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## **OUTCOME OF THE COUNCIL MEETING**

3485th Council meeting

**Competitiveness (Internal Market, Industry, Research and Space)**

### **Internal market and industry**

Brussels, 29 September 2016

President **Peter Žiga**  
Minister for the Economy of the Slovak republic

# **P R E S S**

**CONTENTS<sup>1</sup>**

**ITEMS DEBATED**

Competitiveness check-up: access to finance for EU companies and scale-ups ..... 5

Collaborative economy ..... 6

Steel industry..... 7

ANY OTHER BUSINESS ..... 9

– Construction sector ..... 9

– Standardisation ..... 9

– Development of an ambitious EU industrial policy..... 10

– Europe’s transition to a low-carbon economy ..... 10

– Unitary patent protection system ..... 10

– Patentability of plants ..... 10

– Supplementary protection certificates ..... 11

**OTHER ITEMS APPROVED**

*INTERNAL MARKET*

– Labelling of aerosol dispensers ..... 12

– Chemicals (REACH) - bisphenol A ..... 12

*CUSTOMS UNION*

– Convention on the International Transport of goods (TIR carnets) ..... 12

*ENLARGEMENT*

– Stabilisation and Association Council with Kosovo..... 13

<sup>1</sup>

- 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.

***FOREIGN AFFAIRS***

– Sanctions on Burundi ..... 13

– Relations with Kazakhstan ..... 13

– Framework agreement on Comprehensive Partnership and Cooperation with Vietnam ..... 13

– Sanctions on Syria ..... 14

– Sanctions on Yemen ..... 14

– Sanctions on Afghanistan ..... 14

– Partnership agreement on relations and cooperation with New Zealand ..... 14

– Framework agreement with Australia ..... 14

***ECONOMIC AND FINANCIAL AFFAIRS***

– Packaged retail and insurance-based investment products - Key information documents ..... 14

***BUDGETS***

– Mobilisation of the European Globalisation Adjustment Fund for Finland and Sweden ..... 15

***JUSTICE AND HOME AFFAIRS***

– Visa facilitation agreement with Georgia ..... 16

– Readmission agreement with Nigeria ..... 16

– Migration / EU-Afghanistan ..... 16

– Relocation and resettlement ..... 16

– Insolvency proceedings ..... 17

***FISHERIES***

– Long-term plan for cod stocks ..... 17

– Protection of the marine environment in the Baltic and North seas ..... 17

***TRANSPORT***

– International Civil Aviation Organisation (ICAO) – single global market-based measure ..... 17

– International Civil Aviation Organisation (ICAO) – air traffic management ..... 18

– Air services agreement with Macao ..... 18

– International carriage of dangerous goods by road and inland waterways ..... 18

***ENERGY***

- Energy Charter Treaty: Access to documents..... 18

***ENVIRONMENT***

- Type approval of motor vehicles: evaporative emissions..... 19
- Eco-management: construction sector ..... 19
- EU Ecolabel..... 19
- Hydrofluorocarbons (HFCs): New York declaration ..... 20

***APPOINTMENTS***

- European Court of Auditors ..... 20

***TRANSPARENCY***

- Public access to documents ..... 20

**ITEMS DEBATED**

**Competitiveness check-up: access to finance for EU companies and scale-ups**

Ministers exchanged views on ways to improve access to finance for European companies, with a specific focus on SMEs and scale-ups, as a part of the "competitiveness check-up".

The competitiveness check-up is a regular working method which allows ministers to put forward priorities and respond to urgent issues and developments in the real economy.

The debate was introduced by the Commission, which presented up-to-date facts and figures in the EU and a set of indicators relevant to the topic, mainly in comparison with other major global economies.

The Commission also announced that it is working in developing new initiatives to help EU companies, including scale-ups.

The Slovak presidency provided an updated indicative list of topics and legislative files in different policy fields that have an impact on the competitiveness of EU companies.

Ministers outlined that the source and the availability of financing for SMEs are important factors for their development capacity, growth and success.

They stressed the need to strengthen new ways of financing to support start-up, innovative SMEs and scale-ups in order to promote new areas of growth and an innovation-led economy. Within the EU, bank lending is currently by far the most important external financing source for SMEs.

Measures designed to promote venture capital and equity financing were mentioned by many delegations.

Some delegations requested the adoption of concrete measures in relation to the Capital Markets Union action plan. This plan is one of the EU's major initiatives to strengthen European investments and a business-friendly environment by reducing fragmentation in the capital markets, removing regulatory barriers to cross-border financing and increasing the supply of different kinds of capital to businesses.

Finally, some delegations proposed that the use of the European Fund for Strategic Investments (EFSI) pays more attention to the support of SMEs.

The last [monitoring report](#) on the implementation of the COSME programme (the EU's programme for the competitiveness of enterprises and SMEs 2014-2020) shows that there is a significant shortage for risk capital investments in the market and the lack of equity finance in Europe is recognised as a bottleneck to the provision of further SME funding.

## **Collaborative economy**

The Council held a policy debate on the collaborative economy.

The debate was preceded by a Commission presentation of its communication '[A European agenda for collaborative economy](#)' issued on 2 June 2016.

The communication aims to find a balanced approach so as to harness the great economic potential offered by collaborative economy business models. It also provides guidance on applicable EU law and promotes best practices regarding the regulation at national level to minimize the risk of diverging regulations across the single market.

The Commission also announced its intention to monitor the evolving regulatory environment and economic and business developments with a view to gathering data for possible initiatives if needed at a later stage.

The debate was structured by means of a presidency [background document](#) with a set of questions.

The main issues discussed by ministers were related to:

### The definition of the collaborative economy

The main criterion is the use of platforms that allow the temporary use of products or services. With both private service providers and professional service providers present, with a large number of occasional users and consumers, and with platform owners acting as intermediaries, the market relationships are different from traditional roles. The same can be said for the definition of employees or workers.

### Growth potential and risks

The collaborative economy has a large and further evolving potential for growth and jobs, but it raises concerns on how to achieve a level playing-field between economic operators. The existence of occasional private providers next to the platform owners raises issues concerning their legal status, liability and independence.

**Regulation of market access and fair competition**

Market access should be fair and by the national and European rules. Obligation for services providers could also give new market opportunities to existing traditional enterprises.

**Social Policy, employees rights, taxation issues, regulation of safety issues and other issues of public interest**

Given that the relationship between platform owners, services providers, employees and consumers is different in new business models, member states should be diligent in ensuring that established rights are not impaired and that all actors fulfil their legal obligations. While some current rules might be reconsidered, new ones might be necessary to guarantee public interests.

**Sectoral and country-specific approaches**

A number of services have always been regulated differently in member states (e.g. hotels and housing, transport, craftsmen). Therefore country-specific issues will have to be taken into account in order to make new business models possible and to contribute to growth without compromising on well-established public policy goals.

**Scope for intervention at European level**

Many member states are currently updating or revising their legislation to take into account their public policy objectives without curtailing the business activities of the collaborative economy unduly. Within this modernisation exercise, different legal concepts and priorities in member states will have to be taken into account.

**Steel industry**

Ministers took stock of latest developments in the European steel industry and discussed measures and actions to improve the competitiveness of the sector.

The discussion was structured by means of a presidency [background document](#).

Some delegations and the Commission acknowledged that while some progress has been made on actions to provide relief to the sector during the past months, continued joint efforts are needed to provide adequate responses to the various challenges facing the steel industry, including in the following areas:

- short- to medium-term protection against harmful dumping practices through effective trade defence instruments
- stimulating domestic consumption in Europe
- long-term measures to maintain and improve the competitiveness of the industry in the EU
- implications of the emission trading scheme (ETS) for the competitiveness of the steel industry
- measures that will contribute to the modernisation of the sector, including investments
- a regulatory framework, research and financing conditions that accommodate innovation and new technologies (e.g. carbon capture) that can help the steel sector to remain competitive and adapt to the new realities of climate change
- efforts to promote energy efficiency and competitive energy prices

The Commission published the communication: [Steel industry: preserving sustainable jobs and growth in Europe](#) in March 2016. The communication integrates key messages provided by the Council and stakeholders in support of the steel sector.

The communication suggested a range of policy measures to support the European steel sector along five areas of action: (1) a commitment to accelerate the adoption of anti-dumping measures and to make them more effective; (2) tackling the causes of global overcapacity through bilateral and multilateral outreach; (3) investing in innovation and (4) skills; as well as (5) focusing policies in areas like competition, energy, climate and circular economy.

At the same time, the Commission highlighted the important role of member states in this context, for example in adopting the modernisation of the Trade Defence Instruments proposal, which would speed up anti-dumping and anti-subsidy procedures and allow the Commission to impose higher duties in certain circumstances, as well as the reform of EU-ETS post 2020.

ANY OTHER BUSINESS

– *Construction sector*

At the working lunch, ministers and the Commission discussed the situation of the construction sector in Europe.

Having in mind the upcoming review of the 2012 [strategy for the sustainable competitiveness of the construction sector and its enterprises](#), ministers expressed views on key issues to increase the competitiveness of the sector and its potential to create sustainable employment, such as:

- financial instruments and new public-private business models for building and infrastructure investments
- actions at EU level to promote digitalisation in the construction sector, especially in SMEs, as well as the integration of smart technologies in buildings and infrastructure
- how to facilitate cross-border exchanges of construction goods and services in the EU

The sector experienced a severe contraction during the economic and financial crisis from which it has not yet recovered. In the meantime, the growing demand for energy-efficient buildings has created new business opportunities for enterprises, particularly for the renovation of residential housing.

– *Standardisation*

The Council took note of a presentation by the Commission of the package for the [modernisation of the EU's standardisation policy](#), issued on 1 June 2016.

The standardisation package, which is a part of the EU's Single Market Strategy, seeks to adapt the standardisation policy to the rapidly changing economic landscape and the blurring frontiers between manufacturing, digital and services.

Its ultimate goal is to reduce costs for manufacturers, to improve safety and to enhance the competitiveness of the European industry.

In the margins of the Council, ministers were invited to sign **the Joint Initiative on Standardisation**. This initiative brings together European and national standardisation organisations, industry, SMEs, consumer associations, trade unions, environmental organisations, member states and the Commission.

These partners will commit to modernising, prioritising, and speeding up the timely delivery of standards by the end of 2019, as well as to promote the use of European standards at the international level.

– ***Development of an ambitious EU industrial policy***

The Council took note of a contribution by the Belgian delegation calling on the Competitiveness Council and the Commission to relaunch reflections on the development of an ambitious and proactive roadmap on the European industrial policy. More specifically, the Commission was called upon to take this already into account in its 2017 work programme.

Several delegations supported this request ([12093/16](#)).

– ***Europe's transition to a low-carbon economy***

Ministers took note of a presentation by the Commission on the new strategy on [Europe's transition to a low-carbon economy](#), which was published on 20 July 2016.

The strategy contains a package of measures to accelerate the shift to low-carbon emissions in all sectors of the economy in Europe.

– ***Unitary patent protection system***

The Council took note of a progress [report](#) for setting up the unified patent protection system and the situation concerning the ratification process in the member states of the Unified Patent Court (UPC) agreement.

Several delegations requested to speed up the process of ratification of the UPC agreement in the member states that have not done it yet with a view to a swift entry into force.

– ***Patentability of plants***

The Council took note of information by the Dutch delegation on the outcome of the conference "Finding the balance: solutions in the debate surrounding patents and plant breeders' rights, held in Brussels on 18 May 2016) ([12102/16](#)).

The so-called "breeder's exemption" enshrined in 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.

However, recent decisions by the European Patent Office to allow the patentability of plants obtained by means of essentially biological processes (the "tomato and broccoli" decisions) have called this state of affairs into question.

This has raised concerns and questions as such patents would deprive plant breeders of the right to use these plants to develop new plant varieties.

The Commission explained that an assessment is being carried out with a view to provide guidance on the matter.

– *Supplementary protection certificates*

At the request of the Hungarian delegation, the Commission provided information on the future review of the current system of supplementary protection certificates (SPC) ([12422/16](#)).

It announced that an evaluation process has started in the Commission with a view to preparing a public consultation to be launched next year.

SPCs are an intellectual property right that serve as an extension to a patent right. They apply to specific pharmaceutical and plant protection products that have been authorised by regulatory authorities.

The Commission, in its communication on [Upgrading the Single Market: more opportunities for people and business](#) (the Single Market Strategy), expressed its intention to strengthen EU-based manufacturing and competitiveness and set as an aim to review the current system of SPCs.

**OTHER ITEMS APPROVED**

**INTERNAL MARKET**

**Labelling of aerosol dispensers**

The Council decided not to oppose the adoption by the Commission of an amendment to directive 75/324/EEC as regards the maximum allowable pressure of aerosol dispensers and to adapt its labelling provisions to regulation 1272/2008 on classification, labelling and packaging of substances and mixtures ([11158/16](#)).

The Commission amendment is subject to the regulatory procedure with scrutiny. Now that the Council has given its consent, the Commission may adopt it unless the European Parliament objects.

**Chemicals (REACH) - bisphenol A**

The Council did not oppose the adoption by the Commission of a regulation amending the REACH system as bisphenol A.

The new Commission regulation will amend annex XVII to the [REACH regulation](#) (regulation 1907/2006 on the registration, evaluation, authorisation and restriction of chemicals) ([11324/16](#) and [11324/16 ADD 1](#)).

The draft Commission regulation 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.

**CUSTOMS UNION**

**Convention on the International Transport of goods (TIR carnets)**

The Council adopted a decision in support of a proposal to amend the Customs Convention on the International Transport of goods under cover of TIR carnets (TIR Convention 1975) ([8463/16](#) + [ADD 1](#) + [ADD 2](#)).

The amendment will introduce a new design of vehicles and containers (with sheeted sliding roofs or sliding sheets) to the TIR Convention while offering maximum safeguards to customs administrations.

The [TIR Convention](#) facilitates the international carriage of goods across 68 Contracting Parties with a minimum of interference by customs administrations and provides, through an international guarantee chain, relatively simple access to the required guarantees.

As a rule, the vehicle remains sealed throughout the TIR transport and, thus, goods are generally not inspected at border crossings. However, customs authorities remain entitled to perform inspections.

The Convention entered into force in the EU in 1983.

## **ENLARGEMENT**

### **Stabilisation and Association Council with Kosovo**

The Council adopted a common position of the EU ahead of the first meeting of the EU- Kosovo Stabilisation and Association Council on 3 October 2016.

## **FOREIGN AFFAIRS**

### **Sanctions on Burundi**

The Council renewed the EU restrictive measures against Burundi until 31 October 2017. These measures consist of a travel ban and asset freeze against four persons whose activities were deemed to be undermining democracy or obstructing the search for a political solution to the crisis in Burundi. These activities include acts of violence, repression or incitement to violence, and acts which constitute serious human rights violations.

For more information [see press release](#).

### **Relations with Kazakhstan**

The Council adopted the position of the European Union for the 15th meeting of the UE–Kazakhstan cooperation council.

### **Framework agreement on Comprehensive Partnership and Cooperation with Vietnam**

The Council signed the Framework agreement on Comprehensive Partnership and Cooperation between the EU and Vietnam.

### **Sanctions on Syria**

The Council adopted legal acts deleting one duplicated entry, delisting two individuals and updating the information relating to 17 other individuals on the list of individuals targeted by the EU restrictive measures in view of the situation in Syria.

### **Sanctions on Yemen**

The Council updated the information for two listed individuals targeted by EU restrictive measures in view of the situation in Yemen.

### **Sanctions on Afghanistan**

The Council updated the list of individuals targeted by EU restrictive measures in view of the situation in Afghanistan, further to the UN Security Council decision to amend their respective list.

### **Partnership agreement on relations and cooperation with New Zealand**

The Council signed the partnership agreement on relations and cooperation between the EU and New Zealand on 5 October 2016.

### **Framework agreement with Australia**

The Council signed a framework agreement between the EU and Australia.

## **ECONOMIC AND FINANCIAL AFFAIRS**

### **Packaged retail and insurance-based investment products - Key information documents**

The Council took note of the European Parliament's objection to a Commission regulation supplementing regulation 1286/2014 on packaged retail and insurance-based investment products ([12160/1/16 REV 1](#) + [ADD 1 REV 3](#), [10834/16](#) + [ADD 1](#)).

The Commission regulation lays down regulatory technical standards for the presentation, content, review and revision of key information documents under regulation 1286/2014 on packaged retail and insurance-based investment products (PRIIPs). It is a delegated act pursuant to article 290 of the Treaty on the Functioning of the European Union.

The Parliament objected to the regulation on 14 September 2016. As a consequence, it can no longer enter into force and there is no need at this stage for the Council to express its position.

Regulation 1286/2014 is aimed at improving market transparency for retail investors, boosting consumer trust in financial markets. It is due to apply from 31 December 2016.

It sets out to ensure that retail investors always receive the information they need to take informed decisions, given that asymmetries of information make both risks and the cost of products difficult to assess or compare. Regulation 1286/2014 requires key information documents to be drawn up for all PRIIPs, specifically investment funds and structured deposits, as well as life insurance policies with an investment element.

## **BUDGETS**

### **Mobilisation of the European Globalisation Adjustment Fund for Finland and Sweden**

The Council adopted the following two decisions mobilising a total amount of €9.32 million under the European Globalisation Adjustment Fund (EGF) to provide support for workers made redundant in Finland and Sweden:

- € 5.36 million are paid out of the EGF following the dismissal of 2035 workers in nine Finnish companies operating in the computer programming, consultancy and related activities sector
- an amount of € 3.96 million is mobilised after 1 556 workers of a Swedish company operating in the computer sector have been dismissed

In both cases the redundancies are the result of continued major structural changes in world trade patterns due to globalisation.

The EGF helps workers to find new jobs and develop new skills when they have lost their jobs as a result of changing global trade patterns, e.g. when a large company shuts down or a factory is moved outside the EU, or as a result of the global financial and economic crisis. The help of the EGF consists in co-financing measures such as job-search assistance, careers advice, tailor-made training and re-training, mentoring and promoting entrepreneurship. It also provides one-off, time-limited individual support, such as job-search allowances, mobility allowances and allowances for participating in lifelong learning and training activities.

**JUSTICE AND HOME AFFAIRS**

**Visa facilitation agreement with Georgia**

The Council adopted a decision establishing the position to be taken on behalf of the EU within the Joint Committee set up under the agreement between the EU and Georgia on the facilitation of the issuance of visas, with regard to the adoption of common guidelines for the implementation of that agreement ([11470/16](#)).

**Readmission agreement with Nigeria**

The Council adopted a decision authorising the opening of negotiations on an agreement between the EU and Nigeria on readmission ([11470/16](#)).

**Migration / EU-Afghanistan**

The Council endorsed a draft Joint Way Forward on migration issues between Afghanistan and the EU, with a view to enabling its signature on the EU side, in the run-up to the Afghanistan Brussels Conference, to be held on 4-5 October 2016.

This Joint Way Forward reflects the joint commitment of the EU and the Government of Afghanistan to step up their cooperation on addressing and preventing irregular migration, and on return of irregular migrants, who do not fulfil the conditions to stay in the EU.

**Relocation and resettlement**

The Council adopted an amendment to the decision 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece ([8330/1/16 REV 1](#)).

The aim of this amendment is to allow member states to implement the [EU-Turkey Statement of 18 March 2016](#) by using relocation places to admit to their territories Syrian nationals present in Turkey under national or multilateral legal admission schemes (resettlement).

[Finding solutions to migratory pressures](#)

## **Insolvency proceedings**

The Council adopted an implementing regulation ([11451/1/16 REV 1](#)) replacing the lists of insolvency proceedings, winding-up proceedings and liquidators in annexes A, B and C to regulation 1346/2000.

## **FISHERIES**

### **Long-term plan for cod stocks**

The Council adopted amendments to Council regulation 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks ([11309/16](#)).

The amendments aim to address the shortcomings of the original regulation as highlighted by the scientific evaluation carried out by the Scientific, Technical and Economic Committee for Fisheries (STECF). Changes include discontinuing the fishing effort regime, better taking into account appropriate minimum and precautionary biomass levels in management measures, and following the precautionary approach when information on the stock and the fisheries may be insufficient to determine fishing opportunities in accordance with the principle of maximum sustainable yield.

### **Protection of the marine environment in the Baltic and North seas**

The Council decided not to oppose the adoption by the Commission of two delegated regulations establishing fisheries conservation measures for the protection of the marine environment in the Baltic sea ([11990/16](#) + [ADD 1](#)) and in the North sea ([11986/16](#) + [ADD 1](#)).

The overall aim of these regulations is to ensure that fisheries measures under the Common Fisheries Policy adequately contribute to the protection of reef structures, and therewith to the obligation of achieving favourable conservation status for these habitat types in the above-mentioned areas, in accordance with Article 6 of the Habitats Directive<sup>1</sup>.

## **TRANSPORT**

### **International Civil Aviation Organisation (ICAO) – single global market-based measure**

The Council adopted a common position on a global market-based measure (GMBM) scheme to address CO2 emissions from international civil aviation as part of EU coordination for the 39th ICAO Assembly from 27 September to 7 October 2016 in Montréal.

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<sup>1</sup> Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

**International Civil Aviation Organisation (ICAO) – air traffic management**

The Council adopted a decision on the position to be taken by the EU within the EU-ICAO Joint Committee concerning the decision on the adoption of an annex on air traffic management to the Memorandum of Cooperation between the EU and the ICAO providing a framework for enhanced cooperation.

**Air services agreement with Macao**

The Council adopted a decision on the conclusion of an agreement on certain aspects of air services between the EU and the Government of the Macao Special Administrative Region of the People's Republic of China (5255/1/16).

**International carriage of dangerous goods by road and inland waterways**

The Council adopted a decision ([11844/16](#)) on the position to be taken by the EU with regard to amendments to two agreements:

- the annexes of the European agreement concerning the international carriage of dangerous goods by road (ADR)
- the annexed regulations to the European agreement concerning the international carriage of dangerous goods by inland waterways (ADN).

The position is to endorse the amendments, which are expected to enter into force on 1 January 2017.

**ENERGY**

**Energy Charter Treaty: Access to documents**

The Council confirmed the agreement reached at the Energy Working Party on the new policy for access to official documents proposed by the Energy Charter Secretariat ([www.energycharter.org](http://www.energycharter.org)).

The Council authorises therefore the Commission to agree on behalf of the EU to the proposal from the Energy Charter Secretariat to declassify official documents issued by the (Provisional) Conference and the (Provisional) Secretariat in relation to the negotiations of the Energy Charter, the Energy Charter Treaty, its related protocols (1991-1994) and the Trade Amendment (1994-1998) ([12358/16](#)).

**ENVIRONMENT**

**Type approval of motor vehicles: evaporative emissions**

The Council decided not to oppose the adoption of a Commission regulation ([11049/16](#) + [ADD1](#)) concerning the methodology for the determination of evaporative emissions. Current legislation requires vehicles to comply with certain emission limits including evaporative emissions.

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

**Eco-management: construction sector**

The Council decided not to oppose the adoption of a Commission decision ([11007/16](#) + [ADD1](#)) concerning the participation of the construction sector in the eco-management and audit scheme (EMAS). The decision sets out the best environmental management practice, sector environmental performance indicators and benchmarks of excellence for this sector.

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

The EU eco-management and audit scheme (EMAS), as set out in regulation 1221/2009, aims to encourage companies and other organisations to continually improve their environmental performance. It is open to any organisation inside or outside the EU, spans all economic and service sectors and is applicable worldwide.

**EU Ecolabel**

The Council decided not to oppose the adoption of a Commission decision ([11449/16](#)) to prolong the period of validity of the ecological criteria for the award of the EU Ecolabel to certain products.

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

The EU Ecolabel helps consumers identify products and services that have a reduced environmental impact throughout their life cycle, from the extraction of raw material through to production, use and disposal. It is a voluntary label promoting environmental excellence.

### **Hydrofluorocarbons (HFCs): New York declaration**

The Council approved the signature on behalf of the EU of the "New York declaration of the coalition for an ambitious HFC amendment" (Annex to [12196/16](#)).

The New York declaration aims at leveraging support for an ambitious outcome of the negotiations in the upcoming meeting of the parties of the Montreal Protocol in Kigali, Rwanda, from 10 to 14 October 2016. In that meeting, parties will aim to agree on an amendment to the Montreal Protocol for a global reduction in the use of global warming hydrofluorocarbons (HFCs).

The declaration states such an amendment is one of the most significant steps the world can take right now to deliver on the goals of the Paris Agreement on climate change. HFCs are extremely potent greenhouse gases and an amendment to the Montreal Protocol to phase down HFCs could avoid up to 0.5°C of warming by the end of the century.

### **APPOINTMENTS**

#### **European Court of Auditors**

The Council appointed the following persons as members of the European Court of Auditors:

- Mr Leo Brincat (Malta), for the period from 1 October 2016 to 30 September 2022
- Mr Lazaros S. Lazarou (Cyprus), for the period from 2 November 2016 to 1 November 2022
- Mr João Alexandre Tavares Gonçalves de Figueiredo (Portugal), for the period from 1 October 2016 to 28 February 2018

The Court of Auditors' task is to audit the EU's finances. It is made up of 28 members, one from each member state, appointed for a renewable term of six years (or the remainder of the term of office of a member who resigned).

### **TRANSPARENCY**

#### **Public access to documents**

The Council approved the reply to confirmatory application No 18/c/01/16 (*11509/16*).

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