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OUTCOME OF THE COUNCIL MEETING

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Economic and Financial Affairs

Brussels, 8 November 2016

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P R E S S

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- Documents for which references are given in the text are available on the Council's internet site (<http://www.consilium.europa.eu>).
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's internet site or may be obtained from the Press Office.

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ITEMS DEBATED

CORPORATE TAX REFORM

The Commission presented a package of proposals aimed at reforming the manner in which companies are taxed in the EU.

The Council held an exchange of views.

The package, issued on 25 October 2016, is composed of a communication and four proposals:

- a communication on "building a fair, competitive and stable corporate tax system for the EU", outlining the rationale behind the proposals;
- new proposals for a common consolidated corporate tax base (CCCTB). The Commission proposes a single rulebook for calculating taxable company profits throughout the EU, with provisions to close off opportunities for corporate tax evasion. Revamping a proposal tabled in 2011, the aim is a more transparent, efficient and fair system for calculating the tax base of cross-border activities.
- to enable swifter progress than on the 2011 proposal, two directives are proposed. The Commission suggests that the common base be agreed on more rapidly, whereas consolidation of taxable income within corporate groups could be introduced subsequently;
- a new system for resolving double taxation disputes within the EU. The Commission proposes that current mechanisms be adjusted to cover a broader range of cases, with member states bound by deadlines for agreeing on binding solutions;
- measures to prevent companies exploiting loopholes – hybrid mismatches – between member states' and third countries' tax systems. An anti-tax-avoidance directive, adopted in July 2016, already addresses mismatches within the EU. The new proposal tackles mismatches with non-EU countries.

The four directives require unanimity for adoption by the Council, after consulting the European Parliament. (Legal basis: article 115 of the Treaty on the Functioning of the European Union.)

Work on the proposals has started at technical level. The presidency's priority is the proposal dealing with hybrid mismatches, on which it is aiming for an agreement by the end of 2016.

[October 2016 corporate tax reform proposals](#)

MONEY LAUNDERING AND TERRORIST FINANCING

The presidency updated the Council as concerns work on strengthening EU rules to prevent money laundering and terrorist financing.

The proposed directive is part of a February 2016 Commission action plan against terrorist financing.

It addresses new means of terrorist financing such as prepaid cards and virtual currencies. It sets out to improve cooperation between the member states' financial intelligence units. It seeks to improve access to beneficial ownership registers, so as to provide more transparency about who really owns companies and trusts. It also provides for connecting the registers between member states.

A Council working group has met five times to discuss the proposal, and a first presidency negotiating text was circulated on 28 October 2016. Two more meetings are planned in November, and the presidency is aiming for an agreement by the end of 2016. This will enable negotiations with the European Parliament to start early in 2017.

The directive requires a qualified majority for adoption by the Council, in agreement with the European Parliament. (Legal basis: article 114 of the Treaty on the Functioning of the European Union.)

A previous revision of the EU's rules against money laundering (a regulation and a directive) was passed in May 2015. It will apply from 26 June 2017.

[October 2016 presidency negotiating text on the prevention of money laundering](#)

[July 2016 proposal on the prevention of money laundering and terrorist financing](#)

[Factsheet on the February 2016 action plan on the prevention of terrorist financing](#)

[February 2016 Commission action plan for strengthening the fight against terrorist financing](#)

TAXATION - NON-COOPERATIVE JURISDICTIONS

The Council adopted [conclusions](#) on the criteria and the process leading to the establishment of an EU list of non-cooperative jurisdictions for tax purposes.

The conclusions set out:

- criteria for the screening of third country jurisdictions;
- guidelines on the process for selecting and screening jurisdictions.

Screening is due to be completed by September 2017, so that the Council can endorse the list of non-cooperative jurisdictions by the end of 2017. Screening is intended to be a continuous and regular process.

The Council's code of conduct group for business taxation will conduct and oversee the screening process, supported by the Council secretariat. The Commission's services will assist the group in carrying out the necessary preparatory work for the screening process.

Work is also continuing on potential defensive measures at EU level, with a view to endorsement by the Council by the end of next year. These could be considered for implementation in the tax as well as the non-tax field.

[Code of conduct group on business taxation](#)

STATISTICS

The Commission provided an update on developments in relation to EU statistics.

The Council adopted [conclusions](#).

EU policies rely on a variety of statistics that require the timely submission of high quality socio-economic statistical data. Since 2006, the Council has once a year taken stock of work to assess EU statistical needs and improve EU statistics. In 2009, an initiative was launched to modernise the European statistical system (ESS).

The ESS is a partnership between Eurostat, the EU's statistical authority, and national statistical institutes and authorities. Its mission is to provide reliable and comparable statistics at EU level.

Eurostat and the European Central Bank have recently signed a memorandum of understanding on how to work together to improve the quality of statistics and ensure their comparability.

EU BUDGET - COURT OF AUDITORS REPORT

The President of the Court of Auditors presented the Court's annual report on management of the EU's general budget.

The Council held an exchange of views.

Issued on 13 October 2016, the report covers the EU's budget for 2015. It will be the basis for a discharge to be given to the Commission for implementation of the 2015 budget. The Council is expected to adopt a recommendation on 21 February 2017, and it will then be for the European Parliament to decide if it grants a discharge to the Commission.

The Court gave an unqualified statement of assurance on the reliability of the accounts in 2015, and found revenue to be free from error. As in previous years however, it qualified its assessment as concerns expenditure.

EU budgetary expenditure totalled €145.2 billion in 2015. The Court found an estimated 3.8% rate of error, compared with 4.4% in 2014. This is not a measure of fraud, inefficiency or waste; it is an estimate of the money that should not have been paid out because it was not used fully in accordance with EU rules.

The Court found a 4.0% estimated rate of error for spending under shared management with the member states and a 3.9% rate of error for expenditure managed directly by the Commission.

It found a 5.2% rate of error in spending for 'reimbursement' schemes, where the EU refunds eligible costs on the basis of declarations made by beneficiaries. It found a 1.9% rate of error for 'entitlement' schemes, under which payments are made when specific conditions are met.

Whilst the Commission has taken steps to improve its assessment of risk and of the impact of corrective actions, the Court still found scope for improvement. It found that a significant number of errors could have been prevented, or detected and corrected before payments were made.

The Council regretted that spending continues to be affected by a material rate of error in important policy areas. It welcomed the Court's increased focus on performance and results.

It called on all involved to strive for improvement and address the weaknesses identified, in order to make EU budget control systems as effective as possible.

[Court of auditors annual report on management of the EU's general budget in 2015](#)

IMPLEMENTATION OF THE BANKING UNION

The Council took stock briefly of implementation of the EU's banking union, as part of a regular review carried out since mid-2015.

It noted that transposition of agreed rules into national laws and regulations is almost complete. Work is continuing meanwhile on the strengthening of the banking union.

The banking union is aimed at placing Europe's banking industry on a sounder footing, whilst ensuring that non-viable banks are resolved without recourse to taxpayers' money. Launched in 2012 to address the bank-sovereign nexus, it is part of a longer-term plan for financial integration. Involving a transfer of responsibility to the EU level, it currently comprises the 19 countries of the euro area whilst 7 other member states have also indicated their intention to join.

The banking union currently consists of two main initiatives:

- the single supervisory mechanism (SSM), an EU-level supervision of banks exercised by the European Central Bank in close cooperation with national supervisory authorities;
- the single resolution mechanism (SRM), a system for the resolution of unviable banks comprising a central resolution authority and a single resolution fund (SRF).

These are based on a regulatory framework, the “single rulebook”, which applies to all 28 member states.

The SRM became operational and the SRF entered into force on 1 January 2016.

As of 3 November 2016:

- 20 member states, including all 19 current members of the banking union, had ratified an intergovernmental agreement (IGA) on the SRF;
- the transfer to the SRF of 2015 and 2016 bank contributions was complete, in line with the IGA;
- 14 of the 19 banking union member states had signed a loan facility agreement on bridge financing for the SRF.
- as regards the single rulebook, 27 of the 28 member states had fully transposed directives on bank recovery and resolution and on bank deposit guarantee schemes.

[Banking union](#)

PACKAGED RETAIL AND INSURANCE-BASED INVESTMENT PRODUCTS

The Commission briefed the Council on the possible postponement of the date of application of regulation 1286/2014 on packaged retail and insurance-based investment products (PRIIPs).

It also provided an update regarding key information documents for PRIIPs, after the European Parliament objected to proposed regulatory technical standards.

Regulation 1286/2014 is currently due to apply from 31 December 2016. It sets out to improve market transparency for retail investors and to boost consumer trust in financial markets.

The regulation requires key information documents to be drawn up for all PRIIPS, specifically investment funds and structured deposits, as well as life insurance policies with an investment element.

On 14 September 2016, the Parliament objected to regulatory technical standards laid down by the Commission in an implementing regulation. The standards relate to the presentation, content, review and revision of key information documents. They were due to apply from 31 December 2016, the same date as the PRIIPs regulation itself.

As a consequence of the Parliament's objection, the Commission regulation cannot enter into force.

[Council press release on adoption of November 2014 PRIIPs regulation](#)

[July 2016 Commission regulation on regulatory technical standards for PRIIPs](#)

[Note on the EP's September 2016 objection to PRIIPs regulatory technical standards](#)

OTHER BUSINESS

– *Financial services*

The Council was updated as concerns work on legislative proposals on financial services.

MEETINGS IN THE MARGINS OF THE COUNCIL

– *Macroeconomic dialogue with the social partners*

A dialogue on macroeconomic issues was held on 7 November 2016 between representatives of the EU institutions and the social partners: employers, trade unions, public enterprises and SMEs at EU level.

[Press release on the November 2016 macroeconomic dialogue with the social partners](#)

– *Eurogroup*

Ministers of the eurozone member states attended a meeting of the Eurogroup on 7 November 2016.

They discussed banking union (activity reporting by the banking union institutions), implementation of Greece's economic adjustment programme, post-programme monitoring in Cyprus and Spain and national insolvency frameworks.

[Eurogroup main results](#)

– *Meeting with EFTA finance ministers*

Ministers met their counterparts from the EFTA countries: Iceland, Liechtenstein, Norway and Switzerland

They discussed the economic situation and investment outlook.

– *Ministerial breakfast*

Ministers held a breakfast meeting to discuss the economic situation. The Commission presented an outline of its autumn economic forecast, to be issued on 9 November 2016.

OTHER ITEMS APPROVED

ECONOMIC AND FINANCIAL AFFAIRS

Health systems and fiscal sustainability

The Council adopted [conclusions](#) on fiscal sustainability challenges as concerns healthcare systems.

Healthcare contributes to higher labour market participation, longer working lives and productivity. It is crucial in the context of an ageing society, and the conclusions highlight this. Getting more value for money through policy reform is necessary, and healthcare systems in many cases face common structural challenges.

The conclusions come in response to a report discussed by the Council at its meeting on 11 October 2016.

Prepared jointly by the Commission and the Economic Policy Committee, the report analyses healthcare and long-term care systems in the member states. It assesses how to contain spending pressures through efficiency gains, in order to maintain access to good quality services in a fiscally sustainable manner. It updates the findings of a report issued in 2010.

VAT rules – Cross-border transactions

The Council adopted [conclusions](#) on improvements to VAT rules for cross-border transactions.

The conclusions come in response to certain issues raised when a Commission action plan on VAT was discussed by the Council.

The conclusions relate in particular to:

- the VAT identification number as an additional condition for application of an exemption in respect of an intra-EU supply;
- improving the quality and reliability of data used in the EU's VAT information exchange system in order to better tackle VAT fraud;
- determining the VAT treatment of the transaction chain, including 'triangular transactions' (where goods are shipped from a member state other than that of the supplier and the customer);

- simplifying rules for call-off stock (where goods are sent to a customer's storage facility in another member state);
- work concerning the exemption from VAT of intra-EU supplies.

The Commission is asked to present legislative proposals and conduct studies, as appropriate.

Tax transparency - Beneficial ownership

The Council agreed on a proposal granting access for tax authorities to information held by authorities responsible for the prevention of money laundering.

The directive will require member states to facilitate access to information on the beneficial ownership of companies. It will apply as from 1 January 2018.

The proposal is one of a number of measures set out by the Commission in July 2016, in the wake of the April 2016 Panama Papers revelations.

The Council will adopt the directive once the European Parliament has given its opinion.

[November 2016 press release on access by tax authorities to beneficial ownership information](#)

EU-Norway administrative cooperation - VAT fraud

The Council took note of the state of play in negotiations with Norway on an agreement on administrative cooperation, on combating fraud and on the recovery of claims in the field of VAT.

The Commission was asked to continue and to complete the negotiations on that basis.

The aim of the agreement, if concluded, will be to establish a common framework for cooperation between EU member states and Norway, in a manner similar to cooperation amongst the member states themselves. The framework would cover the exchange of information and best practices regarding VAT fraud, as well as cooperation in the recovery of VAT claims.

The Commission is negotiating the agreement on behalf of the EU, on the basis of a mandate agreed by the Council in December 2014.

Fiscal governance rules

The Council endorsed an amended code of conduct for implementation of the EU's fiscal governance rules.

The amendments specify that eurozone members should submit to the Eurogroup and the Commission their draft budgetary plans no earlier than 1 October and no later than 15 October each year.

The deadlines also apply to countries with a government that doesn't enjoy full budgetary powers at the time when the draft budget law is submitted to its national parliament. These member states should at a minimum submit a draft budgetary plan prepared on a no-policy-change basis.

The Economic and Financial Committee agreed on the amendments on 30 September 2016.

[October 2016 amendments to the code of conduct on EU fiscal governance rules](#)

Climate change

The Council amended its 11 October 2016 conclusions on climate change, specifying the €17.6 billion contribution made by the EU and its member states in 2015 to help developing countries reduce their greenhouse gas emissions and cope with the impact of climate change ([13157/16 ADD 1](#)).

[Press release on 2015 EU and member state financial contributions for climate change](#)

Derogations under the VAT directive - Italy

The Council adopted decisions authorising Italy to continue applying the following measures derogating from directive 2006/112/EC on VAT:

- 40% limit to the right to deduct VAT charged on expenditure on certain motor vehicles not wholly used for business purposes ([12679/16](#) + [12678/16](#));
- VAT exemption for taxable persons with an annual turnover no higher than €30 000 ([13142/16](#) + [13140/16](#)).

Code of conduct on business taxation - Patent boxes

The Council took note of a report on patent box regimes in the member states, special tax regimes for corporate revenues from intellectual property.

The report was prepared by a working group responsible for implementation of the EU's code of conduct on business taxation.

The group agreed in November 2014 to assess all existing patent box regimes, and agreed an interpretation of the code of conduct criteria for this assessment.

The report sets out the situation and the way forward on this issue.

[October 2016 report on the state of play and way forward as concerns patent boxes](#)

[Code of conduct group on business taxation](#)

BUDGETS

Prioritisation of expenditure in 2016 EU budget - Draft amending budgets no 4 and 5

The Council approved draft amending budgets no 4 and 5 to bring the 2016 EU budget into line with the EU's current priorities and actual needs.

The draft amending budgets provide in particular for additional resources to tackle the migration crisis and enhance security. However, overall, they lead to a significant reduction in the payments level in this year's budget. This is because some programmes for the 2014-2020 period, in particular those in the area of economic, social and territorial cohesion, are not yet fully up and running and therefore draw on fewer payments than expected in 2016.

For details, see [press release](#).

Mobilisation of the globalisation adjustment fund for Estonia

The Council adopted a decision mobilising €1.13 million under the European Globalisation Adjustment Fund (EGF) to provide support for 1 550 dismissed workers made redundant in three Estonian companies operating in the petroleum and chemical products sector. The redundancies are the result of continued major structural changes in world trade patterns due to globalisation

The EGF helps workers to find new jobs and develop new skills when they have lost their jobs as a result of changing global trade patterns, e.g. when a large company shuts down or a factory is moved outside the EU, or as a result of the global financial and economic crisis. The help from the EGF consists of co-financing measures such as job-search assistance, careers advice, tailor-made training and re-training, mentoring and promoting entrepreneurship. It also provides one-off, time-limited individual support, such as job-search allowances, mobility allowances and allowances for participating in lifelong learning and training activities.

Access to public procurement of the EU institutions - Court of Auditors' special report

The Council adopted the following conclusions on the European Court of Auditors' special report entitled "The EU institutions can do more to facilitate access to their public procurement" ([13124/16](#)):

"THE COUNCIL OF THE EUROPEAN UNION:

1. WELCOMES the Court of Auditors' special report on the public procurement of the EU institutions and how to increase the number of potential tenderers.
2. WELCOMES the finding that the EU institutions have robust systems and capable staff to keep the risk of error and irregularities in their procurement procedures under control.
3. ACKNOWLEDGES that an increase of potential contractors available to the EU institutions would result in better value for money and at the same time it would develop market opportunities for companies.
4. TAKES NOTE that the EU institutions are in favour of most of the recommendations of the Court of Auditors subject in some cases to the result of a cost-benefit analysis.
5. INTENDS to examine, in the context of the legislative procedure to revise the Financial Regulation, the scope for addressing the Court of Auditors' recommendations as appropriate.
6. INVITES the Court of Auditors to keep the Council updated in the coming years on the progress made by the EU institutions, especially in the area of widening the participation of tenderers in their procurement procedures."

Financial instruments in the EU budget - Court of Auditors' special report

The Council adopted the following conclusions on the European Court of Auditors' special report entitled "Implementing the EU budget through financial instruments - lessons to be learnt from the 2007-2013 programme period" ([13265/16](#)):

"THE COUNCIL OF THE EUROPEAN UNION:

- (1) WELCOMES the Special Report No 19/2016 by the European Court of Auditors (hereafter referred to as "the Court"), in particular the methodology used which allows for a comparison of financial instruments under shared and central management;
- (2) TAKES NOTE that the Report is based on data reflecting the situation at the end of 2014; more complete data, which might relativize some of the findings set out in the Report, should be available at the closure of the 2007-2013 programme period on 31 March 2017;
- (3) WELCOMES the Commission's detailed replies to the Report;
- (4) RECALLS that financial instruments are a delivery tool to provide financial support from the EU budget in the form of equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments, for achieving policy objectives of the Union;
- (5) ENCOURAGES the use of financial instruments, as a delivery tool, for investing in growth and jobs in areas where investments are expected to be financially viable;
- (6) RECOGNIZES that financial instruments offer the possibility to leverage the contribution of the EU budget by mobilizing additional private and public funds and providing support in a sustainable revolving manner ("do more with less"); NOTES, however, that financial instruments necessarily involve management and other costs which have to be taken into account when assessing their efficiency;
- (7) REITERATES its position set out in its conclusions from June 2015¹, that grants within cohesion policy are an effective form of support for many types of projects and programmes on their own and in combination with financial instruments, and INVITES the Commission and the Member States to further explore the possibilities to combine grants with financial instruments, while taking into account different situations and contexts in the Member States and regions;

¹ Doc. 9622/1/15 REV 1, paragraph 14.

- (8) TAKES NOTE of the findings of the Court regarding financial instruments as an implementation tool of the EU budget during the 2007-2013 period namely:
- The oversizing of the instruments in a significant number of cases;
 - The lack of success in attracting private capital in a number of cases;
 - Limited success in providing revolving financial support; and
 - High levels of management costs and fees compared to the actual financial support to final recipients for financial instruments under the European Regional Development Fund (ERDF) and the European Social Fund (ESF);
- (9) HIGHLIGHTS, as far as these findings are concerned, that financial instruments are a relatively new delivery tool in the cohesion policy and UNDERLINES that the lessons learnt during the 2007-2013 period resulted in improvements in the legislative framework for the 2014-2020 period, which address most of the issues raised by the Court;
- (10) CONSIDERS that several findings and recommendations of the Court support the relevance and urgency of simplification efforts to facilitate the set-up and implementation of financial instruments; in this context, TAKES NOTE of the legislative proposals for the current programme period recently submitted by the Commission, aimed at simplifying the use of financial instruments and facilitating the combination of the European Structural and Investments Funds and the European Fund for Strategic Investment (EFSI);

Size of the financial instruments

- (11) RECOGNIZES that according to the Court's findings, a certain number of financial instruments in the period 2007-2013 had excessive capital endowments, which led, in combination with other factors, to difficulties in fully disbursing the funds concerned; NOTES however that conclusions on the disbursement rates can be fully drawn only at the closure;
- (12) SHARES the consideration of the Court and the Commission that the introduction of mandatory ex-ante assessments for financial instruments in the legislative framework of the 2014-2020 period should contribute to a better consideration of the capacity and demand conditions in the markets, and prevention of an oversizing of financial instruments;

- (13) CALLS on the Commission, regarding centrally managed instruments,
- a) to systematically include in its ex-ante assessments an analysis of the lessons learnt and assess in the context of the mid-term reviews for the respective instrument the effect of major socio-economic changes on the rationale of the instrument and the corresponding contribution to the instrument from the EU budget;
 - b) to include an analysis of the geographical impact of centrally managed instruments in its annual reporting to the European Parliament and the Council on the activities related to centrally managed financial instruments;
- (14) ENCOURAGES Member States and the Commission to continue in their efforts to carefully consider the appropriate size of financial instruments with a view of improving their effectiveness; and RECALLS that the main responsibility and control over the set-up and implementation of financial instruments under cohesion policy should remain with the Member States' managing authorities;

Attracting private capital

- (15) NOTES that the Commission and Member States faced in the 2007-2013 period difficulties in attracting private capital for financial instruments under both central and shared management;
- (16) CONSIDERS however, that the amount of private capital attracted should not be seen as a sole measurement for the success of a financial instrument when other important policy objectives are to be achieved (e.g. establishing investment in markets with strong EU added value at a time of economic recession);
- (17) NOTES that the Commission and the EIB report annually on the expected leverage effect of centrally managed financial instruments and EFSI; REGRETS, however, the lack of data regarding the actual leverage effect of all financial instruments using a single and clear definition of the leverage effect across the EU budget; and CALLS on the Commission to ensure the provision of such comparable data, using the existing reporting requirements;

Revolving financial support

- (18) REGRETS that according to the findings of the Court, and also due to implementation delays, the revolving effect of the financial instruments' funds has been rather limited in the 2007-2013 period;

- (19) SHARES the consideration of the Commission that the revolving effect depends on the setup date of the financial instrument, the type of financial product, the grace period, the maturity and the default rates of the financing provided to final recipients;
- (20) CALLS on the Commission and Member States to support the revolving effect of the financial instruments' funds during a period of at least eight years after the end of the eligibility period, for example by foreseeing an explicit clause in the funding agreements;

Cost-efficiency of financial instruments as delivery tool of the EU's budget

- (21) TAKES NOTE of the high level of management costs observed by the Court for ERDF and ESF financial instruments, especially when compared to the level of disbursements to the final beneficiaries at the end of 2014; EXPECTS, however, that this ratio will decrease with the availability of new data provided by Member States at the closure of the 2007-2013 programme period;
- (22) CONSIDERS that significant improvements have been made in the 2014-2020 period through the introduction of aggregate ceilings over the eligibility period and performance-based elements for management costs; RECOGNIZES, however, that the actual management costs needed to achieve the objectives set in the Operational Programmes may differ considerably among Member States due to national or regional market specificities;
- (23) CALLS on
 - a) the Commission to avoid retroactive interpretation of the legislative framework regarding the concepts of management costs and performance-based remuneration, as well as regarding the calculation of the leverage effect and ceilings for eligible expenditure;
 - b) the Commission to assess existing information on the management costs of financial instruments under both central and shared management in time to be used in the preparation of legislative proposals for the post-2020 period;
 - c) Member States' managing authorities to make, when negotiating funding agreements in the current 2014-2020 period, extensive use of the performance-based elements of the remuneration for fund managers in a view of improving the cost effectiveness of financial instruments."

FOREIGN AFFAIRS

Relations with Moldova

The Council endorsed review note 1/2016 of the EU-Republic of Moldova Association Council. This note reviews the report on the application of Title V (trade and trade related matters) of the agreement to the entire territory of the Republic of Moldova.

TRADE POLICY

Anti-dumping - appeal against General Court judgements

The Council agreed to appeal against eight General Court judgments of 15 September 2016. These judgements annulled articles 1 and 2 of Council implementing regulation 1194/2013, which imposed a definitive anti-dumping duty and a definitive collection of the provisional duty on imports of biodiesel originating in Argentina and Indonesia.

JUSTICE AND HOME AFFAIRS

Internal security fund - Liechtenstein

The Council adopted a decision (12833/16) on the signing, on behalf of the European Union, and provisional application of an Agreement between the European Union and the Principality of Liechtenstein on supplementary rules in relation to the instrument for financial support for external borders and visa, as part of the Internal Security Fund for the period 2014 to 2020 (12881/16).

The Council also decided to forward the draft decision on the conclusion of the agreement to the European Parliament for its consent once the Agreement has been signed (12852/16).

ENLARGEMENT

Former Yugoslav Republic of Macedonia

The Council adopted conclusions on the following special report by the Court of Auditors: "Strengthening administrative capacity in the former Yugoslav Republic of Macedonia: limited progress in a difficult context" ([14181/16](#)).

FISHERIES

Discard plan for certain demersal fisheries in the North Sea

The Council decided not to oppose the adoption by the Commission of a delegated regulation establishing a discard plan for certain demersal fisheries in the North Sea and in EU waters of ICES division IIa ([12963/16](#) + [ADD 1](#)).

The aim of the regulation is to adopt the measures that would facilitate the implementation of the landing obligation, which is a key objective of the Common Fisheries Policy (CFP)¹, and has applied to certain demersal fisheries in the North Sea since 1 January 2016.

In particular, the delegated regulation specifies species and fisheries to which specific measures would apply: i.e. high survivability and the de minimis exemptions, minimum conservation reference sizes (MCRS) and technical measures in the Skagerrak.

The International Council for the Exploration of the Sea (ICES) is a global organisation that develops science and advice to support the sustainable use of the oceans. It comprises more than 4000 scientists from over 350 marine institutes in 20 member countries.

ICES division IIa corresponds to the Norwegian Sea.

INTERNAL MARKET

Chemicals - Testing methods

The Council did not oppose the adoption by the Commission of a regulation to update regulation 440/2008, which lays down test methods pursuant to the [REACH regulation](#) (regulation 1907/2006 on the registration, evaluation, authorisation and restriction of chemicals) ([12209/16](#) + [ADD 1](#) + [ADD 2](#) + [ADD 3](#)).

The new Commission regulation will amend [regulation 440/2008](#) to improve the test methods for the determination of the physicochemical properties, toxicity and ecotoxicity of chemicals to be applied for the purposes of the REACH system.

It will thus align it with new and updated test methods recently adopted by the Organisation for Economic Co-operation and Development (OECD).

The draft Commission regulation is subject to the regulatory procedure with scrutiny. This means that now that the Council has given its consent, the Commission may adopt it, unless the European Parliament objects.

¹ OJ L 354, 28.12.2013, p.22.

TRANSPORT**Rail freight transport: Court of Auditors special report**

The Council adopted the following conclusions on the European Court of Auditors Special Report No 8/2016 "Rail freight transport in the EU: still not on the right track" ([13231/16](#)):

"THE COUNCIL

1. TAKES NOTE of the European Court of Auditors' Special Report n°8/2016 "Rail freight transport in the EU: still not on the right track", and UNDERLINES that promoting rail freight transport is an essential element of the Union transport policy. RECALLS that the creation of the Single European Railway Area is a fundamental European project where the Member States and other stakeholders have already made major efforts.
2. HIGHLIGHTS the positive environmental benefits that an improvement in the efficiency of rail freight transport and a more competitive rail sector can accomplish.
3. ACKNOWLEDGES the European Court of Auditors' conclusions that there is a need for improvement in the performance of rail freight transport in terms of volume transported and modal share despite the fact that some Member States have managed to increase the proportion of goods transported by rail. In particular, additional efforts within existing comprehensive EU transport policy will be required to increase the modal share of rail freight transport and to ensure a level playing field between the different modes of transport.
4. REMARKS that the recommendations are based on audits examining whether the EU has been effective in enhancing rail freight transport, carried out at the Commission and in five Member States.
5. RECOGNISES that further actions are being developed to promote the competitiveness and growth of rail freight transport within the Single European Railway Area, whilst avoiding harmful effects to the provision of passenger services.
6. TAKES NOTE of the European Court of Auditors' recommendations on the EU regulatory framework in order to increase the competitiveness of rail freight transport and on the better targeting of EU funding to serve the needs of rail freight infrastructure. ACKNOWLEDGES the conclusion of the Court that EU funding should target as a priority bottlenecks and missing links, NOTING also the needs in other areas which go beyond infrastructure, such as modernisation of rolling stock, promotion of intermodal transport and development of intelligent transport systems.

7. NOTES that there is a need for the regulatory bodies to cooperate and that they have defined their priorities for cooperation on rail freight corridors during the TEN–T days in June 2016.
8. NOTES that further work is still necessary on the implementation and application of the policy and regulatory framework in order to improve cross-border capacity allocation process, ensure the deployment of ERTMS/ETCS and further enhance traffic management efficiency as well as to reduce administrative and technical constraints.
9. TAKES NOTE of the Commission's on-going evaluation of the Rail Freight Corridor Regulation (Regulation 913/2010¹). RECALLS the Ministerial Declaration on Rail Freight corridors to boost international Rail Freight Corridors made in Rotterdam on 21 June 2016² regarding notably harmonisation of rules and procedures governing various Rail Freight Corridors, the evaluation of the satisfaction level of the users of the rail network, and performance monitoring and transparency.
10. UNDERLINES that the Court recommendation concerning the simplification of procedures for the issuing of vehicle authorisations and safety certificates is already largely achieved through the adoption of the technical pillar of the 4th Railway Package³. The competence given to the European Union Agency for Railways to issue safety certificates for railway undertakings and vehicle authorisations for rolling stock operating in several Member States is expected to have a major part to play in simplification and harmonisation of procedures, as well as in shortening the time necessary for authorisation and certification.
11. TAKES NOTE of the recommendations to make the most efficient use of EU funds in order to reflect the EU transport policy objectives and thus to target the specific needs of the rail freight sector, thereby enhancing a sustainable, competitive, interoperable and efficient rail freight transport system.

¹ Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight (OJ L 276, 20.10.2010, pp. 22-32).

² <http://ec.europa.eu/transport/themes/infrastructure/news/doc/2016-06-20-ten-t-days-2016/rfc-declaration.pdf>

³ Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) n° 881/2004 (OJ L 138, 26.5.2016, pp. 1-43).

Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the EU (OJ L 138, 26.5.2016, pp. 44-101).

Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, pp. 102-149).

12. WELCOMES the assessment made by the Court that the rail infrastructure projects examined by the Court have delivered or are likely to deliver expected outputs.
13. HIGHLIGHTS that rail network maintenance efforts should seek synergy to serve effectively the needs of both rail passengers and freight services, in view of limited resources in the EU Member States.
14. RECALLS that implementation and application of EU and national policy measures have been designed to improve the efficiency of Union rail freight services."

International through railway traffic

The Council authorised the opening of negotiations for a Convention on international through railway traffic.

The Council also authorised Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia to conduct negotiations in the interest of the Union for a Convention on international through railway traffic, in respect of matters covered by the Council decision authorising the opening of negotiations for a Convention on international through railway traffic.

ENVIRONMENT

Climate change: declarations at Marrakech meeting

The Council approved the signature on behalf of the EU of three declarations ([13704/16](#)). The declarations are to be signed during the Marrakech meetings (7-18 November 2016) of the United Nations Framework Convention on Climate Change (UNFCCC). The three declarations are:

- a joint declaration on the Renewable Energy Initiative
- a bilateral declaration on climate cooperation with Mozambique
- a joint statement on the Initiative on Climate Risk Insurance

Carbon dioxide emissions from maritime transport

The Council decided not to object to a Commission delegated regulation ([12576/16](#) + [ADD1](#)) concerning the methods for monitoring carbon dioxide emissions from maritime transport and the rules for monitoring other relevant information.

The delegated regulation is intended to update annexes I and II to Regulation (EU) 2015/757 by considering relevant international standards and rules and scientific and technical developments.

The regulation is a delegated act pursuant to article 290 of the Treaty on the Functioning of the EU. It can now enter into force, unless the European Parliament objects.

Vehicle emissions

The Council decided not to oppose the adoption of a Commission regulation ([11939/16](#)) regarding emissions from vehicles.

The regulation corrects an error that appeared in regulation 692/2008. The error affects a mathematical formula regarding data pre-processing for the calculations of the trip indicators.

The regulation is subject to the regulatory procedure with scrutiny. The Commission may now adopt it, unless the European Parliament objects.

Protection of wild fauna and flora

The Council decided not to oppose the adoption of a Commission regulation ([12268/16](#) + [ADD 1](#)) concerning the protection of wild fauna and flora.

This regulation has the effect of replacing the annex to regulation 338/97 in line with recent developments related to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and to the list of invasive alien species of the EU.

The regulation is subject to the regulatory procedure with scrutiny. The Commission may now adopt it, unless the European Parliament objects.

TRANSPARENCY

Public access to documents

On 8 November 2016, the Council approved the replies to confirmatory applications:

- (a) No 03/c/01/16 (doc. [5765/16](#))
 - (b) No 21/c/07/16 (doc. [12039/16](#))
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