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OUTCOME OF THE COUNCIL MEETING

3520th Council meeting

Economic and Financial Affairs

Brussels, 21 February 2017

President **Edward Scicluna**
Minister for Finance of Malta

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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 AVOIDANCE - HYBRID MISMATCHES

The Council agreed its position on rules aimed at closing down 'hybrid mismatches' with the tax systems of third countries and thereby preventing corporate tax avoidance.

The directive will prevent corporate groups from exploiting disparities between two or more tax jurisdictions to reduce their overall tax liability. Such arrangements can result in a substantial erosion of the taxable bases of corporate taxpayers in the EU, to the detriment of national budgets.

The proposal addresses hybrid mismatches with regard to non-EU countries, given that intra-EU disparities are already covered by the 'anti-tax-avoidance directive' adopted in July 2016. It complements and amends that directive accordingly.

It will contribute to implementation of 2015 OECD recommendations addressing corporate tax base erosion and profit shifting.

The Council will adopt the directive once the European Parliament has given its opinion. Member states will have until 31 December 2019 to transpose it into national laws and regulations.

[Press release on February 2017 Council agreement on hybrid mismatches](#)

[OECD webpage on BEPS](#)

TAXATION - NON-COOPERATIVE JURISDICTIONS

The Council was updated regarding work to follow up on its November 2016 conclusions on the establishment of an EU list of non-cooperative jurisdictions in taxation matters.

Establishing a list of non-cooperative jurisdictions is part of the Council's follow-up to its May 2016 conclusions on the EU's external strategy for effective taxation.

Work is led by the Council's working group responsible for implementation of an EU code of conduct on business taxation. The group will conduct and oversee a screening process that will lead to the establishment of the EU list.

The Council is due to finalise the list of non-cooperative jurisdictions before the end of 2017. In the meantime, it will explore potential defensive measures that could be applied.

The work is being conducted in parallel with the OECD global forum on transparency and exchange of information for tax purposes.

[November 2016 conclusions on the establishment of a list of non-cooperative jurisdictions](#)

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

PREPARATION OF G20 MEETING IN BADEN-BADEN

The Council discussed preparations for the meeting of G20 finance ministers and central bank governors to be held in Baden-Baden (Germany) on 17 and 18 March 2017.

The meeting will feature discussions on the global economy, a compact for Africa, international financial institutions, taxation and financial regulation.

The presidency will represent the EU at the meeting, together with the Commission and the European Central Bank.

Priorities within the finance track of Germany's G20 presidency include enhancing resilience against future crises, shaping digitalisation and supporting investment, particularly in Africa.

A G20 summit will be held in Hamburg on 7 and 8 July 2017.

[2017 German presidency G20 website](#)

EU BUDGET

– Discharge for 2015

The Council adopted a recommendation to the European Parliament on the discharge to be given to the Commission for implementation of the EU's general budget for 2015.

The recommendation was prepared in the light of an annual report from the Court of Auditors.

The Council also adopted recommendations on the discharge to be given to the directors of 32 EU agencies, 7 joint undertakings and 6 EU executive agencies for implementation of their 2015 budgets.

The recommendations refer to Council comments on a series of Court of Auditors special reports.

[Council recommendaiton on the 2015 budget discharge](#)

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

[Council 2015 discharge recommendation to the agencies](#)

[Council 2015 discharge recommendation to the executive agencies](#)

[Council 2015 discharge recommendation to the joint undertakings](#)

GUIDELINES FOR 2018

The Council adopted the following conclusions setting its priorities for the 2018 EU budget:

"Introduction

The Council considers that the budget for 2018 should provide adequate resources to continue supporting the traditional and evolving priorities within the Union, namely the recovery of the European economy, to address humanitarian and security challenges both within and outside the EU borders and to honour commitments already made under the current and previous programming periods.

The Council recalls the principle of solidarity and underlines that a transparent and an effective use of the EU budget will contribute to the materialisation of the Union's objectives and regain the credibility of the Union with the European citizens.

The budgetary procedure for 2018 is likely to take place in a context of budget constraints in several Member States. Therefore, the Council accentuates the need to improve the predictability of Member States' contributions to the Union's budget. The Council considers that the EU budget should seek to boost growth, promote employment and create new jobs, enhance effective EU cohesion, foster competitiveness and tackle the migration and security crises, while maintaining budgetary discipline at all levels. This can be achieved through the prioritisation of objectives, along with the allocation of available resources to programmes and actions that contribute the most towards achieving these aims.

The Council invites the Commission to present a budget in line with the aforementioned objectives, including a focus on areas that deliver EU added value.

Key elements of the budget for 2018

The Council reiterates the need for a realistic budget respecting the principles of sound financial management and annuality. The level of both commitment and payment appropriations should be kept under strict control and be based on real needs. The level of payment appropriations should be adequate and reflect the payment profiles of all programmes and with a clear focus on the expected needs for the current programming period.

The Council emphasises that the budget for 2018 and corrective budgetary tools shall strictly respect the relevant ceilings in accordance with the multiannual financial framework (MFF) Regulation for the period 2014-2020¹. Moreover, the Council reiterates the need to leave sufficient margins under the ceilings in order to be able to deal with unforeseen events.

The Council welcomes the phasing out of the backlog of unpaid bills from the previous programming period. It calls on the Commission to continue monitoring the implementation of the 2014-2020 programmes in order to ensure an orderly progression of payment appropriations consistent with the authorised commitment appropriations, thereby pre-empting future accumulation of outstanding unpaid bills.

The Council expects the Commission to make every effort to implement the budget within the allocations agreed in the annual budget, including the recourse to redeployments when appropriate. Corrective budgetary tools, such as amending budgets, should be kept to the strict minimum and in line with the Financial Regulation². The Council encourages the Commission to continue to rationalise the submission of draft amending budgets thereby contributing to increase the predictability within the budgetary cycle. If corrective measures prove to be necessary, the Council reaffirms its commitment to take a position on draft amending budgets as soon as possible.

¹ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p.884).

² Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

As in the previous years, the Council calls on the Commission to deliver high-quality forecasts concerning both revenue and expenditure in its draft budget and during the whole budgetary process, together with timely, precise and transparent information on the underlying assumptions and budgetary figures¹. Reliable and accurate forecasts on all sources of revenue and on past and expected implementation are crucial in order to avoid either under- or over-budgeting, as well as unjustified and excessive carry-overs. It also allows the European Parliament and the Council to assess any possible requests for additional appropriations or redeployment of existing resources.

An accurate draft budget is essential to allow Member States to anticipate the level of their contributions to the Union's budget with a high degree of precision. In this context, the Council calls upon all actors, and notably the Commission, to undertake appropriate measures in order to avoid unexpected calls for additional contributions from the Member States, especially when the impact on national budgets could be high.

The Council recalls the principle of unity of the budget and calls on the Commission to cater for the necessary financial means in order to implement the Union's policies within the EU budget. The Council believes that full transparency with respect to assigned revenues is crucial for the sound financial management of Union funds. It calls on all institutions, agencies and other bodies to continue providing all the relevant information promptly and on a regular basis.

The Council recalls that all fines, penalties and accrued interest imposed by the Commission shall be transparently recorded as budgetary revenue in line with the provisions of the Financial Regulation.

¹ As shown in the graph contained in the Annex, the provisional implementation of payment appropriations has considerably dropped in 2016.

The Council will continue to oversee the level of outstanding commitments (RAL)¹. It calls on the Commission to continue monitoring the evolution of the RAL by heading and by programme on a regular basis and to settle or decommit them in a timely manner and in line with the relevant rules. In preparing the draft budget, the Commission should take into account the close relationship between commitment and payment levels, the volume of outstanding commitments, the need to respect the MFF ceilings, the absorption capacity and past implementation rates.

Specific issues

Comprehensive budgetary documents

The Council encourages the Commission to continuously improve the content of its budgetary documents in order to make them simpler, concise and transparent, clearly justifying the requested appropriations, including their repercussion in terms of payment profiles for the following years until 2020 and beyond. In this context, the Council invites the Commission to accompany any proposal modifying the agreed level of commitment appropriations with the corresponding impact in terms of payments over the current and next programming periods.

The Council acknowledges the usefulness of the Commission's "Active Monitoring and Forecast of Budget Implementation" system, with a view to, inter alia, prevent the possible build-up of an excessive backlog. It recalls that this reporting exercise should include regularly updated payment forecasts to be discussed at dedicated interinstitutional meetings, in line with point 36§3 of the Annex to the Interinstitutional Agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management (IIA)².

¹ According to the Commission's implementation report of 18 January 2017, the level of Commission's outstanding commitments (RAL) amounted to EUR 237.5 billion at the end of 2016.

² Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management (OJ C 373, 20.12.2013, p. 1).

The Council invites the Commission to annex to the draft budget a comprehensive list of Commission proposals not yet adopted and which have a potential impact on the budget, including the level of appropriations concerned, by budget line.

The Council also invites the Commission to accompany the draft budget with a comprehensive table for the year 2018 consolidating an estimate of all types of internal assigned revenues by budget line, as well as an overview of the fines likely to be recorded as budgetary revenue.

The Council welcomes the good practice of accompanying every proposal for a transfer of appropriations related to a mobilisation of the European Globalisation Adjustment Fund and the Emergency Aid Reserve with an update of the level of implementation of the maximum annual amounts set for the special instrument in the financial year. Likewise, the Council invites the Commission to provide a regular update on the level of implementation of the advance payments related to the European Union Solidarity Fund.

When proposing the mobilisation of a special instrument, the Council invites the Commission to include in its proposal an update of the level of implementation of both commitment and payment appropriations of the respective special instrument.

The Council underlines that high quality programme statements and timely financial information on spending proposals are crucial for the European Parliament and the Council to establish, confirm or modify budgetary priorities. Programme statements should, in particular, focus on performance information and ways to improve it, including the results achieved, the justification for the level of appropriations requested, and on the added value of EU activities. This analysis should be clearly linked to the relevant budget lines in order to support the budgetary decision-making process.

Interinstitutional cooperation during the budgetary procedure

The Council encourages all institutions to collaborate efficiently and constructively, allowing for a smooth budgetary procedure and the establishment of the budget for 2018 within the deadlines set by the Treaty on the Functioning of the European Union (TFEU) and in line with the provisions of the IIA.

The Council calls on the Commission to ensure the timely presentation of the statement of estimates for 2018, allowing each institution enough time to undertake a detailed technical analysis of the disseminated estimates and to prepare thoroughly its position in accordance with an agreed pragmatic calendar.

The Council stresses the need to preserve the annual character of the budgetary procedure and to avoid discussions on issues not directly linked to the annual budget negotiations. It recalls that the purpose of the Conciliation Committee, convened in respect of Article 314 TFEU, is to establish the budget for 2018.

Furthermore, the Council calls on the Commission to ensure the timely and equal access to transparent and objective information and documents at all the stages of the conciliation negotiations.

Administrative expenditure

In the context of fiscal consolidation in Member States, national administrations are obliged to optimise the use of limited resources. There is also a need for rationalisation of EU's administrative expenditure. Therefore, the Council urges all institutions, bodies and agencies to reduce or freeze their administrative expenditure as much as possible and to request financing only for justified needs.

The Council calls on every institution and EU body to timely provide the Commission with clear, comprehensive and consolidated information of their administrative expenditure. In line with the Financial Regulation, the Commission shall attach to the draft budget the documents allowing the European Parliament and the Council to evaluate the situation and take well-founded decisions on the allocation and use of resources. Due attention should be paid to the comprehensibility and comparability over time and between institutions of the information provided.

The Council considers that the level of staff in all institutions, bodies and agencies needs to be kept under continuous monitoring. The Council recalls that 2017 is the last year to comply with the target, as stated in Point 27 of the IIA, to progressively reduce by 5 % the staff across all institutions, bodies and agencies. In this context, the Council proposes that an independent evaluation of the results is undertaken by the European Court of Auditors, covering all institutions, bodies and agencies. On the basis of the conclusions of this evaluation, the Council invites the Commission to present an appropriate follow-up proposal.

Decentralised agencies

While recognising the multiannual character of the actions carried out by some decentralised agencies, the Council recalls that over-budgeting has often led to a substantial and unjustified level of carry-overs. It reiterates the importance of keeping their funding under firm control and limiting it only to substantiated needs. The Council calls on the Commission, when establishing its draft budget for 2018, to continue taking into account unused appropriations and excessive accumulated cash-balances in order to bring down their annual surpluses. It also calls on the Commission to carefully check, and if necessary revise, the requests for funds and posts proposed by the agencies taking into account past implementation, vacancy rates, as well as the compliance with the 5 % staff reduction target.

In this context, the Council takes note of the work of the interinstitutional working group aiming at closer and more permanent scrutiny on the development of decentralised agencies.

The Council expects the Commission to continue providing the European Parliament and the Council with a comprehensive picture concerning agencies, including their building policy, together with the draft budget for 2018.

Conclusion

The Council considers that the EU budget should be prudent while providing sufficient resources in order to strengthen smart and inclusive growth and jobs, and to effectively respond to current and forthcoming challenges, including the measures to tackle the migration and security crises and to contribute to the political and economic stability in the EU's neighbouring countries. It underlines that a transparent, accurate and accountable use of Union's resources is an overarching principle to bring the EU citizens closer to the European project.

As in preceding years the Council will support a realistic budget for 2018, striking the right balance between fiscal prudence and new investments conducive to growth and jobs. It underlines that a timely, predictable, transparent and accurate assessment of needs based on comprehensive budgetary information is an essential tool to reach this objective.

The Council reiterates the need to leave sufficient margins under the ceilings in order to be able to deal with unforeseen circumstances while providing an adequate level of funding and respecting the commitments already made. Moreover, the Council emphasises on the importance of providing reliable and precise forecasts of revenue, allowing Member States to assess in a timely manner their expected contributions to the EU budget.

The Council reiterates the great importance it attaches to these guidelines and expects them to be duly taken into account when preparing the draft budget for 2018.

These guidelines will be forwarded to the European Parliament and the Commission, as well as to the other institutions."

MEETINGS IN THE MARGINS OF THE COUNCIL

– ***Eurogroup***

The Eurogroup met on 20 February 2017.

It discussed the second review of Greece's economic adjustment programme and the Commission's winter economic forecast. It also held a thematic discussion on the business environment in the euro area.

[Eurogroup main results](#)

– ***European Stability Mechanism board of governors***

The board of governors of the European Stability Mechanism met on 20 February 2017.

It appointed Klaus Regling as ESM managing director for a second five-year term.

[Press release on reappointment of Klaus Regling as ESM managing director](#)

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

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

It focused on current economic conditions and the economic outlook, and on the role of the fiscal stance in supporting growth.

[Press release on the February 2017 macroeconomic dialogue with the social partners](#)

– ***Ministerial breakfast***

Ministers discussed the economic situation at a breakfast meeting, in the light of the Commission's winter economic forecast.

OTHER ITEMS APPROVED

ECONOMIC AND FINANCIAL AFFAIRS

VAT - Basel-Mulhouse Airport

The Council adopted a decision authorising France to conclude an agreement with Switzerland concerning Basel-Mulhouse Airport that includes provisions derogating from directive 2006/112/EC on VAT ([5838/1/17 REV 1](#) + [5472/17](#)).

The airport is situated entirely within the EU, in Blotzheim. However, a 1949 French-Swiss convention provides for a Swiss customs sector in a delimited zone of the airport where the Swiss authorities are allowed to exercise control over goods and passengers leaving or entering Switzerland. The agreement will exclude that Swiss customs sector from the territorial scope of the VAT directive.

VAT - Luxembourg

The Council adopted a decision authorising Luxembourg to continue exempting taxable persons whose annual turnover is below a certain threshold from the payment of VAT ([5837/17](#) + [5470/17](#)).

The threshold has also been increased, from €25 000 to €30 000.

Bank of Greece

The Council adopted a decision appointing Deloitte Certified Public Accountants S.A. as the external auditors of the Bank of Greece for the years 2017 to 2021 ([5770/17](#) + [5189/17](#)).

Court of Auditors report - Bank supervision

The Council adopted conclusions in response to a Court of Auditors special report entitled "Single supervisory mechanism - Good start but further improvements needed" ([6155/17](#)).

JUSTICE AND HOME AFFAIRS**Schengen evaluation - Austria, Spain**

The Council adopted an implementing decision setting out a recommendation on addressing the deficiencies identified in the 2015 evaluation of Austria on the application of the Schengen acquis in the field of data protection ([6501/17](#)).

The Council adopted an implementing decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Spain on the application of the Schengen acquis in the field of management of the external border (Barcelona airport) ([6503/17](#)).

DEVELOPMENT POLICY**European Development Fund: discharge**

The Council recommended that the European Parliament give the Commission a discharge for the implementation of the operations of the 8th, 9th, 10th and 11th European Development Fund (EDF) for 2015.

The EDF is the EU's main instrument for providing development aid to African, Caribbean and Pacific (ACP) countries and to overseas countries and territories (OCTs). The EDF finances cooperation activities in the fields of economic development, social and human development as well as regional cooperation and integration.

ENLARGEMENT**Western Balkans**

The Council adopted conclusions on a Court of Auditors report entitled "EU pre-accession assistance for strengthening administrative capacity in the Western Balkans: a meta-audit" ([6141/17](#)).
