



Reform of the EU Budget:
Does the Treaty of Lisbon Make Things
Easier?

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Abstract:

The Treaty of Lisbon made considerable changes to the budgetary powers of the European Union but will they facilitate reform of the budget? The European Parliament gained some power over the long term budget and, together with a majority in the Council, may now determine the rules for budgetary implementation and scrutiny. However, the new annual budgetary procedure weakens the Parliament's ability to reform the budget. This finding contrasts with usual expectations that equality between the Council and Parliament amounts to a gain in powers for the Parliament as the initial failure to agree an annual budget for the year 2011 demonstrates.

1. Introduction.

The changes made to the budgetary powers of the European Union (EU) in the Lisbon Treaty were the most significant since the Budget Treaties of 1970 and 1975. Although the Lisbon Treaty re-balances powers between the institutions, budgetary reform is no more likely than in the past as this chapter explains. Indeed in some ways reform of the budget becomes more difficult.

Contrary to wider perceptions, the new annual budgetary procedure is not a version of the Codecision procedure. The latter is the legislative procedure established by the Maastricht Treaty in 1993 and reformed by the Amsterdam Treaty in 1999, whereby the European Parliament (EP) and Council of Ministers are co-equal lawmakers, each holding two readings prior to a conciliation procedure if disagreement continues. Under Article 314 of the new treaty, the EP has rather less power than under either the old European Community (EC) Treaty or that which it possesses in the legislative field under Codecision. Compared to article 272 in the EC Treaty, in the new article 314, it is clear that the EP has lost some of its pre-existing powers over the annual budget. The Commission, Council,

and EP, however, all benefit from a 'collective efficiency and legitimacy gain'.¹ The new budgetary procedures of the Lisbon Treaty are easier to understand, establish equality between the EP and Council, in part compensating the EP with new powers in certain fields to match a loss of powers in others.

The first part of the paper will look at some of the literature on legislative politics in the EU that is relevant to budgetary decision-making. The rest of the paper then analyses, in turn, the gains and losses in power and the new opportunities for the EP, Council, and Commission across the fields of own resources,² the MFF (Multiannual Financial Framework),³ annual budget, provisional twelfths,⁴ and implementation of the budget.⁵ A concluding discussion is offered at the end.

LEGISLATIVE AND CONSTITUTIONAL DECISION-MAKING IN THE EUROPEAN UNION

The budgetary changes brought in by the Treaty on the Functioning of the European Union (TFEU), as the Lisbon Treaty is known, are hugely significant. The effects of these changes, like many changes to EU treaties over the years, have been downplayed by certain governments anxious to avoid criticism for their acceptance of EU empowerment. For example, Peter Hain, the representative of the British Government at the Convention on the Future of Europe, famously referred to the Draft EU Constitution as "a tidying up exercise".⁶ The literature also disagrees on the effects and purpose of the budget. For example, Carruba (1997) argues that, rather than being purely redistributory, the budget delivers side-payments to secure European integration. This differs from the view of

1 Hix (2002) applies this term in analysing the empowerment of the EP under the Amsterdam Treaty. In some cases, governments were willing to grant further power to the EP if, in doing so, simplified procedures resulted in greater efficiency and legitimacy.

2 Articles 269 EC; 311 TFEU.

3 Article 312 TFEU.

4 Articles 273 EC; 315 TFEU.

5 Articles 275-280 EC; 318-325 TFEU.

6 *The Independent*, 28 February 2008.

Kauppi and Widgren (2009) that, while the governments try to limit revenue, the EP is motivated by 'benevolent objectives' to influence spending notably in regional development. The question then is whether the very real rebalancing of the budgetary powers of the EU institutions in terms of agenda-setting and vetoes will change those fundamental outcomes or make it easier to achieve reform.

When negotiations over future decision-making procedures take place, actors try to maximise their chances of achieving favourable policy outcomes. Tsebelis and Garrett (2000) summarise the legislative politics debate of the 1990s; they analyse the differing versions of the Codecision Procedure and its predecessor the Co-operation Procedure, with respect to the contrasting powers of the EP, Council and Commission in law making. They conclude that following the Amsterdam Treaty, the EP and Council became 'co-legislators' under the Codecision procedure, a very significant achievement for the EP whose powers were increased. However, I argue that achieving a procedure similar to Codecision for the budget was not an advantage for the EP and will not increase the likelihood of budgetary reform.

Hix (2002) argues that the success of the EP in attaining equal status in the Codecision procedure was due to its skill in maximising its own de facto powers beyond the written letter of the treaties. Although Hix (2002) refers to the development of the EP's power under the Codecision procedure in the 1990s, the same principle is true of the EP's relatively cost-free battle with the Council over the budget prior to the conclusion of the Delors I package and the Inter-Institutional Agreement establishing the MFF in 1988. In order to make a point the EP rejected the annual budgets in 1980 and 1985. Just as the EP successfully threatened non-co-operation with the Council in areas where it sought to secure its de facto powers during the 1990s, such as the power to reject legislation or a nomination to the Presidency of the Commission (Hix 2002), so did it use its existing powers to sabotage annual budgets of the 1980s in order to secure control over a longer-

term budget that better reflected its spending priorities. Does the Lisbon Treaty increase or reduce the EP's ability to take budgetary action of this kind?

Lindner (2006) makes the case that path dependence can block change to budgetary rules. When the first budgetary treaty was negotiated in 1970, it met the requirements of the then six member states. Following the EU's first enlargement in 1973 to the UK, Ireland and Denmark, the budget rapidly encountered the opposition of both the British government and the EP, ensuring high levels of conflict. Uncertainty over distributional consequences and the relatively low cost of maintaining the then status quo had prevented change both before and since 1988. The question again is whether the Lisbon Treaty will produce different distributional consequences from the Inter-Institutional Agreement of 1988. It appears that some reforms designed originally to check the Commission and which offer greater efficiency and accountability, such as the spread of Codecision, become unstoppable as a pro-Codecision reflex is institutionalised. Moravcsik and Nicolaïdis (1999) suggest that reform of Codecision at Amsterdam was an apparently conscious decision by the governments to allow a centre-left majority in the EP to pass policy consistent with their preferences. Amid that huge and "unstoppable" extension of Codecision during the drafting of the EU Constitution and Lisbon Treaty, a reform to curtail some of the budgetary powers of the EP and Commission was carefully crafted by the governments. Any meaningful reform of the EU budget will result in the "outing" of a minority of visible losers, which would carry a cost for the EU. By preventing reform, such a cost will not be paid. This is the effect of the changes analysed in the rest of this paper.

INSTITUTIONAL POWER CHANGES AND THE FINANCIAL PROCEDURES OF THE LISBON TREATY (TFEU)

Tables 1 to 3 illustrate the changes in powers to reform the budget for the EP, Council, and Commission in different parts of the financial procedures. These are analysed below. Each of the procedures and the effects of their changes are also illustrated in the flowcharts at the end of the paper. Table 4 summarises how the Lisbon Treaty either assists budgetary reform or reinforces the budgetary status quo (making reform more difficult than previously).

1. EU Revenue: Own Resources

The revenue of the EU is guaranteed through a system of 'own resources' rather than national (voluntary) contributions. The system was established in the Budget Treaty 1970 and has on occasion been altered. Own resources consist of four planks:

1. traditional own resources, of which 99 percent are drawn from a common external customs tariff on imports from third countries. The member state levying the tariff at the EU's external border keeps 25 percent of the tariff and passes 75 percent of it to the EU. Tariffs on sugar producers account for the remaining 1 percent of traditional own resources. Together, customs and sugar tariffs account for about 12 percent of EU revenue;
2. a levy of 0.3 percent on national value added tax, which accounts for about 11 percent of EU revenue;
3. a contribution from each state equivalent to 1.23 percent of its GNI, which accounts for the remaining 76 percent of EU revenue.

Reform of own resources has always required the unanimous approval of the member states. Although unanimity is difficult to achieve, reforms have been agreed in the past although they have hardly been optimal. Most recently, the VAT levy was reduced from 0.5 to 0.3 percent in 2007. Discounts were also introduced for large net contributors on their VAT contributions and GNI transfers to compensate them for not receiving a rebate as generous as that allocated to the UK.⁷

The system for reforming the EU's own resources is effectively unchanged. On the basis of a Commission proposal, the Council will unanimously decide changes to own resources after consulting the EP. The EP gains the power of consent over implementation measures of any change to own resources.⁸ This is not a power to reject changes to own resources, only to reject their implementing measures. The Council will only be able to act, and by qualified majority making it easier to agree, after the EP has granted its consent. The power of the EP to dictate details of implementation appears unimportant and yet the economic crisis that began in 2007 is unprecedented. The initial rejection of the annual budget for 2011, the first time a budget had been rejected since 1985, was due to the EP and Council failing to find agreement on the principles of the reform of budgetary implementation and reform of own resources.⁹ Previous reform was agreed in 1999 at the same time as the 'Agenda 2000' budget reforms that prepared for the EU's enlargement. The own resource derived from VAT contributions was reduced in stages from 1.0 percent VAT to 0.75 percent in 2002 and to 0.50 percent in 2004. The most recent reform further

7 The VAT levy is reduced to 0.225 percent for Austria, 0.15 percent for Germany and Sweden, and just 0.1 percent for the Netherlands. The VAT levy is capped for those member states whose consumer spending exceeds the equivalent of 50% of their GNI such that the 0.3 percent levy would not exceed 0.15% of GNI. This protects less prosperous states where a larger proportion of GNI is spent on essential items. A refund on the GNI levy is made to the Netherlands of €605 million per year at 2004 prices and to Sweden at €150 million per year financed by all 27 member states through their GNI contributions. The British "correction" amounts to the equivalent of 66 percent of the British net contribution. This is financed by the other 26 member states through their GNI contributions although the share paid to the UK by Austria, Germany and the Netherlands is cut by 75 percent.

8 Article 311 TFEU.

9 BUD/2010/2001: 2011 budget all sections.

reduced the VAT contribution to 0.3 percent in 2007. In 1999, the proportion of EU own resources delivered through direct transfers as a proportion of member states' GNI was commensurately increased (Nava 2000: 145).

2. The Multiannual Financial Framework (MFF)

The MFF is the long-term budget, within whose limits annual budgets for the EU must be agreed. The MFF was established by an Inter-Institutional Agreement between the Council, Commission and EP in 1988. All three institutions must agree on a long-term budgetary package usually for a period of seven years. Under the pre-Lisbon arrangements, the EP was given a right of veto only, with the member state governments reaching accord unanimously. The procedures for the MFF before and after ratification of the Lisbon Treaty are illustrated in Table 1 and Figure 1.

The Inter-Institutional Agreement of 1988 ended a period of flux in EU budgetary relations (Laffan and Lindner 2005; Lindner 2006) by meeting the demands of the EP and the member states that had joined the EU since 1973. The agreement allowed for seven-year multiannual budgets or financial frameworks to be adopted by the Commission, Council, and EP that would set an amendable ceiling for expenditure. According to Lindner (2006) the power balance and stability is unlikely to change under the new treaty.

The Multiannual Financial Framework (MFF) becomes more difficult to amend on account of the Lisbon Treaty unless the Council uses a *passerelle*¹⁰ to decide it by the Ordinary Legislative Procedure (OLP). Whereas the agreement of 1988¹¹ was subject to

¹⁰ This is a mechanism, which allows a policy area to be moved from unanimous decision making to the ordinary legislative subject to a unanimous vote in the Council. A period of six months then follows during which any single national parliament may veto the move. See Article 18(7) TFEU. Although a new treaty is not required to implement the *passerelle* it is difficult to imagine that it could be agreed in the near future. Because its use is so unlikely, I have excluded it from the analysis of this paper.

¹¹ Accord interinstitutionnel, du 29 juin 1988, sur la discipline budgétaire et l'amélioration de la procédure budgétaire.

revision by the EP, Commission, and a unanimous Council, the new Article 312 (which replaces it) can only be changed by an IGC and ratification by every member state. While own resources were capped at a maximum level, the ceiling for spending was flexible. Since the Lisbon Treaty was ratified, Article 312(3) now sets absolute ceilings on spending, thus constraining flexibility in the annual budget:

‘The financial framework shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations.’

Before Lisbon, the old Article 272(9) EC, now deleted, allowed for a maximum and actual rate of increase in the budget to be agreed annually by the Commission, Council and EP:

‘A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total [non-compulsory] expenditure...

‘The Commission shall ... declare what this maximum rate is as ...

‘If, in respect of [non-compulsory] expenditure... the actual rate of increase in the draft budget established by the Council is over half the maximum rate, the European Parliament may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

‘Where the European Parliament, the Council or the Commission consider that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the European Parliament, acting by a majority of its Members and three fifths of the votes cast.’

The maximum rate of increase is now set in the MFF and increases are not foreseen in the treaty (Table 4 and Figure 1). These provisions reduce the power of the Commission and those who wish for some budgetary flexibility, increasing the power of those who wish for more rigidity in spending. They were a contributing factor to the initial rejection of the

2011 annual budget at conciliation. In the autumn of 2010, the EP unsuccessfully tried to reinstate its power to influence a maximum rate of increase by inserting amendments to that effect in the draft budget.¹²

If there is no agreement over a new MFF, the existing one will be carried over with its spending ceilings, reinforcing the status quo.¹³ Within budgetary politics, there is always tension between revenue and spending, particularly under systems of divided government. When the executive has a broad constituency, spending tends to be 'liberal' (Grossman and Helpman 2008). The Council is both a broad based executive and a legislature anxious to limit revenue, yet unable or unwilling to reallocate or reduce spending on traditional priorities. It is unlikely that the Lisbon Treaty will change that dynamic since own resources and the multiannual budget continue to require unanimity for changes to be made.

How will the MFF be decided from now on? Article 312(2) provides the answer: 'The Council shall act unanimously after obtaining the consent of the European Parliament'.¹⁴ This represents a significant increase in the agenda setting powers of both the Commission and EP. Previously an agreement required mutual accord between the Commission and Council and a subsequent "take-it-or-leave-it" veto power for the EP (Figure 1). The EP could use this new power of prior consent as a de facto power of proposal and it can modify its internal Rules of Procedure in order to do so.¹⁵ This would be in addition to its existing power to reject the MFF, which it exercised as recently as January 2006.¹⁶

12 BUD/2010/2001: 2011 budget all sections.

13 Article 312(4) TFEU.

14 Article 312(2) TFEU.

15 See Hix (2002) for examples of how the EP used its Rules of Procedure to push its modest powers of Codecision granted by Maastricht to the limit.

16 In January 2006 the EP rejected the draft MFF in which the Council had fixed spending at no higher than 1.045 percent of GNI. In May 2006, the EP approved a new draft that increased spending to 1.05 percent.

The MFF will last for 'at least five years'¹⁷ and could be made to coincide with the mandates of the EP and Commission. The EP would therefore have greater legitimacy in seeking to influence the content of successive frameworks in granting or withholding its consent to the spending programme. The EP has used its veto power over the MFF in 2006 and, in an era of budgetary retrenchment, could do so again in 2013.

Table 1: Effect of Lisbon Treaty (Article 312 TFEU) on Powers of Reform over the Multiannual Financial Framework

Change	Reform?	EP	Commission	Council QMV	Council unanimity
5-year cycle	+	+	+	0	0
EP consent before agreement	+	+	1	0	-
National ratification abolished	+	+	+	+	0
Constitutionalisation	-	2	2	2	+
Ceiling on spending	-	-	-	+	+
No agreement => continuity	-	-	-	-	+

- Reduced powers to secure reform
- + Increased power to secure reform
- 0 No change
- 1 Pro-reform if both Commission and EP are reformist
- 2 Loss of power for those in favour of budget flexibility

¹⁷ Article 312(1) TFEU.

3. The Annual Budgetary Procedure and Provisional Twelfths

The changing powers brought to the annual budgetary procedure under the Lisbon Treaty are the subject of extensive analysis by Benedetto and Hoyland (2007). These are summarised in Table 2 and Figures 2 and 3. How do these changes affect the distribution of power between the institutions and likelihood that veto power by one or other institution may trigger reform elsewhere or, failing that, merely consolidate the budgetary status quo?

Laffan and Lindner (2005) refer to the period preceding the Inter-Institutional Agreement of 1988 as that of the intergovernmental 'de Gaulle budget'. Following the Budget Treaties of 1970-75, the EP became an interloper in budgetary battles and rejected the annual budget in 1980 and 1985, attempting to change the status quo by consolidating its spending priorities. The Inter-Institutional Agreement of 1988 signalled a move from the old 'De Gaulle budget' to a pro-integration 'Delors budget' (Laffan and Lindner 2005). It addressed the concerns of the EP, by stabilising expenditure for periods of up to seven years, increasing the European Regional Development Fund, and allowing the EP to reject the long-term budget. These significant changes were possible due to the EP's obstinacy in the use of the annual budgetary procedure in 1980 and 1985. Does the Lisbon Treaty make use of the annual budget as a trigger for reform more or less likely than in the past (Tables 2 and 4)?

As under the old procedure, the Council adopts or amends the Commission's proposed budget by qualified majority vote (QMV).¹⁸ The net loser here is the EP. It may amend by absolute majority¹⁹ in a single reading, otherwise the budget is adopted. A Conciliation Committee convenes if in second reading the Council fails to accept all of the EP's amendments.²⁰ If the Conciliation Committee adopts a joint text, the budget is accepted

18 Article 314(3) TFEU.

19 Article 314(4) TFEU.

20 Article 314(5) TFEU.

unless at least one of the institutions actively rejects that text, while the other institution fails to act.²¹ Whereas under the old procedure, the Council and EP could impose decisions against the will of the other respectively on compulsory and non-compulsory expenditure,²² subject to an overall EP rejection by the rather high requirement of a two-thirds majority, the new Article 314 replaces this with a procedure similar to Codecision. This means that both institutions must agree with each other on everything, with either exercising a power of rejection fairly easily at Conciliation – by a large enough minority of governments in the Council to prevent a qualified majority or by a simple majority in the EP’s delegation. Amendments are more difficult to pass, while rejections of the entire budget are easier.

The procedure adopted at Lisbon increases the power of the Council with regard to the EP as an analysis of the provisional twelfths mechanism reveals.

Article 273 EC (315 TFEU) details what follows if the annual budget is rejected: ‘a sum equivalent to not more than one twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter...’

Under the old treaty, the EP held the power to overrule the Council by a three fifths majority on proposed increases in non-compulsory expenditure under provisional twelfths. The EP could vote in favour of a decrease or a further increase within the ceiling set by the MFF, which is 1.05 percent of GNI at the time of writing. Under Lisbon, this power is reduced to blocking increases or voting for decreases only, but is extended to all areas of expenditure.

The new Articles 314 and 315 entrench the current budgetary status quo (Table 2 and Figures 2 to 4). As explained above, amendment to the annual budget is more difficult and overall rejection is easier. Previously, the EP could reject an annual budget if it wished to

21 Article 314(7)a TFEU.

22 The different procedural rules for compulsory and non-compulsory expenditure are abolished by the Lisbon Treaty. Compulsory spending included agriculture, fisheries, and aspects of foreign policy. Almost everything else was deemed non-compulsory.

push for reform or to disapprove of the Council's control over compulsory expenditure, knowing that by a three-fifths majority it could safeguard all its gains in the field of non-compulsory expenditure during the application of monthly budgets under provisional twelfths. The EP now has the ability only to cut those monthly budgets.

The fate of the annual budget for 2011 exemplifies this redistribution of power. In the draft budget for 2011 the Commission proposed an increase of 2.9 percent in spending. The EP in its single reading introduced amendments raising the increase to 5.9 percent as a negotiating tactic and stipulating a greater role for itself in the inter-institutional politics of the MFF for 2014-2020, reform of own resources and setting the maximum rate of increase. The Lisbon Treaty specifically excludes the EP from the latter two areas.²³ For the first time ever, legislation failed during rather than after the conciliation stage. Although the EP reduced its demands for a budgetary increase to the Commission's figure of 2.9 percent, the Council would not accept the EP's policy amendments. Previously, only the EP had a power of veto and at that by a two-thirds majority. As explained above, under the old system each institution could overrule the other respectively on compulsory and non-compulsory spending. If the EP had been able to veto the 2011 budget under the old rules, it would have been able to safeguard a 5.9 percent increase in spending on its own priorities in areas other than agriculture, fisheries and foreign policy (formerly compulsory expenditure) during the application of the month-by-month budget. Under the new rules, the EP's only available tactic in the monthly budgets would have been to cut spending in areas prioritised by the governments.

²³ Article 311 TFEU; Deletion of Article 272(9) EC.

Table 2: Effect of Lisbon Treaty (Articles 314 and 315 TFEU) on the Use of Powers of Budgetary Reform on the Annual Budget and Provisional Twelfths

Change	Reform?	EP	Commission	Council QMV	unanimous Council
EP and Council co-equal, rejection easier, amendments more difficult	-	-	-	-	0
Increasing what was compulsory expenditure	1	+	0	-	0
Decreasing what was compulsory expenditure	2	-	0	+	0
Amending what was non-compulsory expenditure	2	-	0	+	0
Commission amendment until conciliation	3	4	+	4	0
EP empowered to cut any spending under provisional twelfths	1	+	-	-	0
EP loses power to increase what was non-compulsory expenditure under provisional twelfths	2	-	5	+	0

- Reduced powers to affect reform
- + Increased powers to affect reform
- 0 No change
- 1 Pro-reform if EP is reformist and Council is anti-reform
- 2 Anti-reform if EP is reformist and Council is anti-reform
- 3 Pro-reform if Commission is reformist
- 4 Pro-reform if the institution agrees with a reformist Commission
- 5 Anti-reform if both EP and Commission are reformist

4. Rules for Implementation

The provisions concerning implementation of the budget make reform easier to achieve. The EP and Council gain power by receiving evaluation reports from the Commission on its expenditure.²⁴ This is in addition to the receipts of accounts and financial statements that were already the case beforehand.

Financial regulations and procedures to establish and implement the budget, as well as for the auditing of accounts, and rules for financial officials of the institutions were previously subject to the consultation procedure, with the Council deciding unanimously and the EP being merely consulted. These regulations are shifted to the OLP,²⁵ making the EP an equal partner of the Council, which will also decide by QMV. Indirectly this enhances the powers of the Commission as an agenda-setter, since it may pitch proposals for such regulations at a point that would otherwise have been vetoed by a single government.

Trialogues between the presidencies of the EP, Council, and Commission on financial matters are constitutionalised.²⁶ This guarantees the status of the EP and Commission at the highest level in negotiations concerning own resources, the MFF, annual budget, and budgetary implementation.

Under Lisbon, national criminal law and the national administration of justice are no longer exempt from the supremacy of anti-fraud measures decided by the OLP.²⁷ This extends the power of the EP, Commission, European Court of Justice, and Court of Auditors over national administrations, allowing reform of the audit process to take place that may otherwise be opposed by national veto players.

24 Article 318 TFEU.

25 Article 322(1) TFEU.

26 Article 324 TFEU.

27 Article 325(4) TFEU.

In one respect only, the provisions on implementation of the budget in the Lisbon Treaty reinforce the status quo: the Commission will no longer implement the budget on its own, but 'in co-operation with the Member States'.²⁸ Shared responsibility between the Commission and the governments in implementing the budget makes the governments equally accountable before the EP and the Court of the Auditors in how they manage EU expenditure at a national level. The potential for conflict here could make reform more difficult.

28 Article 317 TFEU.

Table 3: Effect of Lisbon Treaty (Articles 317 to 325 TFEU) on the Reform Potential of the Rules on Implementation and Audit

Change	Reform?	EP	Commission	Council QMV	unanimous Council
Ordinary legislative procedure for budget implementation and audit (art. 322)	+	+	+	+	-
Tripartite dialogues constitutionalised (art. 324)	+	+	0	0	0
Supremacy of EU anti-fraud measures over national administration of justice (art. 325.4)	+	+	+	0	0
Commission forwards self-evaluation besides just accounts (art. 318)	+	+	0	+	+
Commission implements budget "with the member states" (art. 317)	-	1	1	1	1

- Reduced powers to affect reform
- + Increased powers to affect reform

No change

Member States or Council gain at expense of Commission and EP but only subject to scrutiny by OLAF, Court of Auditors and EP Budgetary Control Committee

Table 4: How the Treaty of Lisbon Facilitates Reform or Reinforces the Status Quo

Pro-Reform	Anti-Reform
OWN RESOURCES (Art. 311) Implementation of reform: EP consent and QMV in Council	
MULTI-ANNUAL FINANCIAL FRAMEWORK (Art. 312)	No unanimous agreement on new framework results in continuity of status quo Council alone decides maximum rate of increase with no role for Commission and EP, ceiling for spending as well as revenue
ANNUAL BUDGETARY PROCEDURE (Art. 314)	EP and Council co-equal: rejection easier through either failing to agree Amendments more difficult to pass since EP and Council must agree
PROVISIONAL TWELFTHS (Art. 315) EP gains right to cut all provisional twelfths	EP loses right to increase non-compulsory expenditure (anti-reform if the EP is pro-reform)
IMPLEMENTATION AND DISCHARGE OLP replaces Consultation of EP and unanimity for implementation of the budget, auditing and rules for financial officials (Art. 322) Budgetary dialogues are constitutionalised (Art. 324) Supremacy of EU anti-fraud measures decided by OLP over national criminal law and administration of justice (Art. 325.4) EP and Council to receive evaluation reports from Commission, besides accounts and financial statements (Art. 318)	Commission implements budget no longer on its own but "in co-operation with Member States" (Art. 317) creating deadlock on reform as Member State budgetary management becomes accountable to EP and Court of Auditors Shorter time horizons for negotiating annual budget

DISCUSSION AND CONCLUSION

The changes to the financial provisions of the EU under the Treaty of Lisbon are complicated. In some fields, the EP, Council, and Commission each lose power, being compensated with gains in power in other areas. There is a collective gain in simplifying most of the procedures but this has no effect on the likelihood of reform. The EP is of course not always an agent for reform. For example, it may favour an inefficient use of budgetary resources. However, if it favours a reform that specific national interests oppose, it loses its leverage on the annual budget and provisional twelfths in order to secure it.

The Commission gains greater influence over the annual budget. The Commission having to share implementation of the budget with the Member States may block reform, empowering new veto players. Budgetary accountability of national governments in front of the EP and Court of Auditors creates the potential for conflict. The most significant push in favour of reform is the application of the OLP for approving regulations to implement the budget.

Previous budgetary reform from Delors I, in the late 1980s, to Agenda 2000, a decade later, was pioneered by the Commission, though always supported by powerful national governments. The outcomes of those budgetary deals matched the preferences of the EP. When the EP is dissatisfied it is prepared to use its veto powers as in 1980, 1985, and 2006. This balance will not change.

The new annual budgetary procedure takes away the leverage of Council and EP over each other. Amendments become more difficult to pass and outright rejection of the annual budget becomes easier for both Council and EP, and with a greater penalty for the EP in doing so as shown in the case of the annual budget for 2011. The EP can no longer

secure its amendments to increase what was non-compulsory expenditure by reintroducing them under provisional twelfths.

With regard to the MFF, the EP becomes a partner in setting agendas. As the formal initiator the power of the Commission increases over multiannual budgetary planning. The likelihood of reform will depend on the Commission whose agenda setting powers are consolidated.

Increased simplification and efficiency lead to a collective gain overall. Whereas the Council used to have more power than the EP over multiannual budgetary planning and implementation, the EP had greater power over the annual budget and provisional twelfths. The powers of the Council and the EP have been equalised with the exception of own resources and the continuation of unanimity for the governments to agree the MFF.

The new budgetary rules make no difference to the likelihood of fundamental reform to the EU budget of the kind that happened with the creation of own resources in 1970 or the MFF of 1988. Indeed if the EP is an agent of reform, that reform now becomes more unlikely given the weakening of the EP's powers to influence matters through the annual budget and provisional twelfths. It is telling that objectives of the EP's unsuccessful amendments in the autumn of 2010 were greater control over budgetary planning and making sure that existing policy priorities were properly financed.²⁹

²⁹ BUD/2010/2001: 2011 budget all sections.

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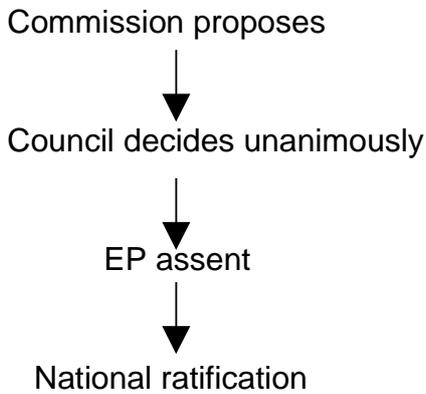
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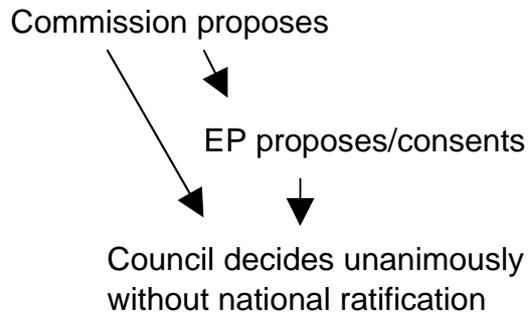
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FIGURE 1: THE MULTIANNUAL FINANCIAL FRAMEWORK

Status Quo (1988 IIA)



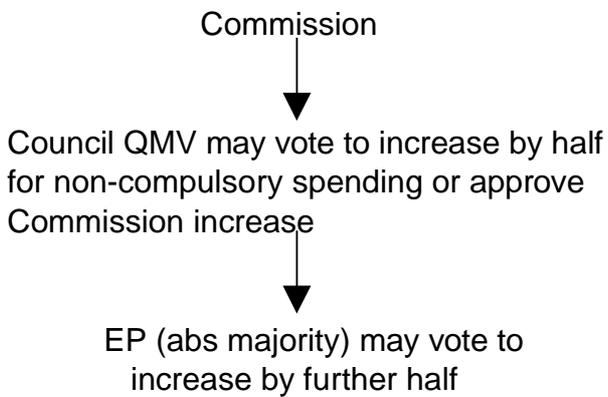
Lisbon (Art. 312 TFEU)



Maximum Rate of Increase (Art. 272.9 EC)

Lisbon: Powers removed, unless maximum rate of increase is agreed in MFF

EITHER:



OR, to increase beyond maximum rate

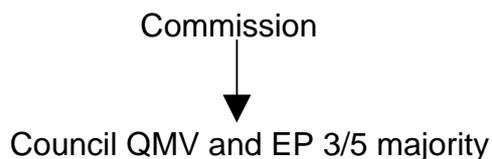
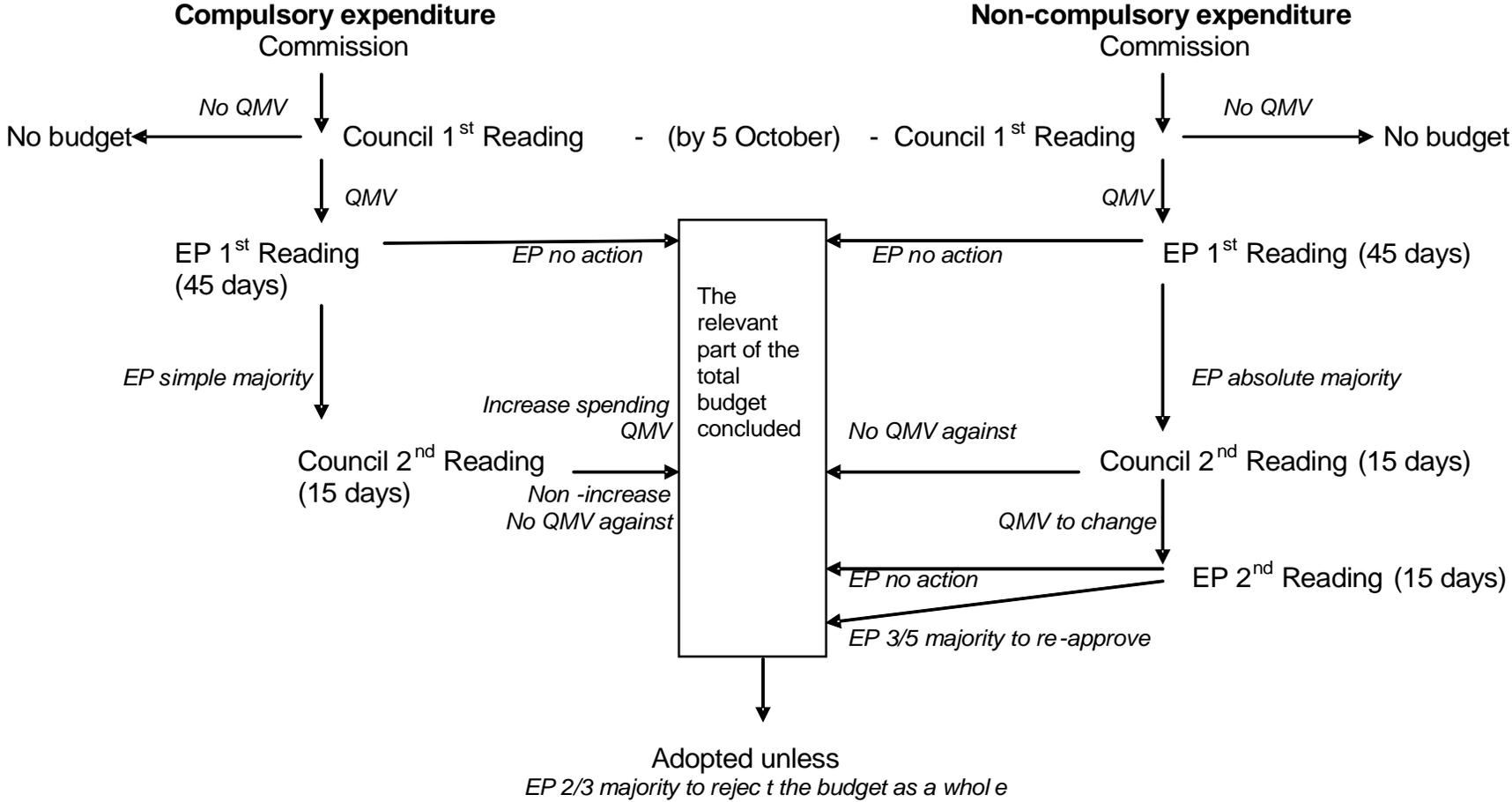
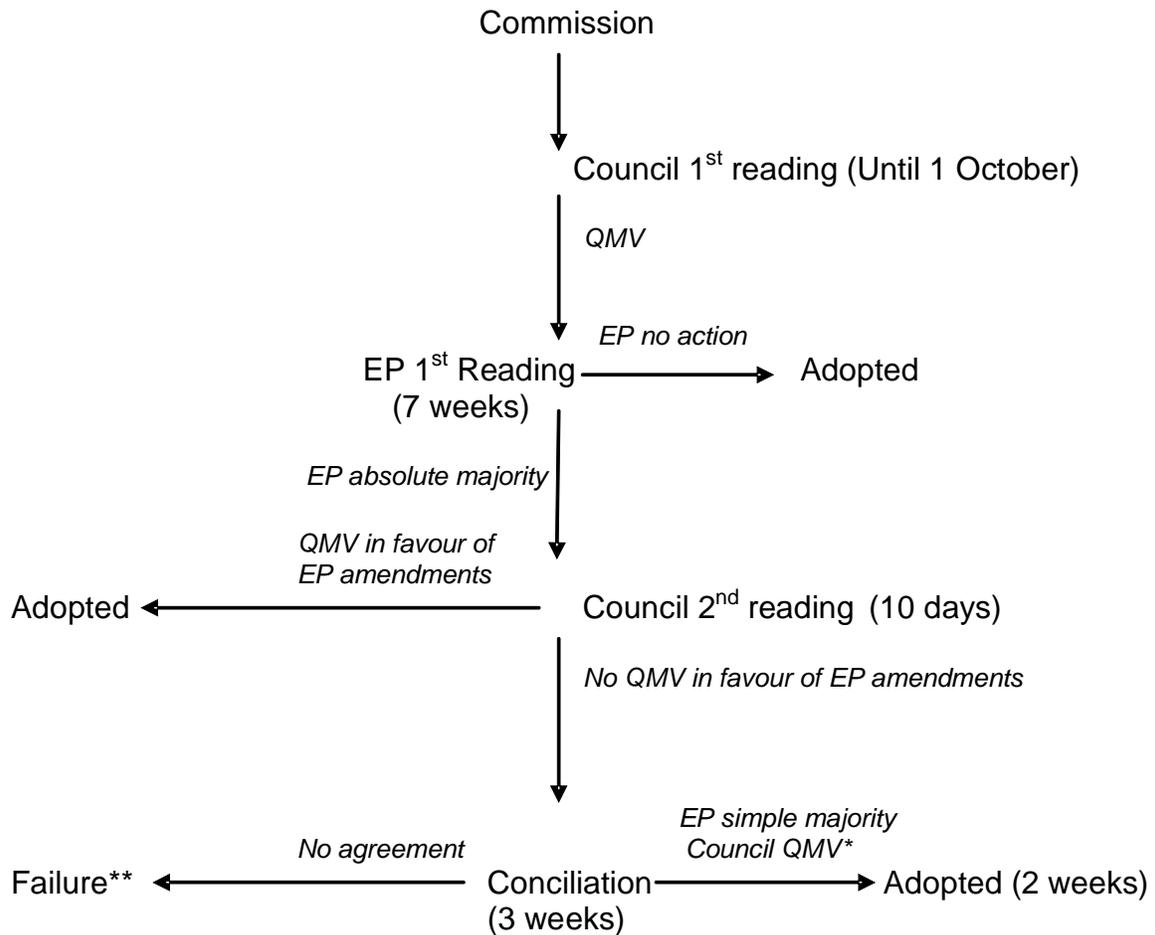


FIGURE 2: THE BUDGETARY PROCEDURE OF 1975



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FIGURE 3:
THE ANNUAL BUDGETARY PROCEDURE OF THE TREATY OF LISBON



* If QMV in Council subsequently rejects the agreed outcome of the Conciliation Committee and the EP still accepts with a simple majority, the joint text is adopted and EP can re-impose its first reading amendments by 3/5 majority within two weeks.

** Returns to the Commission if there is no agreement in Conciliation, or the joint text is rejected by an absolute majority in the EP or by QMV in Council while the EP fails to act.

FIGURE 4: PROVISIONAL TWELFTHS

Status Quo (Art. 273 EC)

Council proposes
and decides (QMV)

↓
Compulsory
Expenditure
Concluded

↘
EP may increase or cut
Non-Compulsory Expenditure
(3/5 majority)

Lisbon (Art. 315 TFEU)

Commission proposes

↓
Council amends and decides (QMV)

↓
EP may block increases
or cut (abs majority)

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