



Brussels, 15 January 2010

BACKGROUND¹
ECONOMIC and FINANCIAL AFFAIRS COUNCIL
Tuesday 19 January in Brussels

In accordance with the provisions of the Treaty of Lisbon, all Council deliberations on legislative acts will be taken in public session.

*Proceedings will start on Monday 18 January with a meeting of the **Euro Group**, starting at 17.00.*

Ministers will hold a breakfast meeting on Tuesday at 9.30 to discuss the economic situation.

*Starting at 10.00, the Council will attempt to agree on a number of measures aimed at improving governance in tax matters. These comprise amendments to EU directives on the **taxation of savings interest**, on **cooperation between tax administrations** and on **tax recovery**, a draft **anti-fraud agreement with Liechtenstein** and a mandate for the negotiation of anti-fraud agreements with **Andorra, Monaco, San Marino and Switzerland**.*

*The Council is also due to adopt conclusions on government deficit and debt **statistics in Greece**, in the light of recurrent shortcomings.*

*And the Spanish presidency will present its **work programme** for economic and financial affairs.*

*Over lunch, ministers will hold an exchange of views on **EU 2020**, a renewed strategy for jobs and growth that is intended to replace the Lisbon strategy launched in March 2000.*

Press conferences:

- after the Euro Group meeting (*Monday, as from 20.00*);
- at the end of the Council, before lunch (*Tuesday, as from 12.30*).

Press conferences and public events can be followed by video streaming:
<http://video.consilium.europa.eu/>

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¹ This note has been drawn up under the responsibility of the press office

Presidency work programme

- *Public debate*

The Spanish presidency will present a work programme for economic and financial affairs for the duration of its tenure (January to June 2010), and the Council will hold an exchange of views (*doc. 5036/10*).

This item will be taken as a public debate and can be followed on the internet by video streaming (<http://video.consilium.europa.eu/>).

The economic crisis from which Europe is gradually beginning to emerge has been one of the deepest and most widespread in history. The resolute and coordinated action of the economic authorities in various countries has prevented both the collapse of financial markets and an even more pronounced economic depression, as well as the subsequent cost of increased unemployment and poverty.

Signs of stabilisation and recovery are beginning to appear, and the greatest challenge in the coming months will be to outline an ambitious exit strategy, in both the short and long term, that takes into account two dimensions. The first refers to overcoming the dependence on extraordinary public financial and budgetary measures. In this respect, the design of financial support withdrawal will consider the specific circumstances of EU member states as well as the need to preserve financial stability. The second concerns the promotion of measures that favour sustainable, stable and balanced growth. This will be ensured by the adoption of sound structural reforms, which means an ambitious and in-depth review of the Lisbon strategy for jobs and growth, with a view to shaping the future of the European economy in 2020.

The Spanish presidency intends to work on these two dimensions, both internally and externally, so as to lay the foundations for a solid recovery and to prevent a recurrence of a crisis of such magnitude.

Other priorities include:

- EU 2020 strategy: coordination of long-term policies for economic growth;
- Strengthening the external dimension of the EU as regards the G-20 and climate change;
- Taxation: combating tax fraud;
- Establishing a more efficient taxation system.

Taxation of savings interest

- *Public deliberation*

The Council will discuss a draft directive aimed at strengthening the provisions of directive 2003/48/EC on the taxation of savings interest.

The aim of the Spanish presidency is for the Council to reach an agreement on the text as soon as possible.

The proposed amendments are intended to reflect developments in savings products and in investor behaviour since directive 2003/48/EC was first applied in 2005. They are part of a package of measures to encourage good governance in tax matters, which include amendments to directives on administrative cooperation and on tax recovery and the negotiation of anti-fraud agreements with Andorra, Liechtenstein, Monaco, San Marino and Switzerland (see below).

The proposed draft enlarges the directive's scope to cover financial products that are equivalent to those already covered, and alters the way in which "beneficial owner" and "paying agent" are defined for the purposes of the directive.

Two main issues remain outstanding:

- external conditionality. The Luxembourg and Austrian delegations want the directive to apply in its amended form only if equivalent or the same measures are applied by Andorra, Liechtenstein, Monaco, San Marino, Switzerland and ten dependent and associated territories of the Netherlands and the United Kingdom (see detail on the current directive, described below);
- transitional period. The Luxembourg and Austrian delegations want their transitional arrangements under the directive (see below) to be maintained until Switzerland agrees to the automatic exchange of information between tax authorities. They fear that entry into force of anti-fraud agreements with Andorra, Liechtenstein, Monaco, San Marino and Switzerland would lead to an end to the transition period under the savings tax directive. This would oblige Luxembourg and Austria to exchange information automatically, whereas their (mainly Swiss) competitors would only exchange information on request. Other member states, however, refer to the conclusions of the June 2000 European Council, which stated that the transitional period should end no later than seven years after entry into force of the directive (i.e. 1 July 2012).

Directive 2003/48/EC requires the member states to exchange information so as to enable interest payments made in one member state to residents of other member states to be taxed in accordance with the laws of the state of tax residence.

For a transitional period², Belgium, Luxembourg and Austria may instead impose a withholding tax on interest paid to savers resident in other member states.

² The length of the transitional period depends on Andorra, Liechtenstein, Monaco, San Marino, Switzerland and the United States being committed to exchange of information upon request as defined in a 2002 OECD model agreement.

The directive applies only to individual savers and not to companies. It covers the taxation of savings income in the form of interest payments, including income from deposit accounts, government securities and corporate bonds, as well as collective undertakings that invest more than 40 % of their assets in debt securities (more than 25 % as from 2011).

Equivalent measures to those provided for in the directive are applied by Andorra, Liechtenstein, Monaco, San Marino and Switzerland under agreements concluded with the EU. And the same measures are applied in ten dependent and associated territories of the Netherlands and the United Kingdom (Guernsey, Jersey, the Isle of Man and seven Caribbean territories) under specific agreements concluded with each of the member states.

The proposed draft extends the scope of directive 2003/48/EC to cover:

- all savings income and products that generate interest or equivalent income, including agreed return securities, undertakings for collective investment in transferable securities (UCITS) and life insurance contracts that can be directly compared to UCITS;
- certain entities situated outside the EU, such as trusts, foundations and investment companies, which receive income for the benefit of individuals resident in a member state;
- intermediate structures that are not taxed (such as certain types of trusts and partnerships) and which, as "paying agent upon receipt", would be required to apply the directive to the receipt of interest payments from any upstream economic operator, whether or not established in the EU, as long as the beneficial owner is an individual resident in an EU member state.

The draft directive is based on articles 115 and 289(2) of the EU treaty, requiring unanimity for adoption by the Council, after consulting the European Parliament.

Taxation - Recovery of taxes

- *Public deliberation*

The Council will discuss a draft directive on the recovery of taxes.

The aim of the Spanish presidency is for the Council to reach an agreement on the text as soon as possible.

The draft directive is aimed at better fulfilling the member states' needs with regard to the recovery of taxes, providing an overhaul of directive 76/308/EEC (codified by directive 2008/55/EC), on the basis of which the member states have engaged in mutual assistance since 1976 aimed at clamping down on tax evasion.

It is part of a package of measures to encourage good governance in tax matters, including amendments to directives on the taxation of savings interest (see above) and administrative cooperation (see below), and the negotiation of anti-fraud agreements with Andorra, Liechtenstein, Monaco, San Marino and Switzerland (see below).

National provisions on tax recovery are limited in scope to national territories, and with greater taxpayer mobility, fraudsters have taken advantage of this to organise insolvencies in member states where they have debts. Member states therefore increasingly request the assistance of other member states to recover taxes, but the amounts recovered only amount to about 5% of those for which assistance is requested. More than 50% of recovery requests relate to value-added tax claims.

The draft directive provides for an improved assistance system, with rules that are easier to apply and more flexible conditions for requesting assistance, requiring the spontaneous exchange of information.

The text is based on articles 113, 115 and 289(2) of the EU treaty, requiring unanimity for adoption by the Council, after consulting the Parliament.

Taxation - Administrative cooperation

- *Public deliberation*

The Council will discuss a draft directive aimed at strengthening cooperation between the member states in the field of taxation.

The aim of the Spanish presidency is for the Council to reach an agreement on the text as soon as possible.

The draft directive is aimed at fulfilling the member states' growing need for mutual assistance – especially as regards the exchange of information – so as to better combat tax fraud and clamp down on tax evasion. One of a number of measures implementing the EU's anti-fraud strategy, launched in 2006, the text provides for an overhaul of directive 77/799/EEC, on which administrative cooperation has been based since 1977.

It is part of a package of measures to encourage good governance in tax matters, including amendments to directives on the taxation of savings interest and on tax recovery (see above), and the negotiation of anti-fraud agreements with Andorra, Liechtenstein, Monaco, San Marino and Switzerland (see below).

In the light of greater taxpayer mobility, a growing volume of cross-border transactions and the internationalisation of financial instruments, the draft directive is intended to enable the member states to better assess taxes due, by:

- extending cooperation between member states to cover taxes of any kind;
- applying the provisions of the OECD model tax convention on income and capital, whereby one country cannot refuse to supply information concerning a taxpayer of another country on the sole grounds that the information is held by a bank or other financial institution;

- establishing time limits for the provision of information on request and other administrative enquiries;
- prescribing an automatic exchange of information on certain types of investor income;
- allowing officials of one member state to participate in administrative enquiries on the territory of another member state;
- providing for feedback on the exchange of information;
- providing that information exchange be made using standardized forms, formats and channels of communication;
- requiring the same level of cooperation between member states as with any third country.

At its meeting on 10 November, the Council reached broad agreement on the text, whilst noting political reservations by the Austrian and Luxembourg delegations and the need for further work on automatic exchange of information.

The draft directive is based on articles 113, 115 and 289(2) of the EU treaty, requiring unanimity for adoption by the Council, after consulting the Parliament.

Taxation - Anti-fraud agreements

The Council will discuss:

- a draft anti-fraud agreement with Liechtenstein;
- a draft decision authorising the Commission to negotiate anti-fraud agreements with Andorra, Monaco and San Marino, as well as a new anti-fraud agreement with Switzerland.

The aim of the Spanish presidency is for the Council to reach an agreement on the texts as soon as possible.

At its meeting on 20 October, the Council reached broad agreement on both texts whilst noting political reservations by the Austrian and Luxembourg delegations.

The texts are part of a package of measures to encourage good governance in tax matters, including amendments to directives on the taxation of savings interest, administrative cooperation and tax recovery (see above).

The Austrian and Luxembourg delegations are concerned that the agreement with Liechtenstein, which provides for the exchange of information on request, and the other agreements would lead to an end to the transitional period under the savings tax directive, thus requiring them to exchange information automatically (see detail on the savings tax directive, above).

At the end of 2008, the Commission presented a draft anti-fraud agreement with Liechtenstein that the Council considered insufficient. In conclusions adopted last February, the Council asked it to resume the negotiation in order to ensure effective administrative cooperation in tax matters that are equivalent to those that Liechtenstein had recently granted in an agreement with the United States.

The draft agreement covers fraud as relates to both direct and indirect taxation. The re-negotiated text provides for a definition of fraud that covers both natural and legal persons (i.e. companies) and includes not just false documents and false tax returns, but also the submission of incomplete tax returns.

The text covers administrative cooperation in tax matters through the exchange of information that is conceivably relevant to tax administrations. It allows parties to trigger administrative assistance that cannot be refused on the sole grounds that the information requested is held by a bank or anonymous investment vehicle (trust, "Anstalt", foundation), and judicial assistance for acts that are punishable under the laws of the parties. Implementing measures, such as seizure, are foreseen for acts that are punishable by prison sentence by both parties.

The draft agreement with Liechtenstein is considered a model for the negotiation of agreements with Andorra, Monaco and San Marino, as well as the negotiation of a new agreement with Switzerland that would extend existing provisions on indirect taxation to also cover direct taxation.

The draft agreement with Liechtenstein involves both EU and member state competence, requiring consensus for approval by the Council. It was negotiated under a mandate approved by the Council in 2006, and the Commission has submitted proposals for Council decisions on its signing and conclusion (*docs [16989/09](#) and [16990/09](#)*).

The draft negotiating mandate for agreements with Andorra, Monaco, San Marino and Switzerland (*doc. [16308/09 EXT 1](#)*) is based on articles 218(5) and (8), 115 and 289(2) of the EU treaty, requiring unanimity for adoption by the Council.

Deficit and debt statistics: Greece

The Council is due to adopt conclusions, on the basis of a report from the Commission, on issues raised and investigated by Eurostat regarding government deficit and debt statistics in Greece (*doc. [5223/10](#)*).

Shortcomings in public finance statistics have been a recurrent issue in Greece. The Council has repeatedly called on the Greek authorities to make improvements in the collection and processing of its statistical data. However, in a budgetary notification made to the Commission in October, the Greek authorities announced substantial revisions of government deficit and debt data for previous years. The deficit for 2008 was revised to almost 7.75% of gross domestic product (GDP), up by more than 3% compared with figures notified last April.³

³ Greece also revised its budgetary data in 2004. On that occasion, it revealed that its government deficit had been above the 3% of GDP reference value set by the EU treaty for the entire period from 1997 to 2004. An excessive deficit procedure was initiated in 2004 and closed in 2007.

Greece's deficit for 2009 is estimated at 12.7% of GDP and its debt at 112.6% of GDP, well above the respective 3% and 60% reference values set by the EU treaty. Its public finances have worsened beyond what could have been expected as a result of the economic downturn, and the data it submitted in October has not been validated by Eurostat.

In conclusions adopted on 10 November, the Council called on the Greek government to urgently take measures to restore confidence in its statistical data, and asked the Commission to propose appropriate measures. It welcomed a commitment from the Greek government to address the issue swiftly and seriously, and considered recently announced measures, such as those aimed at making the national statistical service fully independent, to be steps in the right direction.

Greece has been subject to an excessive deficit procedure since April 2009, when the Council issued a recommendation calling for the deficit to be corrected by 2010 and setting out measures for doing so. On 2 December, however, the Council adopted a decision establishing that Greece had failed to comply with its recommendation.

The Commission's report highlights two sets of problems that have led to the revisions of Greek budgetary data. The first involves methodological weaknesses and unsatisfactory technical procedures at the national statistical institute (NSSG) and in other services that provide data to the NSSG, in particular the general accounting office and the ministry of finance. The second includes problems of governance, with poor cooperation and a lack of clear responsibilities within several institutions and services responsible for budgetary notifications, diffuse personal responsibilities, ambiguous empowerment of officials and an absence of written instructions and documentation.

The Council is expected to urge the Greek government to ensure that both sets of problems are addressed properly and as a matter of priority. The draft conclusions call on the Commission to propose measures that will bring the Greek statistical system into line with EU requirements and to develop by February an action plan to tackle statistical, institutional and governance deficiencies.

The Council will monitor progress and will revert to the issue at its meeting on 16 February.
