

15221/1/15 REV 1

(OR. en)

PRESSE 79
PR CO 71

OUTCOME OF THE COUNCIL MEETING

3436th Council meeting

Transport, Telecommunications and Energy

Brussels, 10 and 11 December 2015

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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

TRANSPORT

Social aspects in road transport

The Council held a policy debate on social aspects in road transport. The presidency had prepared a [background document](#) highlighting the issues of divergent interpretation and enforcement of the current rules by member states.

Ministers considered in general that there was no need for a complete revision of the existing rules. They stressed the importance of guaranteeing the stability of the legal framework.

A large number of ministers pointed out that differences in interpretation mostly related to the rules on cabotage and the organisation of hauliers' working time and rest periods. As a result, for example, many lorry drivers currently spend their weekly rest period in the cabin of their vehicle in a car park. These different interpretations undermine social standards, create legal uncertainty and cause fragmentation of the single market for road transport. Several ministers said that the rules should be clarified in this regard.

As regards enforcement, ministers agreed that member states should organise frequent and regular roadside checks and strengthen administrative cooperation between national enforcement bodies in order to tackle fraud at the root. This includes investigating 'letterbox' companies. They asked the Commission to play a key role in arranging this cooperation.

Some member states also mentioned the need to extend the scope of current legislation to light-duty vehicles (below 3.5 tonnes) in order to ensure a level playing field in the internal market. These vehicles are increasingly being used for the international transport of goods and passengers, but they are currently not covered by EU-wide legislation.

Many ministers were against further liberalisation of cabotage as long as current differences in interpretation and social standards persist.

A number of ministers expressed their concerns about the security and safety of lorry drivers in the context of the current movement of refugees.

The presidency will send its conclusions from the discussion to the Commission, which is currently reviewing all road legislation to see what initiatives are needed under a new 'road package' in 2016.

Other business

– State of the Energy Union

Commission Vice-President Maroš Šefčovič briefed ministers on the latest developments regarding the energy union. The Commission released its first [State of the Energy Union](#) report on 18 November 2015. The report also highlights the EU's contribution to the Paris climate conference COP21.

As the transport sector is a major source of greenhouse gas emissions, the Commission intends to issue a communication on the decarbonisation of EU transport in 2016. The communication will cover all modes of transport. It is to be followed by a number of proposals, including on CO₂ emission standards for cars and vans, fair and efficient pricing, and market access rules for road transport.

Efforts are also being made to improve the enforcement of existing rules. These relate for instance to the testing systems for greenhouse gas emissions and certain air pollutants. New proposals are being prepared to strengthen the type approval and market surveillance system.

[State of the Energy Union – Commission information note](#)

– Aviation strategy

Commissioner Violeta Bulc presented the [aviation strategy for Europe](#), which was adopted by the Commission on 7 December 2015.

The overarching goal of the strategy is to strengthen the competitiveness and sustainability of the entire EU air transport value network. This is to be achieved by tapping into growth markets, including in the Asia-Pacific region, tackling capacity constraints and improving efficiency and connectivity. At the same time, the EU's high safety and security standards are to be maintained, and efforts are to be made to reduce aviation's environmental footprint.

The strategy includes a proposal for the revision of the EU aviation safety regulation, with new draft rules on civilian drones. The Commission also intends to request mandates to negotiate EU-level comprehensive air transport agreements and two safety agreements with some key non-EU countries.

– ***Investigation into the crash of flight MH17***

The Netherlands delegation briefed ministers on the outcome of the investigation carried out by the Dutch Safety Board in the wake of the crash of flight MH17 in Ukraine in July 2014. The Board published a report on the causes of the crash and the issue of flying over conflict zones in October 2015.

According to the Dutch Safety Board, all parties involved in civil aviation – states, international aviation organisations such as the International Civil Aviation Organisation (ICAO) and the International Air Transport Association (IATA), and air operators – should share more information about conflict zones and potential threats to civil aviation. More attention should be paid to the day-to-day evolution of conflict in disputed areas. States involved in armed conflict ought to be given more incentives and better support to safeguard the safety of their airspace. In addition, the Dutch Safety Board is of the opinion that air operators should be accountable to the public for their flight routes.

The Netherlands delegation invited member states to express their support for the Board's recommendations and to contribute actively to the preparation of a common European stance in the ICAO on the questions raised with regard to flying over conflict zones.

– ***ICAO Council elections***

The Council took note of information provided by the Bulgarian delegation on the position taken by the European Civil Aviation Conference (ECAC) on candidates for the election of the ICAO Council for 2016-2019. The Bulgarian delegation was supported by the Cyprus, Czech, Greek, Hungarian, Lithuanian, Polish, Romanian, Slovenian and Slovak delegations. Together, these countries make up the Central European Rotation Group in the system for allocating seats in the ICAO Council.

Facing the possible loss of their seat in the upcoming election, these member states encourage efforts to avoid a situation in which a group of EU countries is excluded from the ICAO Council, and to seek and promote a long-term solution that is fair and acceptable for all EU member states.

– ***Railway rolling stock - Luxembourg protocol***

The presidency briefed ministers on the state of ratification of the Luxembourg protocol to the convention on international interests in mobile equipment on matters specific to railway rolling stock.

The aim of the protocol is to encourage the necessary investment in the railway sector. It seeks to make it easier to acquire rolling stock and obtain funding for it. It creates an international electronic register for this purpose and introduces measures to protect creditors in the event of insolvency.

The protocol was adopted at the end of a diplomatic conference in Luxembourg in 2007. The EU signed it in 2009, but it cannot enter into force until a sufficient number of member states have ratified it.

The presidency therefore encourages member states to proceed with ratification.

– *Transport security*

The Commission updated ministers on initiatives related to transport security. In the light of the recent terrorist attacks, from the Thalys incident in August to the latest events in Paris, consideration has been given to the need to review transport security policy. Initiatives and discussions have extended from railway security to air transport and shipping as well as cybersecurity in transport.

While putting forward few concrete proposals, the Commission indicated that it was committed to taking a proportionate, risk-based approach to security in the transport sector while keeping it open, accessible and convenient.

– *Incoming presidency's work programme in the field of transport*

The incoming Netherlands presidency presented its transport work programme for the first half of 2016.

The presidency's priorities include facilitating discussions on issues under the aviation strategy. It aims to conclude talks with the European Parliament on the market pillar of the fourth railway package and the proposal on port services.

The presidency will host an aviation summit on 20 and 21 January. It will hold a joint informal meeting of environment and transport ministers from 14 to 16 April on the topic of intelligent transport systems and self-driving cars. It invited all ministers to participate in both events.

The only formal Transport Council meeting under the Netherlands presidency is scheduled for June.

TELECOMMUNICATIONS

Web accessibility

The presidency presented a [progress report](#) on the proposed rules to make public sector websites more accessible. The work has now reached the point where the presidency intends to request a negotiating mandate at the meeting of the Permanent Representatives Committee (Coreper) on 18 December. This would enable the incoming presidency to launch talks with the European Parliament in early 2016, with a view to reaching an agreement before the Council meeting in May 2016.

The draft directive aims to make EU-standardised accessibility features mandatory for certain types of public sector body websites. Member states would be free to apply the requirements to content or websites not covered by the directive.

Under the new rules, certain principles and techniques that make web content more easily usable are to be applied when creating websites. For example, websites should be compatible with assistive technologies such as screen readers, which convert text to speech. Providing an easy way to increase font size is crucial for those with limited vision, and can also improve the browsing experience for any user.

These rules will thus benefit all users, with or without disabilities, and will encourage their participation in the digital economy. Their EU-wide scope will help the website development industry offer its products and services across the EU without having to face extra production costs or other difficulties resulting from different national approaches in the sector. This should improve the functioning of the internal market and contribute to growth and competitiveness.

Network and information security

The presidency briefed ministers on the political agreement reached on 7 December 2015 with the European Parliament on the draft directive on network and information security (NIS). It intends to present the agreed text for approval by member states' ambassadors at the meeting of the Permanent Representatives Committee on 18 December.

The new directive will set out cybersecurity obligations for operators of essential services and digital service providers. These operators will be required to take measures to manage cyber risks and report major security incidents, but the two categories will be subject to different regimes.

Member states will be required to designate national authorities and establish national strategies to deal with cyber matters. They will also step up their cooperation to counter cyber threats.

More information:

[First EU-wide rules to improve cybersecurity: deal with EP](#) (press release)

[Improving cyber security across the EU](#)

Review of EU telecoms rules

The Council discussed the most important telecoms dossier in the digital single market strategy: the revision of the EU telecoms regulatory framework.

Ministers agreed that high speed communications networks and Internet access were key for the European economy and for citizens, including in rural areas. The future rules should ensure a level playing field for service providers and a high level of consumer protection. They should favour investment, competition and innovation.

While competition should be the general way to roll out broadband, government or EU aid would be warranted to cover rural areas. Relevant state aid rules should be simplified.

Many ministers called for consumer rights to be strengthened. Several preferred to apply general consumer protection legislation rather than have sector-specific rules.

A few ministers pointed to the need for modern, stable, light and future-proof laws. Any new legislative proposals should be based on a thorough analysis.

Ministers generally agreed that comparable services should be regulated in a comparable manner. Some ministers called for careful analysis before legislating in this respect and others warned against stifling innovation.

Some ministers highlighted the importance of not only fast but also resilient and secure networks.

As regards radio spectrum, some member states would see a certain level of coordination as useful. However, most ministers stressed that national competences should be respected.

A few ministers mentioned the importance of digital skills for everyone. Some delegations said that there should be less focus on technology or speed, and more on the take-up of services.

The Commission intends to present new proposals to revise the telecoms rules in 2016.

Two major issues – roaming surcharges for travellers in the EU and access to open internet – have recently been addressed by the adoption of a new EU regulation.

[Presidency background document](#)

[Digital single market for Europe](#)

[EU telecoms rules](#)

Other business

– *Internet governance*

The Commission updated ministers on the latest developments in Internet governance.

As regards the transfer of the Internet Assigned Number Authority (IANA) functions, the US National Telecommunications and Information Administration Agency NTIA prolonged the IANA contract for one year until 30 September 2016 to permit the multistakeholder community to finalise its proposals and for the US government to carry out its internal procedures. The Commission encourages EU countries to continue their constructive coordination to ensure a successful transition, in conjunction with the necessary improvements in ICANN accountability.

The UN General Assembly will finalise the World Summit on the Information Society +10 (WSIS+10) review on 15-16 December 2015. The Commission encourages EU member states to continue their good coordination in this regard as well.

[Internet governance - Commission information note](#)

– *Transatlantic Trade and Investment Partnership agreement*

The Commission updated ministers on the information society and telecoms component of the ongoing trade talks with the United States (TTIP).

The negotiations do not include a separate digital chapter. Issues not to be covered by the future agreement include audiovisual matters, data protection and e-privacy, Safe Harbour 2.0 and the price of books. The talks are going as expected, and nothing that affects digital policy will be discussed in the next few weeks.

– *Incoming presidency's work programme in the field of telecommunications*

The incoming Netherlands presidency presented its [telecommunications work programme](#) for the first half of 2016.

OTHER ITEMS APPROVED

TRANSPORT

Railway safety and interoperability and the European Railway Agency

The Council adopted its position at first reading on directives on railway safety and interoperability, and a regulation on the European Railway Agency (ERA). Together, these legislative acts make up the technical pillar of the fourth railway package. To conclude the procedure, they still need to be formally approved by the European Parliament at second reading.

For more information on the new systems, see our press release from June 2015:

[New approval systems for rail interoperability and safety: Coreper gives its go-ahead](#)

[Council position at first reading on railway safety](#)

[Council position at first reading on railway interoperability](#)

[Council position at first reading on the ERA](#)

[Railway safety: Council's reasons](#)

[Railway interoperability: Council's reasons](#)

[ERA: Council's reasons](#)

[Railway safety: Commission statement](#)

[Railway safety: Commission statement](#)

[Railway interoperability: Commission statement](#)

[ERA: statements](#)

Carriage of hazardous and noxious substances by sea

The Council agreed in principle on two draft Council decisions authorising member states to ratify and accede to the protocol of 2010 to the international convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea, 1996 ('1996 HNS convention').

The aim of the protocol is to make it possible for compensation to be paid to victims of accidents involving hazardous and noxious substances such as chemicals.

The protocol replaces the 1996 HNS convention, which never came into force because it was not ratified by a sufficient number of states. As parts of the protocol fall under the EU's exclusive competence in the area of maritime transport, member states need to be authorised to ratify or accede to it.

In addition, the protocol contains provisions that affect EU secondary legislation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. Those matters are covered by a separate Council decision.

The two draft decisions will now be sent to the European Parliament for its consent.

[Council decision authorising member states to ratify and accede to the Protocol of 2010 with the exception of aspects related to judicial cooperation in civil matters](#)

[Council decision authorising member states to ratify and accede to the Protocol of 2010 with regard to aspects related to judicial cooperation in civil matters](#)

[Statement by the United Kingdom delegation](#)

[Statement by the Commission](#)

FOREIGN AFFAIRS**World Humanitarian Summit preparatory process**

The Council adopted the following conclusions:

- "1. The World Humanitarian Summit (WHS) convened by the UN Secretary General in Istanbul in May 2016 presents a historic opportunity to build a global partnership among a wide range of actors within and beyond the existing humanitarian system so as to prevent and end human suffering, address the root causes of crises and make sure no one is left behind. The Summit should commit to mobilising all instruments – in particular humanitarian, developmental as well as diplomatic – to reduce vulnerability and fragility, resolve conflicts and build resilience in communities. The Summit marks a decisive moment to ensure that humanitarian action – based on the humanitarian principles of humanity, impartiality, neutrality and independence – delivers more effectively and ensures a sustainable future for the millions of people affected by conflicts as well as by natural and man-made disasters.

2. The Council welcomes the inclusive WHS consultation process and takes note of the contributions made by a wide range of humanitarian and other actors. The Council welcomes the Commission Communication "Towards the World Humanitarian Summit: A global partnership for principled and effective humanitarian action", which sets out key recommendations for action. The Council looks forward to the European Parliament's report "Preparing for the World Humanitarian Summit: Challenges and opportunities for humanitarian assistance" as a valuable contribution ahead of the Istanbul Summit.

3. The Council calls on all actors to set aside other interests and enable substantial change to make the humanitarian system more inclusive and one of true partnership that includes the people affected by crises. The Summit should produce practicable outcomes and specific commitments made by all relevant actors, in particular as regards:
 - safeguarding humanitarian access and respect for International Humanitarian Law (IHL). Impunity for IHL violations can no longer be tolerated. In the spirit of Solferino, the Summit should lead to a collective commitment by the international community to put respect for IHL at the top of the international agenda.

- driving significant reform. Humanitarian assistance should become more efficient and effective. This requires improvements on the part of all actors who contribute to humanitarian efforts – including donors and implementing organisations – in order to achieve greater coordination and transparency. Humanitarian assistance should demonstrate increased accountability towards the people it aims to serve, and take into account local capacities and innovative instruments. The impact of a growing number of crises, in particular those resulting in the protracted and forced displacement of people, requires strengthened coherence between humanitarian and development financing and programming. This should not jeopardise the unique, neutral, independent and impartial nature of humanitarian work.

In this regard the Council welcomes USG/ERC O'Brien's statement of 24 November 2015 on the preparation of the WHS and looks forward to the Secretary-General's report and the recommendations by the High-Level Panel on Humanitarian Financing.

4. The EU and its Member States are committed to helping to make the Summit a success. All actors should remain fully engaged in the preparatory process and be present in Istanbul at the highest level possible. The EU and its Member States stand ready to play their part – at humanitarian, developmental and diplomatic levels – to develop a compelling vision for transformative change and specific initiatives to deliver that change."

EU-Moldova Association Council - EU position on enforcement of the title V

The Council adopted the EU position on enforcement and application of title V (trade and trade-related matters) of the association agreement between the EU, the European Atomic Energy Community and Moldova. The EU position within the EU-Moldova Association Council states that title V is to apply to the entire territory of Moldova from 1 January 2016.

Promotion of effective arms export controls

The Council adopted a decision on the promotion of effective arms export controls. The Council identified two objectives: to promote effective controls on arms exports by non-EU countries and to support non-EU countries' efforts to make trade in conventional weapons more responsible and transparent. The Council proposed a number of project activities to pursue these objectives, including assisting non-EU countries in drafting and implementing relevant legislative and administrative measures, promoting transparency and responsibility in the international arms trade, and assisting beneficiary countries in the training of licensing and enforcement officers. The financial reference amount for the implementation of the project activities is to be EUR 999 000.

COMMON SECURITY AND DEFENCE POLICY

Budget of European Security and Defence College

The Council decided that the financial reference amount for the European Security and Defence College from 1 January 2016 to 31 December 2016 is to be EUR 630 000.

ECONOMIC AND FINANCIAL AFFAIRS

Value added tax

The Council adopted decisions concerning directive 2006/112/EC on the common system of value added tax:

- authorising Germany and Austria respectively to continue to apply a measure derogating from Articles 168 and 168a ([14326/15](#))
- authorising Latvia to introduce a measure derogating from point (a) of Article 26(1) and Articles 168 and 168a ([14328/15](#))
- authorising Belgium to introduce a special measure derogating from Article 285 ([14329/15](#))
- authorising Hungary to apply a measure derogating from Article 193 ([14330/15](#))
- authorising Lithuania to extend the application of a measure derogating from Article 193 ([14331/15](#))
- authorising Latvia to extend the application of a measure derogating from Article 193 ([14332/1/15 REV 1](#)).

JUSTICE AND HOME AFFAIRS

Hague convention on the civil aspects of international child abduction

The Council adopted several decisions authorising certain member states, in the interest of the European Union, to accept the accession of Seychelles ([12103/15](#)), the Russian Federation ([12104/15](#)), Albania ([12105/15](#)), Morocco ([12106/15](#)) and Armenia ([12107/15](#)) to the 1980 Hague convention on the civil aspects of international child abduction.

AGRICULTURE

Financial instruments in rural development - Report from the European Court of Auditors

The Council adopted the following conclusions on the special report from the European Court of Auditors entitled "Are financial instruments a successful and promising tool in the rural development area?":

"THE COUNCIL OF THE EUROPEAN UNION

- (1) WELCOMES Special Report No 05/2015 from the European Court of Auditors entitled: "Are financial instruments a successful and promising tool in the rural development area?"
- (2) NOTES that financial instruments (FIs) are the delivery mode of support from rural development programmes (RDPs) to final recipients with the possible advantageous effects of revolving and leverage;
- (3) EMPHASISES that farming in the EU has different dimensions and is country-, region- and/or sub-sector-specific and UNDERLINES that all FIs supported by the EAFRD in 2007-13 were set up in the context of the financial and economic crisis during which access to credit was burdened and liquidity problems were evident throughout the EU;
- (4) NOTES that FIs were implemented in seven Member States in the 2007-13 programming period whereas only two Member States used them in the 2000-06 programming period;
- (5) REMINDS that the setting up of FIs under the EAFRD implied a whole new concept, which required a learning process, and ANTICIPATES a further increased use of FIs under the 2014-20 programming period;
- (6) IS CONFIDENT that the concerns raised by the Court, such as the apparent lack of incentives and encouragement to set up and use FIs by Member States and beneficiaries, the risk of overcapitalisation, the need to set appropriate targets for leverage and revolving effects as well as the need to enhance the monitoring of, and reporting on, FIs, are sufficiently addressed in the legal framework for the 2014-20 programming period;
- (7) ASKS the Commission to consider the Court's recommendation that, in order to increase the effectiveness of the financial instruments, appropriate standards and targets for leverage and revolving effects should be set;

- (8) ACKNOWLEDGES that the setting up of FIs, their implementation and the evaluation of the demand lie within the responsibility of the Member States;
- (9) WELCOMES the various initiatives taken to provide further guidance in regard of the further implementation of FIs in the 2014-20 programming period, such as:
- the technical assistance platform '*fi-compass*', which provides methodological guidance and awareness raising support to the Commission, Member States and stakeholders in the field of FIs supported by the ESI funds;
 - the standard models for loan and guarantee funds in rural development provided by the Commission;
 - the specific FI scheme to Member States the EIB is expected to offer under the Commission-EIB Memorandum of Understanding in respect of agriculture and rural development and which will be implemented under the EAFRD;
 - the Commission's 2015 guidelines on closure of the 2007-13 rural development programmes;
- (10) HIGHLIGHTS the improvements introduced in the 2014-20 legal framework, which should allow for the successful implementation of FIs in the rural development area, and ENCOURAGES the Member States and the Commission to assess the performance of FIs in the context of the *ex post* evaluations of rural development covering the period 2007-13, which the Commission intends to synthesize by 2017."

Technical assistance for agriculture - Report from the European Court of Auditors

The Council adopted the following conclusions on the special report from the European Court of Auditors entitled "Technical assistance: what contribution has it made to agriculture and rural development?":

"THE COUNCIL OF THE EUROPEAN UNION

- (1) WELCOMES Special Report No 04/2015 from the European Court of Auditors entitled: "Technical assistance: what contribution has it made to agriculture and rural development?", which focusses on the management of technical assistance (TA) and its contribution to the core agriculture and rural development policy objectives during the 2007-13 programming period;

- (2) ACKNOWLEDGES that TA in support of rural development programmes relates to the provision of specific expertise to, and funding of, government departments so as to develop administrative capacity and cover the costs associated therewith and NOTES that TA contributes to the implementation, monitoring, control and evaluation of Rural Development Programmes (RDPs);
- (3) UNDERLINES that the legislator decided to grant flexibility to Member States in the use of TA funds in order to cope with the large variety of needs encountered by national and regional authorities;¹
- (4) UNDERLINES that, in accordance with the legislation in force, administrative costs, including payroll and IT development and maintenance, are eligible TA expenditure if resources paid thereof are directly linked to the implementation of RDPs;
- (5) ACCEPTS the Court's recommendation that, in order to improve transparency about the ways funding is used, the distinction between operational/'capacity building' expenditure and eligible administrative/'budget support' costs could be clarified further and WELCOMES the Commission's intention to develop further guidance in this regard;
- (6) NOTES the Court's finding that the financing of networking activities could offer potential for appropriate TA use in the rural development budget but simultaneously notes that their impact is also hard to assess;
- (7) ENCOURAGES Member States to use adequate indicators for the monitoring of TA expenditure but UNDERLINES that this should not lead to any additional costs or administrative burden."

FOOD LAW

Food flavourings - Maximum levels of tropane alkaloids

The Council decided not to oppose the adoption of the following three Commission regulations:

- a regulation removing four substances (vetiverol, vetiveryl acetate, 2-acetyl-1,4,5,6-tetrahydropyridin and 2-propionyl pyrrolin 1% vegetable oil triglycerides) from the EU list of flavourings approved for use in and on foods ([13611/15](#))

¹ See Article 5 of Regulation (EC) No 1290/2005 for the 2007-13 programming period and Article 59 of Regulation No 1303/2013 for the 2014-20 programming period.

- a regulation listing five substances as evaluated substances rather than substances under evaluation in the EU list of flavourings and source materials approved for use in food ([13655/15](#))
- a regulation setting maximum levels of tropane alkaloids in certain cereal-based foods for infants and young children ([13789/15](#))

The Commission regulations are subject to what is known as the regulatory procedure with scrutiny. This means that now that the Council has given its consent, the Commission may adopt them, unless the European Parliament objects.
