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**COUNCIL OF
THE EUROPEAN UNION**



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3045th Council meeting

Economic and Financial Affairs

Brussels, 17 November 2010

President

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Main results of the Council

*The Council gave the go-ahead to a reform of the EU framework for **financial supervision**, the aim of which is to eliminate deficiencies that were exposed during the recent crisis on global financial markets.*

The reform involves the creation of a European Systemic Risk Board and three European authorities for the supervision of the banking, insurance and securities industries. The new bodies will be part of a European system of financial supervisors, including the supervisory authorities of the member states.

The new system will be operational as from 1 January 2011.

*The Council took stock of the outcome of the **G-20 summit** in Seoul, as well as the October meeting of the **European Council**, including as regards **economic governance**.*

Furthermore, it adopted conclusions regarding:

- ***pensions**, approving a report on the sustainability of retirement pensions in view of ageing populations and following the economic and financial crisis;*
- *public finance **statistics**, including as regards progress on an action plan to tackle statistical deficiencies in Greece.*

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- Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
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Mr Algirdas ŠEMETA

Member

Mr Michel BARNIER

Member

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President of the European Investment Bank

Mr Thomas WIESER

Chairman of the Economic and Financial Committee

Mr Lorenzo CODOGNO

Chairman of the Economic Policy Committee

ITEMS DEBATED

VAT TREATMENT OF FINANCIAL SERVICES

The Council held a policy debate on proposals for a directive and a regulation aimed at clarifying the rules on the treatment of insurance services and other financial services as regards value-added taxation (VAT).

It asked the Permanent Representatives Committee to oversee further work on the proposals, taking account of the views expressed by delegations.

Under EU rules, as laid down most recently in directive 2006/112/EC on the common VAT system, financial services are exempt from VAT. Originally established in the 1970s, the rules have however led to diverging interpretations by the member states, causing distortions of competition. Applying the VAT exemption causes high compliance costs and administrative burdens as a result of this, and inconsistent implementation has resulted in an increasing number of court cases, especially as concerns new types of services.

The Commission's proposals therefore set out:

- to clarify the definitions of exempt services, thereby increasing legal certainty for both economic operators and national tax administrations;
- to give economic operators (rather than the member states, as is currently the case) the right to opt for taxation instead of remaining within the VAT exemption;
- to allow economic operators to pool VAT-exempt investments.

The Council agreed that work should be pursued as a priority on the modernisation of the definitions of exempt services. Furthermore:

- as regards cost sharing by economic operators, it was recognised that there is no need for further work at Council level at this stage;

- as concerns the option to tax, the Council asked the Commission to explore the possibilities for allowing a departure from the current VAT exemption;
- regarding the definitions of exempt services, it was agreed that due consideration should be given to the need to ensure a level playing field for economic operators and for member states, to the overall competitiveness of the EU's financial industry and to the implications for government budgets. More specifically:
 - the modernisation of the definitions should achieve neutrality and consistency in the application of the VAT exemption to the constituent elements of all exempt services;
 - for investment funds and pension funds, the Council asked the Commission to report on the overall effect of changes in the regulatory climate, so that the available options may be considered;
 - for derivative financial products, it was agreed that the measures to be adopted should not affect the inherent taxable nature of goods and services, and the exemption should be limited to transactions that can be considered effectively as exempt financial or insurance services.

COMBATING TAX FRAUD - ADMINISTRATIVE COOPERATION

The Council was briefed by the presidency on work underway on a draft directive on administrative cooperation in the field of direct taxation.

The presidency's aim is for the Council to reach political agreement on the text at its meeting on 7 December.

The draft directive is aimed at enabling the member states to better combat tax evasion and tax fraud. In the light of greater taxpayer mobility and a growing volume of cross-border transactions, it sets out to fulfil their growing need for mutual assistance – especially via the exchange of information – so as to enable them to better assess taxes due.

One of a number of measures implementing the EU's strategy against tax fraud, launched in 2006, it provides for an overhaul of directive 77/799/EEC, on which administrative cooperation in the field of taxation has been based since 1977.

The text was examined by the Council on 19 October. The Council asked the Permanent Representatives Committee to oversee further technical work on provisions dealing with the automatic exchange of information on certain categories of income and capital.

EU BUDGET DISCHARGE – ANNUAL REPORT FROM THE COURT OF AUDITORS

The Council took note of the presentation by the President of the Court of Auditors, Mr Vitor Caldeira, of the Court's annual report on the management of the EU's general budget.

The report, which covers the budget for 2009, indicates progress in some areas of budgetary management, in particular as regards cohesion policy expenditure, though the Court's opinion on the legality and regularity of underlying transactions remains unfavourable as in previous years.

The Council accordingly called on all parties involved in the management of the EU budget to persist in their efforts to improve controls and to reduce margins of error in budgetary payments.

It asked the Permanent Representatives Committee to examine the report in greater detail, and to oversee the preparation of a recommendation to the European Parliament on the discharge to be given to the Commission for implementation of the 2009 budget.

The Council is expected to adopt the recommendation at its meeting on 15 February.

FOLLOW-UP TO THE OCTOBER EUROPEAN COUNCIL

The Council was informed by the presidency of its intentions concerning the follow-up to be given to the European Council meeting on 28 and 29 October as regards:

- economic governance;
- levies and taxes in the financial sector.

It held an exchange of views.

Regarding economic governance, the European Council in October endorsed the final report from a task force established in March to devise proposals for better budgetary discipline in the member states and an improved crisis resolution framework at EU level. It called on the Council and the European Parliament to reach agreement on the ensuing legislation by the summer of 2011, on the basis of proposals from the Commission, so as to enable a rapid and effective implementation of the group's recommendations.

The European Council also considered that work on how the impact of pension reforms should be accounted for in the implementation of the EU's stability and growth pact should be speeded up, and asked the Council to report back on the issue in time for its meeting on 16 and 17 December.

Further to the work of the task force, the President of the European Council was asked to undertake consultations on a limited change to the EU treaties required in order to establish a permanent crisis mechanism to safeguard the financial stability of the euro area.

The European Council welcomed the intention of the Commission to undertake, in close consultation with the President of the European Council, preparatory work on the general features of the new crisis mechanism. It will revert to the matter at its December meeting with a view to taking a final decision both on the outline of a crisis mechanism and on a limited treaty amendment.

As concerns levies and taxes in the financial sector, the European Council took note of a report from the Council highlighting the risk of competitive distortions arising from the uncoordinated introduction of levies by the member states, and assessing the potential for the possible introduction of a financial transactions tax or a financial activities tax. It asked the Council to report back on the issue of levies in December, and acknowledged that different options regarding taxation of the financial sector should be examined, as well as practices aimed at impeding tax havens and tax evasion.

FOLLOW-UP TO THE G-20 SUMMIT IN SEOUL

The Council discussed the follow-up to the G-20 summit held in Seoul on 11 and 12 November, including as regards the key issues of macroeconomic imbalances and the reform of financial regulations.

CLIMATE CHANGE

The Presidency adopted the following conclusions, with the support of 26 delegations :

"The Council:

1. REAFFIRMS the collective commitment by developed countries in the Copenhagen Accord to provide new and additional resources, including forestry and investments through international institutions, approaching USD 30 billion for the period 2010 - 2012. RECALLS the European Council Conclusions of 25th March, and the commitment of the EU and its Member States to provide EUR 7.2 billion cumulatively over the period 2010 – 2012, and to present a comprehensive fast start finance report in Cancun and thereafter on an annual basis.
2. In this context, EMPHASISES that the EU and its Member States have notably advanced in the implementation of their fast start commitments for 2010 in line with our commitment in the Copenhagen Accord to tackle climate change in developing countries.
3. ENDORSES the [final report from the EPC/EFC](#)¹ on finance provided by the EU and its Member States in 2010 for "fast-start" measures to be presented at the UNFCCC Conference of the Parties (COP 16) from 29 November to 10 December in Cancun.
4. INVITES the EPC/EFC to update data in the Cancun FSF report in order to reflect any further information received before the Cancun UNFCCC session.
5. INVITES the Commission to integrate fast start finance reporting into its annual EU accountability and development finance report, with a further end-of-year update for UNFCCC meetings as needed.
6. RECALLS its conclusions of 14 October 2010 that institutional arrangements must be guided by considerations of coherence, improved coordination, efficiency, effectiveness, responsiveness, balanced representation and institutional economy; UNDERLINES that decisions on institutional architecture should take due account of the functions of existing institutions and how they can be strengthened.

¹ This report contains an annex ([15889/10 ADD 1](#)) concerning the actions supported by EU fast start financing

7. REAFFIRMS its commitment to establishing the Copenhagen Green Climate Fund as an operating entity of the financial mechanism of the Convention and SUPPORTS the launch in Cancún, as part of a balanced package, of a process for setting up the Fund with a view to operationalising it at COP 17; UNDERLINES that technical financial experts, e.g. from financial institutions including finance ministries, IFIs and MDBs, shall play a leading role in the process of establishing the fund.
8. TAKES NOTE OF the Final Report of the UN Secretary General's Advisory Group on Climate Finance (AGF), in particular the conclusion that it is challenging but feasible to meet the Copenhagen Accord goal of mobilising \$100bn per annum by 2020 for climate change in developing countries, subject to meaningful mitigation actions of developing countries and transparency on implementation through a combination of public finance, including innovative sources, and private finance.
9. INVITES the Commission and the EFC/ EPC to prepare a detailed analysis based on the AGF report setting out the key elements of the mix of international and national, public and private finance instruments needed to deliver scaled-up financial flows after 2012 in the context of a binding and comprehensive global agreement.
10. CONFIRMS the role that the private sector, including carbon markets, already plays in generating finance for climate investments and EMPHASISES that this role should be strengthened. RECOGNIZES also the importance of public finance in this regard and NOTES THAT innovative sources could collectively play an important role in delivering scaled up public finance, while recognising the need for further consideration, including on how best to combine the different sources. UNDERLINES the need to allocate additional revenues without putting fiscal consolidation and sustainability at risk, and STRESSES that it will be up to each Member State to determine the use of such revenues.
11. SUPPORTS the AGF conclusions that, given the range of climate actions that require support in different developing countries and are needed to bring about the transition to a low-carbon, climate-resilient global economy, a combination of public finance, including innovative sources, and private sources, including carbon market finance, alongside increased lending and leveraging by the international financial institutions (multilateral and bilateral) is essential to meeting this goal.

12. RECOGNISES that a clear carbon price signal, achieved via ambitious mitigation targets and a well-developed, robust and transparent global carbon market, or domestic carbon taxes, will be essential to both achieve emissions reductions in an efficient way and scale up private and public sources in line with the \$100bn target.

13. RECOGNIZES the need for greater international coordination in the design and implementation of the finance instruments identified in order to ensure their efficiency. CALLS on the UN Secretary General and the current and incoming COP Presidencies to ensure that the recommendations of the AGF are discussed within the UNFCCC process; and seeks agreement on a process for taking forward the conclusions and recommendations next year in an open and transparent manner to secure progress at COP17.

14. ENCOURAGES other international groups to discuss the conclusions and recommendations of the AGF, notably the G20, the OECD, the IMO and ICAO, the IFIs and the UN fora. NOTES that the EU and its Member States are already implementing some of the proposed instruments and are ready to share their experience with other parties who may be considering them."

RETIREMENT PENSIONS – *Conclusions*

The Council adopted conclusions set out in [15885/10](#)

PUBLIC FINANCE STATISTICS – *Conclusions*

The Council adopted conclusions set out in [15908/10](#)

OTHER BUSINESS– ***Baltic Sea region***

The Council took note of a presentation by the President of the European Investment Bank regarding the EIB's contribution to the EU's strategy for the Baltic Sea region. It held a brief exchange of views.

– ***EU representation at G-20 ministerial meetings***

The Council discussed EU representation at G-20 ministerial meetings.

– ***Credit rating agencies***

The Council took note of concerns expressed by the United Kingdom delegation concerning a proposal for a regulation aimed at modifying regulation 1060/2009 on credit rating agencies.

MEETINGS IN THE MARGINS OF THE COUNCIL

The following meetings were held in the margins of the Council:

– ***Macroeconomic dialogue with the social partners***

The presidency on 16 November held its twice-yearly dialogue on macroeconomic issues with the social partners (employer and trade union representatives at EU level), with the participation of the Commission, the President of the Euro Group and the President of the European Central Bank.

– ***Euro Group***

Ministers of the euro area member states attended a meeting of the Euro Group on 16 November.

– ***Breakfast meeting with EFTA finance ministers***

Ministers held a breakfast meeting with their counterparts from the European Free Trade Association: Iceland, Liechtenstein, Norway and Switzerland. The meeting focused on the consolidation of government budgets as well as on financial market regulation and supervision.

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Over lunch, ministers discussed the economic situation and were briefed by the Swedish minister on the economic programme of the new Swedish government.

OTHER ITEMS APPROVED**ECONOMIC AND FINANCIAL AFFAIRS****Financial supervision reform**

The Council adopted legal texts underpinning a reform of the EU framework for supervision of the financial system, aimed at eliminating deficiencies that were exposed during the financial crisis.

It adopted regulations establishing:

- a European Systemic Risk Board (ESRB), which will provide macro-prudential oversight of the financial system ([39/10](#));
- a European Banking Authority (EBA) for the supervision of banking services (*doc. 40/10*);
- a European Insurance and Occupational Pensions Authority (EIOPA) for the supervision of insurance services ([41/10](#));
- a European Securities and Markets Authority (ESMA) for the supervision of the securities industry ([42/10](#)).

It also adopted:

- a decision entrusting the European Central Bank with specific tasks with regard to the day-to-day running of the ESRB ([13694/10](#));
- a directive amending directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers conferred on the three European authorities ([43/10](#)).

Adoption by the Council follows an agreement reached with the European Parliament on the key elements of the reform, as endorsed by at the Council's meeting on 7 September.

The ESRB and the three new authorities will be part of a European system of financial supervisors, which will include the supervisory authorities of the member states. The ESRB and the EIOPA will be sited in Frankfurt, the EBA in London and the ESMA in Paris.

The new system will be operational as from 1 January 2011.

For details, see press release [16452/10](#)

Supervision of financial entities in a conglomerate

The Council agreed on a general approach on a draft directive aimed at adapting the supervision of financial entities operating as a conglomerate to the new EU framework for the supervision of financial markets ([15592/10](#) + [15593/10 ADD 1](#)), pending the opinion of the European Central Bank and the position of the European Parliament.

Quality reports for balance of payment statistics

The Council decided not to oppose adoption by the Commission of a decision on quality criteria and quality reporting for balance of payment statistics.

The Commission decision adapts common quality criteria and the periodicity of the quality reports for balance-of-payments statistics to the provisions of regulation 223/2009 on European statistics.

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

JUSTICE AND HOME AFFAIRS

Consular protection of EU citizens

The Council approved updated consular guidelines on the protection of EU citizens in third countries ([15613/10](#)).

Notwithstanding primary national responsibility in consular matters, the guidelines provide a framework for consular cooperation, especially in situations in which the safety of EU citizens is endangered in a third country.

FOREIGN AFFAIRS

EU police mission for the Palestinian Territories

The Council adopted a decision amending joint action 2005/797/CFSP and decision 2009/955/CFSP on the EU police mission for the Palestinian Territories as regards the financial reference amount to cover the mission's operational needs ([15415/10](#)).

The decision provides for EUR 6,87 million for 2010.

European External Action Service – Rules on budget and staff

The Council adopted revised versions of the EU staff and financial regulation necessary for the functioning of the European External Action Service (EEAS). This follows a first-reading agreement with the European Parliament. The modifications reflect and concretise agreements made in the context of the Council decision on the establishment and functioning of the EEAS which was adopted on 26 July 2010.

The two texts are the last of the legal acts necessary for making operational the EEAS, one of the most significant changes introduced by the Treaty of Lisbon.

More information can be found in press release [16450/10](#)

DEVELOPMENT COOPERATION

Food assistance convention - EU participation

The Council authorised the Commission to participate on behalf of the EU in negotiations at international level on a food assistance convention, and adopted negotiating directives for this purposes.

The food aid convention, 1999 is the latest in a long series of multilateral cooperation instruments. In operation since 1967, it is a separate legal instrument under the current international grains agreement, 1995, which also comprises the grains trade convention. The objective of the convention is to contribute to world food security and to improve the ability of the international community to respond to emergency situations and other food needs of developing countries.

Contribution to the European Development Fund in 2011

The Council adopted a decision establishing the financial contributions to be paid by the member states to finance the European Development Fund in 2011.

The decision also fixes the amount of the first instalment of contributions for the 2011 financial year ([15831/10](#)).

For more information see: www.foodaidconvention.org.

TRADE POLICY

Anti-dumping measures - Polyethylene terephthalate from China and India

The Council adopted regulations

- imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating in China following an expiry review pursuant to regulation 1225/2009 (15392/10); and
- terminating the partial interim review of the anti-dumping and countervailing measures applicable to imports of polyethylene terephthalate film originating in India ([15414/10](#)).

EMPLOYMENT POLICY

Mobilisation of the European Globalisation Adjustment Fund for the Netherlands

The Council adopted decisions mobilising a total of EUR 10.5 million under the European Globalisation Adjustment Fund, providing support for workers made redundant in the Dutch publishing, printing and reproduction sector because of a decline in demand for printed media material as a consequence of the global financial and economic crisis.

The amount is allocated to the following regions: Noord Holland and Zuid Holland (EUR 2.33 million), Noord Holland and Utrecht (EUR 2.27 million), Noord Brabant and Zuid Holland (EUR 2.89 million), Limburg (EUR 0.55 million), Gelderland and Overijssel (EUR 2.01 million), Drenthe (EUR 0.45 million).

The support measures must be co-financed by the Netherlands and include, inter alia, training, professional orientation, job-search and assistance for entrepreneurship.

ENVIRONMENT

Revision of the convention on long-range transboundary air pollution

The Council adopted a decision amending certain negotiating directives on the EU's participation in the negotiations on the revision of a protocol to the convention on long-range transboundary air pollution.

STATISTICS**Carriage of goods and passengers by sea**

The Council adopted a regulation amending directive 2009/42/EC on statistical returns in respect of carriage of goods and passengers by sea in order to make the collection of data by type of goods mandatory for maritime transport statistics ([54/10](#)).

APPOINTMENTS**Court of Auditors**

The Council appointed Mr Gijs M. de VRIES (NL) as member of the European Court of Auditors for the period from 1 January 2011 to 31 December 2013 ([14719/10](#)).

EUROPEAN ECONOMIC AREA**Meeting of the EEA Council**

The Council took note of preparations for the 34th meeting of the European Economic Area (EEA) Council, to be held in Brussels on 22 November.
