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OUTCOME OF THE COUNCIL MEETING

3488th Council meeting

Economic and Financial Affairs

Luxembourg, 11 October 2016

President **Peter Kažimír**
Minister for finance of Slovakia

PRESS

Rue de la Loi 175 B – 1048 BRUSSELS Tel.: +32 (0)2 281 9773 / 6319 Fax: +32 (0)2 281 8026
press.office@consilium.europa.eu http://www.consilium.europa.eu/press

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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.

ITEMS DEBATED

FRAUD AGAINST THE EU - VAT ASPECTS

The Council discussed a proposal addressing fraud against the EU's budget by means of criminal law ("PIF directive").

The discussion focused on the VAT-related aspects of the proposed directive.

Whilst some member states preferred not to include VAT in the scope of the directive, the presidency noted a readiness to include VAT in a proposed regulation on the establishment of a European Public Prosecutor's Office, under clear conditions.

Some ministers emphasised the importance of preventing VAT fraud and looked forward to Commission proposals before the end of 2016, including for a pilot project for the generalised reversal of liability ("reverse charge mechanism").

The draft directive sets out to make criminal law enforcement more effective in cases involving the EU’s budget. It is aimed at increasing deterrence and facilitating recovery in cases where losses have already occurred.

The Justice and Home Affairs Council, which is primarily responsible for the dossier, will discuss the proposal on 14 October 2016.

According to 2010 Commission data, suspected fraud amounts to approximately €600 million per year on the revenue and expenditure sides of the EU’s budget, whilst total VAT fraud amounts to about €50 billion per year. It can be assumed that the actual amounts are even higher, as not all cases are detected and reported.

The directive requires a qualified majority for adoption by the Council, in agreement with the European Parliament. (Legal basis: article 83,2 of the Treaty on the Functioning of the European Union.)

IMPLEMENTATION OF BANKING UNION

The Council briefly took stock of the EU's banking union, as concerns:

- implementation of agreed rules in national law and regulations;
- ongoing work on financing arrangements for the single resolution fund.

Implementation of directives on bank recovery and resolution and on deposit guarantee schemes is almost complete, and work will continue on the strengthening of the banking union. The Council has regularly reviewed the situation since mid-2015.

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 in Europe. 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) and the single resolution mechanism (SRM). These are based on a regulatory framework, the “single rulebook”, which applies to all 28 member states.

On 1 January 2016, the SRM became operational and the single resolution fund (SRF), a component of the SRM, was established.

As of 27 September 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 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 the directives on bank recovery and resolution and on deposit guarantee schemes.

Banking union

G20 AND IMF MEETINGS

The presidency and the Commission reported on the meeting of G20 finance ministers and central bank governors and the IMF annual meetings that were held in Washington DC from 6 to 9 October 2016.

CLIMATE CHANGE

The Council adopted the following conclusions:

"1. WELCOMES the Paris Agreement's objective to make finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development. REITERATES that this requires action by all parties individually and collectively.

2. REAFFIRMS that the EU and its Member States are committed to scaling up the mobilisation of climate finance, as part of a global effort, led by developed countries, in particular to assist developing countries with respect to mitigation and adaptation to implement their country driven strategies, notably the Nationally Determined Contributions. HIGHLIGHTS that the EU and some EU Member States, in Paris at the 21st Conference of the Parties to the UNFCCC, announced scaled up amounts of public climate finance foreseen in the coming years thereby also increasing predictability. HIGHLIGHTS that the EU and its Member States provide a substantial part of public climate finance and STRESSES the need for fair burden sharing amongst developed countries and the future participation of a broader range of contributors. EMPHASISES the importance of an outcome-oriented perspective on climate finance, ensuring the greatest possible impact of funds provided and mobilised.

3. WELCOMES the work by developed countries to prepare a concrete roadmap to achieve the goal of jointly mobilising USD 100 billion per year by 2020 for mitigation and adaptation from a wide variety of sources, public and private, bilateral and multilateral, including alternative sources of finance, in the context of meaningful mitigation actions and transparency of implementation. LOOKS FORWARD to the roadmap's finalisation ahead of the UNFCCC COP22.

4. AFFIRMS that the EU and its Member States are committed to mobilise their share of the developed countries' goal to jointly mobilise USD 100 billion per year by 2020 and through to 2025 for mitigation and adaptation, from a wide variety of sources, instruments and channels.

5. REITERATES that public climate finance will continue to play a significant role. CONFIRMS that the EU and its Member States will continue to provide public climate finance for mitigation and adaptation purposes.

6. REQUESTS the Commission to provide an overview on climate finance from the EU and its Member States for 2015 for the Council to endorse this contribution prior to the UNFCCC COP22.

7. STRESSES the importance of the scaling up of resources to support those developing countries that are particularly vulnerable to the adverse consequences of climate change and that have significant capacity constraints.

8. Also WELCOMES the commitments made by most multilateral development banks (MDBs) to strengthen the integration of climate mitigation, adaption and resilience considerations throughout their portfolios and within their mandates, including their commitments to scale up their climate related investments. ENCOURAGES international and regional financial institutions and UN agencies to provide information to Parties through the UNFCCC secretariat on how they mainstream climate objectives and incorporate climate resilience measures into their development assistance and climate finance programmes.

9. WELCOMES the important climate finance contributions by some emerging economies and developing countries. HIGHLIGHTS that the Paris Agreement encourages Parties other than those committed under the Convention to provide or continue to provide financial resources on a voluntary basis.

10. RECOGNISES the private sector as a key source for climate finance and other relevant investment flows. ACKNOWLEDGES that private sector finance is complementary to, but not a substitute for public sector finance, where public finance is needed. NOTES that the EU has in place and will continue to develop a broad set of instruments to mobilise private sector finance for international climate actions including mobilised local private sector finance.

11. WELCOMES that the Paris Agreement sends a strong signal to the private sector to re-orient financial flows to low-carbon, climate-resilient investments. NOTES ongoing efforts within the EU to align investment incentives to EU climate objectives e.g. through the Capital Markets Union and the Investment Plan for Europe; and in this context WELCOMES the work of the G20 and the Financial Stability Board, as important contributions to reorient private investment. UNDERLINES that carbon pricing is one of the key components of an enabling environment for shifting investments which can be achieved through a variety of tools, including regulation, emission trading and taxes. In this context, SUPPORTS carbon pricing initiatives as well as initiatives promoting the phasing out of environmentally and economically harmful subsidies and inter alia the phasing down of financing for emission intensive projects.

12. HIGHLIGHTS the efforts of the EU and its Member States to scale up mobilised climate finance as set out in the 2016 submissions on strategies and approaches. RECALLS that scaling up climate finance is an iterative process which goes hand in hand with governments developing enabling environments, investment strategies, projects and programmes which should all include the engagement of private sector action. In this context WELCOMES the efforts undertaken by developing countries.

13. HIGHLIGHTS the importance of supporting adaptation to help mainstreaming climate objectives into developing countries' development strategies and to build more climate resilient livelihoods. UNDERLINES the importance of achieving a balance between adaptation and mitigation finance in line with countries' own priorities and objectives, and HIGHLIGHTS that the EU and its Member States collectively are making, and will continue to make efforts to channel a substantial share of public climate finance towards adaptation, especially by addressing the needs of the poorest and particularly vulnerable developing countries such as Least Developed Countries (LDCs) and Small Island Developing States (SIDS).

14. HIGHLIGHTS that the transparency framework will be key to the successful implementation of the Paris Agreement by improving and accountability of climate finance. STRESSES that this framework should provide clarity on support provided, mobilised and received, including on the actions to make financial flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development, also with a view to informing the global stocktake. The framework should be accompanied by clear and common methodologies, building on existing methodologies and progress achieved in the preparation of the OECD/CPI study. SUPPORTS the development of accounting modalities on financial resources provided and mobilised through public interventions to reflect Parties' efforts of all relevant sources in a credible manner. LOOKS FORWARD TO the Biennial Assessment and overview of climate finance flows of the Standing Committee on Finance to guide further work on Measurement, Reporting and Verification (MRV) of support.

15. STRESSES the importance of support for capacity building for mitigation and adaptation planning and efficient and effective implementation. Further STRESSES the need for development of a pipeline of attractive projects and programmes in order to maximise financial resources and effectiveness, as well as the importance of accessibility of available funds for developing countries and crowding in private finance. HIGHLIGHTS the EU and Member States' continued support for capacity building for developing countries in need, including in the field of technology cooperation. STRESSES the importance of ensuring efficient access to financial resources to support country-driven strategies through simplified approval procedures within the context of the Financial Mechanism and enhanced readiness support for developing countries, in particular LDCs and SIDS.

16. RECOGNISES and SUPPORTS the importance of ambitious global implementation of Nationally Determined Contributions. HIGHLIGHTS that EU and Member States' development cooperation with third countries should fully take into account the synergies between climate objectives and the sustainable development goals as adopted by the 2030 Agenda for Sustainable Development, the Addis Ababa action agenda for financing for development, and other international agenda. HIGHLIGHTS that co-ordination between stakeholders on financing in support of Nationally Determined Contribution implementation will be essential: each institution will need to act in partnership and coordination with the others to maximise impact on the ground.

17. WELCOMES that the Financial Mechanism of the Convention shall serve as the Financial Mechanism of the Paris Agreement. HIGHLIGHTS the role of the Green Climate Fund as a key multilateral vehicle to support developing countries in promoting the paradigm shift towards low carbon and climate resilient development pathways. WELCOMES the approval of further projects and programmes, and FURTHER WELCOMES the endorsement of the Green Climate Fund's Strategic Plan and its ambition to enhance the Fund's transformational impact. HIGHLIGHTS that a substantial share of the funds committed (47 per cent) and made available comes from EU Member States. WELCOMES contributions from developing countries to the Green Climate Fund and URGES all countries that are in a position to do so to contribute."

EUROPEAN SEMESTER - LESSONS LEARNED

The Council took stock of the "European Semester" annual policy monitoring process in the light of lessons learned from the 2016 exercise.

Ministers agreed that the 2016 process represented an improvement compared to previous years, but there is still scope for making it smoother and more effective.

The European Semester involves simultaneous monitoring of the member states' economic, fiscal and employment policies during a roughly six-month period every year. It was introduced in 2011 as part of an economic governance reform undertaken in response to the euro crisis.

The 2017 European Semester will start in November 2016 with the publication by the Commission of its annual growth survey.

HEALTH SYSTEMS AND FISCAL SUSTAINABILITY

The Commission presented a report on health systems and fiscal sustainability, and the Council held an exchange of views.

The Council asked the Economic and Financial Committee to prepare draft conclusions for adoption at its meeting on 8 November 2016.

Prepared jointly by the Commission and the Economic Policy Committee, the report presents an analysis of 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.

The report updates the findings of a 2010 report. It reflects health policy reforms undertaken by the member states since then, and includes for the first time an analysis of long-term care.

OTHER BUSINESS

– *Financial services*

The Council was updated regarding work on legislative proposals on financial services.

September 2016 secretariat note on progress on financial services legislative dossiers

– *Basel Committee banking reform*

The Council discussed the completion of post-crisis banking reform by the Basel Committee on Banking Supervision.

It recalled the need for the EU and its member states to continue to present a common position in the negotiations.

The Basel Committee is a forum of supervisory authorities aimed at enhancing cooperation and improving bank supervision worldwide. It aims to complete the reform by the end of 2016.

MEETINGS IN THE MARGINS OF THE COUNCIL

– ***Eurogroup***

Ministers of the eurozone member states attended a meeting of the Eurogroup on Monday 10 October 2016. They discussed implementation of Greece's economic adjustment programme, preparation of the member states' draft budgetary plans for 2017 and healthcare expenditure in relation to fiscal sustainability.

Eurogroup main results

– ***Ministerial breakfast***

Ministers held a breakfast meeting to discuss the economic situation. They also discussed the structured dialogue with the European Parliament in relation to the suspension of EU structural funds for Portugal and Spain, work to improve the predictability and transparency of the Stability and Growth Pact, the EU's fiscal rulebook, and a proposal for a European fund for sustainable development as part of the EU's plan for investment in third countries.

OTHER ITEMS APPROVED

ECONOMIC AND FINANCIAL AFFAIRS

Taxation agreement - Monaco

The Council approved the conclusion of an agreement with Monaco aimed at improving tax compliance by private savers.

The agreement will require EU member states and Monaco to exchange information automatically as a means of preventing tax evasion.

It will give their tax administrations improved cross-border access to information on the financial accounts of each other's residents.

The agreement upgrades a 2004 agreement that obliged Monaco to apply measures equivalent to those in an EU directive on the taxation of savings income.

The agreement was signed in Brussels on 12 July 2016.

Press release on the signing of the 2016 EU-Monaco taxation agreement

Tax transparency

"The Council:

1. RECOGNISES the progress made in pursuing the ambitious EU agenda for fairer, more transparent and more effective taxation and in strengthening the cooperation between fiscal authorities across the EU;

2. CONFIRMS the importance of improving further the EU and international tax framework to prevent cross-border tax abuse and illicit financial activity;

3. WELCOMES the Communication from the Commission of 5 July 2016 on further measures to enhance transparency and the fight against tax evasion and avoidance;

4. AGREES that recent EU legislation to automatically exchange information on tax rulings and on tax related country-by-country reports of multinationals between Member States' competent authorities is an important step forward;

5. CALLS for looking at options for enhancing the administrative cooperation between competent authorities within the EU even further, including through considering options inspired by the work of the OECD Joint International Taskforce on Shared Intelligence and Collaboration (JITSIC);

6. CONSIDERS the proposals by the Commission for revision of the Directive on Administrative Cooperation and of the Anti-Money Laundering Directive in view of the synergies between these two areas as timely and INTENDS to work towards their swift adoption in accordance with the EU legislative process;

7. CONFIRMS that there is a need for more effective and efficient cooperation between tax authorities and other agencies involved in the fight against tax evasion, money laundering and terrorist financing in line with the appropriate legal safeguards;

8. STRESSES the need to prevent the large-scale concealment of funds which hinders the effective fight against tax evasion, money laundering and terrorist financing, and to ensure that the identities of beneficial owners of companies, legal entities or legal arrangements are known;

9. WELCOMES the initiative for the automatic exchange of information on ultimate beneficial owners whereby many jurisdictions, including all Member States, have agreed to exchange information on the beneficial owners of companies, legal entities and legal arrangements and LOOKS FORWARD to rapid international progress;

10. INVITES the Commission to analyse the possibility for a proposal on improving the cross-border access to information on ultimate beneficial owners on the basis of the ongoing work at international level;

11. NOTES that at its October 2016 meeting the G20 heard initial proposals by OECD and FATF on ways to improve the implementation of the international standards on transparency, including on the availability of beneficial ownership information;

12. RECALLS the need to increase oversight of enablers and promoters of aggressive tax planning and to introduce more effective disincentives for such activities;

13 WELCOMES the intention of the Commission to launch in autumn 2016 a public consultation to gather feedback on the most appropriate approach to achieve greater transparency on the activities of intermediaries who assist in tax evasion or avoidance schemes;

14. NOTES the intention of the Commission to explore possibilities for Mandatory Disclosure Rules inspired by Action 12 of the OECD BEPS project, drawing on the experiences in this area of some EU Member States, and to possibly come forward with a legislative proposal in 2017;

15. ENCOURAGES the Commission to start reflecting on the possibility for future exchange of such information between tax administrations in the EU;

16. STRESSES the need to work closely with the OECD and other international partners on a possible global approach to greater transparency in this area;

17. SUPPORTS the promotion of higher tax good governance standards worldwide and NOTES that technical work in the Council has already started within the Code of Conduct on Business Taxation Group on establishing an EU list of non-cooperative third country jurisdictions to be ready in 2017, including on defining the criteria for listing jurisdictions and on exploring possible countermeasures;

18. AGREES that the protection of whistle blowers is important and ENCOURAGES the Commission to explore the possibility for future action at EU level while respecting the principle of subsidiarity;

19. RECOGNISES that improving tax certainty in the EU can contribute to further increase the competitiveness of EU businesses and TAKES NOTE of the intention of the Commission to present proposals aimed at fighting BEPS and tax avoidance while also ensuring a stable and predictable tax environment and eliminating double taxation, namely on improving dispute resolution and the relaunch of the CCCTB."

July 2016 Commission communication on measures to enhance tax transparency

Investment products - Markets in financial instruments

The Council decided not to object to the following Commission regulations:

- regulation supplementing regulation 1286/2014 on packaged retail and insurance-based investment products with regard to product intervention (12441/16 + 11287/16);

- regulation supplementing regulation 600/2014 on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives (12444/16 + 11291/16 + 11291/16 ADD 1);

- regulation supplementing directive 2014/65/EU on markets in financial instruments with regard to regulatory technical standards specifying organisational requirements of trading venues (12446/16 + 11290/16 + 11290/16 ADD 1);

- regulation supplementing regulation 600/2014 on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms and on transaction execution obligations (12448/16 + 11296/16 + 11296/16 ADD 1);

- regulation supplementing directive 2014/65/EU on markets in financial instruments with regard to regulatory technical standards on the tick size regime for shares, depositary receipts and exchange traded funds (12452/16 + 11312/16 + 11312/16 ADD 1);

- regulation supplementing regulation 600/2014 on markets in financial instruments with regard to regulatory technical standards for the data standards and formats for financial instrument reference data and technical measures (12453/16 + 11298/16 + 11298/16 ADD 1);

- regulation supplementing regulation 600/2014 on markets in financial instruments with regard to regulatory technical standards concerning information for registration of third country firms and the format of information to be provided to clients (12455/16 + 11288/16);

- regulation supplementing directive 2014/65/EU on markets in financial instruments with regard to regulatory technical standards for the exchange of information between competent authorities when cooperating in supervisory activities, on-the-spot verifications and investigations (12456/16 + 11297/16);

- regulation supplementing directive 2014/65/EU on markets in financial instruments with regard to regulatory technical standards on information and requirements for the authorisation of investment firms (12457/16 +11300/16);

- regulation supplementing directive 2014/65/EU on markets in financial instruments with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading (12698/16 + 11747/16 + 11747/16 ADD 1);

- regulation supplementing regulation 600/2014 on markets in financial instruments with regard to regulatory technical standards for the reporting of transactions to competent authorities (12699/16 + 11748/16).

The regulations are delegated acts pursuant to article 290 of the Treaty on the Functioning of the European Union. They can now enter into force, unless the European Parliament objects.

VAT derogation - Poland - Road vehicles

The Council adopted a decision authorising Poland to continue applying a measure derogating from directive 2006/112/EC on VAT as concerns deductibility rules for motorised road vehicles used for business purposes (12215/16 + 12217/16).

The measure involves a 50% limit on the right to deduct VAT on the purchase, intra-EU acquisition, importation, hire or leasing of certain motorised road vehicles, and related expenditure, where the vehicle is not used entirely for business purposes. It relieves the taxable person from accounting for VAT on the non-business use of vehicles.

The Council's decision extends the validity of the derogation, which was valid until 31 December 2016. It will expire on 31 December 2019.

BUDGETS

Additional security measures in the EU institutions - draft amending budget no 3/2016

The Council adopted its position on draft amending budget no 3 for 2016 approving an increase of the 2016 EU budget by €15.8 million.

Draft amending budget 3/2016 seeks to provide additional funds for some of the EU institutions to reinforce their security measures following the terrorist attacks in Paris in November 2015 and in Brussels in March 2016 (12563/16).

ENERGY

Convention on nuclear safety

The Council took note of a report on implementation of the International Atomic Energy Agency convention on nuclear safety (12397/16 ADD 1), prepared in consultation with the member states.

The report will be examined at the 7th review meeting of the contracting parties, to be held in Vienna from 27 March to 7 April 2017.

The European Atomic Energy Community (Euratom) and its member states are parties to the convention on nuclear safety. Each party must submit a report on the measures it has taken to implement each of the obligations of the convention.