Council of the European Union

PRESS

EN

BACKGROUND[1]
Brussels, 17 June 2015

ECONOMIC and FINANCIAL AFFAIRS COUNCIL
Friday 19 June in Luxembourg

*The Council will be called on to agree a proposed reform of **banking structures**, aimed at improving the resilience of EU banks.*

*It will discuss next steps in the adoption of a European fund for strategic investment, part of the EU action plan on **investment**.*

*The Council will discuss a proposal on **tax rulings**, aimed at improving transparency in the assurances given to companies about how their taxes will be calculated. It will be called on to agree a directive on **interest and royalty** payments, intended to prevent corporate tax evasion.*

*The Council will take stock of implementation of Europe's **banking union**, and is expected to adopt conclusions on the establishment of a **capital markets union**.*

*It is expected to approve **country-specific recommendations** on the member states' economic and fiscal policies, as well as policy guidelines for euro area countries. It will also approve report on broad economic policy guidelines, to be forwarded to the European Council for endorsement. It will discuss next steps for strengthening economic **governance in the euro area**.*

*The Council is also expected to take decisions under the **excessive deficit procedure**.*

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*Proceedings will begin on Thursday 18 June at 13.00 with the annual meeting of the board of governors of the **European Stability Mechanism**.*

*The **Eurogroup** will also meet on Thursday, starting at 15.00. It will discuss, in particular, ongoing talks on financial assistance to Greece, the second review of the post-programme surveillance process for Portugal, the sixth review of Cyprus's economic adjustment programme, and the IMF's annual review of the economic situation in the euro area.*

*On Friday at 8.30, ministers will meet in their capacity as governors of the **European Investment Bank** for the EIB's annual governors' meeting. They will then hold a breakfast meeting, scheduled for 9.30, to discuss the **economic situation**. The Council meeting is due to start at 10.00.*

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Press conferences:

- after the ESM board of governors meeting (*Thursday at 14.30*);
- after the Eurogroup meeting *(Thursday evening)*;
- midway (*Friday late morning*) and at the end of the Council *(Friday afternoon).*

Eurogroup agenda highlights (http://www.consilium.europa.eu/en/meetings/eurogroup/2015/06/18/)

Press conferences and public events by video streaming

Video coverage in broadcast quality (MPEG4) and photo gallery

[1] This note has been drawn up under the responsibility of the press office.

Press office − General Secretariat of the Council
Rue de la Loi 175 − B-1048 BRUSSELS − Tel.: +32 (0)2 281 6319
press.office@consilium.europa.eu − http://www.consilium.europa.eu/press

Banking structural reform

The Council will be called on to agree its negotiating position on structural measures to improve the resilience of EU credit institutions.

This would enable the incoming Luxembourg presidency to start negotiations with the European Parliament as soon as the latter has adopted its position.

The proposed regulation is aimed at strengthening financial stability by requiring the largest and most complex EU banks to separate potentially risky trading activities from their deposit-taking business.

The proposed regulation would apply only to banks that are either deemed of global systemic importance or exceed certain thresholds in terms of trading activity or absolute size. Despite recent regulatory reforms in the banking sector, these credit institutions and groups remain too-big-to-fail, too-big-to-save and too complex to manage, supervise and resolve.

The draft regulation is intended to reduce excessive risk taking and prevent rapid balance sheet growth as a result of trading activities. It sets out to shield institutions carrying out activities that deserve a public safety net from losses incurred as a result of other activities. It provides for the mandatory separation of proprietary trading and related trading activities and establishes a framework for competent authorities to take measures to reduce excessive risk taking.

Trading activities other than proprietary trading would be subject to a risk assessment. If a competent authority finds that an excessive risk exists, it could require trading activities to be separated from the core credit institution, or demand an increase in the core credit institution's own fund requirements, or impose other prudential measures. Trading entities would be prohibited from taking retail deposits eligible for deposit insurance.

Under the latest compromise proposed by the presidency, the regulation would apply to global systemically important institutions with total assets of at least €30bn over the last three years and trading activities of at least €70 billion or 10% of their total assets. Moreover, banks would be allocated into two tiers, depending on whether the sum of their trading activities during the last three years exceeds €100 billion or not. Stricter reporting requirements, a more thorough risk assessment and different supervisory actions would apply to banks exceeding the threshold.

The presidency compromise also provides two options for implementing the separation of excessively risky trading activities from core retail banking activities. This could be done either through national legislation or in accordance with measures imposed by competent authorities, as laid out in the draft regulation.

The draft regulation builds on the recommendations of a report published in October 2012 by a "high-level group" chaired by the governor of the Bank of Finland, Erkki Liikanen (the "Liikanen report").

The regulation 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 EU.)

European fund for strategic investments

The Council will take note of an agreement reached with the European Parliament on a proposed European fund for strategic investments (EFSI), aimed at stimulating the economy.

The intention is to adopt the EFSI regulation by the end of June 2015. The Parliament is expected to approve it on 24 June at first reading, enabling adoption by the Council by written procedure on 25-26 June. The regulation could enter into force at the beginning of July. Consequently, the EFSI would become fully operational already as of as mid-September 2015.

The EFSI is intended to stimulate participation by private investors in a broad range of new investment projects. By taking on part of the risk through a first-loss liability, it is expected to achieve an overall multiplier effect of 1:15 in real investment. Such leverage will eventually allow more than €300bn of new investment, to be mobilised during a three-year period.

The fund will be built on €16 billion in guarantees from the EU budget and €5 billion from the European Investment Bank. EU funding will come from redeployment of funds for the Connecting Europe facility (transport, energy and digital networks) and the Horizon 2020 programme (research and innovation), as well as from unused margins in the EU's annual budget.

The new fund will be established within the EIB by an agreement between the EIB and the Commission. It will support projects in areas such as transport, energy and broadband infrastructure, education, health, research and risk finance for SMEs.

Negotiations with the Parliament were led by the presidency, and an agreement was reached on 28 May 2015 (with final endorsement on 4 June). The deal was approved on behalf of the Council on 9 June, by the Permanent Representatives Committee (Coreper).

The regulation requires a qualified majority for adoption by the Council, in agreement with the European Parliament. (Legal basis: articles 172, 173, 175(3) and 182(1) of the Treaty on the Functioning of the EU.)

The EFSI is one of the core elements of the Commission's €315 billion "investment plan for Europe", published in November 2014.

Press release on Coreper approval of agreement with EP on EFSI

Communication from the Commission on the investment plan

Tax transparency - Cross-border tax rulings

The Council will discuss work on a proposal aimed at improving transparency in the assurances given by member states to companies about how their taxes will be calculated.

It will be called on to discuss selected issues so as to provide guidance to the incoming presidency in the drafting of negotiating texts. An agreement on the proposed directive could consequently be reached in the autumn of 2015.

Under the proposed directive, member states would be required to automatically exchange information about advance cross-border tax rulings, as well as advance pricing arrangements. Member states receiving the information would be able to request further information where appropriate. And the Commission would be able to develop a secure central directory, accessible to all member states and the Commission, where the information exchanged would be stored.

A tax ruling is an assurance that tax authorities give to taxpayers on how their tax will be calculated. An advance pricing arrangement is a contract between a company and a tax authority specifying the pricing method that will be applied to goods and services sold between related legal entities within the company.

The proposal is part of a package of measures presented by the Commission in March 2015 to prevent corporate tax avoidance and harmful tax competition between member states.

Tax planning by companies has become more elaborate in recent years, developing across jurisdictions with the shifting of taxable profits towards states with more advantageous tax regimes.

The proposal amends directive 2011/16/EU on administrative cooperation in the field of taxation, which sets out practical arrangements for exchanging information, including the use of standard forms. The text is in line with developments within the OECD and its work on tax base erosion and profit shifting (BEPS).

The Council will be called on to discuss:

- the scope and timing of information to be exchanged, and further alignment with work carried out by the OECD;
- exemption of bilateral and multilateral advance pricing arrangements with third countries;
- the Commission's role in the new mechanism on automatic exchange of information.

The proposal is based on the work of Council working group responsible for implementing a code of conduct on business taxation. In 2012, the group reviewed developments in member states' procedures regarding tax rulings. It identified the types of cross-border rulings on which information should be exchanged spontaneously, and recommended a model specifying the means of doing so. However, in practice member states exchange little information on their advance tax rulings or transfer pricing arrangements, even where these have an impact on other countries.

The directive requires unanimity for adoption by the Council, after consulting the European Parliament. (Legal basis: article 115 of the Treaty on the Functioning of the EU.)

- Press release on Commission tax transparency package
- Presidency June 2015 progress report on the tax rulings proposal

Preventing corporate tax avoidance - Interest and royalty payments

The Council will be called on to agree an amendment to an EU directive to prevent it being used by multinational companies for tax avoidance and aggressive tax planning. To this end, it will discuss possible adoption of an anti-abuse clause as part of a proposed review of the directive on interest and royalties.

The proposal recasts directive 2003/49/EC on taxation applicable to cross-border interest and royalty payments between associated companies, adopted in 2003. It also sets out to resolve problems that have arisen from the directive's limited scope.

In particular, it seeks to ensure that interest and royalty payments between different member states are not subject to heavier taxation than domestic transactions within one member state.

In order to make progress on this 2011 proposal, the presidency proposes to agree first on the anti-abuse clause. Similar to one added in January 2015 to the EU's parent-subsidiary directive, the clause would apply as a "de minimis" rule. It would prevent member states from granting the benefits of the directive to arrangements that are not "genuine", i.e. that have been put into place to obtain a tax advantage without reflecting economic reality. Work would continue meanwhile on remaining elements, including effective taxation.

A broad majority of member states support the presidency's proposal to split the proposal in this manner. However some consider that discussion should continue on the proposal as a whole, provisions involving a minimum effective level of taxation, which was not foreseen in the Commission's original proposal.

A second issue relates to a possible requirement for member states to inform each other in the event of the anti-abuse clause being invoked. The presidency suggests that this be handled as part of the proposed directive on transparency relating to tax rulings (see separate item above).

The proposal is linked to the more general issue of base erosion and profit shifting (BEPS), where multinational companies exploit divergent tax rules to shift profits to low-tax jurisdictions. The European Council in December 2014 noted an "urgent need to advance efforts in the fight against tax avoidance and aggressive tax planning, both at the global and EU levels". The interest and royalties directive has been identified as one of the dossiers to be addressed in the short term in the context of BEPS.

The directive requires unanimity for adoption by the Council, after consulting the European Parliament. (Legal basis: article 115 of the Treaty on the Functioning of the EU.)

- Presidency June 2015 compromise proposal on the interest and royalties directive
- January 2015 press release on the parent-subsidiary directive

Banking union

The Council will take stock of implementation of Europe's banking union, specifically as concerns instruments to deal with the recovery and resolution of failing banks.

The Commission will provide an update on:

- transposition of a directive on bank recovery and resolution;
- ratification of an intergovernmental agreement on the single resolution fund (SRF);
- the functioning of the single resolution board.

The Council will also discuss bridge financing for the SRF.

At its meeting on 10 March 2015, the Council called on member states to speed up transposition and ratification measures at national level.

The 19 countries of the euro area are participating in the banking union, and seven other member states have indicated their intention to join.

The SRF and SRB are components of a single resolution mechanism (SRM) aimed at ensuring the orderly resolution of failing banks. Established by regulation in July 2014, the SRM will be applicable from 1 January 2016.

The single resolution fund, entirely financed by banks, will be set up for possible intervention in resolution cases along with the bail-in of shareholders. It will be built up over eight years to reach a target level of at least 1% of the covered deposits of all credit institutions in the participating member states. It is estimated that this will amount to about €55bn.

The intergovernmental agreement on the SRF contains provisions on the transfer and the mutualisation of contributions to the fund.

The single resolution board will be responsible for putting into place a resolution scheme in the event of a bank being placed into resolution. It will determine the resolution tools to be applied, and decide on the use of the single resolution fund. The board's six full-time members were appointed in December 2014; Elke König took office as president of the board on 1 March 2015.

The bank recovery and resolution directive identifies the powers and instruments at the disposal of national authorities to resolve failing banks. It sets out to preserve essential bank operations and minimise taxpayers' exposure to losses during the resolution process. Adopted in May 2014, it applies to all 28 member states.

For member states participating in the banking union, national resolution funds set up under the directive as of 1 January 2015 will be replaced by the SRF as of 1 January 2016.

- Press release on the adoption of the regulation establishing the SRM
- Press release on the signature of the intergovernmental agreement on the SRF
- Press release on SRF contributions and the appointment of members of the SRB
- Press release on the adoption of the bank recovery and resolution directive

Capital markets union

The Council will be called on to adopt conclusions on the development of a capital markets union in the EU.

This follows publication by the Commission of a green paper on 18 February 2015 and the launch of a three-month public consultation.

Ministers and central bank governors discussed the initiative at an informal meeting in Riga on 24-25 April. The Commission is expected to propose an action plan in autumn 2015, taking into account the results of the consultation. The aim is to establish a fully functioning capital markets union by 2019.

Capital markets have expanded over recent decades in Europe, but remain fragmented. Bank financing remains the predominant source of financing for businesses.

The Commission considers that stronger capital markets would attract more investment for companies and for infrastructure projects, including foreign investment. This would make the financial system more resilient to shocks, by broadening the range of funding sources. Improving access to finance for SMEs and start-ups, especially in innovative industries, is one of the main objectives.

According to the Commission, medium-sized companies in the United States receive five times more funding from capital markets than they would in the EU. This is equivalent to a €90 billion investment shortfall over the 2008-13 period.

Whilst the aim is to reduce reliance on bank financing, banks will continue to play a central role in the financing of businesses. They will also play a key role in the capital markets union.

The initiative is broader in scope than banking union, as it encompasses all 28 member states. It will require a number of steps, with action at different levels (EU, national or subnational), depending on the issues to be addressed.

In the short term, the Commission is expected to propose:

- a legal framework for the securitisation of financial assets;
- a review of a directive on the publication of prospectuses for the trading of securities, with the aim of reducing administrative burdens, in particular for SMEs.

The main principles outlined in the Commission's green paper appear broadly consensual. However some measures may prove controversial, such as the harmonisation of insolvency legislation and the tax treatment of debt and equity financing.

- Green paper on building a capital markets union (6408/15)
- Draft June 2015 conclusions on capital markets union

Country-specific recommendations on economic and fiscal policies

The Council is due to approve, under the 2015 "European Semester":

- draft recommendations to 26 member states[2] on the economic policies set out in their national reform programmes. These include draft opinions on the fiscal policies set out in their stability/convergence programmes;
- a specific draft recommendation on the economic policies of the member states of the euro area.

The texts will be forwarded to the General Affairs Council on 23 June, and to the European Council for endorsement at its meeting on 25 and 26 June 2015. Similar preparations will be made by the Employment, Social Policy, Health and Consumer Affairs Council on 18 June as concerns the member states' employment policies. The whole package is due to be adopted in July 2015.

The European Semester is an annual process that involves simultaneous monitoring of the member states' economic and fiscal policies.

[2] All except Cyprus and Greece, which are subject to macroeconomic adjustment programmes. To avoid duplication, there are no country-specific recommendations for these two countries.

In the light of policy guidance given by the European Council annually in March, the member states present each year in April:

- national reform programmes, which include a macroeconomic scenario for the medium term, national targets for implementing the "Europe 2020" strategy for jobs and growth, identification of the main obstacles to growth, and measures for growth-enhancing initiatives in the short term;
- stability or convergence programmes[3], setting out medium-term budgetary objectives, the main assumptions about expected economic developments, a description of fiscal and economic policy measures, and an analysis of how changes in assumptions will affect fiscal and debt positions.

The Council then approves country-specific recommendations and opinions and, after endorsement by the European Council annually in June, these are adopted each year in July. The Council provides explanations in cases where the recommendations do not comply with those proposed by the Commission.

The recommendations and opinions require a qualified majority for adoption by the Council. (Legal basis: articles 121(2) and 148(4) of the Treaty on the Functioning of the EU.)

The draft recommendations and opinions can be found in the following documents:

- Austria; Belgium; Bulgaria; Croatia; Czech Republic; Denmark; Estonia; Finland; France; Germany; Hungary; Ireland; Italy; Latvia; Lithuania; Luxembourg; Malta; The Netherlands; Poland; Portugal; Romania; Slovakia; Slovenia; Spain; Sweden; United Kingdom.
- Member states whose currency is the euro

Broad economic policy guidelines

The Council is expected to approve a report on broad economic policy guidelines for the EU.

The report will be forwarded to the European Council for endorsement at its meeting on 25 and 26 June 2015; the guidelines are due to be adopted in July 2015.

The Council adopts broad economic policy guidelines along with employment guidelines, which must be consistent with each other and together form "integrated guidelines". Whilst the employment guidelines are adopted each year, the last version of the economic guidelines dates back to 2010.

It was decided at the time that the economic guidelines should remain largely stable until 2014. And they have since been in part superseded by the "European Semester" policy monitoring process, introduced in 2011.

The guidelines require a qualified majority for adoption by the Council. (Legal basis: article 121 of the Treaty on the Functioning of the EU.)

A draft decision on the employment guidelines is due to be approved by the Employment, Social Policy, Health and Consumer Affairs Council on 18 June.

- Draft 2015 broad economic policy guidelines

[3] Euro area member states present stability programmes, those member states that don't use the euro present convergence programmes.

Economic governance in the euro area

The Council will discuss the preparation of a report on the next steps for improving economic governance in the euro area.

The report will be submitted to the European Council on 25 and 26 June 2015. It is being prepared by the presidents of the European Council, the Commission, the European Central Bank and the Eurogroup.

Excessive deficit procedure

- **Closure of procedures: Malta and Poland**
- **Insufficient action taken: United Kingdom**

The Council is expected to close the excessive deficit procedure for Malta and Poland. It will thereby confirm that they have reduced their deficits below 3% of GDP, the EU's reference value for government deficits.

The decisions will be taken under article 126(12) of the Treaty on the Functioning of the EU. The texts abrogate decisions the Council took in June 2013 and July 2009, respectively, under article 126(6) of the treaty, on the existence of excessive deficits in the Malta and Poland.

As a consequence, nine of the EU's 28 member states will remain subject to the excessive deficit procedure, down from 24 during a 12-month period in 2010 and 2011. Most of these procedures were opened after the global financial crisis and recession of 2008 and 2009. The excessive deficit procedure has been used to support a return to sound fiscal positions.

The Council is also expected to find that the United Kingdom has not taken sufficient action in response to its December 2009 recommendation under the excessive deficit procedure. It will issue a new recommendation on corrective measures to be taken. It will extend by two years, to the 2016-17 financial year, the deadline set for the UK to reduce its deficit below 3% of GDP. (UK financial years run from 1 April to 1 April.)

The decision concerning insufficient action will be adopted under article 126(8) of the treaty, and the recommendation on corrective measures under article 126(7).

As the UK (like Poland) is not a member of the euro area, it cannot face sanctions under the excessive deficit procedure.

Malta

Malta was subject to an excessive deficit procedure from July 2009 to December 2012. The procedure was reopened in June 2013, after Malta's deficit was estimated to have reached 3.3% of GDP in 2012 instead of the 2.6% of GDP projected in December 2012 when the procedure was closed.

The Council issued a recommendation calling for the deficit to be corrected by 2014. It set headline deficit targets of 3.4% of GDP for 2013 and 2.7% of GDP for 2014, consistent with an improvement of the structural balance of 0.7% of GDP in both years.

After peaking in 2012, Malta's 's general government deficit was reduced to 2.6% of GDP in 2013 and 2.1% in 2014. The Commission 2015 spring forecast projects deficits of 1.8% of GDP in 2015 and 1.5% in 2016, remaining below the 3% of GDP reference value over the forecast horizon.

Malta's debt-to-GDP ratio rose from 67.4% in 2012 to 69.2% in 2013, on account of a temporary stock-flow adjustment. It decreased to 68.0% in 2014, and is forecast to continue decreasing, reaching 65.4% in 2016, due in part to a favourable macroeconomic scenario.

The Council is expected to conclude that Malta's deficit has been corrected.

Poland

Poland has been subject to an excessive deficit procedure since July 2009, when the Council issued a recommendation calling for its deficit to be corrected by 2012.

In June 2013, the Council extended the deadline for correcting the deficit by two years, to 2014. Although Poland missed the 2012 deadline, it had made a fiscal effort over the 2010-12 period that exceeded the recommended level.

In December 2013 however, the Council found that Poland had failed to comply with its June 2013 recommendation. It extended the deadline for correction by a further year, to 2015; this was justified by a change in accounting rules applied to Poland's pension funds. The Council set new headline deficit targets of 4.8% of GDP for 2013, 3.9% of GDP for 2014 and 2.8% of GDP for 2015, excluding the impact of a transfer of pension assets.

Poland's general government deficit amounted to 3.2% of GDP in 2014. Since this figure is close to the 3% of GDP reference value and Poland's debt-to-GDP ratio is below the 60% reference value for government debt, Poland is considered eligible to systemic pension reform provisions under the excessive deficit procedure.

In December 2013, Poland reversed a pension reform introduced in 1999, but net costs of the 1999 reform continued until the end of July 2014. The total of these net costs for the period from January to July 2014 are estimated at 0.4% of GDP, and are thus considered sufficient to explain the excess of the deficit over the 3% reference value in 2014.

For 2015 and 2016 respectively, the Commission's 2015 spring forecast projects deficits of 2.8% of GDP and, based on a no-policy-change scenario, 2.6% of GDP, remaining below the 3% of GDP reference value over the forecast horizon.

Poland's general government gross debt reached 50.1% of GDP in 2014. The Commission's spring forecast projects it to amount to 50.9% of GDP in 2015 and 50.8% in 2016.

The Council is expected to conclude that Poland's deficit has been corrected.

United Kingdom

The UK has been subject to an excessive deficit procedure since July 2008, when the Council issued a recommendation calling for its deficit to be corrected by the 2009-10 financial year.

However, the combined effects of the economic downturn and of stimulus measures adopted in response to the downturn led to a substantial deterioration in the UK's budgetary position.

In April 2009, the Council found that the UK's response to its recommendation had been insufficient. At the same time it extended the deadline for correction by four years, to the 2013-14 financial year.

In December 2009 it extended the deadline by a further year, to the 2014-15 financial year, having found that the UK had meanwhile taken effective action. The extension was justified by unexpected adverse events. The contraction in economic activity in the UK had worsened to 3.3% of GDP, and the projected government deficit was revised upwards to 13% of GDP for 2009-10. The Council called for an annual fiscal effort of 1.75% between the 2010-11 and 2014-15 financial years.

After peaking in 2009-10, the general government deficit amounted to 9.1% of GDP in 2010-11. Consolidation plans were implemented following an emergency budget in June 2010 and a spending review in October 2010. Consequently, the nominal budget fell to 7.7% of GDP in 2011-12, 7.6% in 2012-13, 5.9% in 2013-14 and 5.2% in 2014-15. The Council is expected to conclude that, despite the fiscal consolidation programme, the UK did not bring its deficit below the 3% of GDP reference value by 2014-15.

General government gross debt increased from 42.7% of GDP in 2007-08 to 88.4% in 2014-15, continuously above the EU's 60% of GDP reference value for government debt since 2009-10. The Commission's 2015 spring forecast projects the debt-to-GDP ratio to further increase marginally, though financial sector interventions could have a positive effect.

The Council is expected to find that granting the UK one additional year to correct its deficit, which is the general rule under the excessive deficit procedure, would be overly demanding. It would require an adjustment in the headline deficit of 2.2% of GDP, with implementation of additional measures within a tight timetable. This would have a significantly negative impact on economic growth.

The Council is therefore expected to extend the deadline by two years, recommending headline deficit targets of 4.1% of GDP in 2015-16 and 2.7% of GDP in 2016-17. These should be consistent with an improvement in the structural balance of 0.5% of GDP in 2015-16 and 1.1% in 2016-17. The Council will set a deadline of 15 October 2015 for taking effective action.

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The decisions will require:

- for Malta (a eurozone country), a qualified majority amongst 18 of the 19 eurozone member states;
- for Poland and the UK (non-eurozone countries), a qualified majority amongst 27 of the 28 EU member states.

The member state concerned does not vote.

Other issues

Under "other business":

- the Council will take note of on-going work on legislative dossiers;
- the Commission will present an action plan on **corporate taxation**.
  - Press release on Commission action plan on corporate taxation (http://europa.eu/rapid/press-release_IP-15-5188_en.htm)

Without discussion, the Council is due to approve:

- conclusions on implementation of a code of conduct aimed at eliminating situations of **harmful tax competition**, in the light of a six-monthly report;
- a six-monthly report to the European Council on **tax issues**;
- a six-monthly report on tax issues by finance ministers of member states participating in the Euro Plus Pact, a 2011 pact to strengthen economic policy coordination.