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Internal market and industrial policy issues

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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

Competitiveness check-up: helping SMEs scale up and create jobs

Under the "competitiveness check-up" ministers exchanged views on how to best support SMEs and start-ups in creating jobs and scaling up.

The debate took place on the basis of a presentation by the Commission showing comparative data on start-ups and aspects linked to the scaling-up of start-ups.

Some delegations hailed the fact that, after years of downsizing, European SMEs are expanding and have started hiring again, as showed in the Commission's 2014/2015 [annual report for European SMEs](#).

The majority of delegations outlined a number of key areas where EU policies can help firms to scale up, including:

- to facilitate access to finance
- to stimulate cross-border activities by further developing the internal market
- to apply better regulation principles in order to design a future-proof regulatory environment.

However, ministers acknowledged that there is a great deal of heterogeneity in SME employment creation across member states and sectors of economic activity.

The SME envoys' network report from last year also confirmed that the SMEs which appear to be spearheading a recovery in SME job creation were primarily those providing services. According to the report¹, which was presented to the Council on 30 November, in general terms SMEs are emerging from the economic crisis slowly but steadily.

In 2014, their value-added increased by 3.3% (compared with 1.6% in 2013). Also, the number of SMEs increased to a total of 22.3 million, which is 3.6% more than in 2008.

For the first time in six years, employment in SMEs grew (by 1.2%).

¹ The [SME envoys network](#) was set up in 2011 to help improve the regulatory and policy environment for SMEs across Europe.

The positive trend in SME performance reflects the improvement in macroeconomic and business conditions. However, emergence from the crisis occurs at different speeds.

The vast majority of member states saw their SMEs expanding their business in 2014. But in those countries most affected by the crisis the SME revival has not yet set in.

The competitiveness check-up exercise established a new and regular working method aimed at improving the role of the Competitiveness Council as regards the analysis of horizontal and sectoral economic issues as well as the monitoring of competitiveness mainstreaming. It was launched last year.

In practice, it is based on a presentation by the Commission of the latest figures and trends related to micro-economic issues, with ministers being invited to provide input on implications in the real economy for EU companies and citizens.

Single market strategy for goods and services

Following a debate on the new [single market strategy](#) for goods and services, the Council adopted [conclusions](#).

The conclusions focus on three key areas of the strategy which are particularly crucial for creating growth and jobs:

1. support for SMEs, start-ups and innovative businesses
2. improvement of services markets
3. efficient implementation, compliance and enforcement of existing rules

The debate concentrated on preparations for a new legislative initiative aimed at introducing a services passport in the internal market.

The Commission announced the launch of this initiative, which is contained in the single market strategy for goods and services, before the end of 2016, after a public consultation and an impact assessment have been carried out.

It would consist of a harmonised notification form and an electronic document repository to reduce barriers and increase certainty for service providers who want to access other EU markets in order to expand their activities.

Under this initiative, the services passport would enable service providers to notify to host countries the information required under that country's legislation for them to be able to provide services across borders in that country.

The authorities of the home member state would issue the services passport to help providers of services demonstrate that they satisfy the requirements in the member state where they want to provide their services.

Thus, the services passport would eliminate the need for multiple requests for information and documentation and would ease compliance with existing ex-ante notification and control requirements.

The Council welcomed the concept of a services passport for service providers who want to access other EU markets provided that it makes it significantly easier for them to operate across borders.

Ministers stressed that the passport should:

- build on existing structures and instruments
- have a voluntary nature for service providers
- use electronic means to the widest extent possible
- not lead to additional administrative burdens for public administrations.

More information on the single market at:

<http://www.consilium.europa.eu/en/policies/deeper-single-market/>

European Semester: barriers to growth and investment in the services sector

During the working lunch, ministers had an informal exchange of views, together with the Commission, on the implementation of country-specific recommendations aiming to tackle barriers to growth and investment in the services sector.

The outcome of the debate will feed into a report that will be forwarded to the spring economic meeting of the European Council on 17-19 March.

The debate is a part of a broader exercise in which various Council formations are discussing the implementation of country-specific recommendations in the context of the European Semester, focusing on the parts relevant to each formation. The [2016 European Semester](#)¹ will conclude in July with the adoption of country-specific recommendations.

The debate took place on the basis of a presidency [reflection paper](#).

Despite the great value of recommendations arising through the European Semester process, ministers acknowledged that national implementation has so far been uneven and limited in the different EU countries.

They supported the call made in the [single market strategy](#) for a stronger focus on the national implementation of recommendations, particularly in the services sector.

In spite of the benefits that the single market brings to companies and consumers, too many significant economic barriers remain, notably in the area of services. Country specific recommendations were considered as an important tool, in this respect, to address deficiencies and barriers in a targeted and solution-oriented way.

Some delegations stressed that there is sufficient evidence that further reforms and modernisation in the services sector can significantly contribute to future economic growth and employment².

In the course of the debate, ministers also shared their national experiences with the implementation of country-specific recommendations and heard about challenges and obstacles which have been encountered, but also about good practices and successful cases of reforms carried out by implementing the recommendations.

¹ The European Semester cycle starts in November with the publication of the Commission's Annual Growth Survey, which sets out general economic and social priorities for the EU and provides member states with policy guidance for the following year.

² See presidency discussion paper "[Single Market for Services](#)" published on 27/1/2016.

Steel industry

Ministers discussed, together with the Commission, the global competitiveness of European industry, focussing on energy-intensive industries. They paid particular attention to the difficult situation of the steel sector.

Discussions were based on a [background document](#) of the presidency and the Commission outlining the state of play and considering concrete actions to deal with the current challenges faced by the European steel sector and other ailing energy-intensive industries.

This document also summarises the outcome of a high-level conference on energy-intensive industries held on 15 February 2016.

At the end of the debate, the presidency drew the following conclusions:

[Presidency conclusions on the European Steel Industry](#)

Circular economy action plan

Ministers exchanged views on the [circular economy](#) strategy, in particular on the priorities of the action plan that was presented by the Commission on 2 December 2015.

The outcome of the debate will feed into preparations for Council conclusions that are scheduled to be adopted by the Environment Council in June.

On the basis of a presidency [reflection paper](#), ministers expressed views on the priorities that will contribute to unlocking the potential of the circular economy for job creation and economic growth. They made also contributions on the challenges of the new strategy that should be most urgently addressed and how the action plan should be implemented.

Ministers welcomed the objectives of the action plan with a view to leading the transition towards a resource-efficient economy with huge potential benefits for businesses, consumers and sustainable environmental protection.

Delegations acknowledged the many opportunities arising from the circular economy, such as job creation and new markets, whilst highlighting the need not to lose sight of possible adaptation difficulties for businesses, especially for SMEs.

A majority of those who spoke highlighted the need for the action plan to foster innovation, leave room for new business models and take into account the different stages in the transition to the circular economy among member states. Attention must be given to raising awareness amongst consumers and producers alike.

Many delegations took the view that the proposed actions within this package must undergo a thorough impact analysis on the competitiveness of companies and industries, so as to ensure that they are cost-effective and do not entail excessive regulatory burdens. Furthermore, actions should be implemented in such a way as to create or maintain a level-playing field between European enterprises and their competitors on world markets.

They also stressed that there must be continued efforts towards the implementation of a forward-looking circular economy which goes beyond those actions that can be implemented in the short and medium term.

Public procurement policy was mentioned as a potentially important instrument for fostering a circular economy.

Finally, some speakers stressed the need for country-specific or sector-specific implementation, for example regarding the rules on waste policy.

The debate took place within the framework of “competitiveness mainstreaming”, which allows ministers for competitiveness to discuss legislative packages that are not directly under the remit of the Competitiveness Council but may have an impact in the real economy. The Environment Council, which is primarily responsible for the circular economy action plan, will discuss it on 4 March.

The transition towards a circular economy - as opposed to a linear economic model - represents a major and ambitious systemic change. It seeks to simultaneously increase the competitiveness of the economy and better protect the environment.

To this end, the action plan on circular economy sets out measures to improve the sustainability of resources throughout the lifecycle of a product. Businesses and consumers will be key players in driving this process forward.

In a circular economy the value of products and materials is maintained for as long as possible, waste and resource use are minimised, and when a product reaches the end of its life its resources are kept within the economy, to be recycled and to create further value.

The plan contains a [roadmap](#) of new initiatives which includes a review of current EU legislation on waste, as well as targeted actions aimed at removing barriers in specific sectors or material streams such as plastics, food waste, raw materials, construction materials and bio-based products. Moreover, it includes projects to support innovation and investment.

Any other business

– Portability of digital content

In a public session, the Council took note of information from the Commission on a new proposal aimed at ensuring the cross-border portability of online content services in the internal market.

The [proposal](#) was submitted to the Council and the European Parliament in December 2015. It is among the first initiatives of the [digital single market strategy](#) put forward with the objective of creating an internal market for digital content and services.

Several delegations expressed support for the objectives of the proposal.

– Unified patent system

The Council took note of a [report](#) on the progress made towards setting up the unified patent protection system and the situation concerning ratification of the Unified Patent Court agreement.

– Patentability of plant material

The Netherlands presidency drew attention to concerns raised, inter alia within the Agriculture Council as well as the European Parliament, by recent decisions of the European Patent Office on the patentability of plant material obtained through conventional breeding methods, and the impact of these decisions on the so-called "breeder's exemption" ([6030/16](#)).

The breeder's exemption of the Community plant variety rights system enables breeders to use any plant variety, whether protected by a Community plant variety right or not, for the creation of new plant varieties.

The presidency also announced its intention to organise, in cooperation with the Commission, a symposium on 18 May 2016 to discuss the balance between patents and plant breeders' rights and explore possible ways forward.

– EU-US privacy shield agreement

The Commission briefed the Council on the "privacy shield" agreement recently reached with the United States on establishing a new framework for transatlantic data flows. This agreement will replace the safe harbour arrangement which was declared invalid by the Court of Justice on 6 October 2015.

See also Commission [press release](#).

OTHER ITEMS APPROVED

INTERNAL MARKET

Update of the list of defence-related products

The Council decided not to oppose the adoption by the Commission of a directive updating the [list of defence-related products](#) contained in directive 2009/43/EC.

Directive 2009/43/EC simplifying terms and conditions of transfers of defence-related products within the EU provides that the Commission must update the list of defence-related products, so that it corresponds to the EU's common military list, which was last updated in February 2015.

[Directive 2009/43/EC](#) seeks to contribute to the development of a single market for defence products, thereby reinforcing the competitiveness of Europe's defence industry.

The draft directive is subject to the regulatory procedure with scrutiny. This means that now that the Council has given its consent the Commission may adopt it unless the European Parliament objects.

JUSTICE AND HOME AFFAIRS

Schengen Borders Code - codification

The Council adopted the codification of the Regulation on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) ([PE-CONS 36/15](#)).

Codification is the process of bringing together a legislative act and all its amendments in a single new act. The new act passes through the full legislative process and replaces the acts being codified.

After being signed by the President of the European Parliament and the President of the Council, the legislative act will be published in the Official Journal of the European Union.

Schengen Evaluation - Belgium

The Council adopted three implementing decisions setting out recommendations on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of police cooperation (6197/16), the Schengen Information System (6200/16) and the management of the external border (6205/16) by Belgium.

Schengen Evaluation - France and Germany

The Council adopted an implementing decision setting out a recommendation on addressing the deficiencies identified in the 2015 evaluation of the application of the Schengen acquis in the field of absence of border control at the internal border between Germany and France (6210/16).

DEVELOPMENT

ACP-EU Committee - derogation

The Council approved the EU's position within the ACP-EU committee of ambassadors as supporting a derogation to the financial regulation of the Centre for the Development of the Enterprise.

ECONOMIC AND FINANCIAL AFFAIRS

Market abuse

The Council decided not to object to a Commission regulation supplementing regulation 596/14 on market abuse as regards:

- an exemption for certain third country public bodies and central banks;
- indicators of market manipulation;
- disclosure thresholds;
- the competent authority for notification of delays;
- permission for trading during closed periods;
- types of notifiable managers' transactions ([6238/16](#) + [15498/15](#) + ADD 1).

The regulation is a delegated act pursuant to article 290 of the Treaty on the Functioning of the European Union. It can now enter into force, unless the European Parliament objects.

Bank resolution

The Council decided not to object to a Commission regulation supplementing regulation 806/2014 on the EU's single resolution mechanism and single resolution fund for banks, as regards:

- criteria for the calculation of ex-ante contributions to the fund;
- the circumstances and conditions under which the payment of extraordinary ex-post contributions to the fund may be partially or entirely deferred ([6495/16](#) + [15516/15](#) + ADD 1).

The regulation is a delegated act pursuant to article 290 of the Treaty on the Functioning of the European Union. It can now enter into force, unless the European Parliament objects.

TRADE POLICY

Georgia - Republic of Moldova – Anti-circumvention and safeguards

The Council adopted regulations implementing:

- an anti-circumvention mechanism provided for in the EU-Georgia association agreement ([6156/16](#) + [PE-CONS 74/15](#));
- a safeguard clause and an anti-circumvention mechanism provided for in the EU's association agreement with the Republic of Moldova ([6155/16](#) + [PE-CONS 73/15](#)).

TRANSPORT

Train drivers' language requirements

The Council decided not to oppose the adoption by the Commission of a directive amending directive 2007/59 on the certification of train drivers operating on the Community railway system. The amended provisions relate to train drivers' language requirements.

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

[Draft Commission directive amending directive 2007/59](#)

[Annex to the draft Commission directive amending directive 2007/59](#)

TELECOMMUNICATIONS

Network and information security

The Council adopted a political agreement on new rules to strengthen cybersecurity across the EU. The network and information security (NIS) directive will increase cooperation between member states and lay down security obligations for operators of essential services and digital service providers.

An informal agreement on the proposal was reached with the Parliament on 7 December 2015. The deal was confirmed by the Permanent Representatives Committee on 18 December.

The text will now undergo legal-linguistic revision. After that, the Council is due to adopt its position at first reading, paving the way for final approval by the European Parliament at second reading.

[Draft directive on network and information security](#) (text of political agreement)

[EU steps up cybersecurity: member states approve agreement](#) (press release, December 2015).

CUSTOMS UNION

Customs Information System

The Council decided not to object to a [Commission regulation](#) determining those operations in connection with the application of agricultural regulations which require the introduction of information into the Customs Information System (CIS).

The CIS was established by regulation [515/97](#) as an automated information system to meet the requirements of the administrative authorities responsible for applying the legislation on customs or agricultural matters, as well as those of the Commission.

The aim of the CIS is to assist in preventing, investigating and prosecuting operations which are in breach of customs or agricultural legislation by making information available more rapidly and thereby increasing the effectiveness of the cooperation and control procedures of the member states and the Commission.

The regulation is a delegated act pursuant to article 290 of the Treaty on the Functioning of the European Union. It can now enter into force, unless the European Parliament objects.

GENERAL AFFAIRS

New member of the article 255 panel

The Council adopted a decision appointing Mr. Mirosław Wyrzykowski as a member of the panel provided for in article 255 of the Treaty on the Functioning of the EU for a period ending on 28 February 2018.

The article 255 panel's task is to give an opinion on candidates' suitability to perform the duties of judge and advocate-general of the Court of Justice and the General Court before the appointment decisions are taken. Mr Wyrzykowski replaces Mr Péter Paczolay who resigned.

Emoluments of EU high-level public office holders

The Council adopted a regulation determining the system of emoluments of EU high-level public office holders ([5444/16](#) + [6034/1/16 REV 1](#)).

The new regulation aims to reflect the changes introduced to the staff regulations for EU officials in 2013. It reduces in particular the benefits in the field of pensions (by increasing the pensionable age and reducing annual accrual rates), limits the period of payment of the transitional allowance to a maximum of two years and introduces a ceiling for the reimbursement of removal costs. The amendments are expected to generate for the EU budget in the long-term savings of €5.4 million per year.

EU high-level public office holders include notably the President and members of the Commission, including the High Representative of the EU for Foreign Affairs and Security Policy, the President of the European Council, the President, judges and advocates-general of the Court of Justice of the European Union and the President and members of the Court of Auditors.

The new regulation replaces the current rules spread over two regulations and three decisions.

