SYRIZA, which had been until then in the opposition.

After intense negotiations between the newly-elected government and euro area Member states, assisted by the European Commission, the ECB, and the IMF, the

Greek government requested on 18 February an extension of the Master Financial Assistance Facility Agreement for Greece. The Eurogroup agreed to extend the programme by four months, underpinned by the commitment of the Greek government to a comprehensive list of reforms and the completion of the national parliamentary procedures. The extension was finalised by a decision of the EFSF Board of Directors on 27 February.

On 27 February 2015, €10.9 billion that were earmarked but not needed for bank recapitalisation were returned by the Hellenic Financial Stability Fund (HFSF) to the EFSF. Accordingly, the outstanding loan amount of the EFSF programme stands at €130.9 billion.

Since then, intensive negotiations took place between the institutions and the Greek authorities to achieve a successful conclusion of the fifth review. However, agreement could not be found. Therefore the review could not be concluded and the second programme expired on 30 June 2015."[50]

3. Third EAP

"*On 19 August 2015, the European Commission signed a Memorandum of Understanding (MoU) with Greece following approval by the ESM Board of Governors for further stability support accompanied by a third economic adjustment programme. This follows the political agreement reached on 14 August 2015 and paves the way for mobilising up to €86 billion in financial assistance to Greece over three years (2015-2018). Moreover, the Greek authorities signed a Financial Assistance Facility Agreement with the European Stability Mechanism (ESM) to specify the financial terms of the loan. The disbursement of funds is linked to progress in delivery of policy conditions, in accordance with the MoU. These policy conditions are intended to enable the Greek economy to return to a sustainable growth path based on sound public finances, enhanced competitiveness, high employment and financial stability.*

A first disbursement of funds under the programme in the amount of €13 bn was made on 20 August 2015; while an additional €10 bn was earmarked immediately for bank recapitalisation and resolution. These funds were intended to allow the Greek state to

[50] Ibid

cover financing needs, make overdue payments, and address financial sector needs in order to mitigate hindrances to economic activity, as well as repay a short-term bridge loan of EUR 7.16bn that was disbursed under the European Financial Stabilisation Mechanism on 20 July 2015.

3.1.Timeline for Third Economic Adjustment Programme

On 8 July 2015, the Hellenic Republic ('Greece') made an official request for stability support – in the form of a loan facility – to the ESM to be used for meeting debt obligations and to ensure stability of its financial system. A separate request for financial assistance was sent to the International Monetary Fund (IMF) on 23 July 2015.

On 12-13 July, a Euro Area Summit took stock of the situation and issued a detailed statement[51] *on the way forward.*

On 15 July and 22 July, the Greek authorities passed several sets of legislation, as foreseen in the statement of the Euro Area Summit.

On 17 July, the Council approved[52] *a Commission proposal for a Council implementing Decision*[53] *on granting short term financial assistance to Greece and an amendment to the Council Regulation*[54] *establishing a European financial stabilisation mechanism. Also on 17 July, The Eurogroup asked the Institutions to start the negotiations on a MoU detailing the conditionality for a financial assistance facility covering the period 2015-18, in accordance with Article 13 of the ESM Treaty. The work was carried out by the European Commission, in liaison with the European Central Bank, and in cooperation with the International Monetary Fund and the European Stability Mechanism.*

[51] Se further at http://www.consilium.europa.eu/en/press/press-releases/2015/07/12-euro-summit-statement-greece/
[52] See further at http://www.consilium.europa.eu/en/press/press-releases/2015/07/17-efsm-bridge-loan-greece/
[53] See further at http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/pdf/2015-07-14_commission_proposal_357_en.pdf
[54] See further at http://ec.europa.eu/economy_finance/eu_borrower/documents/2015-07-22_proposal_council_regulation_efsm_en.pdf

On 11 August, the Greek authorities and the Institutions reached a staff level agreement on the MoU, and euro area finance ministers endorsed it politically on 14 August.[55]

The Greek authorities passed another set of legislation on 14 August (so-called "prior actions").

Following approval by national parliaments (where applicable), the ESM board of governors approved the MoU on 19 August. It was then signed by the Commission, on behalf of the ESM, as well as by the Greek government and central bank."[56]

[55] See further at http://www.consilium.europa.eu/en/press/press-releases/2015/08/14-eurogroup-statement/

[56] Id.

V. ANALYSIS OF ECONOMIC ADJUSTMENT PROGRAMME/MOU, 2015[57]

1. Outlook and Strategy

The MoU was entered in accordance with Article 13(3) of the ESM Treaty and it details the conditionality attached to the financial assistance facility covering the period 2015-18.[58] The conditionality under the agreement is to be updated on a quarterly basis taking into account the progress in reforms achieved over the previous quarter. Hence, the Greek government will be constantly engaged in the troika process, starting a new 'review' just as the previous one ends.

The Government has committed itself to consult and agree with TROIKA "*on all actions relevant for the achievement of the objectives of the Memorandum of Understanding before these are finalized and legally adopted*."

This comes as a surprise because Greece government has waived of its sovereignty by agreeing with Troika and everyone knows that Greece isn't willingly committing to demands of Troika under the MoU.

It is also to be noted that "*the troika considers all legislation to be subject to its approval, including laws on higher education etc.*" Clearly, Greece's sovereignty has been diluted by this MoU.

As regards to recovery strategy under the MoU "*the emphasis has been made on social justice and fairness*" but would social justice and fairness prevail in such harsh times? Fiscal constraints have imposed hard choices and priority is placed to tackle tax evasions, fraud and strategic defaulters. It all sounds good but who is going to go after the oligarchs who own the bankrupt media.

The Product Market Reform as required under the MoU seeks "*to eliminate the rents accruing to vested interest groups through high prices as these undermine the disposable income of consumers and harm the competitiveness of companies*" but the position isn't clear in the case of fully protected rent seeker. They are being assisted through the imposition of conditions that will enable "*greater market concentration*".

[57] This Section follows the content of the Economic Adjustment Programme, 2015 i.e. 3 year ESM Programme and simultaneously analyses and criticises the terms of the programme.
[58] It is a popular notion that MoU was prepared to reflect the Greek government's humiliating capitulation of 12th July, under threat of Grexit put to PM Tsipras by the EuroSummit.

For e.g. "*the legislation that targets family owned pharmacies, granting licences to non-pharmacists to bring multinationals like CVS and Boots into the market*."

"Pension reforms include removal of early-retirement. Also, exemptions have been removed in order to make Greece's people come back to work. Also, "*to prevent the entrenching of long-term unemployment, the authorities, working closely with European partners, are required to initiate measures to boost employment by 50.000 people targeting the long-term unemployed."* The problem here is that no method has been provided as to how this target is to be achieved? Also no additional resources have been allocated to achieve this objective.

MoU observes that "*a fairer society will require that Greece improves the design of its welfare system, so that there is a genuine social safety net which targets scarce resources at those who need it most*" but not a single euro has been allocated to improve the design of its welfare system. Also, the method as to how to improve such welfare system is not provided.

MoU postulates that "*the authorities plan to benefit from available technical assistance from international organisations on measures to provide access to health care for all (including the uninsured) to roll out a basic social safety net in the form of a Guaranteed Minimum Income (GMI)."* It baffles my understanding that instead of funding, nurses doctors and equipments advice is to be received from already well paid foreign technocrats. Also, there has been no euro allotted towards GMI program so how can one expect that GMI program will actually be implemented.GMI program's funding is supposed to be funding will be diverted to benefits currently provided by the Greek state, e.g. child benefit.

It is observed under MoU that "*Success will require the sustained implementation of agreed policies over many years*". This implies that during the time MoU is in place the Greece's Parliament cannot exercise is sovereign power of law making, as any law enacted is subject to Troika's approval. Greece cannot come of this MoU until it is accepted that Greece has become solvent which appears to be a dream not coming true in the near future. Also, Greece is required "*to build upon the agreed recovery strategy and develop a genuine growth strategy which is Greek-owned and Greek-led*". The government does not believe in MoU and has only agreed to it because it was rendered helpless, hence, the government is sceptical whether this MoU would

provide growth model as the similar past MoU have failed which also contained similar austerity measures.[59]

Reform Agenda policies are based on four pillars which are as follows:

1.1. Restoring fiscal sustainability (section 2)

Greece is expected to *"target a medium-term primary surplus of 3.5% of GDP to be achieved through a combination of upfront parametric fiscal reforms, including to its VAT and pension system, supported by an ambitious programme to strengthen tax compliance and public financial management, and fight tax evasion, while ensuring adequate protection of vulnerable groups*"[60] as per the MoU.

Comment: This is quite appalling because the measures required to be imposed will impose even more austerity than before. The condition that Greece is in today is believed by many economists to be a result of austerity measures that were imposed under the earlier EAPs. These austerity measures which would be imposed would guarantee that no investor will invest because this MoU makes an assumption that recession will end in 2017 which certainly is not going to happen given the circumstances. With the austerity measures put in place by the MoU attaining 3.5% primary surplus is closed to impossible as there is no real production going on in Greece in the absence of investors and resources.

1.2.Safeguarding financial stability (section 3)

The MoU requires Greece "*to immediately take steps to tackle Non-Performing Loans (NPLs), recapitalise process of banks, which will be accompanied by concomitant measures to strengthen the governance of the Hellenic Financial Stability Fund (HFSF) and of banks*."

Comment: This is not something new under MoU as banks were already recapitalised in 2013. The recapitalisation failed to provide credit as no bad bank was incorporated to deal with the heaping amounts of Non-Performing Loans. As this MoU has made no changes in its approach as compared to previous ones, failure is inevitable. Another large sum of credit for the banks has been allotted but there seems to be no

[59] No doubt about the fact that Greek Government is anti-austerity which is being mandated under the MoU to impose austerity measures.
[60] Section 2 of the MoU

bank plan for dealing with the NPLs and without addressing the issue of NPLs no revival from the crisis is truly possible.

1.3.Growth, competitiveness and investment (section 4)

MoU requires *"Greece design and implement a wide range of reforms in labour markets and product markets (including energy) that not only ensure full compliance with EU requirements, but which also aim at achieving European best practices. There will be an ambitious privatisation programme, and policies which support investment."*

Comment: It is disputed amongst economist that privatisations support investment and growth.[61] If privatisation does take place how one can expect the Greece Government to pay back its debt as privatisation would shift money in the hands of private entities.

1.3.A modern State and public administration (section 5)

This is expected to be a key priority of the Economic adjustment programme. Particular attention under the MoU is required "*to be paid to increasing the efficiency of the public sector in the delivery of essential public goods and services. Measures will be taken to enhance the efficiency of the judicial system and to upgrade the fight against corruption. Reforms will strengthen the institutional and operational independence of key institutions such as revenue administration and the statistics institute (ELSTAT)."*

Comment: Tax authorities and ELSAT should have been made independent for namesake. Clearly tax administrators and ELSTAT are being controlled Troika, Eurostat and the local authorities (who are mostly responsible behind corruption and rent seeking), under the MoU. The MoU clearly indicates the Parliament of Greece would have a cosmetic role only.

[61] See further Chapter 3, Economic Outlook Spring, 2015, IMF

2. Delivering sustainable public finances that support growth and jobs

*2.1.*Fiscal Policy

The government in pursuance of the MoU has "*adopted a reform of VAT and a first phase of the reform of the pension systems; raised the corporate tax rate; extended the implementation of the luxury tax; taken measures to increase the advance corporate income tax in 2015 and require 100 percent advance payments gradually for partnerships etc. and individual business income tax by 2017; and raised the solidarity surcharge*."[62]

Comment: It quite shocking that in such a depressed economy these tax reforms or tax increases are taking place and are being portrayed as a good thing by the Troika. It is becoming clear that troika are not even neoliberals. Neoliberals would argue "*for a reduction in corporate taxes and VAT to stimulate economic activity and increase the tax take."* Troika is just considering raising government revenue by imposition of harsh austerities.

The government is expected to adopt legislation for following purposes in pursuance of MoU:

- Raise revenues

a) "*To gradually abolish the refund of excise tax on diesel oil for farmers in two equal steps in October 2015 and October 2016*"[63]

Comment: This is likely to do irreparable damage to the primary sector. The primary sector i.e. mainly agriculture could have made some contribution in producing actual wealth which is essential for coming out of the crisis but imposition of harsh conditions on farmers would deter the possibility of proper marketing of the Mediterranean diet, niche organics etc.

b) Increase the tonnage tax

Comment: This is likely to cause great hardship to Greece's shipping industry as the Greek shipping is likely to shift to Cyprus as a result of increased tonnage tax.

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[62] Section 2 of the MoU

[63] Id. 62.

c) The authorities are required "*to take actions to launch the 2015 ENFIA exercise in order to issue bills in October 2015 with the final instalment due in February 2016.*"

Comment: These actions will likely be mandating compulsory property tax for everyone without taking into consideration their income. Greece is a country where *"2 million of people are unemployed or inactive people who still own some small property*". Hence this would cause undue hardship to such owners.

- Target and Contain Expenditiure

a) Reestablish full INN prescription and reduce the price of all off-patent drugs;
b) Launch the comprehensive social welfare review

- Key Deliverables

".....

a) second-phase of pension reforms[64]

Comment: This means in addition to restriction in case of early retirements more pension cuts are soon to follow.

b) A reform of the income tax code[65]

c) Phasing out the preferential tax treatment of farmers in the income tax code, with rates set at 20% in the 2016 exercise and 26% in the 2017 exercise."[66]

Comment: Hence, more problems added to the list faced by farmers as now no preferential treatment would be afforded to them now.

d) "A tax on television advertisements"[67]

Comment: This could actually benefit the government exchequer if it is implemented.

e) "The announcement of an international public tender for the acquisition of television licenses and usage related fees of relevant frequencies;

f) The extension of Gross Gaming Revenues (GGR) taxation of 30% on VLT games expected to be installed at second half of 2015 and 2016"[68]

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[64] See section 2.5.1 of MoU
[65] See section 2.2.2 of MoU
[66] See Section 2.1. of MoU
[67] Id. at 66.

Comment: In a country where there is no money at all how could one expect to generate any revenue from imposition of tax on e-gambling parlour? This is a sad development which even fails to offer hope of rise in governmental revenues.

g) *"An increase of the tax rate on income for rents for annual incomes below €12,000 to 15% (from 11%) and for annual incomes above €12,000 to 35% (from 33%)"*[69]

Comment: This measure encourages house owners to offer leases on which a fraction of the actual rent is specified, the rest being paid under the table. Hence, tax evasion is inevitable. The more one impose tax, people are bound to try to find ways to evade, specially, in an economy where money is available in scarcity.

h) *"Phasing out special tax treatments of the shipping industry*
i) *extend the temporary voluntary contribution to 2018;*
j) *reduce permanently the expenditure ceiling for military spending by €100 million in 2015 and by €400 million in 2016 with a targeted set of actions, including a reduction in headcount and procurement"*[70]

Comment: Defence expenditure reductions are a scarce measure in today's world as effects of cold war has encouraged countries to maintain strong defence to be put in place. This measure has a potential to encourage other countries to decrease their defence expenditure too and also to invest in Greece's defence as the borders of Greece are European borders too.

k) *"Better target eligibility to halve heating oil subsidies expenditure in the budget 2016"* [71]

Comment: This would mean families would resort to environmentally harming ways of keeping their houses warm such as burning wood in the coming winter as the reduction in subsidies would mean price hike of oil and hence they would be deterred from using their thermostat which runs on Gasoline.

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[68] Id. at 66.
[69] Id. at 66.
[70] Id. at 66.
[71] Id. at 66.

l) *"Parametric fiscal measures will be bolstered by a wide range of administrative actions to address shortfalls in tax collection and enforcement. These measures will take some time to bear fruit but could offer significant upside fiscal yield going forward."* [72]

Comment: This paragraph implies that if growth doesn't take place even more parametric measures i.e. austerity measures would apply which have in past, again and again proved to be unhelpful. Hence this provision is only going to worsen the crisis which is anyhow worsening day by day.

2.2.Tax Policy Reforms

The Greece Government was required to commit under the MoU *"to enact reforms of both direct and indirect taxation to improve efficiency, collectability and boost labour supply. Simplifying VAT structure and broadening the tax base and eliminate the cross-border withholding tax are on the top of the agenda."*[73]

Main features of Tax reform required under MoU:

- Tax Code: *"Adopting outstanding reforms on the tax procedures codes:*

a. *introduce a new Criminal Law on Tax Evasion and Fraud;*
b. *issue circulars on fines to ensure the comprehensive and consistent application of the TPC;*
c. *ensure appropriate single violation penalties for breach of the accounting code; non-issuance or incorrect issuance of retail receipts will be treated as a single but serious procedural violation for VAT"*[74]

- Income Tax: "*Reform in Income tax regime includes:*

a) *simplify the personal income tax credit schedule;*
b) *achieve progressivity in the income tax system*
c) *identify all business income tax incentives and integrate the tax exemptions into the ITC, eliminating those deemed inefficient or inequitable;*
d) *undertake a review and reform of the KEDE, including revenue administration procedures for enforced sale of assets at public auctions;*

[72] Id. at 66.
[73] See Section 2.2 of MoU.
[74] Id. 66.

e) ensure the revenue administration's adequate access to taxpayers' premises for conducting timely audits and enforcement purposes;

f) review the framework of capital taxation and develop the tax framework for collective investment vehicles and their participants consistently with the ITC and in line with best practices in the EU; g) review the withholding tax on technical services;

g) In view of any revision of the zonal property values, adjust the property tax rates if necessary

h) review the operation of the alternative minimum tax (including correcting any backtracking);

i) close possibilities for income tax avoidance; k) tighten the definition of farmers."[75]

Comment: As a result of the recession the value of the properties have considerably dropped. The formulated tax regime under the MoU is unfair as those properties are still being taxed as percent of old value of the properties which are clearly wrong considering the current property market of Greece.

On the good end, tightening the "*definition of farmers*" would "*exclude many new farmers from a definition*". This would give the new farmers a degree of the subsidies that is necessary for them to establish themselves.

- VAT: It was required under the MoU "*to;*"

a) codify and simplify the VAT legislation, aligning it with the tax procedure code, eliminating outstanding loopholes and shortening the VAT payment period;

b) simplify the income tax regime and ensure consistency of the income base for income tax and social security contributions of small businesses below the VAT registration threshold;

c) modernise the corporate tax law in ITC covering mergers and acquisitions and corporate reserve accounts and implement ITC provisions concerning cross-border transactions and transfer pricing."

- Property Tax: It was required that government align the property assessment on the basis market prices from 2017.

[75] Id. 66.

Comment: There exists no property market in Greece due to recession and hence it becomes impossible to determine the market prices of property in absence of a market.

2.3.Revenue Administration Reforms

The Greece government under the MoU firmly *"commits to take strong action to improve collection and to not introduce new instalment or other amnesty or settlement schemes nor extend existing schemes."*[76]

Comment: This is in reference to Greece's "*100-instalments scheme*" which proved successful in an economy *"where 3.5 million taxpayers owed the state less than 3000 euros each but could not pay, the result being that they were in-formalised courtesy of frozen tax file numbers."* By providing Greece citizens opportunity to pay in instalments, their debt towards the state, which made it convenient for them to pay it back. The troika was furious, arguing that Greece was "destroying the payment culture". Troika opposed this scheme on the ground that it is destroying the payment culture and hence Greece legislated *"the 100-instalments legislation clarifying that it was a one-off and giving a 2% discount to taxpayers who had never been in arrears, as a reward that helps the payments culture"*. This proved out to be a great success as against what was believed by Troika destroying payment culture. Now, under this MoU, the troika has imposed strict conditions so that Greece authorities become bound to abide by the policies considered apt by them.

Under the MoU the authorities have agreed to adopt legislation to:

a) *"On garnishments, eliminate the 25 percent ceiling on wages and pensions and lower all thresholds of €1,500 while ensuring in all cases reasonable living conditions;"*[77]

Comment: This means that the tax office cannot be prevented from confiscating wages and pensions which are in tax arrears "(*the limit was previously 25% of wages and pensions*)".Also previously tax officers were required to leave 1500 euro in account of debtors while deducting debt amount from wages and pension whose arrears in savings has been taken. They can exercising their own discretion leave the

[76] Section 2.3. of the MoU.
[77] Id. at 76.

person with any amount that they deem fit which is required to for maintaining reasonable living conditions. Since the term "reasonable living conditions" is not defined the discretion can and is bound to be exercised arbitrarily.

b) *"amend the 2014–15 tax and SSC debt instalment schemes to exclude those who fail to pay current obligations to introduce a requirement for the tax and social security administrations to shorten the duration for those with the capacity to pay earlier, and to introduce market-based interest rates while providing targeted protection for vulnerable debtors (with debts below €5,000)"*[78]

Comment: The motive behind this provision is to amend out 100-instalments legislation so that people can be asked to pay the whole due sum if they cannot pay back their fresh tax bill. As the economic activity is all time low, therefore, the taxpayers are bound to default and hence hardship would be caused to them. Hence, this provision would take away the right of tax payers to pay back previous arrears in a gradual manner.

c) *"amend the basic instalment scheme/TPC to adjust the market-based interest rates and suspend until end-2017 third-party verification and bank guarantee requirements;*
d) *accelerate procurement of software for VAT network analysis and for further automation of the debt collection, embracing inter alia fully automatized garnishment procedures;*
e) *adopt immediately legislation to transfer, by end October 2015 all tax- and customs-related capacities and duties and all tax- and customs-related staff in SDOE and other entities to the revenue administration; all non-assessed audits reports made by SDOE since law 4321/2015 will be considered as detailed fact sheets to the tax administration."*[79]

Comment: Financial Crime Unit, SDOE arguably has and has been doing a great job of comparing money flows within the Greek banking system with tax returns using algorithm based computer program for the last 20 years. The "revenue administration"

[78] Id. at 76.
[79] Id. at 76.

within the Finance Ministry is autonomous if the Ministry and too close for comfort both with the oligarchs and the troika. Disbanding SDOE, before it completes this remarkable tax evasion fighting project (that has the potential of discovering billions of evaded taxes), would be worse than a crime – it would be a pity. And yet this is precisely what the troika is doing.

Under the MoU technical assistance has been offered for the following purposes:

a) enhance compliance
b) fighting tax evasion
c) Prioritise action on tax collectables
d) To improve collection of tax tools
e) To improve collection of Social security debt
f) To strengthen VAT Revenues
g) To reinforce the capacity of new administration
h) strengthen the independence of the revenue administration

2.4. Public Financial Management and Public Procurement

2.4.1. Public financial management

The authorities under the MoU is mandated *"to continue reforms that aim at improving the budget process and expenditure controls, clearing arrears, and strengthening budget reporting and cash management."*[80]

Legislation required to be adopted:

a) introduce a framework for independent agencies;
b) phase out ex-ante audits of the Hellenic Court of Auditors (HCA)and account officers

Comment: This implies that there exists an assumption on part of the Troika that Greece's Constitution can be overlooked as they are sidelining HCA's involvement using this provision.

c) give GDFSs exclusive financial service capacity and GAO powers to oversee public sector finances; and

[80] See Section 2.4.1 of the MoU.

d) phase out fiscal audit offices

Other Commitments

a) Operationalise Financial Council
b) Presenting a plan to complete the clearance of arrears, tax refund and pension claims, and immediately start implementation.
c) Comment: Plan wouldn't do any good as to implement the plan money is required which the Greece government doesn't have with them
d) To improve fragmented Cash Management System

2.4.2. Public Procurement

The Greek Government under the MoU commits to improve and make efficient public procurement system by ensuring accountability and compliance.

Comment: It is widely the notion in Greece and in many other countries that Procurement and its lucrative nature make it an infeasible mode for developing an economy. The evils of public procurement can easily be observed "*by driving around Athens' northern suburbs."* The Troika has turned a blind eye to this issue but the question that remains now will they address it now? Even if Troika wanted to address this issue they would have to oppose the very oligarchs whose media aids them in propagating their propaganda on television media. If troika turns against them, to fulfil these promises, it would be a decision which is so ideal so as to disregard considerations, existing in favour of Troika, in reality.

2.5. *Sustainable Social Welfare*

2.5.1. Pensions

Implementation of 2010 and 2012 Pension reforms implementation sought under the MoU.

Comment: This would mean both "*main and secondary pensions will be cut in the context of "sustainability". Note that pension funds were haircut savagely in 2012, when Greek government bonds (GGBs) were haircut, and unlike the ECB that refused to have its GGBs haircut or bankers who were haircut but also recapitalised. In*

addition, the fall in employment and the rise in undeclared labour made led to the situation where if the troika insists that the pension funds become self sufficient, the pension cuts necessary will be so large that aggregate demand in Greece will fall again so much that employment will suffer further thus hitting again the pension funds. Put simply, the troika's pension fund sustainability can only be achieved in the context of this MoU is pensions tend to zero. It must be noted that, in addition to the increase in undeclared labour and the 12 billion euros haircut suffered by pension funds under the 2012 PSI, the recession took another toll on pension funds courtesy of so much "labour market flexibility" that the median wage fell by 30%. Naturally, the pension system is now unsustainable and in dire need of overhaul. However, such overhaul must be done over a long horizon as the economy and the labour market recover and not as an accounting exercise that adjusts outlays to current contributions."[81]

The authorities on the lines MoU have increased the have increased the health Contribution of Pensioner.

Comment: It is to be noted that Greece is a country where the pensioners spend a most of the money obtained from their pension on health care. As the health contribution will rise and pensioner's pensions are continuously being cut, they are going to face a huge problem.

These policy reforms come as a bane for the pensioners so what can the Greece government do to excuse pensioner's from their suffering? Well they can't do anything as they are bound by the MoU.

2.5.2. Healthcare

MoU gives a directive to authorities *"to continue reforming the health care sector, controlling public expenditure, managing prices of pharmaceuticals, improve hospital management, increase centralized procurement of hospital supplies, manage demand for pharmaceuticals and health care through evidence based e-prescription protocols, commission private sector health care providers in a cost effective manner, modernize*

[81] See https://varoufakis.files.wordpress.com/2015/08/mou-annotated-by-yv.pdf at pg. 20.

IT systems, developing a new electronic referral system for primary and secondary care that allows to formulate care pathways for patients."[82]

Comment: All good in paper but not a single penny has been provided by Troika for this cause so how can this provision be intended to manifest? Everyone knows that healthcare services must improve but if no money is allocated in this regard, nothing can be done. Although technical assistance has been offered but it cannot provide health care but only money can.

MoU requires *"reduction in the price of all off-patent drugs to 50 percent and all generics to 32.5 percent of the patent price. Also, Authorities will further reduce generic prices including by making greater use of price-volume agreements where necessary."*[83]

Comment: The plausible reason behind enactment of the aforesaid term must be to target Greece's indigenous pharmaceutical industry to the benefit of Multinationals that pay almost no tax. The Greece pharmaceutical companies lack the transfer price capacities of the Multi-national hence reduction in generic prices by making greater use of price volume agreement would affect Greece indigenous industry and not the multi-nationals.

MoU also required implementation of 5 euro fee for hospital visits.

Comment: To start charging again the 5 euro fee which was abolished by SYRIZA as hospital surgeries were visited almost exclusively by the poor would burden the pockets of the poor.

2.5.3. Social Safety Nets

The MoU requires government to provide and run social welfare such as employment support program with help being offered in form of technical assistance. A package of measures on food, housing and access to health care has been adopted and is being implemented.[84]

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[82] See Section 2.5.2.of the MoU.
[83] Id. 72.
[84] It is being done against the Troika's direct order to not to introduce such assistance.

Comment: No money is being offered for these purposes and whatever that is being offered, the burden for that is being borne by others in the Greek society. Mere technical assistance without funds would do no good.

3. Safeguarding Financial Stability

As per the MoU, Greece Government is required *"all necessary policy actions to be taken to safeguard financial stability and strengthen the viability of the banking system. No unilateral fiscal or other policy actions will be taken by the authorities, which would undermine the liquidity, solvency or future viability of the banks.*

All measures, legislative or otherwise, taken during the programme period, which may have an impact on banks' operations, solvency, liquidity, asset quality etc. should be taken in close consultation with the EC/ECB/IMF and where relevant the ESM. The Greek government commits not to legislate on anything without the creditors' express permission. Sovereignty suspended as long as the nation is in debt bondage."[85]

Comment: The Greece bankers are expecting bail out money from European authorities and let us not forget that that money belongs to the tax payers. It cannot be expected that there would be some sort of control over the bankers on how they utilise that money. If there would have been a control mechanism then the crisis would not have taken place at the first place. Greek government's authority to hold the bankers accountable has already been compromised under the MoU by terming it as "unilateral actions" which have been bannerd. The Greek government commits "*not to legislate on anything without the creditors' express permission*."[86] Hence, it is clear that sovereignty has been suspended as long as the country is under debt cycle and by analysing the MoU the debt cycle is too far from coming to an end.

[85] See Section 3 of the MoU.
[86] Id. 75.

"The main focus of the strategy will be on restoring financial stability and improving bank viability by:

i. *normalising liquidity and payment conditions and strengthening bank capital [i.e. mend the damage the troika caused in its bid to suffocate our government];*
ii. *enhancing governance [by giving bankers more power!]; and*
iii. *addressing NPLs"*[87]

Comment: The fund for implementation of strategy to deal with NPLs cost to the taxpayer 40 billion, but it failed without bringing any improvement in the status quo. Since there was no money that was generated from these NPLs, there was no investment in businesses that could have turned out to be profitable if the funds were available to them. The terms of MoU *"allow the hand over the banks shares, currently owned by the state, to private speculators at a fraction of the price the taxpayers paid."*[88]

MoU requires the changes in following for restoring financial stability in Greece:

- Restoring liquidity and capital in the banking system
- Resolution of Non-Performing Loans (NPLs)
- Governance of the HFSF
- Governance of Banks

Comment:

MoU requires all of the above but it is easier said than done. Again, austerities have been imposed and Troika has taken complete control over the process. HFSF has been taken under the control of Troika which it will monitor vigorously. The HFSF made out of Tax payer money would not be held by their representatives but by Troika! The concept of sovereignty seems far too insignificant in this epoch!

Even the banks will be run by Troika in cahoots with bankrupt bankers. That means putting the situation to be handled in the hands of those who caused the crisis at the first place. Even the auditing will be done by people on Wallstreet that are accused of

[87] Id. 75.
[88] Ibid 75.

negligence because of which the crisis was caused. Hence, there exists no say for the Greek Government and no accountability to Greece's Parliament.

In absence of any market for property any resolution pertaining to NPLs would fail and then the blaming process would start. Banks are the primary reason because of whom the crisis was exacerbated and was born at the first place.

Any harsh action under the aforesaid would again make the people suffer as most of the property under Non-Performing Loans Category belongs to them. Weaker parties will not be able to represent themselves fairly on hearing as to why there property should not be taken and families would be evicted as a result.

The people who became rich from the crisis shifted elsewhere and common people will now pay the price.

4. Structural policies to enhance competitiveness and growth

4.1.Labour Market and Human Capital

The Greece Labour market is to be made more flexible as per the MoU. Also, E.U Best practices are required to be implemented in Greece's market.

Comment: The Greek labour market is already very flexible as nearly half million population has not been paid for the past 6 months. 800 thousand workers are doing job under a zero hour contract with no extra money for extra work.

The MoU requires the following to be done on part of the Government:

- Review of labour market institutions
- Action Plan to fight undeclared work
- Modernisation of Vocational education and training(VET)
- Building capacity in terms of policy formulation, implementation and monitoring in order to increase the its ability to deliver welfare reforms, active labour market policies, and achieve the front-loading of the Structural Funds
- Improving education

In order to do the aforesaid work the government will take technical assistance from international organisations such OECD and ILO.

Comment: Troika has been keen on implementation of hire and fire rule in banking industry. Also it wants to ban industrial action and keeping collective bargaining away from the statutes of Greece and hence the promise of SYRIZA will not be fulfilled as per the MoU of reintroducing collective bargaining. Also, under the MoU, Troika can be the final decision maker on labour market legislation of Greece. Such rights under the principles of sovereignty must vest in Greece Parliament but since the government is in debt it has no say in the matter.

As regards to undeclared work, the labour inspectorate will not be allotted new resources. Without resource it is pointless to expect that the evil of undeclared labour could be extinguished or even diminished. In the absence of tools such as collective bargaining it becomes even more difficult. Since, the economic environment is weakening day by day due to tax increases it is hard to image that this problem would be addressed with an appropriate solution anytime soon.

With regard to vocational training, are going to be run in a neo-liberal fashion which train workers for non-existent jobs in order to take them off the unemployment register for a few months.

With regard to capacity building, it is quite unlikely that the capacity of a "strengthened" bureaucracy to make amends for a broken labour market in the midst of a debt-deflationary cycle is possible.

For improvement in education, not even a single penny has been allotted and terms of MoU do nothing but would make demoralized, underpaid teachers teach longer hours. It also gives privileges to private schools and shifts the burden of education onto parents.

4.2.Product Market and Business Environment

MoU mandates Greece Government *"to implement OECD Competition Toolkit except OTC pharmaceutical products, Sunday trade, building material and one provision on foodstuff; and a significant number of the OECD toolkit II recommendations on beverages and petroleum products."*[89]

[89] See Section 4.2. of the MoU.

MoU also mandates opening of restricted professions such as notaries, bailiffs, actuaries and liberalise the market for tourist rentals. Also, elimination of non-reciprocal nuisance charges and alignment of the reciprocal nuisance charges to the services provided has been mandated.

It is also mandated *"to reduce red tape, including on horizontal licensing requirements of investments and on low-risk activities as recommended by the World Bank, and administrative burden of companies based on the OECD recommendations, and establish a committee for the inter-ministerial preparation of legislation."*[90]

MoU also aims to make improvements in the following dimensions:

- Competition
- Investment Licensing
- Reduction in administrative burden
- Trade facilitation measure
- Committee to determine regulation of land use
- Improve research, development, and education by interlinking them
- Competitive strategy for agriculture sector

Comment:

With regards to improvement in competition, the mandate under MoU requires implementation of best practices and equipping competition commission. Equipping competition commission is a good step but whether it would be strong enough to tackle the oligarchs of Greece?

Troika insists on the implementation of an OECD 'toolkit' which the OECD has already denounced.[91] Are the tool kit suggested for implementation relevant for Greece? Well we will see when the results manifest as a result of its implementation.

It is to be seen that abolishing of the most significant nuisance charges would take place or not. The aggeliosimo i.e. advertising fees benefits media owners hugely. No contribution is made from such fee to the journalist's pension fund. This is unfair as

[90] Id. 79.
[91] Id. 71 at pg. 38.

the journalists are the people because of whom the media runs and they deserve certain portion of such fee.

Trade facilitation is important but the recommendations made under the MoU have been in existence since 2011 without having any manifestation. Those could not have been implemented because fuel smugglers are constituents of Greek Oligarchy. Also, as the Greece's finances are weak the government is not able to afford equipments that are necessary for trade facilitation.

It is true that land use must be regulated in a better manner in Greece, as due to financial crisis the gap between poor and rich has become wider. While regulating land use the things that are to be kept in mind is that forests and other essential natural resources are not privatised or destroyed as Greece is not abundant with natural resources and whatever it has, it must preserve them. Such preservation will require constant vigilance and hence the green movement must be taken into consideration while taking decisions regarding regulation of land use.

4.3.Regulated Network Industries (Energy, Transport, Water)

4.3.1. Energy

MoU required *"the reform of the gas market and its specific roadmap and notify the reformed capacity payments system (including a temporary and a permanent mechanism) and NOME products to the European Commission."*[92]

MoU mandated *"modification of electricity market rules to avoid that any plant is forced to operate below their variable cost, and to regulate according to the final decision of the Council of State on the netting of the arrears between PPC and the market operator; begin implementation of the gas market reform according to the agreed timeline, whilst prioritising distribution tariffs; implement interruptible contracts as approved by the European Commission; revise PPC tariffs based on costs, including replacement of the 20% discount for energy-intensive users with tariffs based on marginal generation costs, taking into account consumption characteristics of customers that affect costs."*[93]

[92] See Section 4.3.1 of the MoU.
[93] Id. 82.

Also, privatisation of Energy Market especially Transmission of electricity, is a key deliverable. Technical assistance is to be provided to modernise the energy sector.

Comment:

Introduction Nome products is not feasible as the gas market is really small in Greece and it warrants Natural Monopoly. Introduction of new competition would only waste Greece's limited resources. The cost to output ration is too large and hence any competition introduced in this sector would turn out to be ruinous.

No planning is there under the MoU for turning to green energy. With the removal of subsidies the oil prices have raised and Greece are relying on Lignite as an energy source for electricity production which is quite harmful to the environment. Introduction of competition/privatisation in electricity industry has failed in many countries. What makes Troika think that this approach would succeed in Greece still eludes me. There exists no planning for green energy and if experience of past has implied anything it isn't coming in near future. People are not worried about sustainable development but are only worrisome about how to come out of debt for continuing their life in normal fashion.

The Greek government has opposed privatisation but it is not able to do anything about it as it has no bargaining chip except the threat of Grexit.

4.3.2. Water Utilities

The government is mandated to use E.U technical assistance to to implement fully the regulatory framework for water utilities.

Comment:

It is beyond rationality to bring any change in Greece water utility's regulatory framework when the fact of the matter is that water utilities are already quite cheap in Greece. Troika should concentrate on places where problems do really exist and not on the places there exists none. By doing so, Troika will inadvertently create more problems without solving any.

4.3.3. Transport and logistics

MoU requires *"adoption of a general transport and logistics master plan for Greece covering all transport modes (road, railways, maritime, air and multi-modal) and a time-bound action plan for the logistics strategy, as well as implementing legislation of the logistics law."*[94]

Government is mandated *"to seek technical assistance to define the tasks of the port regulator, the role of the port authorities, and to prepare its internal regulations and needed laws to be adopted."*

Comment:

Again there exists little problem in Shipping industry and it has been function quite well since antiquity so why does Troika need to intervene in places where there are no problems to be solved? Is it to assert their dominance?

4.4.Privatisation

Hellenic Republic is required to commit to privatisation programme. An independent task force was mandated to be constituted. The mandate of the task force can be seen in Section 4.4. of the MoU.

Comment: The privatisation scheme clearly implies promotion of Troika's privatisation agenda. The task force constituted though is independent of government but is dependent on Troika. With regards to projected fund generation it cannot be expected to ever generate 25 billion euros. Even if by some miracle it generates more than 25 billion, the next 12.5 billion will be paid to Greece's creditors. Only after that will the state get some pennies to invest in growth which means that the Fund's income will be all used up to repay the new state debt on behalf of bankers. "*So, this is what will happen: Take the case of a public asset that the Fund sells or leases for X euros. These euros will be used to repay part of the recapitalisation of some bank, say Pireus. In essence, Greek taxpayers will have liquidated an asset of their for X euros to give to Pireus bank in exchange for shares that will end up in the HFSF (the Hellenic Financial Stability Fund). Only these shares have no voting rights which mean that the private shareholders of Pireus will not see their power over the bank*

[94] See Section 4.3.3. of the MoU.

diluted even by one euro. Additionally, following the troika-imposed "strengthening of the HFSF's governance", the Greek government has committed to never changing the legal framework governing the HFSF and, thus, to never regaining the right to give voting rights to the shares the taxpayers paid for through the liquidation of the Fund's asset. Lastly, note the complete loss of national sovereignty involved in this "public asset monetisation": It will be handled by a Fund and end up in shares owned by the HFSF both of which (Fund and HFSF) are totally under the thumb of the troika. Never before has a state been taken over so fully with the consent of its Parliament!"[95]

5. A modern State and Public Administration

5.1.Public Administration

Greece has been required under the MoU to de-politicizing the Greek administration as a response to ever growing corruption. This is to be done in consultation with European Commission and by seeking technical assistance. The strategy proposed for this is the *"reorganisation of administrative structures; rationalisation of administrative processes; optimisation of human resources; strengthening transparency and accountability; e-government; and a communication strategy."*[96]

The strategy implementation is to be done keeping in mind the European Union best practices.

The MoU also required "*establishment within the new MTFS, ceilings for the wage bill and the level of public employment consistent with achieving the fiscal targets and ensuring a declining path of the wage bill relative to GDP during the period 2016-2019.*"[97]

Comment: One cannot de-politicise fundamental political process as if it were to happen politics will cease to exist. "De-politicisation" cannot be used as a strategy for denying member-states the right to exercise their sovereignty. In the name of De-politicisation you cannot shift political power so as to create technocracy. This could result in consequences that would lead to virulent politics.

[95] Supra. 71 at pg. 48-49.
[96] See Section 5.1. of the MoU.
[97]Id. 87.

The implementation of European Best Practices will increase costs substantially in view of the fact that, state employees are often offered next to no assistance when they travel from one part of the country to another on official business.

Change in uniform wage grid would mean state's lowest wages will be cut further. This is the only logical conclusion of the combination of wage "decompression" and fiscal neutrality[98].

Changes within the new MTFS will ensure that fiscal neutrality will giving more significance than it is supposed be afforded as there exists other considerations too. The most important being investment in hiring employees must result in increase in productivity of an institution. For example, no account is taken of the fact that hiring more tax inspectors may boost tax revenues.

5.2.Justice

MoU required Greece Parliament to enact new Code of Civil Procedure in accordance with the MoU. This new law envisages enhanced court fees and implementation of law is supposed to be enhanced by technical assistance offered to Greece by European Community.

Comment: Given the poor population of Greek society only one way exists in order to ensure justice i.e. the court fee must be waived or else justice would be restricted to those who are in a position to pay the court fees.

5.3.Anti-Corruption

MoU requires Greece to enact and amend anti-corruption laws and also imposes on authorities a duty to take anti-corruption measures and stop financial crimes.

Comment: It is a matter of common knowledge that corruption permeates through Greece. It exists at multiple levels, namely at Micro-level and macro-level. The former concerns small sums and involves individuated officials, small business proprietors etc. Macro-corruption relates to corruption existing in Banking,

[98] Fiscal neutrality occurs when taxes and government spending are neutral, with neither having an effect on demand. Fiscal neutrality creates a condition where demand is neither stimulated nor diminished by taxation and government spending.

Procurement and the Media. Troika has abstained from tacking corruption at Macro-level. The reason behind that is they are the ones which help Troika propagate and establish their agenda. It is also highly unlikely that Troika will take strict actions against the corruption existent at macro-level.

5.4.Statistics

Greece under the MoU has agreed *"to fully honour the Commitment on Confidence in Statistics signed in March 2012 by implementing all envisaged actions, including respecting international statistical standards; guaranteeing, defending and publicly promoting the professional independence of ELSTAT and supporting ELSTAT in upholding confidence in Greek statistics and defending them against any efforts to undermine their credibility, as well as reporting annually to the Hellenic Parliament and to the European Commission."*[99]

Comment: Note that nothing under this provision of the MoU talks about *"the ownership of the data provided to ELSTAT. Generic data should be owned by issuing organisations and only provided to ELSTAT for processing. Tax and expenditure data, in particular, should always remain the property of the Ministry of Finance, even after the creation of an independent tax authority. Another crucial, missing point concerns the capacity of ELSTAT to tighten austerity and influence fiscal policy. For instance, any amendment of the primary surplus number, as things currently stand, immediately compel the government, in order to stay within this MoU's terms, to raise taxes or reduce spending. Control over ELSTAT suddenly becomes control over the degree of imposed austerity. This is why the troika is ever so keen to retain full control of the process by which the President and staff of ELSTAT are appointed. As an example, consider this: During the January to June 2015 negotiations, ELSTAT changed the method by which it computed defence expenditures, giving the troika the right to demand even higher tax increases."*[100]

[99] See Section 5.4. of the MoU.
[100] Id. 71 at pg. 55.

6. Concluding Observations/Remarks

Troika has totally abridged Greece's sovereignty in return for bailout. It aims to take the job of governance from Greek government upon itself.

Clearly through the aforesaid analysis we can infer that Troika has doing nothing but promoting its neo-liberal agenda. Harsh austerities would prove disastrous for Greek people and in no way in interest of Greece. Instead of reviving the economy Troika has created an arrangement to benefit the creditors making it only easier for creditors to exploit Greece's resources. Privatisation is sought but it was only because of these private players that this crisis was born at the first place as we saw in the introduction of this dissertation.

Several promising and idealistic mandates have been provided under the MoU without even affording even a single penny to such idealistic cause. Technical assistance is assured but how would it come of any use if there is no money to utilise such assistance. The MoU is full of vague provisions which shall remain only words and can hardly be expected to manifest given the lack of funds.

Given the aforesaid dilemma, it is hard to determine the middle path available for Greece and its creditors so that both can maximise their benefit and create a condition of pareto optimality/pareto-efficiency. After discussing the Legal implications and legal ways of resolving the current predicament in the next chapter, I would discuss how the current crisis is pertinent to India. After that I would conclude as to the possible solution.

VI. LEGAL IMPLICATIONS OF THE CRISIS AND GREEK MEASURES

This Chapter is made up of three parts:

Sub- Chapter 1 analyses the Greek capital controls, the practicalities of their implementation and enforcement, and their legality under the applicable legal frameworks;

Sub- Chapter 2 discusses the practical impact the Greek measures may have on the enforceability of contracts and the performance obligations of contractual counterparties; and

Sub-Chapter 3 considers the issues surrounding potential payment defaults by the Greek government, the possibility of IOUs being issued, the future of Greek banks and the potential for Greece exiting the Euro zone.

1. Legality of Greek Capital Controls under the applicable legal framework

Greece is not the first to impose capital controls. Several Euro zone Countries have introduced capital controls earlier to Greece even after the entered into Economic and Monetary Union. *"In March 2013, Cyprus introduced capital controls in connection with its €10bn bailout which have since been lifted. There are also many other examples of capital controls being imposed in the past, including in Iceland, Ukraine and Argentina."*[101] Taken together they provide useful examples of the wide scope that such measures can take in different contexts and how they can develop after their introduction as the economic situation changes.

1.1.Capital Controls

Definition: "*Capital controls are measures taken by a government, central bank or other regulatory body of a country to regulate or limit the flow of foreign capital into, and/or out of, the domestic economy. 'Exchange controls' are a sub-set of capital controls which seek to control the relationship between domestic and international currency markets – that is, they control the purchase and sale of foreign currencies by residents and/or the purchase and sale of local currency by non-residents."*

[101] See http://www.bloomberg.com/news/articles/2013-03-27/cyprus-capital-controls-first-in-eu-could-last-years

1.2.Greek Capital Controls

Capital controls were imposed in Greece by the 'Legislative Act of 28 June 2015 imposing a short term bank holiday'. This decree imposed controls with effect from 29 June together with a number of measures were aimed at restricting market activity until after the bailout referendum that was called for on 5 July 2015. The Capital Controls were extended with certain relaxation provided on such controls over a period of time. It is being predicted by some economists that these capital controls will exist till July, 2016.[102]

These capital controls do not consist of any exchange controls which reflects that the principal aim of the Greek government was to prevent further substantial withdrawals from Greek banks in order to prevent them from becoming insolvent.

In summary, the key provisions of the original decree (excluding capital controls relaxation made over time) are as follows:

- The decree applied to all credit institutions operating in Greece in whichever form, including any branches of foreign banks and any branches or representatives of any payment institutions of any electronic money institutions that are based in other EU member states and which are operating in Greece (the "banks").
- Cash machine withdrawals were capped at €60 a day per bank card.[103] However, any credit or debit cards issued outside Greece will not be affected by such restrictions.
- Tourists and other visitors were be able to withdraw the full amounts permitted by their respective overseas institutions (depending on the availability of cash).
- Transfers of money to accounts held outside of Greece were subjected to certain limited exception, prohibited. Exceptions were allowed be made in individual cases by the newly established bank transactions approval committee (described below).
- Transfers of money into accounts held in Greece were allowed to continue, to operate as normal without restriction. The restrictions did not extend to any international transfers into accounts held in Greece or to any domestic payments

[102] See http://www.bloomberg.com/news/articles/2015-10-19/a-quick-end-to-greek-capital-controls-economists-don-t-think-so
[103] Id. 103.

made using either pre-paid, debit or credit cards, or transfers between Greek bank accounts made through telephone or online banking.

- The restrictions were not to apply to any transactions which were recorded in central payment systems (TARGET2-GR, EURO01 and DIAS) or central clearance systems (such as the Central Depository of Athens and the securities settlement system of the Bank of Greece) prior to announcement of the capital control measures. Such transactions will therefore be cleared/settled without restriction.
- Deadlines for the termination, presentation or payment of any securities and any relevant judicial deadlines were suspended until the end of the bank holiday period.
- A new five member bank transactions approval committee was established by the General Accounting of the State in cooperation with the Ministry of Finance, the Bank of Greece, the Hellenic Bank Association, and the Hellenic Capital Market Commission to approve, on a case-by-case basis, any transactions deemed necessary to safeguard public or social interests including, for example, medical expenses of pharmaceutical imports.
- Banks breaching the rules faced fines from the Bank of Greece of up to 10% of the amount of any transaction in breach of the control measures. Banks were also required to report any officers or employees undertaking any such transactions.

As a consequence of the capital restrictions, the Greek securities commission had resolved that the ATHEX regulated market, the alternative market of the Athens exchange (EN.A) and the secondary trading market for Greek government bonds (HDAT) (together, the “Athens Exchanges”) were made to remain close until and including Monday, 6, July, 2015.

The Greek finance minister was also granted inter alia, wide powers to introduce new capital control restrictions and/or extend (or shorten) the bank holiday period as he deems appropriate.

1.3.Implementation and Enforcement: Issues

The economic uncertainty accompanying the introduction of capital controls has, as expected, led to increased runs on bank deposits within the permitted daily limits. With numerous ATMs reported to have run out of banknotes, the co-ordination of international and governmental bodies may be needed to ensure the availability of physical cash required to meet continued demands.

It was reported[104], for example, that the ECB delivered additional banknotes to Cypriot banks in anticipation of their reopening following their closure from 13 to 18 March 2013.

The Greek controls seek to be comprehensive in controlling not only the withdrawal or transfer of cash, but also the making of electronic transfers to accounts held outside of Greece and the cashing of cheques issued on accounts held with financial institutions falling within the scope of the measures. However, whilst electronic payment transfers to accounts held outside of Greece are subject to restrictions, the Greek legislation does not, at this time, seek to restrict transfers of physical cash outside of Greece.

It is unclear from the wording of the decree whether the control measures were intended only to stop customers withdrawing or transferring amounts from accounts held with Greek banks, or whether the decree was also intended to prevent those banks themselves making payments of amounts owing to their own contractual counterparties.

When imposing capital controls, it is necessary to determine how financial transactions, payments and/or transfers that have not been completed will be affected. The Greek legislation is drafted by way of an outright prohibition on transactions, subject to certain specified exemptions. The decree explicitly provides that transactions recorded in the central payment systems (including TARGET2-GR, EURO01 and DIAS) and central clearance systems (including the Central Depository of Athens and the Bank of Greece's clearance system) prior to issuance of the decree

[104] See http://www.dailymaverick.co.za/article/2013-03-28-cyprus-to-reopen-banks-impose-capital-controls/

are permitted to be settled/cleared without restriction.[105] However, it remains unclear at this time whether other instructions made, but not completed or settled, prior to issuance of the decree are affected by the restrictions and limits imposed by it.

The imposition of capital controls within the Euro zone is complicated by the fact that the euro is the lawful currency of many other states because controls based on the currency of transactions will not work. Whilst capital control rules rarely attempt to impose the controls solely within the jurisdiction of the imposing-state and instead generally seek to apply the controls extraterritorially, the Greek measures are currently limited to credit institutions operating within Greece. The Bank of Greece and the Hellenic Republic are expressly excluded from the scope of the measures and, as such, are not directly affected by the restrictions imposed.

The means by which measures are enforced depends largely upon the nature of the capital controls imposed. Historically, enforcement has generally been achieved by a combination of both civil and criminal sanctions ranging from fines or increased supervision by state entities to the removal of banking/trading licenses or even imprisonment for those persons involved.

The Greek measures at this time provide only that credit institutions may be subject to a civil fine, levied by the Bank of Greece, of up to 10% of the amount of any transaction in breach of the control restrictions. Any credit institution which undertakes or facilitates a prohibited transaction is also required to report any officers or employees involved in that transaction – although the resulting consequences for any such individual are not specified.[106]

Significantly, the measures do not make it unlawful for the relevant entities or individuals to breach the control restrictions in the same way that many previous examples of capital controls have.

[105] See Legislative Act of 28 June 2015 passed in Greece.
[106] Id. 106.

1.4.Legality of Capital Controls

The legality of capital controls under international treaties is significant for a number of reasons. Where the introduction of capital controls is not permitted, the imposing state may be sanctioned in the international courts (such as the ECJ or the International Court of Justice). The technical legality of the controls may also impact upon the enforceability of private contracts as discussed in Sub-Chapter 2 of Chapter I.

1.5.European Union Restrictions on Capital Controls

EU Member States are bound by the general prohibition on restrictions on the movement of payments and capital between EU Member States and between EU Member States and non-EU Member States set out in Article 63 of the Treaty on the Functioning of the European Union ("TFEU").

The TFEU provides for a number of exceptions from the requirement for the freedom of payment and capital movements. The most relevant of these for present purposes is the derogation contained in Article 65. This provides that the Article 63 prohibition is without prejudice to the right of a Member State to "*take measures which are justified on the grounds of public policy or public security*". These measures may not, however, constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments. In their current form, the Greek measures do not appear to be discriminatory, applying to all accounts held with the relevant credit institutions irrespective of the identity of the account holder.

The ECJ has previously sought to emphasise the limited scope of this derogation, providing that "*the general financial interests of a Member State and economic grounds can never serve as a justification*". Instead, there must be "*a genuine and sufficiently serious threat to a fundamental interest of society*" with the imposing state's measures being a necessary, and not overly-restrictive, response to this threat, whilst observing the principles of non-discrimination and proportionality throughout. However, despite these restrictive interpretations, the significant financial disruption and potential civil disorder resulting from the economic difficulties, and political challenges, facing Greece provide a strong case for arguing that temporary capital controls are justified under Article 65.

The European Commission issued a statement[107] on 29 June 2015 which provided that "*In the current circumstances, the stability of the financial and banking system in Greece constitutes a matter of overriding public interest and public policy that would appear to justify the imposition of temporary restrictions on capital flows.*" The Commission further stated that "*While the imposed restrictive measures appear necessary and proportionate at this time, the free movement of capital will however need to be reinstated as soon as possible in the interest of the Greek economy, the Euro zone, and the European Union's single market as a whole.*" Whilst the Commission's views are instructive as to the EU's initial assessment of the Greek controls, it should be remembered that the ECJ, and not the Commission, is the arbiter of the scope of Article 65 and so the Commission's statement is by no means conclusive.

1.6.The legality of earlier Cypriot capital controls

A number of cases are pending before the ECJ which will ultimately determine the legality of the capital control measures introduced in Cyprus. The ECJ has established that an overriding general public interest may justify restrictions on capital movements, provided the restrictions are necessary and proportional to the interest in question.[108]

In 2006, the Court ruled in a case on universal postal services in the Netherlands that "*the guarantee of a service of general interest may constitute such an overriding reason*"[109] for capital controls.

In the meantime, the views of other EU institutions on their legality at the time of introduction is helpful when considering how those measures introduced in Greece might be judged.

Consistent with its approach to the Greek measures, the European Commission issued a statement[110] on 28 March 2013 which considered the controls introduced by Cyprus, the previous day, to be justified by the overriding public policy of stabilising the

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[107] See http://europa.eu/rapid/press-release_STATEMENT-15-5271_en.htm?locale=en
[108] See http://www.ft.com/cms/s/0/a723d6e4-955a-11e2-a151-00144feabdc0.html#axzz3x8nnkd00
[109] C-282/04 and C-283/04 Commission v Netherlands, judgment of 28.9.2006 Free movement/ Internal market –"Golden shares"
http://ec.europa.eu/dgs/legal_service/arrets/04c282_en.pdf
[110] See http://europa.eu/rapid/press-release_IP-13-298_en.htm

Cypriot banking system and the financial markets, though the measures were expected to be short term temporary measures. In fact, the Cypriot controls which were originally introduced with a 7 day time limit were repeatedly extended and were only lifted completely in April 2015. As alluded to in the Commission's statement[111] on Greece, the longer such measures remain in force, the more difficult it becomes to justify their continued application as truly "necessary" for the purposes of the Article 65 derogation.

1.7. IMF Articles of Agreement

The IMF Articles of Agreement apply to all IMF-member states (which include all members of the Euro zone). The key provisions which may impact the legality of any capital controls are:

a. Article VI(3) which provides that "*members may, at their discretion, impose certain controls on international capital flows (as distinct from current transactions)";*
b. Article VIII(2)(a) which "*prohibits the imposition of restrictions on the making of payments or on transfers for current international transactions, unless among other things:*
- *the member has received IMF approval; or*
- *the IMF has declared the currency of that member to be scarce."*

It could be argued that the Greek capital controls restrict both international capital flows and current international transactions (which are defined in the Articles to include among other things "*all payments due in connection with foreign trade, other current business, including services, and normal short-term banking and credit facilities*" and "*payments due as interest on loans and as net income from other investments*"); and

c. Article VIII(2)(b) which "*provides for the unenforceability of certain 'exchange contracts*'."

As discussed further below, the IMF has previously made formal statements on whether the capital controls imposed by certain countries comply with the Articles of

[111] Id.

Agreement. However, the IMF has not yet made any formal statement on the legality of the Greek capital controls. Indeed, no explicit formal approval has, as yet, been given to the Cypriot controls that were imposed in 2013, see further under 'Exchange contracts', below.

2. The Practical Impact of Greek Measures

2.1.Enforceability issues

2.1.1. Conflicting Laws

Where a contract is affected by the introduction of capital control measures, there can be a tension between the contractual obligation in one jurisdiction on a party to perform and a criminal or civil prohibition in another jurisdiction on that performance.

For example, a bank may be instructed by its client to transfer cash or assets where that client (or its cash or assets) is subject to capital controls restricting such a transfer. In these circumstances, the bank may find itself in a difficult position where, in seeking to comply with the capital controls in order to avoid potential civil or criminal liability in one jurisdiction, it declines to act on the instructions and, as a result, it is itself then subject to a claim for damages by its client in another jurisdiction which does not uphold the capital controls.

Conversely, if the bank were to comply with the client's instructions, it may find itself the subject of civil or criminal liability.

It is therefore essential to be able to determine whether any particular contractual obligations will remain enforceable after the imposition of capital control measures. Whilst the Greek measures are limited in their scope and application at present, history demonstrates that controls typically increase in breadth following their introduction, following which the issues discussed below become more pertinent. For example, if the consequence for breach were to be extended to make it unlawful for individuals or entities to carry out the specified transactions. The controls currently sanction only the banks effecting the transactions and, as such, may not constitute an illegality for other market participants; instead, the doctrines of frustration, impossibility and force majeure may be more important – see further, below.

2.1.2. When will Court uphold Capital Control Measures?

A Greek court can be expected to apply the recently introduced Greek capital control legislation to litigation before it even where the underlying contract is governed by the law of another jurisdiction and would otherwise be enforceable under that governing law.

More complex questions arise where the court of another jurisdiction is asked to consider whether the capital controls imposed in Greece excuse performance of a contract. The conflict of laws rules which the courts of that other jurisdiction apply, together with the substantive law of the contract in dispute, will then be crucial in determining the extent to which the non defaulting party will be able to seek redress for non-performance.

Under most EU Member States' laws, including English law, effect will be given to capital controls by determining a contract to be unenforceable by reason of those controls in three main scenarios, each of which is considered in more detail below:

First, where the governing law of the contract is that of the imposing state (i.e. it is a Greek law governed contract);

Second, where the place for performance of the contract is stipulated to be the imposing-state (meaning that the contract is required to be performed in Greece); and

Third, where a contract is determined to be an "exchange contract" which falls within Article VIII(2)(b) of the IMF Articles and is inconsistent with the capital control legislation.

2.1.2.1.Enforcing a Greek Law Contract outside Greece

The courts of another EU Member State asked to enforce a Greek law contract against a non-performing party would generally be bound under the Rome I Regulation (the "Regulation") or the Rome Convention (the "Convention") to apply the capital control legislation and refuse to enforce the contract where it breaches that legislation. Likewise, this will be the result in many other jurisdictions, including New York and Hong Kong.

Courts of EU Member States have some discretion not to give effect to the Greek capital controls where they are considered to be incompatible with the public policy of the court. For example, an English court may decline to uphold the capital control legislation if it considers it to be oppressive or discriminatory. It is possible that a court may decline to apply the legislation where the measures are held to be unlawful under international treaty obligations (for example if a court of an EU Member State determines that the measures fall within the Article 63 TFEU prohibition discussed above). Similar discretions exist in New York and Hong Kong, although it remains unclear to what extent the courts of those jurisdictions might rely on such discretions in the context of, and in light of the legal issues surrounding, the use of capital controls as an economic management tool.

2.1.2.2.Relevance of Place of Performance

Where the Regulation applies, a court that is asked to enforce the performance of a contract may decline to do so where the obligations under the contract are to be performed in Greece and the Greek capital controls make performance there unlawful. A court may choose to give effect to the Greek capital controls in such a scenario even if:

- the contract is governed by a law other than Greek law; and
- the party required to perform under the contract is neither a national of, nor resident in, Greece.

The position is less straightforward in relation to contracts entered into before 17 December 2009, where the Convention applies. Article 7(1) of the Convention permits the application of the mandatory rules of a third state where there is a “close connection” with that state. The UK, Germany, Ireland, Latvia, Luxembourg, Portugal and Slovenia have opted out of this provision. In litigation in those Member States, the existence of capital controls in the place of performance might not, of itself, discharge an obligation.

Courts of some non-EU Member States will apply their own conflict of laws rules. For example, Hong Kong has a similar approach to that taken under the Regulation and courts there may discharge an obligation on the basis of supervening illegality in

the place of performance regardless of what the governing law of the contract provides.

2.1.2.3.Exchange Contracts

Article VIII(2)(b) of the IMF Articles provides that certain "exchange contracts" are unenforceable. The effect of this prohibition is that a contracting party cannot ask a court in an IMF-member state to force its counterparty to perform or to order damages for breach of contract where that contract falls within Article VIII(2)(b). This Article therefore, in effect, provides the exchange control regulation with extra-territorial effect in other IMF-member states.

The impact of Article VIII(2)(b) upon the enforceability of a contract will depend on what the relevant court determines constitutes an exchange contract.

Some jurisdictions, including England, the US and Belgium, have adopted a narrow construction of the term, interpreting it to mean only those contracts whose subject matter is the conversion of the currency of one state into the currency of another (for example, a currency swap or FX contract), or a contract which has the practical effect of so converting currencies. As such, for these jurisdictions, the current Greek controls do not comprise restrictions on exchange contracts which fall within the ambit of Article VIII(2)(b). Other jurisdictions, including France and Luxembourg, have adopted a broader construction, holding that *"an exchange contract exists when its subject-matter can affect in any manner the currency of a country and therefore its balance of payments and/or exchange resources."*

If the relevant court is one which adopts a narrow construction of the term, it is therefore less likely to determine a contract to be unenforceable than a court which adopts a broader construction.

Exchange control regulations must also be consistent with the regime set out in the IMF Articles in order to fall within the scope of Article VIII(2)(b). The IMF will determine whether exchange control regulations which restrict international current transactions are consistent or not, effectively approving the extra-territorial effect of such exchange control regulations.

In the case of the Icelandic capital controls imposed in 2008, IMF approval was granted in respect of certain exchange restrictions on current international transactions, on the basis that they were imposed for balance of payment reasons and were non-discriminatory. Those measures therefore had extra-territorial effect in IMF member states.

IMF approval is not always given. The exchange controls introduced by Ukraine in 2008, which included a restriction on the early payment of loans denominated in foreign currencies, were not approved by the IMF on the grounds that the measures were discriminatory and so not consistent with the IMF Articles. Those measures therefore did not have extra-territorial effect and other IMF member states were not obliged to hold relevant exchange contracts to be unenforceable. Whilst the IMF has not made any formal statement explicitly approving the 2013 Cypriot controls, despite the Cypriot government formally requesting such approval in its April 2013 Memorandum of Economic and Financial Policies, the IMF, following the implementation of the controls earlier that same day, stated that Cyprus's bailout agreement had its "full support", thereby implicitly approving the measures imposed.

As mentioned above, the IMF has not yet made a statement with respect to the Greek capital controls, and so their views on the extent to which the Greek capital controls fall within the IMF regime is not yet confirmed. For the reasons discussed earlier, the Greek capital controls in their current form do not appear to have a discriminatory effect.

Even where an exchange contract is generally within the IMF regime, it is possible that a court may not be bound to hold an exchange contract to be unenforceable by reason of Article VIII(2)(b) where the exchange control legislation is contrary to the international public policy of the jurisdiction in which the court sits. This may be, for example, because of the discriminatory or abusive nature of the exchange controls. Alternatively, a court might decline to enforce the contract for public policy reasons because while the measures are IMF-compliant they breach another international treaty to which the state in which the court sits is a party. In the case of an EU Member State this could include a situation where the measures breach the Article 63 TFEU prohibition mentioned above, and are not within the scope of the Article 65 derogation.

2.2.Practical issues in relation to performance obligations

As discussed earlier, one of the features of the Greek capital controls is that, in contrast to many historic examples, they apply only to Greek banks rather than all individuals/entities seeking to carry out the prohibited transactions. As a consequence, whilst it may not be unlawful for those parties to carry out such transactions, it is practical considerations instead which may mean they will be unable to perform contractual obligations which are dependent upon their execution. Consequently, it is possible that 'illegality' provisions in contracts may not be triggered by the measures in their current form.

The effect of the measures on performance of contracts will depend on a number of factors, not least the identity and location of the parties, the types of contracts entered into and the form of documentation that they have agreed. For example, in the derivatives market, parties' relationships are likely to be governed by either a 1992 or a 2002 ISDA Master Agreement, both of which include an "Illegality" termination event, the trigger for which depends upon whether a payment from Greece is unlawful, rather than simply whether a particular method (for example, an electronic transfer) is unlawful.

The 2002 ISDA Master Agreement also includes a "Force Majeure" termination event, which is not present in the 1992 version. This applies if it becomes impracticable to perform, receive or comply with obligations under the agreement. As such, the argument for a Force Majeure having occurred appears stronger than that for an Illegality. Upon the occurrence of a Force Majeure, the 2002 agreement provides for the suspension of each party's payment and delivery obligations for up to eight business days (compared with three business days in the case of Illegality). It is also worth noting that, in relation to underlying derivative transactions, parties will need to consider the interaction with the definitional booklets and collateral documentation incorporated into their agreements, for example the impact of the decree on valuation and payment mechanics. In relation to the credit derivatives market, whilst the capital controls themselves will not trigger payments under credit derivatives on standard terms, the practical consequences may ultimately lead to a "Failure to Pay" credit event. The market-wide determination of a credit event is likely to be determined by a committee comprising credit derivative market participants.

The extended bank holiday announced as part of the capital control measures may impact on the time when performance is required under a contract. This will depend upon the business day convention/definition adopted and may result in there being no performance required during the bank holiday period should a relevant 'business day' not occur as a result of the measures introduced. Some contracts may provide for performance to be deferred until the next occurring relevant business day, whilst problems may arise, for example, where a 'modified following' business day convention is adopted, given the timing of the decree towards the end of the month in particular.

3. The future for Greece and its banking sector

3.1.IMF repayment and the consequences of default

On 30 June 2015 the approx. €1.5bn aggregated payment is due to be paid by Greece to the IMF. If Greece is to default on this obligation or on a payment obligation owed to other financial creditors it may have consequences on other contracts to which Greece is a party. If such a contract were to contain a "cross default" clause, for example, non payment of financial indebtedness by Greece to the IMF or to other financial creditors might result in a default under that contract. A cross default clause would also typically be triggered if an event of default occurred under another financing contract and (if drafted as a cross acceleration) that financial indebtedness is accelerated following the event of default. Whether a particular clause is triggered will depend on its terms including how financial indebtedness is defined, whether it allows for a grace period applicable to that financial indebtedness to expire before the default arises and whether the amount of the financial indebtedness exceeds any threshold specified. By way of example, a cross default clause with a sovereign counterparty might provide that it is only triggered if the financial indebtedness is denominated in a currency other than the sovereign's domestic currency.

The facility between IMF and Greece is not publicly available and there is some uncertainty as to its terms. In particular, the precise nature of this facility, when amounts are due and payable and whether a grace period applies – if payment is not made on 30 June 2015, the IMF has stated that Greece will be in "arrears" rather than in default. The IMF facility appears to be denominated in euros although accounted for in the IMF accounts in SDRs. As a result of these uncertainties it may be difficult

to rely on a non-payment to the IMF as triggering a cross default clause without further clarification of the position from the IMF or from Greece.

Greece is party to many different financing arrangements and the cross default position is complex, requiring an analysis of the terms of each of the relevant arrangements. However, by way of example, a payment default under the IMF facility would give the European Financial Stability Facility a right to trigger a default under the facilities it provides to Greece if there has been a declaration of default under the IMF facility or the IMF has notified the EFSF that the amounts are overdue. A payment default under the IMF facility would not, however, directly trigger an event of default under the Greek Government Bonds issued as part of the 2012 Sovereign Exchange Offer (the “2012 Bonds”) because relevant indebtedness for the purpose of the cross default clause in the 2012 Bonds is limited to public bond issues and the IMF facility would not fall within the relevant definition.

In addition to the cross default position, a financing arrangement may contain other events of default which could be triggered, for example, if it could be shown that Greece is not able to pay its debts as they fall due or similar insolvency related provisions apply. If such an event of default were triggered this would in turn have cross default implications in other financing arrangements containing cross default clauses.

On 20 July 2015 a payment of €3.5bn fell due to the ECB and a further payment of €3.2bn fell due on 20 August 2015. In addition to cross default and event of default that has happened, further question have been raised about Greece’s continued participation in the Euro zone.

3.2.The potential introduction of IOUs

Introduction of IOUs would allow Greek government to make certain payments, including potentially payments to the public sector, in the form of an alternative parallel currency or as an IOU (“IOUs”). These IOUs may then be redeemed at some future date, for example against tax liabilities.

Other examples of IOUs: There are many other examples of governments having used IOUs during periods of financial stress, some of which may more closely represent separate domestic currencies than others.

3.2.1 IOUs and E.U

It is not certain whether any introduction of IOUs in Greece would breach European law. If in practice they amount to a separate domestic currency or a form of legal tender, their introduction may breach certain provisions of European law which suggest that the Euro zone member states are permitted to use only the euro as their currency. Examples include:

- Article 2 of Council Regulation 974/98 which provides that from the 1st January 1999 "*the currency of the participating Member States shall be the euro*"; and
- Article 10 of Council Regulation 974/98 which provides that "*banknotes denominated in euro shall be the only banknotes which have the status of legal tender in all these Member States*".

Much will depend on the form any such instruments take if they are issued, and whether they have the status of legal tender in Greece. It may be some time after the instruments are issued before their acceptability for payment is established, which will be central to determining whether they constitute a currency and, therefore, their compliance with European law. IOUs in the form issued by Greece in 2010 and 2011 appear very unlikely to breach these provisions. Ultimately, however, whether or not any Greek IOUs amount to a separate currency, and whether such a separate currency would breach the terms of the applicable EU rules, is a question which would be decided by the European Court of Justice.

3.3.The future of Greek Banks

A further consequence of the Greek debt crisis is uncertainty as to the future of the Greek banks. The availability of domestic deposits now stands at an eleven-year low. Non-performing loans continue to be a problem. Access to international capital markets has been cut off. Greek banks have therefore been forced to rely on Euro system funding, but with access to the ECB's normal financing operations constrained, greater reliance has been placed on Greek Central Bank funding - Emergency Liquidity Assistance ("ELA").

In order to access ELA funding the Greek banks have been posting Greek T-Bills as collateral. For so long as the Greek banks agree to roll over T-Bills issued by the government, Greece appears solvent. However, the Governing Council of the ECB

now reviews ELA operations at least weekly, indeed it has recently reviewed these operations on a daily basis, and, with a two thirds majority, can require national central banks to restrict ELA availability.

On the 28 June 2015 the ECB decided to maintain the ELA cap for Greek banks at €89bn, thereby restricting the amounts remaining available for the banks to access, resulting in the imposition of the capital controls discussed above. If the ECB considers that Greek banks are insolvent rather than just facing liquidity problems, the ECB would be required to stop the Greek Central Bank's continued provision of ELA in its entirety. If the Greek government defaults, the T-Bills that have been keys to the banks accessing ELA funding will no longer be eligible collateral. With very limited access to other sources of funding, if ELA funding were to become unavailable, liquidity concerns would mount, increasing the likelihood of bank resolution or liquidation.

The decision making powers of the ECB under the Single Resolution Mechanism and its resolution toolkit was applied to Euro zone from 1 January 2016. Greece has not yet implemented the European Directive on Bank Recovery and Resolution (the "BRRD"), despite a requirement for Member States to do so by 1 January 2015. The extensive resolution powers, creditor safeguards and EU wide recognition benefits provided for under that legislation would not be available with respect to a Greek bank.

Following the 2010-2012 banking crisis, however, Greece does have a bank resolution regime similar to BRRD and transfers to bridge banks are theoretically possible to enable a good bank/bad bank split should that be desired. A limited form of bail-in is also possible and would need to be exercised if funding from the Hellenic Financial Stability Fund were needed to capitalise the bridge bank. However, it is unclear whether this Fund is sufficiently financed to provide the support required in the circumstances contemplated.

Any required resolution of Greek banks would be complicated by the fact that the financial health of all Greek banks has been impacted heavily by the nation's financial situation of recent years. Whilst the terms of any resolution procedures would become clearer over time, it is clear that the Hellenic Greek bank resolution procedures

3.4. Potential for Greek Euro zone Exit (Grexit)

If the Greek government were to default on its debts to international creditors, or to issue IOUs, this would not automatically mean that Greece has to leave the Euro zone.

It has been the stated intention of both the Greek government and its creditors throughout the course of recent negotiations that Greece remains in the Euro zone. However, the failure to reach agreement over the route ahead has led to speculation that Greece may be required to exit the Euro zone in order to effect currency devaluation and, possibly, commence its own quantitative easing programme.

Absent a treaty change, there is currently no treaty provision providing for either the expulsion of a non-compliant Member State from the Euro zone or a voluntary unilateral Euro zone exit by a Member State. The lack of a pre-existing legal framework for an exit from the Euro zone does not, however, make it impossible. There are three theoretical exit routes:

- **Voluntary withdrawal from the EU:** Article 50 of the Treaty on European Union provides for a voluntary right of secession from the EU. Greece could voluntarily withdraw from the EU and also exit the Euro zone. However, this is not a speedy process. Whilst it is theoretically possible for Greece to leave the EU (and the Euro zone) and then reapply for admission to the EU – either seeking an opt-out from monetary union or relying on the fact that it is unlikely to satisfy the criteria for admission to the Euro zone – the financial and legal uncertainty that would arise in the considerable time period required to effect withdrawal and readmission means this is not generally regarded as a practical option.
- **Unanimous consent to a Euro zone exit**: If Greece wishes to exit the Euro zone but remain in the EU, it could seek the consent of the other 27 EU Member States for a Euro zone exit. Again, this would be a time consuming, lengthy process that would require treaty amendments.
- **Unlawful unilateral exit from the Euro zone:** It would be possible for Greece to unilaterally exit the Euro zone and introduce a new national currency without withdrawing from the EU. Taking such action without the consent of the other 27 EU Member States would place Greece in breach of its obligations under the EU treaties. If a Euro zone exit were to occur, the likely sequence of events that would

unfold is difficult to predict with certainty. However, it is likely that as part of the process the Greek government would need to pass legislation establishing

i. its exit from the Euro zone,
ii. a new national currency,
iii. the fixed exchange rate for the automatic conversion of all existing euro payment obligations between the euro and the new currency, and
iv. the automatic redenomination of euro deposits, contracts and obligations into the new currency.

VII. PARALLELS BETWEEN ASIAN FINANCIAL CRISIS, 1997 AND GREECE DEBT CRISIS, 2010

1. Asian Financial Crisis[112]

"Until their sudden fall from grace in 1997, the countries hit hard by Asia's financial crisis—Indonesia, Korea, Malaysia, and Thailand—had been widely admired for their economic achievements and much favored by foreign investors. What happened, and is there a prescription for reducing the risk of future crises?"[113]

Before the Asian financial crisis the economies such as Indonesia, Korea, Malaysia and Thailand had been growing steadily but after the crisis the question was posed that what went wrong? The reason became apparent but as to what is to be done post-crisis was the question that baffled many at that time.

The Asian countries became so confident with their success in 1990s that they went into denial regarding the problems that were slowly surfacing thinking that they will be solved automatically. They firmly believed that crisis can never happen as it happened in Latin America in 1980s because there economy was strong having no fiscal deficit or debt burden or structural impediments etc. as against Latin America which had all the aforesaid problems.

Thailand first came to the understanding that it is now facing a crisis when problem began to surface in 1996. Despite several warning by IMF regarding the impending crisis if the foreign exchange reserve were not handled properly, Thailand kept on ignoring until it was too late. The warning was never made public in order not to alarm the public and investors otherwise the crisis would have taken place due to loss in confidence.

Moreover, "*the IMF was not aware of the full extent of Thailand's problems at the time, because the baht was initially supported by heavy intervention in the forward market.*"[114] Thailand's foreign exchange reserve was all flowing in the "forward

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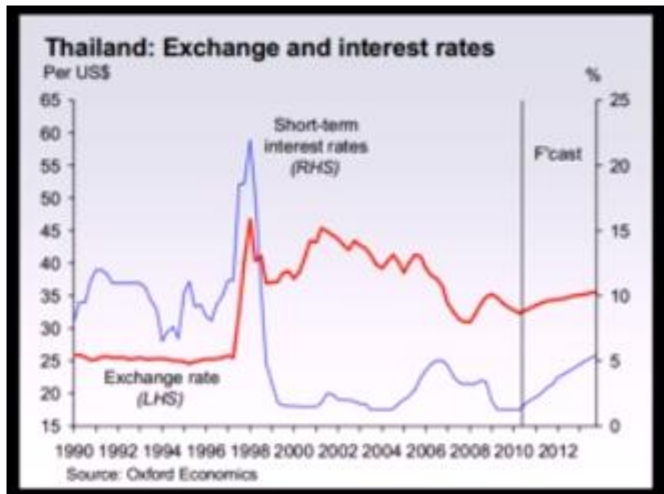
[112] The origins of the crisis are discussed more fully in the IMF "World Economic Outlook" of December 1997.

[113] See Bijan B. Aghevli, The Asian Crisis Causes and Remedies, Number 2, Vol. 36, June 2002, Finance & Development Magazine accessed at http://www.imf.org/external/pubs/ft/fandd/1999/06/aghevli.htm

[114] Supra. 100.

market". The IMF themselves didn't know the problem was so big. They believed it to be a minor one until 1997. In mid-1997 the country's usable foreign reserves were almost depleted and the authorities came to the IMF for help. The same thing happened in case of Korea wherein IMF was too late to realise that Korean reserve were depleted.



In the above figure we can see that in 1997 when Baht was pegged to dollar, there was an abrupt rise in value of dollar as against Baht hence sudden fluctuation in exchange rates led to the collapse of Thailand's Financial Sector. Financial Sector in Thailand was inviting investments from U.S.A to Thailand and such investments were loaned to the people in Thailand. As the exchange rate fluctuated it became impossible for Thailand's financial to pay back there investors making it go into steep debt making all the banks in Thailand insolvent.

If we were to analyse how this crisis took place step by step it happened "as follows:

Firstly, *"substantial foreign funds became available at relatively low interest rates, as investors in search of new opportunities shifted massive amounts of capital into Asia. As in all boom cycles, stock and real estate prices in Asia shot up initially, so the region attracted even more funds. However, domestic allocation of these borrowed foreign resources was inefficient because of weak banking systems, poor corporate governance, and a lack of transparency in the financial sector. These countries' limited absorptive capacity also contributed to the inefficient allocation of foreign funds. Second, the countries' exchange rate regimes—exchange rates were effectively fixed—gave borrowers a false sense of security, encouraging them to take on dollar-*

denominated debt. Third, in the countries affected by the crisis, exports were weak in the mid-1990s for a number of reasons, including the appreciation of the U.S. dollar against the yen, China's devaluation of the yuan in 1994, and the loss of some markets following the establishment of the North American Free Trade Agreement (NAFTA).”[115]

“The massive capital inflows and weakening exports were reflected in widening current account deficits. To make matters worse, a substantial portion of the capital inflows was in the form of short-term borrowing, leaving the countries vulnerable to external shocks.”[116]

After the collapse of Thailand’s financial sector, crisis of confidence amongst investors was soon to follow as investors began to think that all Asian Countries were vulnerable and hence the market over reacted leading to permeation of the crisis throughout Asia. It was a widespread belief that since other Asian countries were facing similar issues the crisis was bound to spread and hence the creditors/investors extracted their funds from the Asian economies.

Now, these countries approached to IMF for assistance. IMF provided bail out deals to the countries and imposed conditionality regimes upon them. The bailout was biggest one in the history.

1.1.IMF Support Programs as a Response to Asian Financial Crisis[117]

The IMF was called in to provide financial support for Indonesia, Korea, and Thailand. The strategy to address the crisis had three main components:

“*Financing:* *Some US$35 billion of IMF financial support was provided for adjustment and reform programs in Indonesia, Korea, and Thailand, with the assistance for Indonesia being augmented further in 1998-99. Some US$85 billion of financing was committed from other multilateral and bilateral sources, although not all of this financing actually materialized. In addition, concerted action was taken (at different stages after the start of these programs, in different countries) to stem private capital outflows.*

[115] Supra. 100.
[116] Supra. 100.
[117] See further Timothy Lane and others, "IMF-Supported Programs in Indonesia, Korea, and Thailand: A Preliminary Assessment," 1999, IMF Occasional Paper 178.

Macroeconomic policies: *Monetary policy was tightened (at different stages in different countries) to halt the collapse of the countries' exchange rates--which went well beyond what might have been warranted by fundamentals--and to prevent currency depreciation from leading into a spiral of inflation and continuing depreciation. The monetary tightening was appropriately temporary: once confidence began to recover and market conditions stabilized, interest rates were lowered. Fiscal policy was essentially to be held firm in the case of Indonesia and Korea, while in Thailand a fiscal tightening was planned to reverse an increase of the deficit the year before the crisis.*

Structural reforms*: Steps were taken to address the weaknesses in the financial and corporate sectors. Other reforms were intended to alleviate the social consequences of the crisis and set the stage for a resumption of growth.*

The macroeconomic projections underlying the initial programs were predicated on the assumption that confidence could be rapidly restored through the presentation of a convincing framework of policies, together with large financing packages. Based on this assumption, growth was projected to slow down but remain positive. The IMF--along with other observers--did not foresee the deep recessions that occurred. In the event, Korea's GDP dropped by 7 percent in 1998, Thailand's by 6 percent, and Indonesia's by 14 percent."[118]

In addition to the financial assistance for programs of policy reform in these three countries, the IMF was engaged with other countries in the region that were coping with the crisis "*extending and augmenting the existing IMF-supported program for the Philippines in 1997, and arranging a stand-by facility in 1998; and intensifying its consultations with other countries affected by the crisis and providing policy advice on steps to help ward off contagion. This included support for the authorities' view in China that its exchange rate against the U.S. dollar should be held stable."*[119]

[118] See https://www.imf.org/external/np/exr/ib/2000/062300.htm#III
[119] Id. 106.

1.2.Efficiency of IMF Support Programs

Question that is required to be answered is that how efficient were the support programs offered by IMF because the support programs are somewhat similar to that adopted as for Greece under the discussed conditionality regime (Economic Adjustment Programme). The strict austerity scheme imposed as discussed above respectively in case of Greece and Asian Countries are similar as we can see. The bail-out during Asian Financial Crisis did little help due to the intricate nature of the financial market. The bail-out money was absorbed by the financial market instantaneously as the debt was really big. It would be wrong to attribute the emergence of Asian Financial Market from the Crisis as a result of IMF Bail-out. The observation that one can make seeing the result of IMF Bail Out is that it failed without a doubt. IMF Bail-Out imposed its neo-liberal philosophy through imposition of conditionality regime in return for bail-out. The bail-out didn't even work and the reforms under the conditionality regime did little help in mitigating the crises.

2. Why isn't Greece recovering?

"What's worth remembering is that everything people say about why Greece can't bounce back? Structural problems, corruption, weak leadership, etc. was also said about Indonesia. So why could Indonesia come back while Greece can't?

Well, two obvious reasons: Indonesia had a currency that it could devalue, and did, massively. This caused a lot of short-term financial stress, but paved the way for export-led growth. And the IMF, after initially pushing austerity policies in Asia, backed off and reversed course; this time around the Troika has been relentless, learning nothing from experience."[120]

To elaborate further, Greece recovery is impossible because of being the part of Economic and Monetary Union. As long as it is a part of EMU it cannot recover because it cannot devalue its currency to make its exports competitive as all monetary

[120]See http://krugman.blogs.nytimes.com/2013/08/28/the-asian-crisis-versus-the-euro-crisis/?module=ArrowsNav&contentCollection=Opinion&action=keypress®ion=FixedLeft&pgtype=Blogs

prescriptions are provided by European Central Bank, Euro being the common currency in EMU.

In Asian Financial Crisis the recovery was more rapid than expected because the Central Banks of Asian Countries suffering from the crisis were able to devalue their currency making there exports competitive which led to the restoration of Foreign Exchange Reserve.

This recourse is not available to Greece as it being part of EMU cannot devalue its currency. Hence, we are rendered with another question whose answer is still not available i.e. How to stabilise the Greece economy. As observed in the analysis of the MoU between Greece and Troika it has become more than clear that it wouldn't aid in recovery of Greece's economy as it has almost been 6years since the first bail out and Greece shows little signs of recovery.

VIII. RELEVANCE OF GREECE DEBT CRISIS FOR INDIA

Indian economy remained closed for major part of 20th century and it was only in 1991 that scheme for economic liberalisation was implemented. This was only done because of her desperation as her foreign exchange reserves had been completely depleted and to get financial aid from IMF India had to bring about political and economic reforms as mandated by IMF.

IMF and other international financial institutions promote their neo-liberal agendas by imposing conditionalities over countries and in return offer them financial aids. Such conditionalities are supposed to be in best interest of the countries over which the conditionalities are being imposed. Over the course of history the nature of these conditionalities has only become stricter in nature. The more desperate a country the stricter the conditionality regime placed upon it.

The current crisis in Greece as we now have observed in detail illuminates a grander state of affairs. It has become clearer that the international financial institutions not only aim to promote their neo-liberal agendas but enforce them against a country which reaches a state of desperation due to financial incapacity. A country's fate in such cases is left to be determined by foreign institutions such as IMF. The waiver of sovereignty in return for financial aid is an apparent problem but a lot more exists in store when a closer inspection is afforded. In contemporary world where democracy is underlying philosophy of political systems the waiver of sovereignty not only compromises the government's power but also the legitimacy i.e. their right to choose the law by which they are to be governed. How can an institution and that to a foreign one can be given the right to make laws in guise of conditionality imposed in return for financial aid?

I know that India did benefit from the conditionalities that it was subjected to in 1990s but ends cannot justify the means in each and every case. It did bring prosperity at that time but similar approach cannot be expected to bring same results again and again. Measures cannot be imposed against the very principles upon which our political system is based otherwise what's the point of having the rule of law?

The nature of conditionality regime has changed in manner making them harsher by imposition of austerity measures in return for financial aid. As seen in case of Greece

which we have discussed at length the aid did no good and the results produced by conditionality regime did more bad than good.

Now, we can begin to understand as to why Greece is situation is a lesson for India? It is evident that Indian economy did not suffer from World Financial Crisis as much as other economies. Economists believe that it is because of the closed nature of the Indian economy and its effectively regulated banking and financial sector that it became less susceptible to busts in international financial market. So India did do late in opening the doors of its economy relatively but it did finally turn out to be in its best interest.

It is ironical that fall of USSR and India giving up its communist government was seen as a failure for communism but the world financial crisis did illuminate the evils of capitalism which arguably brought more suffering to common man than the suffering under a communist regime. It cannot be said absolutely now that either capitalism or communism is better. Both have had their fair share of successes and losses and hence debate is an ongoing one and is never going to end. One is to understand here is that any ideology cannot be said to be the best of all as if anything the history has taught us is that none have proven themselves to be a successful in each instance.

On that note one must understand that solution lies in between and best from all ideologies is to be taken and the residue discarded in order to apply them in a particular situation to achieve the best possible results.

After understanding the aforesaid point and understanding the causes of World Financial Crisis and the Greece debt crisis itself and the link between the two we can derive inferences pertinent to Indian Economy. Reviewing the Greece debt crisis the economy went into slump because it was too reliant on foreign direct investment. Greece had an extremely open economy and it allowed both current account convertibility and capital account convertibility. So as the government kept on spending more than it could afford going eventually into larger and larger debt it came to the notice of the investors. When the world financial crisis hit in 2007, and Greece made statement with regards to its economic infirmity which shook investors confidence to a great extent causing crisis of confidence. As there existed no capital

controls money started to flow out of Greece's economy as investors withdrew their investment leaving Greece in debt and bank's without money.

In India there is only current account convertibility and no capital account convertibility. It is essential to have a strong economy and stable currency in place before one can adopt capital account convertibility. Since the following attributes were absent in Greece its economy went into slump. Indian economy undoubtedly is growing but still in my opinion it is too soon to fully liberalise capital market.

The reason behind this being the recent issue regarding the NPLs which was one of the major causes of Greece debt crisis. In India, Twenty-nine state-owned banks wrote off a total of Rs 1.14 lakh crore of bad debts between financial years 2013 and 2015, much more than they had done in the preceding nine years. In response to an RTI application filed by The Indian Express, the RBI disclosed that while bad debts stood at Rs 15,551 crore for the financial year ending March 2012, they had shot up by over three times to Rs 52,542 crore by the end of March 2015. [121] Gross NPAs of public-sector banks rose to 6.03 per cent as of June 2015, from 5.20 per cent in March 2015.[122]

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[121] See http://indianexpress.com/article/india/india-news-india/bad-loan-financial-year-rti-rbi-bank-loan-raghuram-rajan-bad-loan-financial-year-rti-rbi-bank-loan-raghuram-rajan-1140000000000-bad-debts-the-great-govt-bank-write-off/

[122] Id.

THE MOST GENEROUS

Top 10 banks in writing off bad debts in 2015 (in Rs crore):

Bank	Amount
SBI	21,313
PNB	6,587
Indian Overseas Bank	3,131
Allahabad Bank	2,109
IDBI bank Ltd	1,609
Bank of Baroda	1,564
Syndicate Bank	1,527
Canara Bank	1,472
UCO Bank	1,401
Central Bank of India	1,386

Top 10 banks in writing off bad debts in last 3 financial years (in Rs crore):

Bank	Amount
SBI	40,084
PNB	9,531
Indian Overseas bank	6,247
Bank of India	4,983
Bank of Baroda	4,884
Canara Bank	4,598
Central Bank of India	4,442
Allahabad Bank	4,243
Syndicate Bank	3,849
Oriental Bank of Commerce	3,593

Source: Hindustan Times, http://indianexpress.com/article/india/india-news-india/bad-loan-financial-year-rti-rbi-bank-loan-raghuram-rajan-bad-loan-financial-year-rti-rbi-bank-loan-raghuram-rajan-1140000000000-bad-debts-the-great-govt-bank-write-off/

NPLs are indicators for determining how strong the economy is right now from the looks of conditions prevailing in India it doesn’t look good. There is yet another problem i.e. bubble in property market is ever growing due to NPAs. The rise in costs of property is happening not per economics i.e. market prices of lands are not being determined on the basis supply and demand but prices are being put as per the whims and fancies of the builder. Now there exists a demand for houses but as the number of NPAs grow larger and larger there is much less doubt in my mind the something similar to what happened in financial crisis would happen within India. Indian monetary system must be regulated firmly which in my view is the exact thing which is being done by the current RBI Governor Mr. Raghuram Rajan.

If the banks were to be left to do as they please then Indian banking sector is bound to become same as Wall Street causing the same or similar crisis which happened in U.S and spread throughout the world. The primary purpose of banks is to facilitate economic growth and not to make money for themselves.

Indian market hence is unstable and cannot be left to be completely controlled by market forces. If it were to be done we would face some similar fate to that of Greece. First, the economy is to be strengthened and our currency stabilised the only any neo-liberal measure would prove beneficial. After all, there are appropriate moments to take appropriate measures. At the inappropriate moment even the best measures fail.

IX. CONCLUSION AND RECOMMENDATIONS

"*Another world is possible, but only if we do the hard work rather than assume it will emerge spontaneously from the ashes of the old.*"

Greek Crisis is important because it has become a symbol of the failure of a particular economic theory and policy prescription. Many other places were hit by crises post 2008 such as Latin America, Africa and Asia but they were feeling the affect and cannot be called the cause of the crisis per se although it can be argued that everyone is at fault.

Since the dispute has turned out to be irresolvable up until now, which reflect the fallacy in the approach of Troika in dealing with the crisis. This raises issues regarding policy frameworks of these international institutions which could be called good for nothing but bossing around as in spite of their attempts they have been unable to bring things to normal. It also exposes how disrespectful of democratic autonomy, the major debt holders of this world can really be. Today's extractive institutions are the powerful lenders of gigantic amounts of debt to those who everyone knows cannot possibly repay their loans.

The discussed circumstances imply the increasing concentration of power in the hands of an unaccountable few. This has resulted in devastating consequences for the majority of the world's population. Greeks resistance to these powerful institutions will set an ideal for the rest of the world and in turn illuminate a path that the world could follow. However, resisting will not be enough unless an alternative economic theory is proposed as the basis for viable pragmatic policy alternatives, resistance may be heroic but it will remain quixotic until and unless such alternative is decided and implemented. Hence, mere opposition to neo-liberalism is not enough because it is quite clear now that it doesn't work. The world must learn from its own mistakes and choose an alternate path only after taking into account every possible consideration that one could think of.

Giving a conclusion would require laying down a theoretical foundation which would offer comprehensive perspective. The question that a theoretical model is supposed to answer is to find out a real and permanent solution. In order to do that the model must examine all the premises on which a particular system is based (International

economy and Euro zone banking system in this case). The model must have been formulated after inquiry into the role and responsibilities of commercial banks, central banks and national governments in promoting both financial stability and human welfare. It must also consider the relationship between the prevailing financial system and the underlying social forces and productive potentials, which alone can ensure a continuous rise in living standards, job growth and economic welfare for people.

The conclusion provided here in under is “a posterior” in nature and hence should be seen as a theoretical model derived from the case study of Greece and other nation as done under this dissertation. Hence, the theoretical perspectives for resolution of crisis and future avoidance of crisis are as follows:

a) Resurgence of Neo-liberalism following the End of the Cold War: The present crisis in Greece and the global recessionary trends cannot be viewed in isolation as they have spread to the whole world including China, Brazil and other nations. The crises that we are talking about are only the most recent consequences of a fundamental shift in economic theory and policy. This shift had gained dominance after the end of the Cold War. Its origin can be traced with “the rise of the neo-conservative movement in the USA during 1970s inspired by the theories of Hayek and Friedman.” The orthodoxy of extreme free-market liberalism prevalent in the 1920s and largely displaced by the rise of public intervention in the economy during and following the New Deal gained a new lease of life during the period of rapid globalization that followed the Fall of the Berlin Wall, the founding of the WTO and the global spread of the Internet. The dismantling of tariff barriers facilitated a tripling of world trade in current dollar terms from 1990 to 2008. During the same period daily financial transactions multiplied more than six-fold. In the absence of effective international regulation, a virtual Wild West of global finance emerged. Under the pressure of increasing international competition, financial institutions in the USA, Europe and elsewhere lobbied for the dismantling of domestic regulatory constraints which had effectively insulated commercial banks from the speculative financial markets for seven decades. Unconstrained global financial markets coupled with computerized trading led in turn to growing instability, precipitating the Argentine crisis of 1989, the structural collapse of most African economies during the 1990s, the East Asian financial crisis in 1998 and the much broader global crisis in 2008. Effectively addressing the problem at the national level necessitates urgent efforts to

stringently regulate the rapid movement of short term, speculative investments at the international level.

b) Divorce of Financial Markets from the Real Economy: When we trace the evolution of financial markets, we see that they were the means to pool the capital needed for large industrial investments and commercial enterprises in previous centuries but now if we see them they have now changed drastically with regards to their purposes and structure. Financial markets are now divorced from the real economy and hence they are now not fulfilling the purposes that they were intended to create. The design of existent financial market is such that it creates high-frequency speculative funds which are now and have been a major source of instability. This trend has reduced financing in medium and longer term investments in turn reducing production of real productive assets and hence inflating nominal GDP. As a result of this trend only a nominal contribution towards human welfare can be seen. Sometimes the contribution is negative too. If this problem is understood by the leaders then they can take steps to reorient and incentivize financial market to serve the real economy and society but why is it still not happening is what eludes me. Re-embedding the market within society is important. It's the single-most important policy measure needed to revive growth and maximise public welfare.

c) Austerity and Wealth Creation: The Greek crisis is only a recent crisis. There are other instances such as Asian Financial Crisis which we will discuss later, that demonstrate the poverty of current theory and the destructive impact of austerity programs. The thing that has changed is that Greece crisis brought to the world stage an issue which was being left out of discussion up until now. As a result of crisis at this level, countries throughout the world, as well as the IMF and the leading economists internationally are predicting that the austerity measures were never a good idea and are destined to fail in the current economic order countries. Even after having this realisation no real steps are being taken because this would mean deviating from the assumptions about the economy that they had in their mind for their whole life. The source of the problem lies not merely in the policy itself, but more deeply in the theoretical framework on which it is based. Society is the true source of wealth creation. The numbers in financial market that gets reported via the news bulletins of the world are abstract and the purpose of it is to aid society in wealth creation. Creative relationships and organized interactions between people for

invention, production, distribution and consumption generate real wealth and enhance human welfare. The austerity programs stops the society from realising its potential as production is minimised due to austere measures which in turn compromises public welfare. Hence, austere measures take away the resources that are required by society to maximise production and hence human welfare. It brings economy and society to equilibrium at a lower level. Economics has become divorced from the society. Economic theory is divorced from the wider theory of society of which it is a subset.

d) Development, Self-reliance and Political Will: Since the end of World War II rapid expansion of the EU took place and Euro-zone increasingly depended on financial aid which was born by the Marshall Plan after World War II. Development is an immutable human process and true development lies in self-development. Foreign lending and investment do play an important role but they should only come when need and they should come as response to societal need for development. Hence financial aid should not act as a substitute but only as an aid so that development can take place. Money promises instantaneous benefit to people as against real development by maximisation of production and hence it has an irresistible lure. The E.U fell for this when it was expanding and it was one of the main reasons behind the Ukraine crisis. Pogatsa documents which led to the original entry of Greece into the European Economic Community came, at a time when Greece had the fastest growing economy in Europe. Kyriakou suggested that "this was probably more strongly motivated by a desire for political integration than economic benefits. But the recent negotiations with the ECB were dominated by the aid mentality of both donors and recipient." There was widespread movement against the joining of European Community an encouraging sign that Greece was recovering the sense of self-reliance and self-respect that it demonstrated before joining the European Community. In my belief such movement can determine the destiny of the country and in absence or in a case of anything less, a country is doomed to failure. The Euro-zone did prosper for a decade after its establishment by generating trust and confidence among smaller economies and facilitating more efficient large scale exchange and cooperation but now it suffers from the lack of political commitment to the welfare of its own members. The petty accusations and infighting have undermined precious social capital in the region and hence restoration of that trust, confidence and cooperative spirit should be valued and should be put on top of the agenda in post-crisis times.

The current crisis should seen as a chance to reflect upon the mistakes and to develop the political will needed to assume responsibility for promoting the welfare of all members of the currency union. It should also be combined with a determination of each member country to exhaust the potentials for its own self-development. It is true that the Greek crisis can only be resolved by international cooperation. It is equally true that the starting point must be commitment to self-reliance at the national level. The two are complementary rather than contradictory elements of a solution.

e) Economy, Governance and Society are inseparable: Only Society is the truest source to generate the potential for wealth creation and hence ensuring societal welfare as a whole. The only purpose of political institutions is to facilitate collective action which would unite the disintegrated forces in a society. Similarly, existence of economy aids such collective action to become more feasible and effective. Hence, it has now become pertinent to develop cordial relationship between economy, society and politics. Any decision that is taken should have considered all the considerations regarding the three so that an amicable solution could be reached. Solution to any problem is possible only when people develop, evolve the manner in which they think and think about overall interest rather than mere self-interest. Hence, the policies that have failed must be rejected and the newer ones that are adopted should encompass all considerations in order to mitigate as well as avoid future crises.

f) Towards greater resource efficiency and sustainability: It is high time and we should start looking towards sustainable modes of development now that we have realised that there are limited to carbon resources and also because environment cannot further assimilate pollution caused by carbon fuelled machines. This means that economic growth as we know it can no longer assume that natural resources are unlimited in availability, specially metals, fossils, ecosystem services such as soils, water, fisheries, bees/pollination. As the New Climate Economy Report of 2015 made clear, "a fundamental structural transformation of the global economy is required." Even mainstream bodies like the OECD and World Economic Forum have echoed this view. Economic growth is required to be completely redefined in terms of the aforesaid considerations. Austerity is not a solution for Greece's problem until and unless there is put in place a ready alternative for development which is sustainable in nature. If GDP has its flaws as it only judges the production and disregard the manner in which it is done. Hence, it should be replaced with a well-being indicator. This will

ensure policies that will simultaneously protect the resources people depend on for their well-being and which prioritize human needs rather than speculative investments and shareholder profits. Using austerity economics to resolve the Greek crisis or with another theory of growth is futile if those theories disregard limitation of resources in the world as Greece is not a resource-rich economy. African economies went through what Greece is going through now, but Chinese demand for African resources became the driver of growth, thus saving African economies from the Greek syndrome. Now that this demand is dropping, the fundamental structural weakness of African economies will be exposed. Ultimately, a new economics of well-being will have to be post-extractivist, resource efficient and sustainable.

APPENDICES

Annexure I - Memorandum of Understanding for a three-year ESM programme

MEMORANDUM OF UNDERSTANDING BETWEEN THE EUROPEAN COMMISSION ACTING ON BEHALF OF THE EUROPEAN STABILITY MECHANISM AND THE HELLENIC REPUBLIC AND THE BANK OF GREECE

THIS MEMORANDUM OF UNDERSTANDING IS MADE BY AND BETWEEN THE EUROPEAN COMMISSION (ACTING ON BEHALF OF THE EUROPEAN STABILITY MECHANISM), THE HELLENIC REPUBLIC AND THE BANK OF GREECE

WHEREAS

(A) The European Stability Mechanism ("ESM") was established by the Treaty Establishing the European Stability Mechanism entered into between the euro area Member States (the "ESM Treaty") for the purpose of mobilising funding and providing stability support for the benefit of ESM members which are experiencing, or are threatened by, severe financial problems, if indispensable to safeguard the financial stability of the euro area as a whole and of its member states.

(B) ESM may grant financial assistance under financial assistance facility agreements by way of any of loan disbursements under precautionary conditioned credit lines or enhanced conditions credit lines, loans to ESM members under macro-economic adjustment programmes, facilities to (directly and indirectly) finance the recapitalisation of financial institutions in an ESM member state, and facilities for the purchases of bonds in the primary or secondary markets, all subject to strict conditionality appropriate to the financial instrument(s) chosen (each such loan or disbursement under such a financial assistance facility agreement being a "Financial Assistance").

(C) The European Commission, in liaison with the ECB, assessed (i) the existence of a risk of financial stability of the euro area as a whole or of its member states, (ii) whether the public debt of the Hellenic Republic (the "Beneficiary Member State") was sustainable and (iii) the actual or potential financing needs of the Beneficiary Member State, and on the basis of such assessment the ESM Board of Governors

decided in principle to grant stability support to the Beneficiary Member State in the form of a financial assistance facility.

(D) The Memorandum of Understanding has been negotiated and finalised between the European Commission (on behalf of the ESM and with the approval of its Board of Governors) - in liaison with the ECB – with input from the IMF, and the Beneficiary Member State. The financial assistance to be provided to the Beneficiary Member State by the ESM shall be dependent upon compliance by the Beneficiary Member State with the measures set out in the Memorandum of Understanding.

(E) The ESM Board of Governors approved this Memorandum of Understanding and the European Commission signing the Memorandum of Understanding on behalf of the ESM.

(F) With the exception of the first disbursement, the release of Financial Assistance by ESM under any financial assistance facility agreement, shall, unless otherwise specified, be conditional upon the ESM Board of Directors deciding, on the basis of reports from the European Commission (in liaison with the ECB) in accordance with Article 13(7) of the ESM Treaty, that the Beneficiary Member State has complied with the conditionality attached to the financial assistance facility agreement, including compliance with the measures set out in this Memorandum of Understanding.

This Memorandum of Understanding may be amended upon mutual agreement of the parties, by the European Commission, acting on behalf of the ESM, in liaison with the ECB, and together with the IMF and the Beneficiary Member State, in the form of an addendum. The addendum will be an integral part of the memorandum and will become effective upon signature.

Done in Athens on 19 August 2015 and in Brussels on 19 August 2015 in five (5) originals, in the English language.

THE HELLENIC REPUBLIC

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Represented by Euclid Tsakalotos, Minister of Finance

BANK OF GREECE

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Represented by Yannis Stournaras, Governor of The Bank of Greece

THE EUROPEAN COMMISSION,

ON BEHALF OF THE EUROPEAN STABILITY MECHANISM

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Represented by Valdis Dombrovskis,

Vice-President of the European Commission responsible for the Euro and Social Dialogue

Greece

Memorandum of Understanding for a three-year ESM programme

1. Outlook and strategy

Greece has requested support from its European partners, to restore sustainable growth, create jobs, reduce inequalities, and address the risks to its own financial stability and to that of the euro area. This Memorandum of Understanding (MoU) has been prepared in response to a request of 8 July 2015 from the Hellenic Republic to the Chairperson of the Board of Governors of the European Stability Mechanism (ESM) for stability support in the form of a loan with an availability period of three years. In accordance with Article 13(3) of the ESM Treaty, it details the conditionality attached to the financial assistance facility covering the period 2015-18. The conditionality will be updated on a quarterly basis, taking into account the progress in reforms achieved over the previous quarter. In each review the specific policy measures and other instruments to achieve these broad objectives outlined here will be fully specified in detail and timeline.

Success requires ownership of the reform agenda programme by the Greek authorities. The Government therefore stands ready to take any measures that may become appropriate for this purpose as circumstances change. The Government commits to consult and agree with the European Commission, the European Central Bank and the International Monetary Fund on all actions relevant for the achievement of the objectives of the Memorandum of Understanding before these are finalized and legally adopted.

The recovery strategy takes into account the need for social justice and fairness, both across and within generations. Fiscal constraints have imposed hard choices, and it is therefore important that the burden of adjustment is borne by all parts of society and taking into account the ability to pay. Priority has been placed on actions to tackle tax evasion, fraud and strategic defaulters, as these impose a burden on the honest citizens and companies who pay their taxes and loans on time. Product market reforms seek to eliminate the rents accruing to vested interest groups: through higher prices, these undermine the disposable income of consumers and harm the competitiveness of companies. Pension reforms have focussed on measures to remove exemptions and end early-retirement. To get people back to work and prevent the entrenching of long-term unemployment, the authorities, working closely with European partners, will

initiate measures to boost employment by 50.000 people targeting the long-term unemployed. A fairer society will require that Greece improves the design of its welfare system, so that there is a genuine social safety net which targets scarce resources at those who need it most. The authorities plan to benefit from available technical assistance from international organisations on measures to provide access to health care for all (including the uninsured) and to roll out a basic social safety net in the form of a Guaranteed Minimum Income (GMI).

Implementation of the reform agenda will provide the basis for a sustainable recovery, and the policies are built around four pillars:

- Restoring fiscal sustainability (section 2): Greece will target a medium-term primary surplus of 3.5% of GDP to be achieved through a combination of upfront parametric fiscal reforms, including to its VAT and pension system, supported by an ambitious programme to strengthen tax compliance and public financial management, and fight tax evasion, while ensuring adequate protection of vulnerable groups.

- Safeguarding financial stability (section 3): Greece will immediately take steps to tackle Non-Performing Loans (NPLs). A recapitalisation process of banks should be completed before the end of 2015, which will be accompanied by concomitant measures to strengthen the governance of the Hellenic Financial Stability Fund (HFSF) and of banks.

- Growth, competitiveness and investment (section 4): Greece will design and implement a wide range of reforms in labour markets and product markets (including energy) that not only ensure full compliance with EU requirements, but which also aim at achieving European best practices. There will be an ambitious privatisation programme, and policies which support investment.

- A modern State and public administration (section 5) shall be a key priority of the programme. Particular attention will be paid to increasing the efficiency of the public sector in the delivery of essential public goods and services. Measures will be taken to enhance the efficiency of the judicial system and to upgrade the fight against corruption. Reforms will strengthen the institutional and operational independence of key institutions such as revenue administration and the statistics institute (ELSTAT).

Success will require the sustained implentationm of agreed policies over many years. To this end, political commitment is needed, but so is the technical capacity of the Greek administration to deliver. The authorities have committed to make full use of the available technical assistance, which on the European side is coordinated by the new Structural Reform Support Service (SRSS) of the European Commission. Technical assistance is already in place for some key reform commitments, including on tax policy, the reform of the tax administration, the Social Welfare Review, and the modernisation of the judicial system. The authorities are committed to quickly scale up pre-existing technical assistance projects to support reforms such as OECD competition assessment, World Bank investment licensing, health care, revision of the income tax, autonomy of the tax authority, Social Security and tax debt cross-checking and collection and reform of the public administration. There is also scope to develop technical assistance projects in areas such as energy policy, labour market policies including tackling undeclared work and codification of the Greek statute book. The Greek authorities will by end-September 2015 finalise a medium-term technical assistance plan with the European Commission.

Greece needs to build upon the agreed recovery strategy and develop a genuine growth strategy which is Greek-owned and Greek-led. This should take into account the reforms included in this MoU, relevant European Union initiatives, the Partnership Agreement of the implementation of the National Strategic Reference Framework (NSRF) and other best practices. Greece must benefit fully from the substantial means available from the EU budget and the EIB to support investment and reform efforts. For the period 2007-2013, Greece was eligible for EUR 38 billion in grants from EU policies, and should benefit from the currently remaining amounts under this envelope. For the 2014-2020 period, more than EUR 35 billion is available to Greece through EU funds. To maximise absorption, the European Commission's Investment Plan for Europe will provide an additional source of investment as well as technical help for public and private investors to identify, promote and develop high-quality and feasible projects to fund. The Greek authorities may request technical assistance to further develop the growth strategy, which inter alia could aim at creating a more attractive business environment, improving the education system as well as human capital formation through vocational education and training, developing R&D and innovation. It could also help design sectorial priorities in areas

such as tourism, transport and logistics, and agriculture. The authorities aim to finalise the growth strategy by March 2016 in collaboration with social partners, academics and international organisations. The strategy should also address the need for coordination of the ambitious reform agenda, reinforcing the existing Secretariat General for Coordination and involving as appropriate organisations representing the private sector.

2. Delivering sustainable public finances that support growth and jobs

The correction of extreme imbalances in public finances in recent years has required an unprecedented adjustment and sacrifices from Greece and its citizens. Public deficits have fallen considerably compared to the pre-crisis period, although Greece is facing a primary deficit of about 1.5 percent of GDP in 2015, absent additional measures. The consolidation has also relied on a dramatic scaling back of public investment and services, which will need to be progressively normalized and further prioritised in order to sustain the growth potential.

2.1 Fiscal policy

The Greek authorities commit to ensuring sustainable public finances and achieve sizeable and sustainable primary surpluses over the medium-term that will reduce the debt to output ratio steadily. The authorities will accordingly pursue a new fiscal path premised on a primary surplus targets of -¼, 0.5, 1¾, and 3.5 percent of GDP in 2015, 2016, 2017 and 2018 and beyond, respectively. The trajectory of the fiscal targets is consistent with expected growth rates of the Greek economy as it recovers from its deepest recorded recession.

The government has recently adopted a reform of VAT and a first phase of the reform of the pension systems; raised the corporate tax rate; extended the implementation of the luxury tax; taken measures to increase the advance corporate income tax in 2015 and require 100 percent advance payments gradually for partnerships etc. and individual business income tax by 2017; and raised the solidarity surcharge.

Furthermore, as a prior action the Government will adopt legislation to:

- raise revenues: a) gradually abolish the refund of excise tax on diesel oil for farmers in two equal steps in October 2015 and October 2016; b) increase the tonnage tax.

The authorities will take actions to launch the 2015 ENFIA exercise in order to issue bills in October 2015 with the final instalment due in February 2016. They will also correct issues with the revenue measures recently implemented.

- target and contain expenditure: a) effective immediately, (i) re-establish full INN prescription; (ii) reduce the price of all off-patent drugs; b) launch the comprehensive social welfare review (see section 2.5.3).

- The package will include further measures with budgetary impact, such as public administration reforms, reforms addressing shortfalls in tax collection enforcement, and other parametric measures, recalled in other parts of this document.

To demonstrate its commitment to credible fiscal policies, the Government will adopt (Key deliverable) in October 2015, a supplementary 2015 budget as needed, the draft 2016

budget and a 2016–19 Medium-Term Fiscal Strategy, supported by a sizable and credible package of parametric measures and structural fiscal reforms, including: a) a second-phase of pension reforms, see section 2.5.1; b) a reform of the income tax code, see section 2.2.2; c) phasing out the preferential tax treatment of farmers in the income tax code, with rates set at 20% in the 2016 exercise and 26% in the 2017 exercise. Meanwhile a strategy for agriculture is being developed; d) a tax on television advertisements; e) the announcement of an international public tender for the acquisition of television licenses and usage related fees of relevant frequencies; f) the extension of Gross Gaming Revenues (GGR) taxation of 30% on VLT games expected to be installed at second half of 2015 and 2016; g) an increase of the tax rate on income for rents for annual incomes below €12,000 to 15% (from 11%) and for annual incomes above €12,000 to 35% (from 33%); h) phasing out special tax treatments of the shipping industry; i) extend the temporary voluntary contribution of the shipping community to 2018; j) reduce permanently the expenditure ceiling for military spending by €100 million in 2015 and by €400 million in 2016 with a

targeted set of actions, including a reduction in headcount and procurement; k) better target eligibility to halve heating oil subsidies expenditure in the budget 2016.

In addition to the measures above, the authorities commit to legislate in October 2015 credible structural measures yielding at least ¾% of GDP coming into effect in 2017 and ¼% of GDP coming into effect in 2018 to support the achievement of the medium term primary balance target of 3.5% of GDP. The authorities commit to take further structural measures in October 2016, if needed to secure the 2017 and 2018 targets. These would include containing defence expenditure, the planned PIT reform and freezing statutory spending.

Parametric fiscal measures will be bolstered by a wide range of administrative actions to address shortfalls in tax collection and enforcement: these measures will take some time to bear fruit but could offer significant upside fiscal yield going forward.

The Greek government will monitor fiscal risks, including court rulings, and will take offsetting measures as needed to meet the fiscal targets. The authorities intend to transfer at least 30 percent of any over-performance to the segregated account earmarked for debt reduction. In addition, another 30 per cent of the over-performance would be used for clearing unpaid government obligations linked to the past.

2.2 Tax policy reforms

The Government commits to enact reforms of both direct and indirect taxation to improve efficiency, collectability and boost labour supply.

In July 2015 the Government has already legislated a major reform of VAT aiming at simplifying the VAT structure, broadening the tax base and eliminating and streamlining exemptions, generating around 1% of GDP in annual revenues.

The government commits to further reforms as follows:

i. As a prior action, the authorities will: a) eliminate the cross-border withholding tax introduced by the instalments act (law 4321/2015) and reverse recent amendments to the Income Tax Code (ITC) introduced in laws (4328/2015 and

4331/2015); b) clarify that the VAT island discounts will be fully eliminated by end-2016 and define the transitional arrangements.

ii. Tax Codes. By September 2015 adopt outstanding reforms on the tax procedures codes: a) introduce a new Criminal Law on Tax Evasion and Fraud to amend the Special Penal Law 2523/1997 and any other relevant legislation, and replace Article 55, paragraphs 1 and 2, of the Tax Procedure Code (TPC), with a view, inter alia, to modernize and broaden the definition of tax fraud and evasion to all taxes; abolish all Code of Book and Records fines, including those levied under law 2523/1997; b) issue a circular on fines to ensure the comprehensive and consistent application of the TPC; c) ensure appropriate single-violation penalties for breach of the accounting code; non-issuance or incorrect issuance of retail receipts will be treated as a single but serious procedural violation for VAT (key deliverable). By February 2016, the authorities will conduct a comprehensive review of remaining tax legislation that is in conflict with the ITC and TPC, integrating these acts where appropriate, and by March 2016 issue all secondary legislation to implement the ITC and TPC.

iii. Income tax. By October 2015, the Government will: a) simplify the personal income tax credit schedule; b) re-design and integrate into the ITC the solidarity surcharge for income as of 2016 to more effectively achieve progressivity in the income tax system; c) identify all business income tax incentives and integrate the tax exemptions into the ITC, eliminating those deemed inefficient or inequitable; d) undertake a review and reform of the KEDE, including revenue administration procedures for enforced sale of assets at public auctions; e) ensure the revenue administration's adequate access to taxpayers' premises for conducting timely audits and enforcement purposes; f) review the framework of capital taxation and develop the tax framework for collective investment vehicles and their participants consistently with the ITC and in line with best practices in the EU; g) review the withholding tax on technical services; h) In view of any revision of the zonal property values, adjust the property tax rates if necessary to safeguard the 2016 property tax revenues at least €2.65 billion and adjust the alternative minimum personal income taxation; i) review the operation of the alternative minimum tax (including correcting

any backtracking); j) close possibilities for income tax avoidance; k) tighten the definition of farmers. (key deliverable)

iv. VAT. The authorities will by March 2016, a) codify and simplify the VAT legislation, aligning it with the tax procedure code, eliminating outstanding loopholes and shortening the VAT payment period; b) simplify the income tax regime and ensure consistency of the income base for income tax and social security contributions of small businesses below the VAT registration threshold; c) modernise the corporate tax law in ITC covering mergers and acquisitions and corporate reserve accounts and implement ITC provisions concerning cross-border transactions and transfer pricing. (key deliverable)

v. Property tax. The authorities will by September 2016 align all property assessment values with market prices with effect from January 2017. By that date, cross-checking of all ownership interests against the information on all individual properties in the cadastre. (key deliverable)

2.3. Revenue administration reforms

The ability to collect revenues has been hampered by a long history of complicated legislation, poor administration, political interference and generous amnesties, with chronically weak enforcement. To break from this practice and improve the tax and social security payment culture, the government firmly commits to take strong action to improve collection and to not introduce new instalment or other amnesty or settlement schemes nor extend existing schemes.

As a prior action, the authorities will adopt legislation to: a) on garnishments, eliminate the 25 percent ceiling on wages and pensions and lower all thresholds of €1,500 while ensuring in all cases reasonable living conditions; b) amend the 2014–15 tax and SSC debt instalment schemes to exclude those who fail to pay current obligations, to introduce a requirement for the tax and social security administrations to shorten the duration for those with the capacity to pay earlier, and to introduce market-based interest rates while providing targeted protection for vulnerable debtors (with debts below €5,000); c) amend the basic instalment scheme/TPC to adjust the market-based interest rates and suspend until end-2017 third-party verification and bank guarantee requirements; d) accelerate procurement of software for VAT network

analysis and for further automation of the debt collection, embracing inter alia fully automatized garnishment procedures; e) adopt immediately legislation to transfer, by end October 2015 all tax- and customs-related capacities and duties and all tax- and customs-related staff in SDOE and other entities to the revenue administration; all non-assessed audits reports made by SDOE since law 4321/2015 will be considered as detailed fact sheets to the tax administration.

The authorities commit to taking immediate enforcement action regarding debtors who fail to pay their instalments or current obligations on time. The authorities will not introduce new instalment or other amnesty or settlement schemes nor amend existing schemes, such as by extending deadlines.

Furthermore, the authorities, making use of technical assistance, will:

i. enhance compliance. The government will by October 2015: a) adopt a fully-fledged plan to increase tax compliance; b) develop with the Bank of Greece and the private sector a costed plan for the promotion and facilitation of the use of electronic payments and the reduction in the use of cash with implementation starting by March 2016.; c) publish the list of debtors for tax and social security debt overdue for more than three months.

ii. fight tax evasion. The authorities will by November 2015 produce a comprehensive plan for combating tax evasion based on an effective interagency cooperation which includes: a) identification of undeclared deposits by checking bank transactions in banking institutions in Greece or abroad; b) introduction of a voluntary disclosure program with appropriate sanctions, incentives and verification procedures, consistent with international best practice, and without any amnesty provisions; c) request from EU member states to provide data on asset ownership and acquisition by Greek citizens, and how the data will be exploited; d) renew the request for technical assistance in tax administration and make full use of the resource in capacity building; e) establish a wealth registry to improve monitoring; f) adopt legislative measures for locating storage tanks (fixed or mobile) to combat fuel smuggling; g) create a database to monitor the balance sheets of parent-subsidiary companies to improve risk analysis criteria for transfer pricing;

iii. prioritise action on collectable taxes. By September 2015, the authorities will sign the Ministerial Decision allowing for the extension of the indirect bank account register to provide 10 years of transaction history. By October 2015, the authorities will reduce – taking account technical assistance - restrictions on conducting audits of tax returns subject to the external tax certificate scheme. By November 2015, the authorities will adopt measures to prioritise tax audits on the basis of risk analysis and not, as is now the case, year of seniority (i.e. year of write-off).

iv. improve collection of tax debt. To improve collection of tax debt the authorities will by October 2015 (key deliverable): a) improve the rules on write-off of uncollectible tax; b) remove tax officers' personal liabilities for not pursuing old debt, and c) propose, and implement in 2016, a national collection strategy including further automation of debt collection, and by November d) take necessary measures towards the timely collection of fines on vehicles uninsured or not undertaking mandatory technical controls, and of levies for the unlicensed use of frequencies; e) issue legislation to quarantine uncollectable Social security contribution debt; and f) improve the rules on write-off of uncollectible Social security contribution debt, and g) enforce if legally possible upfront payment collection in tax disputes.

v. improve collection of Social security debt. By September 2015 the authorities will: a) provide KEAO with access to indirect bank account registry and to tax administration data; b) create a single SSC debt database that will encompass all social security funds. The authorities will implement by end-December 2016 a central registry of contributors in coordination with the pension funds consolidation and complete the integration of social security contribution collection with the tax administration by the end of 2017.

vi. strengthen VAT revenues. The authorities will strengthen VAT collection and enforcement inter alia through streamlined procedures and with measures to combat VAT carousel fraud. They will adopt by October 2015 legislation to a) accelerate de-registration procedures and limit VAT re-registration to protect VAT revenue; b) adopt the secondary legislation needed for the significantly strengthening the reorganization of the VAT enforcement section in order to strengthen VAT enforcement and combat VAT carousel fraud. The authorities will submit an

application to the EU VAT Committee and prepare an assessment of the implication of an increase in the VAT threshold to €25,000.

vii. reinforce the capacity of the administration. By October 2015, the authorities will secure the full staffing of KEAO, strengthen control capacity in IKA and reinforce the Large Debtors Unit, to improve its capacity on issues of liquidation and tax collection, and – with highly skilled legal advisers, supported by an international independent expert firm – for the assessment of debtor viability. By December 2015 the LDU will segment commercial debtors with large public debt according to viability status.

viii. strengthen the independence of the revenue administration. The authorities will by October 2015 adopt legislation (key deliverable) to establish an autonomous revenue agency, that specifies: a) the agency's legal form, organization, status, and scope; b) the powers and functions of the CEO and the independent Board of Governors; c) the relationship to the Minister of Finance and other government entities; d) the agency's human resource flexibility and relationship to the civil service; e) budget autonomy, with own GDFS and a new funding formula to align incentives with revenue collection and guarantee budget predictability and flexibility;

f) reporting to the government and parliament. The authorities will by December 2015 (key deliverable) appoint the Board of Governors and adopt priority secondary legislation of the law (key human resource, budget) on the autonomous revenue administration agency, so that it can be fully operational by June 2016.

The authorities will continue to improve operations as measured by key performance indicators. Over the medium term the Authorities will continue with reforms improving tax administration, to be agreed with the institutions and taking into account recommendations of technical assistance reports conducted by the EC/IMF.

2.4 Public Financial Management and Public Procurement

2.4.1 Public financial management

The authorities commit to continue reforms that aim at improving the budget process and expenditure controls, clearing arrears, and strengthening budget reporting and cash management.

The authorities will adopt legislation by October 2015 (key deliverable) to upgrade the Organic Budget Law to: a) introduce a framework for independent agencies; b) phase out ex-ante audits of the Hellenic Court of Auditors and account officers (ypologos); c) give GDFSs exclusive financial service capacity and GAO powers to oversee public sector finances; and d) phase out fiscal audit offices by January 2017. The authorities will adopt secondary legislation to define the transitional arrangements of the OBL reform by end-December 2015, and complete the reform by end-December 2016.

The Greek government is committed to making the Fiscal Council operational before finalizing the MoU. For this to happen, the government adopted a Ministerial Decision to start the open procedure to select the members of the board. Following completing the process for the appointment of the Board Members of the Fiscal Council, the Government will by September 2015 issue the needed secondary legislation to make the Council fully operational (including budgeting and staffing) by November 2015. The Authorities will complete a review with the help of technical assistance from the EC of the work of the Fiscal Council by December 2016, and adopt legislation as needed (March 2017).

In line with the Fiscal Compact, the Greek Government shall present the main characteristics of their medium-term public finance plans to the European Commission and the ECOFIN Council in spring of each year and will update its Medium Term Fiscal Strategy before end May of each year in line with the programme targets. In addition, as part of a common budgetary timeline, Greece shall submit to the European Commission the draft budget for the following year by 15 October of each year, along with the independent macro-economic forecast on which it is based. The Government will design a new government Budget Classification structure and Chart of Accounts (September 2016) in time for the 2018 budget.

The authorities will present by September 2015 a plan to complete the clearance of arrears, tax refund and pension claims, and immediately start implementation. The authorities will then clear the outstanding stock of spending arrears of 7.5 billion by end-December 2016 after completing a thorough audit by end-January 2016, and clear the backlog of unprocessed tax refund and pension claims by end-December 2016; The Government will ensure that budgeted social security contributions are transferred from social security funds to health funds and hospitals so as to clear the stock of health-related arrears.

The Government will present by November 2015 a medium-term action plan to meet the requirements of the Late Payment Directive, including concrete measures and safeguards to ensure the transfer of IKA liabilities (cash transfers and expenditures) to EOPYY during the relevant period. By January 2016, the authorities will complete an external audit of EOPYY's accounts payables, and rationalize the payment process in the social security and health system by end-June 2016 (key deliverable). The authorities will continue to improve operations as measured by key performance indicators.

To improve the fragmented cash management system, the Government will include all central government entities in the treasury single account by end-December 2015. Following the implementation of a cash management reform the Authorities will close accordingly general government accounts in commercial banks and consolidate them in the Treasury single account. As a prior action, the ministry of finance will ring-fence the account for the management of EU structural funds instruments and of Greece's national contributions.

2.4.2 Public procurement

Greece needs to take further action in the area of public procurement to increase efficiency and transparency of the Greek public procurement system, prevent misconduct, and ensure more accountability and control. By September 2015 the authorities will agree with the European Commission, which will assist on implementation, an action plan to spell out the details of the actions below (key deliverable).

- By January 2016, a consolidated, comprehensive and simplified legislative framework (primary and secondary legislation) on public procurement and concessions, including the transposition of the new EU directives on public procurement and concessions (2014/23, 2014/24, 2014/25) will enter into force.

- By December 2016, the reform of the system of non-judicial/administrative remedies will enter into force. The authorities will present a detailed proposal for this reform to the Commission by October 2015.

- By February 2017, the authorities will adopt measures to improve the judicial remedies system. In preparation, the authorities will perform by September 2016 in cooperation with the Commission a comprehensive assessment of the effectiveness of the existing judicial remedies system, identifying problems (e.g. lack of effective and rapid remedies, delays, difficulty of obtaining damages, litigation costs).

- The authorities will continue to implement the action plan on e-procurement as agreed with the Commission.

- By May 2016, a new central purchasing scheme, established in cooperation with the Commission and the OECD will enter into force, to be applied for the needs of 2017.

The authorities will ensure that the SPPA remains the principal institution in the area of public procurement in Greece; the SPPA will cooperate with other Greek institutions and the Commission to prepare by March 2016 a national strategy, identify systemic deficiencies of the national public procurement system, and propose realistic solutions to be implemented by the authorities through an action plan.

2.5 Sustainable social welfare

2.5.1 Pensions

The 2010 and 2012 pension reforms, if fully implemented, would substantially improve the longer-term sustainability of the overall pension system. However the pension system is still fragmented and costly and requires significant annual transfers from the State budget. Hence much more ambitious steps are required to address the underlying structural challenges, as well as the additional strains on the system caused

by the economic crisis. Contributions have fallen due to high levels of unemployment at the same time as spending pressures mounted as many people opted to retire early.

To address these challenges, the authorities commit to implement fully the existing reforms and will also proceed with further reforms to strengthen long-term sustainability targeting savings of around ¼% of GDP in 2015 and around 1% of GDP by 2016. The package inter alia aims to create strong disincentives for early retirement through increasing early retirement penalties and by the gradual elimination of the grandfathering of rights to retire before the statutory retirement age.

The authorities have already increased health contributions of pensioners to 6% on their main pensions and applied health contributions of 6% also to supplementary pensions from 1 July 2015; will integrate into ETEA by 1st September 2015 all supplementary pension funds and ensure that all supplementary pension funds will be only financed by own contributions from 1 January 2015; will freeze monthly guaranteed contributory pension limits in nominal terms until 2021; and ensured that people retiring after 30 June 2015 will have access to the basic, guaranteed contributory, and means- tested pensions only at the attainment of the statutory normal retirement age of currently 67 years.

i. As a prior action, the authorities will: a) clarify the rules for eligibility for the minimum guaranteed pensions after 67 years; b) issue all circulars to ensure the implementation of the 2010 law; c) correct law 4334/2015 to among others correctly apply the freeze on monthly guaranteed benefits (instead of contributions state subsidy) and to extend to the public sector; d) eliminate gradually the grandfathering to statutory retirement age and early retirement pathways, progressively adapting to the limit of statutory retirement age of 67 years at the latest by 2022, or to the age of 62 and 40 years of contributions, applicable for all those retiring (except arduous professions and mothers with children with disability) with immediate application.

ii. The authorities will by October 2015 (key deliverable) legislate further reforms to take effect from 1 January 2016: a) specific design and parametric improvements to establish a closer link between contributions and benefits; b) broaden and modernize the contribution and pension base for all self-employed, including by switching from notional to actual income, subject to minimum required contribution rules; c) revise and rationalize all different systems of basic, guaranteed

contributory and means tested pension components, taking into account the incentives to work and contribute; d) the main elements of a comprehensive consolidation of social security funds, including the remaining harmonization of contribution and benefit payment procedures across all funds; e) phase out within three years state financed exemptions and harmonise contributions rules for all pension funds with the structure of contributions of the main social security fund for employees (IKA) ; f) the abolition from 31 October 2015 of all nuisance charges financing pensions to be offset by reducing benefits or increasing contributions in specific funds; g) gradually harmonize pension benefit rules of the agricultural fund (OGA) with the rest of the pension system in a pro rata manner; h) that early retirements will incur a penalty, for those affected by the extension of the retirement age period, equivalent to 10 percent on top of the current annual penalty of 6 percent; i) better targeting social pensions by increasing OGA uninsured pension; j) the gradual phasing out of the solidarity grant (EKAS) for all pensioners by end-December 2019, starting with the top 20% of beneficiaries in March 2016; k) restore the sustainability factor of the 2012 reform or find mutually agreeable alternative measures in the pension system; i) the Greek government will identify and legislate by October 2015 equivalent measures to fully compensate the impact of the implementation of the Court ruling on the pension measures of 2012; and repeal the amendments to the pension system introduced in Laws 4325/2015 and 4331/2015 in agreement with the institutions.

iii. The Government will by December 2015 (key deliverable) integrate all social security funds under a single entity, abolish all existing governance and management arrangements, establish a new board and management team utilizing IKA infrastructure and organization, implement a central registry of contributors and establish common services, as well as adopting a program to create a common pool of funds that will be fully operational by end-December 2016. The authorities will move towards the integration of social security contribution filing, payment and collection into the tax administration by the end of 2017.

The institutions are prepared to take into account other parametric structural measures within the pension system of equivalent effect to replace some of the measures mentioned above, taking into account their impact on growth, and provided that such measures are presented to the institutions during the design phase and are sufficiently

concrete and quantifiable, and in the absence of this the default option is what is specified above.

2.5.2 Health care

The authorities have committed to continue reforming the health care sector, controlling public expenditure, managing prices of pharmaceuticals, improve hospital management, increase centralized procurement of hospital supplies, manage demand for pharmaceuticals and health care through evidence-based e-prescription protocols, commission private sector health care providers in a cost effective manner, modernize IT systems, developing a new electronic referral system for primary and secondary care that allows to formulate care pathways for patients.

The authorities as prior action committed to reinstate previous key elements of reforms to the health system. In particular, they will a) amend Law 4332/2015 repealing part of Law 4052/2012 (reorganisation and restructuring of the health sector under the MoU) on the appointment of hospital CEOs; b) repeal MD FEK 1117/2015, in order to re-enforce sanctions and penalties as a follow-up to the assessment and reporting of misconduct and conflict of interest in prescription behaviour and non-compliance with the EOF prescription guidelines (re-establish prior MoU commitment); c) re-establish full INN prescription, including by repealing circular 26225/08.04.2015, with the exceptions as set out in art 6.4 to 6.6 of the MD FEK 3057/2012; d) reduce the price of all off-patent drugs to 50 percent and all generics to 32.5 percent of the patent price, by repealing the grandfathering clause for medicines already in the market in 2012; e) establish claw backs for 2015 for diagnostics and private clinics and delink the 2014 claw back for private clinics from the 2013 one.

By September 2015 extend the 2015 claw back ceilings for diagnostics, private clinics and pharmaceuticals to the next three years, and, by October 2015, the authorities will (a) apply and collect outstanding claws backs until H1-2015 for pharmaceuticals, diagnostics and private clinics; (b) publish a price bulletin to reduce pharmaceutical prices and publish it every six months; and c) review and limit the prices of diagnostic tests to bring structural spending in line with claw back targets (key deliverables). They will execute the claw backs every six months. By October 2015, the authorities will decide whether to re-establish a means-tested 5 Euro fee for hospital visits or to adopt equivalent measures in fiscal and demand management terms;

By December 2015, the authorities will take further structural measures (key deliverable) as needed to ensure that spending for 2016 is in line with the claw back ceilings, including developing new protocols for the most expensive pharmaceutical active substances and diagnostics procedures. Authorities will further reduce generic prices including by making greater use of price-volume agreements where necessary. Over the next three years, they will develop additional prescription guidelines giving priority to those with the greatest cost and therapeutic implications. Ambitious but feasible timelines will need to be set by the Authorities.

By December 2015 (and by December 2016, respectively), the authorities will take concrete steps to increase the proportion of centralized procurement to 60 percent (and to 80 percent), the share of outpatient generic medicines by volume to 40 (and to 60 percent), inpatient generic medicines to 50 (and to 60 percent) and the share of procurement by hospitals of pharmaceutical products by active substance to 2/3 (and to ¾) of the total, in line with agreed targets. Generic penetration should be supported by further actions to improve the incentive structure of pharmacists, including on profit structure, by August 2016.

The authorities will introduce new drugs into the positive list on the basis of criteria set in MD 2912/B/30.10.2012 and related regulation, subject to prescription guidelines, and with prices set at the level of the lowest three in the EU or lower if the authorities can negotiate a rebate. By December 2017 the authorities will set-up an HTA centre that will inform the conclusion of medicines in the positive list.

To improve financial management of hospitals, the authorities will by December 2015 (key deliverable) deliver a plan to adopt DRG or other international standard activity-based costing methodology in hospitals within the next three years; by December 2017 they will implement the new DRG or alternative activity-based costing system; by June 2016 they will deliver a plan to conduct annual independent financial audits of hospital accounts, with implementation to begin in 2017, and for all hospitals to be covered by 2018. To this end, they will make use of the available Technical Assistance support.

To assess the performance of health care providers, both public and private, EOPYY will continue to collect and publish relevant data on a monthly/quarterly basis. By June 2016, the authorities will develop an assessment of public sector capacity by

region and by specialty and will use this to review the need for commissioning private providers per region; and they will develop a new electronic record for patients. By August 2016 they will develop a new system of electronic referrals to secondary care based on e-prescription and the electronic record and allowing the monitoring of waiting times. By June 2017, the authorities will develop a plan to pre-approve referrals to private sector providers based on the electronic patient record, the system of electronic referrals and the mapping of public sector capacity. Over the next three years, the authorities will develop therapeutic protocols for the patient care pathways (primary and secondary care) for the pathways that have the greatest therapeutic and cost implications, to be implemented through the e-prescription system.

The authorities will closely monitor and fully implement universal coverage of health care and inform citizens of their rights in that regard and they will proceed with the roll out of the new Primary Health Care system and the issuing of an MD as envisaged in Law 4238 by December 2015. To this end, they will make use of the available Technical Assistance support.

2.5.3 Social safety nets

The economic crisis has had an unprecedented impact on social welfare. The most pressing priority for the government is to provide immediate support to the most vulnerable to help alleviate the impact of the renewed downturn. Already, a package of measures on food, housing and access to health care has been adopted and is being implemented. In order to get people back to work, the authorities, working closely with European partners, have taken measures to boost employment by providing short-term work opportunities to 50.000 people targeting the long-term unemployed.

The Government will adopt by March 2016 a further series of guaranteed employment support schemes covering 150,000 persons, including the long term unemployed (29+), young people (16-29), and disadvantaged groups (including inter alia GMI beneficiaries) with individualised active labour market measures for participants, using local partnerships, involving the private and social economy sectors and ensuring efficient and effective use of the resources available.

A fairer society will require that Greece improves the design of its welfare system, so that there is a genuine social safety net which targets scarce resources at those in most

need. The authorities plan to benefit from available technical assistance for the social welfare review and for the GMI implementation from international organisations.

i. The government commits as a prior action to agree the terms of reference and launch a comprehensive Social Welfare Review, including both cash and in-kind benefits, tax benefits, social security and other social benefits, across the general government, with the assistance of the World Bank, with first operational results to be completed by December 2015, targeted to generate savings of ½ percent of GDP annually which will serve as the basis for the redesign of a targeted welfare system, including the fiscally-neutral gradual national roll-out of the GMI. The overall design of the GMI will also be agreed with the institutions.

ii. The Authorities by September 2015 will set out their detailed preparations for a gradual nationwide roll-out of a Guaranteed Minimum Income (GMI) scheme from 1 April 2016, including for the set up of a benefits registry and a strategy to ensure the inclusion of vulnerable groups and to avoid fraud. Close linkages with municipalities and employment services will be established.

iii. By January 2016, the authorities will propose and legislate reforms to welfare benefits and decide on the benefit rates of the initial GMI rollout in agreement with the institutions. The design of the GMI will be closely based upon the parameters of the pilot schemes after the evaluation of the World Bank, with potential additional targeting of priority needs in the short-term in order to meet budgetary constraints.

iv. By September 2016, the authorities will establish an institutional benefits framework to manage, monitor and control the GMI and other benefits. An evaluation of the performance of the GMI scheme will take place, with the objective of a full national rollout (key deliverable) by the end 2016.

3. Safeguarding financial stability

All necessary policy actions will be taken to safeguard financial stability and strengthen the viability of the banking system. No unilateral fiscal or other policy actions will be taken by the authorities, which would undermine the liquidity, solvency or future viability of the banks. All measures, legislative or otherwise, taken during the programme period, which may have an impact on banks' operations,

solvency, liquidity, asset quality etc. should be taken in close consultation with the EC/ECB/IMF and where relevant the ESM .

By end-August 2015, the authorities will finalise a comprehensive strategy for the financial system which has deteriorated markedly since end-2014. The main focus of the strategy will be on restoring financial stability and improving bank viability by: (i) normalising liquidity and payment conditions and strengthening bank capital; (ii) enhancing governance; and (iii) addressing NPLs. This strategy, which will build on the strategy document from 2013, while taking into account the changed context and conditions of the financial system, will include plans regarding the foreign subsidiaries of the Greek banks according to their restructuring plans approved by the European Commission, and will aim to attract international strategic investment to the banks and return them to private ownership in the medium term.

Restoring liquidity and capital in the banking system

The authorities are committed to preserving sufficient liquidity in the banking system in compliance with Eurosystem rules and to achieving a sustainable bank funding model for the medium term. In this context, banks will be required to submit quarterly funding plans to the Bank of Greece (BoG) so as to ensure continuous monitoring and assessment of liquidity needs. The authorities will monitor and manage the process for the easing of capital controls taking liquidity conditions in the banking system into account while aiming to minimise the macroeconomic impact of the controls.

A buffer of up to €25bn is envisaged under the Programme to address potential bank recapitalisation needs of viable banks and resolution costs of non-viable banks, in full compliance with EU competition and state aid rules. Following a forward-looking assessment of the four core banks' capital needs by the ECB and the submission of capital plans by the banks, any remaining identified capital shortfalls will be addressed fully by end-2015 at the latest. The Bank of Greece will assess the capital needs of other banks where it was not recently done. The recapitalisation framework will be developed with a view to preserving private management of recapitalised banks and to facilitating private strategic investments. The law relating to government guarantees on deferred tax assets (DTAs) will be amended to minimise programme funding and limit the link between the banks and the state.

While short-term actions to address the problem of high and rising NPL ratios will be specified below in this document, additional measures and actions may be needed in the future so as to resolve the NPLs of the banking sector. By end August 2015, the Bank of Greece will issue all necessary provisions to implement the Code of Conduct, after improvements in agreement with the institutions.

As a prior action, the authorities will: a) develop a credible strategy for addressing the issue of non-performing loans that aims to minimize implementation time and the use of capital resources, and draws on the expertise of external consultant(s) for both strategy development and implementation; b) adopt the following short-term reforms: (i) amendments to the corporate insolvency law to cover all commercial debtors, bring the law in line with international best practice including changes to promote effective rehabilitation of viable debtors and a more efficient liquidation process for non-viable debtors and reducing the discharge period to 3 years for entrepreneurs in line with the 2014 EC Recommendation; (ii) amendments to the household insolvency law to introduce a time-bound stay on enforcement in line with cross country experience; establish a stricter screening process to deter strategic defaulters from filing under the law, include public creditor claims in the scope of the law providing eligible debtors with a fresh start, tighten the eligibility criteria for protection of the primary residence, and introduce measures to address the large backlog of cases (e.g. increasing the number of judges and judicial staff, prioritization of high value

cases, and short-form procedures for debtors with no assets and no income), (iii) adopt legislation to establish a regulated profession of insolvency administrators, not restricted to any specific profession and in line with good cross-country experience; (iv) adopt provisions to re-activate of the Government Council of Private Debt, establishing of a Special Secretariat to support it.

By end-October 2015, (key deliverable), drawing on the expertise of an external consultant, the Bank of Greece will deliver a report on the segmentation of NPLs on banks' balance sheets and an assessment of banks' capacity to deal with each NPL segment. The Hellenic Financial Stability Fund (HFSF) in cooperation with the Bank

of Greece will provide an analysis to identify non-regulatory constraints and impediments (e.g. administrative, economic, legal etc.) to the development of a dynamic NPL market. By the same date, a working group, drawing on independent expertise and cross-country experience, will examine and recommend specific actions to accelerate NPL resolution, including by removing any unnecessary legal or other impediments to NPL servicing and disposal while protecting vulnerable households consistent with the Code of Conduct established by the Bank of Greece. The authorities will establish by law a Debt Information network and Debt Information Centre, providing legal and economic debt advising.

By end-November 2015 (key deliverable), the Government will strengthen the institutional framework to facilitate NPL resolution, including (i) improving the judicial framework for corporate and household insolvency matters by adopting appropriate legal instruments to establish specialized chambers both for household and corporate insolvency cases and appointing and training an adequate number of additional judges (based on targeted caseload) and judicial staff for both corporate and household insolvency cases; (ii) establishing of a Credit and Wealth Bureau as an Independent Authority that will identify lenders payment capabilities for the facilitation of banking institutions, (iii) amending the out-of-court workout law so as to encourage debtors to participate while ensuring fairness among private and public creditors; (iv) fully operationalising the specialist chambers for corporate insolvency within courts. The Government will establish a permanent social safety net, including support measures for the most vulnerable debtors and differentiating between strategic defaulters and good-faith debtors. The HFSF in consultation with BoG will identify mechanisms and processes to accelerate NPL resolution. The HFSF will nominate an executive board member and an internal team dedicated to the new objective of facilitating banks' NPL resolution. The Bank of Greece will engage a single special liquidator to ensure individual liquidators are delivering effectively against operational targets. Performance based remuneration scheme will be introduced for all special liquidators in consultation with the HFSF in order to maximise recovery.

By December 2015 (key deliverable) the authorities will (i) introduce coordination mechanisms to deal with debtors with large public and private debts firstly by segmenting commercial debtors with large public debts according to viability status and secondly by adopting legislation to facilitate fast-track liquidation of unviable

entities by end-March 2016 and completion of the clean-up process by end-December 2016; (ii) adopt the necessary legal instruments setting out the applicable framework and rules for the insolvency administrator profession (including the manner of professional organization, qualification requirements, procedures enabling effective accreditation, powers and responsibilities, manner of appointment and dismissal, supervision and monitoring, sanction and liability provisions, and the fee structure) .

By end-February 2016 (key deliverable), upon receiving banks' proposals, the Bank of Greece will agree with banks on operational targets for NPL resolution including for example loan restructuring, and the creation of joint ventures. Banks will report quarterly from June 2016 to the BoG against key performance indicators (KPIs). The HFSF will also apply NPL resolution performance criteria to banks' management against operational targets agreed between banks and the Bank of Greece. The HFSF will present and implement an NPL resolution action plan to enhance coordination among banks and accelerate the restructurings of the large corporates, and if needed jointly tackle entire economic sectors.

By end-March 2016, the Bank of Greece will revise the Code of Conduct for debt restructuring guidelines to deal with groups of borrowers (e.g.: SMEs) on the basis of clear criteria to segment retail portfolios and introduce in coordination with the HFSF fast-track mechanisms including standardized assessment templates, restructuring contracts, and workout solutions.

By end-June 2016, the authorities commit to assess the effectiveness of the insolvency legal and institutional framework and introduce any necessary amendments.

Governance of the HFSF

The independence of the HFSF will be fully respected and its governance structure reinforced, with a view to preventing any political interference in its management or activities.

By mid-October 2015 (key deliverable), the HFSF law will be amended so as to (i) bring the law in line with the BRRD transposition and the new recapitalization framework to be developed (ii) to reinforce the HFSF's governance arrangements in

line with the Euro Summit statement especially by changing the selection and appointment process and in particular, (a) a new procedure for the selection and appointment of members in the Executive Board and General Council will be designed by end September 2015 which will imply a greater role for the Institutions than in the past; (b) a Selection Panel will be set up, composed of six independent expert members, of which three appointed by the EU institutions - including the chairman with a casting vote in the event of a tie - , and three appointed by the authorities (two by the Ministry of Finance and one by the Bank of Greece). The Ministry of Finance, the Bank of Greece, the European Commission, the ECB and the ESM will each have an observer to the Selection Panel. The Selection Panel will be assisted by an international recruitment consultant selected by the Panel; (c) the Minister of Finance will nominate from the candidates shortlisted by the Panel; (d) the Panel will also define the remunerations and other conditions of employment including evaluation and dismissal process. The Law will also ensure that (i) that remuneration and other conditions of employment are competitive so to attract high-quality international candidates for HFSF management positions; (ii) to include powers, criteria and procedures for the HFSF to review and change - if needed – the boards and committees of banks under its control; (iii) to increase transparency and accountability of the HFSF through annual publication of strategies and semi-annual reporting of performance against key objectives; and (iv) include, among the HFSF objectives, the facilitation of banks' NPL management.

By end-March 2016, to increase HFSF transparency and accountability, the HFSF will publish an operational strategy annually and, starting from June 2016, report on performance against this strategy semi-annually.

Governance of banks

The Government will not intervene in the management, decision-making and commercial operations of banks, which will continue to operate strictly in accordance with market principles. The board members and senior management of the banks will be appointed without any interference by the Government. These appointments will be made in line with EU legislation and best international practices, taking into account the specific rules in the HFSF law as regards the rights of the private shareholders who participated in the banks’ capital increases under the existing

framework. The HFSF ensures through the amended Relationship Framework Agreements (RFAs) hat as of the financial year of 2016 the external auditors' contracts with the banks can be to a maximum of five consecutive years.

By end-February 2016 (key deliverable), the HFSF with the help of independent international consultant will introduce a program to review the boards of the banks in which the RFAs apply. This review will be in line with prudent international practices by applying criteria that go beyond supervisory fit and proper requirements. By end-June 2016, following the review by the HFSF of the board members along the process described above, members may be replaced in a manner that ensures banks' boards include at least three independent international experts with adequate knowledge and long-term experience in relevant banking and with no affiliation over the previous ten years with Greek financial institutions. These experts will also chair all board committees.

By October 2015, the need for any measures, in addition to those indicated above, will be explored to ensure that bank governance is sufficiently strengthened to be fully independent and in line with international best practice.

4. Structural policies to enhance competitiveness and growth

4.1 Labour market and human capital

In recent years, major changes have been made to Greek labour market institutions and wage bargaining systems to make the labour market more flexible The Greek authorities are committed to achieve EU best practice across labour market institutions and to foster constructive dialogue amongst social partners. The approach not only needs to balance flexibility and fairness for employees and employers, but also needs to consider the very high level of unemployment and the need to pursue sustainable and inclusive growth and social justice. The government has committed as a prior action to reverse the legislation of the after-effect of agreements legislated in art 72 of 4331/2015 of 2 July 2015.

Review of labour market institutions. The Government will launch by October 2015 a consultation process led by a group of independent experts to review a number of existing labour market frameworks, including collective dismissal, industrial action and collective bargaining, taking into account best practices internationally and in

Europe. Further input to the consultation process described above will be provided by international organisations, including the ILO. The organization, terms of reference and timelines shall be agreed with the institutions. Following the conclusion of the review process, the authorities will bring the collective dismissal and industrial action frameworks and collective bargaining in line with best practice in the EU. No changes to the current collective bargaining framework will be made before the review has been completed. Changes to labour market policies should not involve a return to past policy settings which are not compatible with the goals of promoting sustainable and inclusive growth.

Undeclared work: By December 2015, the authorities will adopt an integrated action plan (key deliverable) to fight undeclared and under-declared work in order to strengthen the competitiveness of legal companies and protect workers as well as raise tax and social security revenues. This will include improved governance of the labour inspectorate and specify technical assistance. As a first step, the authorities will link the tax, ERGANI and social security fund reporting framework to detect undeclared work.

Vocational training: Furthermore, consistent with the 2016 budget and to deliver the modernisation and expansion of vocational education and training (VET), and on the basis of the reform adopted in 2013 (Law 4186/2013), the Government will by December 2015 (key deliverable): (i) legislate a modern quality framework for VET/Apprenticeships, (ii) set up a system to identify skills needs and a process for upgrading programs and accreditation, (iii) launch pilots of partnerships with regional authorities and employers in 2015-16 and (iv) provide an integrated implementation plan from the Ministry of Labour, the Ministry of Education, and OAED to provide the required number of apprenticeships for all vocational education (EPAS and IEK) students by 2016 and at least 33% of all technical secondary education (EPAL) students by 2016-2017; (v) ensure a closer involvement of employers and a greater use of private financing. Regional public-private partnerships will be run during the academic year 2015-16.

Capacity building: Over the medium term, the capacity of the Ministry of Labour will be strengthened in terms of policy formulation, implementation and monitoring in order to increase the its ability to deliver welfare reforms, active labour market

policies, and achieve the front-loading of the Structural Funds. This will include improving the public employment services through the completion of the re-engineering of OAED. Existing labour laws will be streamlined and rationalised through the codification into a Labour law Code by end 2016 (key deliverable).

Technical assistance: For the effective implementation of the reform agenda, including labour market reform, VET and capacity building of the Ministry of Labour, the authorities will use technical assistance, benefiting inter alia from expertise of international organisations such as the OECD and the ILO.

Education: The authorities will ensure further modernization of the education sector in line with the best EU practices, and this will feed the planned wider Growth Strategy. The authorities with the OECD and independent experts will by April 2016 prepare an update of the OECD's 2011 assessment of the Greek education system. This review will cover all levels of education, including linkages between research and education and the collaboration between universities, research institutions and businesses to enhance innovation and entrepreneurship (see also section 4.2). Inter alia, the review will assess the implementation of the 'new school' reform, the scope for further rationalisation (of classes, schools and universities), functioning and the governance of higher education institutions, the efficiency and autonomy of public educational units, and the evaluation and transparency at all levels. The review shall propose recommendations in line with best practices in OECD countries.

Based on the recommendations of the review, the authorities will prepare an updated Education Action Plan and present proposals for actions no later than May 2016 to be adopted by July 2016, and where possible measures should enter into force in time for 2016/2017 academic year. In particular, the authorities commit to align the number of teaching hours per staff member, and the ratios of students per class and pupils per teacher to the best practices of OECD countries to be achieved at the latest by June 2018. The evaluation of teachers and school units will be consistent with the general evaluation system of public administration. The authorities will ensure a fair treatment of all the education providers, including privately owned institutions by setting minimum standards.

4.2 Product markets and business environment

More open markets are essential to create economic opportunities and improve social fairness, by curtailing rent-seeking and monopolistic behaviour, which has translated into higher prices and lower living standards. In line with their growth strategy, the authorities will intensify their efforts to bring key initiatives and reform proposals to fruition as well as enrich the agenda with further ambitious reforms that will support the country's return to sustainable growth, attract investments and create jobs.

The authorities will legislate as prior actions to:

i. implement all pending recommendations of the OECD competition toolkit I, except OTC pharmaceutical products, Sunday trade, building material and one provision on foodstuff; and a significant number of the OECD toolkit II recommendations on beverages and petroleum products;

ii. open the restricted professions of notaries, actuaries, and bailiffs and liberalize the market for tourist rentals;

iii. eliminate non-reciprocal nuisance charges and align the reciprocal nuisance charges to the services provided;

iv. reduce red tape, including on horizontal licensing requirements of investments and on low-risk activities as recommended by the World Bank, and administrative burden of companies based on the OECD recommendations, and establish a committee for the inter-ministerial preparation of legislation.

On competition, the authorities will by October 2015 implement the remaining recommendations of the OECD toolkit I on foodstuff and of the OECD toolkit II on beverages and petroleum products and launch a new OECD competition assessment in wholesale trade, construction, e-commerce, media and rest of manufacturing. By June 2016, the Government will adopt legislation to address all identified issues in such assessment (key deliverable). By December 2015, the authorities will legislate the OECD competition toolkit I recommendation on OTC pharmaceutical products with effectiveness as of June 2016 (key deliverable). By June 2016, the authorities will fully adopt the pending OECD toolkit 1 recommendation on building material. The authorities will liberalise Sunday trade following the forthcoming State Council

ruling. The authorities commit to continue with regular competition assessments in additional sectors over the next three years. By October 2015, the authorities will adopt legislation to make the liberalisation of tourist rentals fully effective.

The advocacy unit of the Hellenic Competition Commission will be strengthened by twelve additional posts and a review will be conducted with the support of the European Commission and international expertise to ensure that the competition law is in line with EU best practice.

On investment licensing, by September 2015, the Government will adopt a roadmap for the investment licensing reform, including prioritization. The authorities will adopt secondary legislation according to this prioritization by June 2016 (key deliverable), and proceed with other reforms in line with the roadmap.

On administrative burden, by November 2015, the Government will adopt the pending OECD recommendations on environment and fuel trader licenses. In addition, by June 2016, the authorities will further reduce administrative burden, including through one-stop shops for business (key deliverable). By June 2016, the Government will fully implement the law on better regulation.

On competition, investment licensing and administrative burden the Government will by October 2015 launch an ex-post impact assessment of selected reforms and their implementation and identify by June 2016 the remaining measures needed for their full implementation (key deliverable).

On regulated professions, in order to remove unjustified and disproportionate restrictions, the Government will submit by October 2015 the Presidential Decree on reserved activities of civil engineers and related professions (key deliverable), and will adopt the recommendations of an external advisor by December 2015 (key deliverable) and the recommendations of the inter-ministerial committee, based on other recent reports, by February 2016.

On trade facilitation, the Government will streamline pre-customs procedures by December 2015. In addition, with the participation of public and private stakeholders, the authorities will update the trade facilitation action plan for the national single window and adopt an export promotion action plan by December 2015 and proceed subsequently with their implementation. The Government will make institutional

changes for post-clearance audits and restructure the risk analysis department in line with WCO recommendations by March 2016, and complete the customs reorganisation by September 2016 (key deliverable). On anti-smuggling, the authorities will establish three mobile enforcement teams by September 2015, adopt a comprehensive strategy to tackle fuel and cigarette smuggling based on an effective interagency cooperation by December 2015, and fully install the inflow-outflow system in the tax and customs warehouses tanks by June 2016, and will fully equip with scanners the three main international ports by December 2016, (key deliverable), ensuring that each of these ports has at least one scanner by March 2016.

On land use, by September 2015, the Government will reconvene the inter-ministerial spatial planning committee, with participation of the independent experts. Based on its advice and in agreement with the institutions, the Government will propose in October 2015 a time-bound roadmap for selected improvements of the spatial planning law, including on parts of the land use categories, and for the full adoption of secondary legislation by June 2016 in order to ensure that the legislation effectively facilitates investment, and streamlines and shortens planning processes while allowing for the necessary safeguards. If there is no agreement on the necessary changes, the 2014 spatial planning law will be fully implemented (key deliverable). The authorities will adopt the Presidential Decree on forestry definitions by December 2015 and fully implement the forestry law by July 2016. In addition, the authorities will by February 2016 adopt the legal framework for nationwide cadastral offices on the basis of the business plan, the experience of the two pilot offices and recent technical assistance advice and ensure adequate financial independence and administrative capacity of the cadastral agency (key deliverable).

On the link between education and research and development, the Greek authorities are committed to launch a comprehensive consultation process following the review of linkages between education and R&D (see under Section 4.1 'Education') with a view to implement recommended best practices. The organization and the timeline for the consultation shall be drawn up by October 2015.

On agriculture, the authorities will adopt a competitiveness strategy by December 2015. This will include: a) the improvements in the EU funds absorption; b) measures aiming at improving the marketing of agricultural products, including the immediate

reform of market permits to improve consumer access to farm products, the establishment of a Greek foods initiative for exports; to promote and manage export distribution networks, and c) structural reforms introducing a new framework for agricultural co-operatives, encouraging structural reforms that favour young and active farmers , greater aggregation of agricultural exploitation, and a programme to improve resource efficiency in energy use, water management and good agricultural practices financed through EU funds.

On structural funds, the authorities will by October 2015 implement in full Law 4314/2014 on European Structural and Investment Funds, adopt all delegated acts indispensable for the activation of the available funds and put in place all ex-ante conditionality.

On technical assistance, the authorities intend to launch immediately a request for support in three critical areas: a competition assessment in wholesale trade, construction, e-commerce, media and rest of manufacturing with support of the OECD; the investment licensing reform with support of the World Bank; and a new round of administrative burden reduction. As a next step, with support of technical assistance, the authorities intend to assess the implementation of the reforms in the areas of competition, administrative burden and investment licensing. Furthermore, in order to ensure an effective reform implementation, the authorities will use technical assistance in other areas as needed, including through Commission services, Member State experts, international organisations, and independent consultants. This includes regulated professions, trade facilitation, export promotion, land use, education and R&D, tourism infrastructure, agriculture and structural funds.

4.3. Regulated Network Industries (Energy, Transport, Water)

Energy

The Greek energy markets need wide-ranging reforms to bring them in line with EU legislation and policies, make them more modern and competitive, reduce monopolistic rents and inefficiencies, promote innovation, favour a wider adoption of renewables and gas, and ensure the transfer of benefits of all these changes to consumers.

As prior actions, the authorities will adopt the reform of the gas market and its specific roadmap, leading inter alia to full eligibility to switch supplier for all customers by 2018, and notify the reformed capacity payments system (including a temporary and a permanent mechanism) and NOME products to the European Commission.

By September 2015, the authorities will implement a scheme for the temporary and permanent capacity payment system; modify electricity market rules to avoid that any plant is forced to operate below their variable cost, and to regulate according to the final decision of the Council of State on the netting of the arrears between PPC and the market operator; begin implementation of the gas market reform according to the agreed timeline, whilst prioritising distribution tariffs; implement interruptible contracts as approved by the European Commission; revise PPC tariffs based on costs, including replacement of the 20% discount for energy-intensive users with tariffs based on marginal generation costs, taking into account consumption characteristics of customers that affect costs (key deliverable).

In September 2015, the authorities will discuss with the European Commission the design of the NOME system of auctions, with the objective of lowering by 25% the retail and wholesale market shares of PPC, and to bring them below 50% by 2020, while having reserve prices that capture generation costs and being fully compliant with EU rules. In case it is not possible to reach an agreement on NOME by the end of October 2015, the authorities will agree with the institutions structural measures to be immediately adopted leading to the same results mentioned above in terms of market shares and timelines (key deliverable). In any case, by 2020 no undertaking will be able to produce or import, directly or indirectly, more than 50% of total electricity produced and imported in Greece (legislation to be adopted as prior action).

By October 2015, the authorities will: a) take irreversible steps (including announcement of date for submission of binding offers) to privatize the electricity transmission company, ADMIE, unless an alternative scheme is provided, with equivalent results in terms of competition and prospects for investment, in line with the best European practices and agreed with the institutions to provide full ownership unbundling from PPC (key deliverable). To this end, the authorities have sent the first proposal to the institutions in August 2015; b) review energy taxation; c) strengthen

the electricity regulator’s financial and operational independence; d) transpose Directive 27/2012 on energy efficiency adopting the legislation already submitted to Parliament.

By December 2015, the authorities will approve a new framework for the support of renewable energies, while preserving financial sustainability, and for improving energy efficiency, making best use of EU funds, international official financing and private funding, Moreover, they will introduce a new plan for the upgrade of the electricity grids in order to improve performance, enhance interoperability and reduce costs for consumers. The authorities will start the implementation of the roadmap for the implementation of the EU target model for the electricity market, to be completed by December 2017 (key deliverable); in this context, the balancing market will be completed by June 2017 (key deliverable).

The authorities will make use of technical assistance for designing the new framework on renewable energies and energy efficiency. Other important areas where assistance will be used, both for legislation and for regulation, are the implementation of the gas market reform and the transition to the EU target model for the electricity market.

Water utilities

A stable regulatory regime is key for allowing much needed investment in the water networks and to protect consumers in terms of pricing policies. The Government will, with EU technical assistance, launch by December 2015 the actions needed to implement fully the regulatory framework for water utilities based on the methodology completed by the Special Secretariat of Water in 2014 taking into account the current legal framework; it will also aim to enhance and strengthen further the water regulator in order to enable it to take needed independent regulatory decisions (June 2016, key deliverable).

Transport and logistics

On transport and logistics, the authorities will by June 2016 adopt a general transport and logistics master plan for Greece covering all transport modes (road, railways, maritime, air and multi-modal) and a time-bound action plan for the logistics strategy, as well as implementing legislation of the logistics law (key deliverable). On maritime transport, by October 2015, the Government will align the manning requirements for

domestic services with the one for international lines, while respecting best-practice safe manning principles, and adopt the legislative changes.

The Port regulator will become fully operational by June 2016. The Government will adopt the Presidential Decree setting out the operational structures of the regulator by October 2015 (key deliverable). The Government will seek technical assistance to define the tasks of the port regulator, the role of the port authorities, and to prepare its internal regulations and needed laws to be adopted by March 2016 in order to ensure its full functionality.

In support of this reform agenda on network industries, the authorities intend to use technical assistance as needed, including on the strengthening of regulators and on logistics.

4.4 Privatisation

Privatisation can help to make the economy more efficient and to reduce public debt. While the privatisation process has come to a standstill since the beginning of the year, the Government has now committed to proceed with an ambitious privatisation program and to explore all possibilities to reduce the financing envelope, through an alternative fiscal path or higher privatisation proceeds.

To preserve the on-going privatisation process and maintain investor interest in key tenders, the Hellenic Republic commits to proceed with the on-going privatisation programme. The Board of Directors of the HRADF has already approved its Asset Development Plan (ADP) which includes for privatisation assets under HRDAF as of 31/12/2014.

The implementation of this programme aims to generate annual proceeds (excluding bank shares) for 2015, 2016 and 2017 of EUR 1.4bn, EUR 3.7bn and EUR 1.3bn, respectively.

As prior action, and to re-launch the privatisation programme the Government will adopt these measures:

i. The authorities will endorse the Asset Development plan approved by HRADF on 30/7/2015. The ADP is attached to this Memorandum as annex and constitutes an

integral part of this agreement. The ADP will be updated on a semi-annual basis and approved by HRADF; and the Cabinet or KYSOIP will endorse the plan;

ii. The Government and HRADF will announce binding bid dates for Piraeus and Thessaloniki ports of no later than end-October 2015, and for TRAINOSE ROSCO, with no material changes in the terms of the tenders;

iii. The authorities will take irreversible steps for the sale of the regional airports at the current terms with the winning bidder already selected;

iv. The authorities will conclude around 20 selected pending actions identified by HRADF.

The Government commits to facilitate the privatization process and complete all needed Government actions to allow tenders to be successfully executed. In this respect it will complete all actions needed as agreed on a quarterly basis between HRADF, the institutions and the Government. The List of Government Pending Actions has been approved by the Board of Directors of the Hellenic Republic Asset Development Fund and is attached to this Memorandum as an Annex and constitutes an integral part of this agreement.

In line with the statement of the Euro Summit of 12 July 2015, a new independent fund (the “Fund”) will be established and have in its possession valuable Greek assets. The overarching objective of the Fund is to manage valuable Greek assets; and to protect, create and ultimately maximize their value which it will monetize through privatisations and other means.

The Fund would be established in Greece and be managed by the Greek authorities under the supervision of the relevant European Institutions. The Fund is expected to fulfil its objective by adhering to international best practices in terms of governance, oversight and transparency of reporting standards, and compliance.

By October 2015 the authorities shall appoint an independent Task Force to identify options and prepare recommendations on the operational goals, structure and governance of the Fund to be created. The Task Force would report by December 2015, and the government, in agreement with the institutions, will take steps to implement the recommendations by March 2016 (key deliverable). The mandate and

composition of the Task Force would be drawn up by the authorities, in agreement with the European Institutions and in consultation with the Eurogroup. The authorities may request technical assistance on this matter. The mandate of the Task Force will include:

1. Identifying the possible assets which could be part of a new Fund and the best options for their monetization: particular attention would be paid to extracting value from the real estate assets of the Hellenic Republic including those already held by ETAD.

2. Identifying appropriate governance arrangements of the new Fund, including whether there should be specific sub-entities for different types of assets within the Fund drawing upon, where relevant, the experiences of entities such as Hellenic Republic Asset Development Fund (HRADF) and ETAD; whether such existing entities would be reformed and maintained separate to the Fund, terminated upon conclusion of their mandate, or absorbed into the new Fund.

3. Putting forward a proposal for the transition to the new Fund to ensure continuity from the previous arrangements, including the possible transfer of assets within the Asset Development Plan.

4. According to the Euro Summit Statement the monetization of the assets will be one source to make the scheduled repayment of the new loan of ESM and generate over the life of the new loan a targeted total of EUR 50bn of which EUR 25bn will be used for the repayment of the recapitalization of banks and other assets and 50% of every remaining euro (i.e. 50% of EUR 25bn) will be used for decreasing the debt to GDP ratio and the remaining 50% will be used for investments. The Task Force will identify options and make recommendations on how this will be operationalized.

5. Options for a legislative framework that would be adopted to ensure transparent procedures and adequate asset sale pricing, according to OECD principles and standards on the management of State Owned Enterprises (SOEs) and best international practices. Particular attention will be paid to maximising the value generation of the Fund’s assets and to avoid circumstances of asset sales below their fair value.

6. Based on international best practises, assess possible strategies to be designed and executed to monetise the assets through privatisation and other means; and examine options for the professional management of the assets.

7. Examine statistical classification of the new entity in terms of general government classification and in particular the implications for the issuance of debt or guarantees to ensure that these would not burden gross Greek debt or create contingent liabilities for Greek taxpayers.

5. A modern State and Public Administration

5.1. Public administration

The authorities intend to modernise and significantly strengthen the Greek administration, and to put in place a programme, in close collaboration with the European Commission, for capacity-building and de-politicizing the Greek administration.

To this extent, building on the letter sent on July 20th by the authorities to the European

Commission, a comprehensive three-year strategy for reform will be defined by December 2015 (key deliverable) in agreement with the European Commission, and making the best use of all available technical assistance. The main elements of this strategy will be the reorganisation of administrative structures; rationalisation of administrative processes; optimisation of human resources; strengthening transparency and accountability; e-government; and a communication strategy. Key deliverables will be stronger coordination of policies, better recruitment processes for managers, HR planning to timely assess and fulfil the hiring needs; a fiscally-neutral reform of the wage grid, a modern performance assessment system; strengthening of policy units in key sectors; a substantial upgrade of the role of local government at both tiers with a view to reinforcing local autonomy and rationalising the administrative structures of local authorities; rationalisation of SOEs and locally-owned enterprises; and modernization of recruitment procedures; improved mobility in the public sector to promote better use of resources.

As prior actions, the authorities will align non-wage benefits such as per diems, travel allowances and perks, with best practices in the EU, effective 1 January 2016. By September 2015, the authorities will adopt through legislation the restructuring plan for 'OASA - Transport for Athens' agreed with the institutions (key deliverable).

By October 2015, the authorities will reform the unified wage grid, effective 1 January 2016, setting the key parameters in a fiscally neutral manner and consistent with the agreed wage bill targets and with comprehensive application across the public sector, including decompressing the wage distribution across the wage spectrum in connection with the skill, performance, responsibility and position of staff (key deliverable); and align leave arrangements with best practices in the EU. By 2018 the current “klados” system will be reformed to have a better articulation of job descriptions that will be reflected in the wage grid. The authorities will adopt legislation by November 2015 to issue all secondary legislation to implement the wage grid reform and by June 2016 to rationalise the specialised wage grids with effect in 2017.

Drawing on international expert advice coordinated by the European Commission, the authorities will: i) by (October 2015), review and start implementation of legislation for selecting managers (key deliverable). The selection of new managers will be completed by the end of 2016, with Directors General to be selected by December 2015 and Directors by May 2016. The reform will base recruitment of managers on merit and competence, de-linking technical implementation from political decision, and will also modify the statutes of Secretaries General and other top-tier levels in public entities, including SOEs, in order to provide for de-politicization and better institutional memory, while ensuring effectiveness and appropriate delegation of powers; ii) by November 2015, legislate the new framework for assessing performance of all employees, to build a results-oriented culture.

By October 2015, the authorities will establish, within the new MTFS, ceilings for the wage bill and the level of public employment consistent with achieving the fiscal targets and ensuring a declining path of the wage bill relative to GDP during the period 2016-2019 (key deliverable). To this end, the authorities commit to continue the attrition rule in 2016 while the ratio for the years 2017-2019 will be set in the MTFS adopted in October 2015. For following exercises, the attrition rule will be

subject to annual revision in the context of the MTFS exercise, for the years following the next (t+2).

By November 2015, the existing Secretariat General for Coordination will be strengthened to ensure effective planning and coordination of governmental work, of legislative initiatives, of monitoring of implementation of reforms, and of arbitrage functions on all policies.

By December 2015, the authorities will introduce a new permanent mobility scheme. The scheme will promote the use of job description and will be linked with an online database that will include all current vacancies. Final decision on employee mobility will be taken by each service concerned. This will rationalize the allocation of resources as well as the staffing across the General Government.

The authorities will continue to identify illegal hires and temporary injunctions, as well as disciplinary cases, and take appropriate enforcement action.

The authorities will engage, with the help of technical assistance, in a programme to improve access to law by the citizen. This includes a long term plan of codification of the main legislations which will be proposed by March 2016 and fully implemented by June 2018. The programme also includes the creation of an electronic portal giving access to legislation, both in the form published in the Gazette (FEK form) and in the consolidated version of the various provisions by December 2016.

5.2 Justice

The authorities have adopted on 22 July 2015 the new Code of Civil Procedure, which will become effective as of 1 January 2016. The authorities will implement the revised Code of Civil Procedure, in accordance with the requirements set out in the transitional provisions of Article 1 (Ninth Article) of Law 4335/2015 and the roadmap for the implementation of the revised Code of Civil Procedure to be finalized by September 2015.

The authorities will rationalise and introduce a selective increase of court fees, as well as increase transparency in this regard (October 2015). The authorities will propose measures to ensure access to justice by vulnerable persons (December 2015).

The authorities will propose measures to reduce the backlog of cases in administrative courts by September 2015 and in civil courts by October 2015; they will agree on an action plan with European institutions including technical assistance on e-justice, mediation and judicial statistics (October 2015).

The authorities will propose by November 2015 and subsequently implement a three years strategic plan for the improvement of the functioning of the justice system. The plan should encompass key actions aimed at enhancing judicial efficiency, speeding up judicial proceedings and addressing shortcomings in the functioning of courts such as, but not limited to, collecting information on the situation of the courts, computerization, developing alternative means for dispute resolution, such as mediation, rationalizing the cost of litigation and improving in court functioning and court management.

5.3 Anti-corruption

The authorities will as a prior action update and publish a revised Strategic Plan against corruption; and they will implement it according to its timeline.

The authorities will adopt by October 2015 legislation insulating financial crime and corruption investigations from political intervention in individual cases in particular by amending the provisions of article 12 of the law 4320/2015 and by setting up a system to ensure proper coordination, prioritization of investigations and sharing of information between investigation bodies through a Coordinating Body Chaired by Finance and Corruption Prosecutors.

The authorities will amend and implement the legal framework for the declaration of assets (October 2015) and the financing of the political parties on key weaknesses such as the composition of the committee common to both legislation, the anonymous donations, limitation on seizures and transferability of public financing and absence of definition of tax deductibility rates (November 2015); the authorities will conduct an assessment of the reduction of penalties for financial crimes provided by law 4312/2014, and amend it if needed (November 2015); they will adopt a draft code of conduct for members of Parliament (March 2016).

The Government commits to implementing fully and timely the GRECO recommendations.

The authorities will continue to pursue technical assistance with the European Commission SRSS in the fields of anti-corruption where it was already provided.

5.4 Statistics

The Government will fully honour the Commitment on Confidence in Statistics signed in March 2012 by implementing all envisaged actions, including respecting international statistical standards; guaranteeing, defending and publicly promoting the professional independence of ELSTAT; and supporting ELSTAT in upholding confidence in Greek statistics and defending them against any efforts to undermine their credibility, as well as reporting annually to the Hellenic Parliament and to the European Commission.

Government fully respects the independence of ELSTAT in carrying its tasks and providing high quality statistics. In this regard it respects the financial independence of ELSTAT, and provides all the necessary resources in a timely manner, as approved in the annual budget of ELSTAT, for the agency to complete uninterrupted its tasks.

The Government will ensure that by September 2015 ELSTAT has access to administrative data sources in line with the Art. 17 of Law 4174/2013 amended by 4254/2014 and 4258/2014, and the Memorandum of Understanding signed between ELSTAT, the Ministry of Finance (GSIS), the Secretary General for Public Revenues and IKA signed on 17/04/2014.

The Government as a prior action will launch the process for appointing a President of ELSTAT in line with law 4334/2015 and 3832/2010.

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