Council of the
European Union

EN

9342/16
(OR. en)

PRESSE 28
PR CO 27

OUTCOME OF THE COUNCIL MEETING

3468th Council meeting

Economic and Financial Affairs

Brussels, 25 May 2016

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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.
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- 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

CORPORATE TAX AVOIDANCE – ANTI-AVOIDANCE RULES

The Council held a debate on elements of a draft directive addressing some of the tax avoidance practices that can lead to unfair competition between companies.

The discussion covered key issues, such as the intra-EU application of controlled foreign company rules, the inclusion of a 'switchover' clause, hybrid mismatches between national tax systems, and an interest limitation rule. The Council assessed possible ways forward on these issues, with a view to reaching an agreement at its meeting on 17 June 2016.

The directive is part of a package of proposals aimed at preventing corporate tax avoidance issued by the Commission in January 2016. The package implements and builds on recommendations approved by the OECD in autumn 2015 to address corporate tax base erosion and profit shifting (BEPS).

The proposal addresses situations in which corporate groups take advantage of disparities between national tax systems. It lays down anti-tax-avoidance rules in 6 specific anti-BEPS fields:

– interest limitation rules, to discourage the transfer of interest to low-tax jurisdictions;

– exit taxation rules, to prevent tax base erosion when assets are transferred to a low-tax jurisdictions;

– switchover clause, on taxation and tax credits where taxes are paid outside the EU;

– general anti-abuse rule, to close off abusive tax arrangements not covered by specific anti-abuse rules;

– controlled foreign company rules, which reattribute the income of low-taxed foreign subsidiaries to parent companies;

– rules on hybrid mismatches between national tax systems.

Anti tax avoidance proposals by the European Commission

BANKING UNION

The Council took stock of the progress made on the EU's banking union:

- the Commission provided a brief update on implementation of the banking union;
- the presidency informed ministers of its intentions regarding the strengthening of banking union.

The banking union was established to ensure banking industry is sufficiently resilient and that non-viable banks are resolved without using taxpayers' money. Launched in 2012 in response to the eurozone crisis, it has involved the transfer of responsibility from the national to the EU level. At present it comprises the 19 countries of the euro area, with 7 other member states having 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.

Strengthening

An ad hoc working group was established in January 2016 to examine all issues related to the strengthening of the banking union. The group is currently examining:

- a proposed third "pillar", involving a European deposit insurance scheme;
- measures outlined in a communication from the Commission, aimed at reducing risks in the banking sector.

The Council is expected to return to these issues at its meeting on 17 June 2016.

Implementation

Regarding implementation, the Council has regularly reviewed the situation since mid-2015.

As of 11 May 2016:

- 20 member states, including all 19 current members of the banking union, had ratified an intergovernmental agreement (IGA) on the single resolution fund (SRF);
- the transfer to the SRF of contributions raised in 2015 under a directive on bank recovery and resolution was almost complete;
- 8 of the 19 banking union member states had signed a loan facility agreement on bridge financing for the SRF.

As concerns the regulatory framework, on 11 May 2016:

- 25 of the 28 member states had fully transposed the directive on bank recovery and resolution, whilst the three others had partially transposed it;
- 25 of the 28 member states had fully transposed a directive on deposit guarantee schemes (DGSs), and two others had partially transposed it.

On 1 January 2016, the SRM became operational and the SRF, a component of the SRM, entered into force. National resolution funds in the participating countries will gradually merge part of their funds into the SRF. The IGA contains provisions on the transfer of contributions to the SRF and the mutualisation of those contributions over an 8-year period.

Banking union member states were due to have transferred contributions collected from their banks in 2015 to the SRF by 31 January 2016. They are also required to conclude loan facility agreements with the single resolution board, providing national credit lines for SRF bridge financing.

The bank recovery and resolution directive identifies the powers and instruments at the disposal of national authorities to resolve failing banks. It sets out to preserve essential bank operations and minimise taxpayers' exposure to losses in the event of a bank being resolved.

The directive on DGSs sets out requirements for supervision and for regular stress tests of DGSs. All banks are required to join a DGS to ensure that deposits of up to €100 000 are protected. Transposition of the directive is important in view of discussions on the European deposit insurance scheme.

The Council will continue to monitor progress on implementation.

Banking union

VAT ACTION PLAN

The Council discussed the Commission's VAT action plan, "Towards a single EU VAT area – Time to decide".

It adopted conclusions concerning:

– the Commission's action plan;

– a special report by the Court of Auditors, "Tackling intra-Community VAT fraud: more action needed".

The conclusions emphasise the importance of administrative cooperation in preventing VAT fraud, in particular the automatic exchange of information. They welcome plans to reduce VAT compliance burdens for businesses, particularly for SMEs, and highlight the need to simplify cross-border e-commerce. The conclusions welcome the Commission's intention to propose increased flexibility on VAT rates, whilst noting the need for the VAT system to maintain a sufficient level of harmonisation. They also contain a commitment by the Council to provide further political guidance to the Commission with a view to taking further steps towards a definitive EU VAT system.

The action plan, issued on 7 April 2016, sets out the Commission's ideas for making the EU's VAT system simpler, more fraud-proof and more business-friendly. The Commission sees an urgent need to update VAT rules so that they can better support the single market, facilitate cross-border trade and keep pace with today's digital and increasingly mobile economy.

The "VAT gap", which is the difference between expected VAT revenue and VAT actually collected in the member states, amounted to €170 billion in 2013. Cross-border fraud is responsible for around €50 billion of that figure, according to Commission estimates. At the same time, certain aspects of the current VAT system create an administrative burden for some microenterprises and SMEs, particularly those engaged in e-commerce activities.

The Court of Auditors' report, issued on 3 March 2016, contains a series of recommendations to the Commission, the Council and the European Parliament, as well as the member states.

VAT action plan, "Towards a single EU VAT area"
Special report no 24/2015: "Tackling intra-Community VAT fraud: More action needed"

ECONOMIC GOVERNANCE

– **Macroeconomic imbalances: In-depth reviews**

– **Implementation of economic policy guidance**

The Council discussed:

– in-depth reviews by the Commission of macroeconomic imbalances in 19 member states;

– implementation of its 2015 country-specific recommendations on economic and fiscal policies under the “European Semester”, the EU's annual policy monitoring process.

It adopted the following conclusions:

"The Council (ECOFIN):

1. WELCOMES the publication of the Commission's country reports analysing the economic policies for each of the Member States, including the in-depth reviews (IDRs) in the context of the Macroeconomic Imbalances Procedure (MIP), as well as the accompanying Communication summarising the main results of the IDRs.

I - IN-DEPTH REVIEWS

2. CONSIDERS that the IDRs are well structured as a key part within the country reports and NOTES the importance of presenting a thorough analysis of the imbalances in each of the Member States under review as the basis for multilateral surveillance, enhanced domestic ownership of reforms and effective policy adjustment. RECOGNISES that the analysis covers possible spillover effects to other countries and the euro area where relevant, differentiates between the adjustments driven by cyclical factors and those resulting from structural changes, and takes country-specific circumstances into account. Relevant analytical tools are also applied in view of the specific challenges of each economy and complemented by qualitative analysis where needed.

3. WELCOMES the Commission's effort to improve the transparency of the MIP, including streamlining and stabilisation of the categories of macroeconomic imbalances, the publication of a compendium bringing together relevant information on the implementation of the MIP, and the inclusion of new summary tables in the IDRs (MIP assessment matrices). NOTES Commission's plans with regard to specific monitoring of recommendations by the Council to all Member States concerned by imbalances and excessive imbalances, to ensure enhanced surveillance of the policy response to the imbalances identified. INVITES the Commission to outline a proposal for the concrete timing and content of this monitoring, including plans to differentiate with respect to the severity of imbalances, as well as the articulation with other surveillance procedures, notably post programme surveillance for countries concerned to avoid duplication and in line with established practice. EMPHASISES the importance of efficiency, transparency and predictability in assessing macroeconomic imbalances in the MIP. In light of this, UNDERLINES the importance of presenting both the country analysis and the conclusions on the assessment of imbalances together in line with the European Semester Roadmap.

4. AGREES that 13 of the examined Member States (Bulgaria, Germany, Ireland, Spain, France, Croatia, Italy, Cyprus, the Netherlands, Portugal, Slovenia, Finland and Sweden) are experiencing macroeconomic imbalances of various nature and magnitude.

5. AGREES with the view of the Commission that excessive imbalances exist in 6 Member States (Bulgaria, France, Croatia, Italy, Cyprus, and Portugal). The Council will carefully assess the Commission's further review for Croatia and Portugal presented in late May, which should take into account the policy measures outlined in their National Reform Programmes to assess whether further steps are needed. UNDERLINES that the MIP procedure should be used to its full potential, with the corrective arm applied where appropriate.

6. AGREES that 6 of the examined Member States (Belgium, Estonia, Hungary, Austria, Romania and the UK) do not experience macroeconomic imbalances in the sense of the MIP.

7. UNDERLINES the continued need for policy action and strong commitment to structural reforms in all Member States, in particular when they face macroeconomic imbalances affecting the smooth functioning of EMU. Imbalances should be addressed in a durable manner focusing on key challenges, reducing risks, facilitating the rebalancing of the EU economies and creating conditions for sustainable growth and jobs.

8. RECOGNISES the continued progress achieved by Member States in correcting their external and internal imbalances, thus contributing to the rebalancing in the EU and within the euro area. However, UNDERLINES that there are still sizeable risks in certain Member States. While current account deficitis of the pre-crisis period have been considerably reduced or have moved to surplus, large stocks of external liabilities remain a vulnerability in some net debtor countries. ACKNOWLEDGES that cost competitiveness has generally improved in countries that exhibited large external deficits, with more limited evidence pointing to improvements in non-cost competitiveness. At the same time, elevated current account surpluses in some Member States with relatively low deleveraging needs persist and could under some circumstances indicate large savings and investment imbalances deserving progress on policy actions.

9. UNDERLINES that high levels of private and government debt remain an important challenge in a number of Member States in the context of low inflation and growth rates. Despite notable progress, further structural reforms are needed to enhance the growth potential and to tackle high unemployment, in particular among the youth and long-term unemployed.

II – IMPLEMENTATION OF COUNTRY SPECIFIC RECOMMENDATIONS (CSRs)

10. WELCOMES progress made in addressing the 2015 CSRs. The streamlined set of 2015 CSRs allowed for greater focus on tackling pressing challenges and persistent macroeconomic imbalances. TAKES NOTE that reform implementation has been uneven across policy areas and countries and that in only a few cases has substantial progress been made in addressing the CSRs. STRESSES that reform implementation needs to be stepped up to address the policy challenges outlined below and RECALLS the importance of a timely assessment of the implementation of CSRs in the Council prior to the proposal of new CSRs, in order to draw conclusions, increase national awareness and implement reforms effectively in each country.

11. STRESSES that further structural reforms to services, product and labour markets, alongside responsible, sound fiscal policies are needed to strengthen and sustain the economic recovery, correct harmful imbalances, achieve fiscal sustainability, improve the conditions for investment, and reinforce the single market, unleashing the growth potential of Member States' economies.

12. RECOGNISES the progress made by Member States in implementing CSRs in the areas of improving the business environment and in fighting against tax avoidance and improving its administration. Member states concerned should continue their efforts. STRESSES that more progress could be achieved in generating a business and employment friendly regulatory environment, increasing female labour force participation, cutting red tape, strengthening both administrative efficiency and regulatory quality, and reducing the number of restrictions in the service sector, particularly by making it significantly easier for service providers to operate across borders. Progress in addressing existing gaps and weaknesses in some national fiscal frameworks has been made but are still limited in some Member States, and efforts should focus on ensuring their effective functioning to support the conduct of responsible fiscal policies. National fiscal frameworks should be brought in line with EU requirements.

13. AGREES that there is an urgent need to improve investment conditions in order to attract increased private investment in the real economy and ensure high quality public investment and infrastructures. Reform progress has been slow in tackling problems regarding sector specific regulation and other impediments to investment and in reforming public administration, judicial systems, insolvency frameworks and the business environment, including access to finance. Despite some progress, barriers to investment persist in some key sectors in many Member States. This is particularly the case for services, network industries and construction.

14. WELCOMES progress in reforming labour markets, but notes that significant challenges and implementation gaps remain. There remains potential to broaden tax bases and reduce the tax burden on labour. The successful integration of migrants and refugees in some Member States requires particular attention. While progress has been made in bringing back to the labour market the unemployed, further structural reforms to support employment and active labour market policies are needed."

OTHER BUSINESS

– ***Financial services***

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

May 2016 secretariat note on progress on financial services legislative dossiers

MEETINGS IN THE MARGINS OF THE COUNCIL

- Eurogroup

The Eurogroup met on Tuesday 24 May 2016. It welcomed an agreement reached on the first review of Greece's current economic adjustment programme, as well as the positive results of the fifth review of post-programme surveillance for Spain. It also discussed the economic situation in the euro area, in the light of the Commission's spring 2016 economic forecast.

Eurogroup statement on Greece, 24 May 2016
Eurogroup main results

- EIB board of governors

Ministers met in their capacity as governors of the European Investment Bank for the annual EIB board of governors meeting.

- Ministerial breakfast

Ministers held a breakfast meeting to discuss the economic situation, in the light of the Commission's spring 2016 economic forecast. They also discussed the reengagement of European banks and businesses in Iran.

- Dialogue with the Western Balkans and Turkey

The presidency and the two subsequent presidencies met finance ministers from the Western Balkans and Turkey for an economic and financial dialogue over a working lunch. They issued joint conclusions.

2016 joint conclusions of the EU-Western Balkans and Turkey economic and financial dialogue

OTHER ITEMS APPROVED

ECONOMIC AND FINANCIAL AFFAIRS

Corporate tax avoidance - Exchange of tax information

The Council adopted a directive on the exchange of tax-related information on multinational companies, further to an agreement reached on 8 March 2016.

The directive implements at EU level a recommendation approved by the OECD in autumn 2015 to address corporate tax base erosion and profit shifting (BEPS). It will require multinationals to submit country-by-country reports on tax-related information and will oblige national tax authorities to exchange this information automatically.

The directive will ensure that the OECD anti-BEPS measures, which most member states have committed to implementing, are transposed in a coherent and coordinated manner.

Press release on May 2016 directive on tax-related information on multinationals
May 2016 directive on the exchange of tax-related information on multinationals
Anti tax avoidance proposals by the European Commission

Tax transparency - Third country aspects

The Council adopted conclusions on the third country aspects of a package of proposals aimed at preventing tax avoidance by large companies (8792/1/16 REV 1), issued by the Commission in January 2016.

The conclusions relate to two elements of the package:

– a communication on an external strategy for effective taxation;

– a recommendation on the implementation of OECD measures against tax treaty abuse.

The communication identifies measures which could help promote good governance in tax matters globally, tackle external tax base erosion threats and ensure a level playing field for businesses. It suggests that good tax governance should be better integrated into the EU's external relations policies. It includes proposals for inserting tax governance clauses in agreements with third countries and regions.

The recommendation covers bilateral tax treaties between individual member states, and between member states and third countries. It encourages them to include a general anti-tax-avoidance rule, and to make use of OECD model provisions.

In its conclusions, the Council agrees to establish an EU list of non-cooperative third country jurisdictions and to consider coordinated defensive measures. Work will begin in September 2016 with a view to endorsement in 2017. The conclusions also highlight the importance of assisting developing countries in meeting good tax governance standards.

May 2016 Council conclusions on an external taxation strategy and tax treaty abuse
Anti tax avoidance proposals by the European Commission

VAT minimum standard rate

The Council adopted a directive maintaining the minimum standard VAT rate at 15% until the end of 2017, pending discussions on definitive VAT rules.

The minimum standard rate is aimed at preventing excessive divergence between the VAT rates applied by member states, and the structural imbalances or distortions of competition that could arise as a result. A minimum standard rate of 15% was applied until 31 December 2015.

In view of on-going discussions on definitive rules for a single European VAT area, the directive extends the minimum standard rate for a period long enough to ensure legal certainty. It maintains the rate at 15% from 1 January 2016 until 31 December 2017.

Press release on 2016 draft directive maintaining the minimum standard VAT rate
2016 draft directive maintaining the minimum standard VAT rate

European Investment Bank - Belarus

The Council decided not to object to a Commission decision including Belarus in annex III to decision 466/2014/EU on European Investment Bank financing of operations outside the EU (8056/16 + COR 1 + 8712/16 + ADD 1).

Inclusion in the annex will make Belarus eligible for EIB financing, in line with EU policy towards Belarus and taking into account the overall economic, social, environmental and political context.

The decision 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.

Court of Auditors special report - EU supervision of credit rating agencies

The Council adopted the following conclusions.

"The Council:

1. WELCOMES Special Report No 22/2015 from the European Court of Auditors entitled: "EU supervision of Credit Rating Agencies - well established but not yet fully effective", which focuses on the activities of the European Securities and Markets Authority (ESMA) as regards the registration of Credit Rating Agencies (CRAs), monitoring their performance and supervision over them;

2. CONCURS WITH the Court's overall conclusion that ESMA has laid down good foundations for carrying out the supervision of the CRAs in the EU in a short period of time, NOTES however that in certain areas there is still need for improvement and, in this context, WELCOMES ESMA's intention to follow the Court's recommendations;

3. COMMENDS ESMA on shortening the average duration of the registration process of the CRAs;

4. CALLS on ESMA to implement, within its risks-based approach, the Court's recommendations set out in the Special Report, in particular as regards:

– examining certain aspects of the design and implementation of CRAs' methodologies, in order to promote a more consistent and objective approach by CRAs in reviewing their own methodologies, whilst having due regard to the principle of non-interference by ESMA as laid down in Article 23 of Regulation 1060/2009;

– considering developing additional guidance on disclosure requirements; and

– examining, as a priority, in a structured manner the systems put in place by the CRAs for dealing with conflicts of interest.

Furthermore, ESMA should also enhance its work documentation and traceability, as appropriate.

5. INVITES ESMA to report to the Council via the FSC by end-2016 on the implementation of these recommendations."

DEVELOPMENT COOPERATION

ACP products

The Council approved a recast of regulation 1528/2007 on arrangements for products from some African, Caribbean and Pacific (ACP) countries under economic partnership agreements (PE-CONS 6/16).

The recast has been drawn up in the interests of clarity, given that the regulation has been substantially amended several times.

JUSTICE

Psychoactive substances

The Council adopted a decision (8841/16) requesting that the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) conduct a risk assessment on the new psychoactive substance methyl 2-[[1-(cyclohexylmethyl)indole-3-carbonyl]amino]-3,3-dimethylbutanoate (MDMBCHMICA).

The assessment should cover the risks, including the health and social risks, related to the use, manufacture and traffic of this new psychoactive substance, as well as the involvement of organised crime and any possible consequences of control measures.

The risk assessment report must be submitted to the Commission and the Council within 12 weeks of the date of notification to the EMCDDA.

ENVIRONMENT

Environmental verifiers

The Council decided not to oppose adoption by the Commission of a decision (8018/16) on a guidance document (8018/16 ADD1) concerning environmental verifiers.

The guidance document addresses notification to accreditation and licensing bodies by environmental verifiers, in particular where they are active in a member state other than that in which the accreditation or licence was granted.

The draft decision is subject to the regulatory procedure with scrutiny. The Commission may adopt it, unless the European Parliament objects.