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2836th Council meeting

Employment, Social Policy, Health and Consumer Affairs

Brussels, 4 December 2007

President **Fernando TEIXEIRA DOS SANTOS**
Minister of State, Minister for Finance of Portugal

P R E S S

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Main results of the Council

*The Council agreed on a package of new **VAT arrangements for services**, reaching a compromise on provisions for telecoms, broadcasting and electronic services.*

The arrangements involve a change in the place of taxation for VAT on services from the place where the supplier is located to that where the customer is situated, with a "one-stop" system enabling suppliers to fulfil a single set of obligations in their home member state, including for services provided in other member states. VAT revenue will be transferred from the supplier's home country to the other member states concerned.

*The Council discussed **reduced VAT rates**, adopting conclusions on future work in this area and agreeing to the extension of temporary reduced rates in the Czech Republic, Cyprus, Malta, Poland and Slovenia.*

The Council adopted conclusions dealing with:

– *annual multilateral surveillance in the context of the national **economic reform** programmes presented by the member states under the Lisbon strategy on growth and jobs;*

– *the economic impact of **migration**;.*

– *a review of the **Lamfalussy regulatory process** for financial services;*

– *barriers to the development of European **risk capital markets**;*

– *measures to combat **tax fraud**;*

– *work on harmful competition with regard to **business taxation**.*

*It also reached agreement on a recast directive on **capital duty**.*

CONTENTS[1]

[1]
- 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.

PARTICIPANTS

The governments of the Member States and the European Commission were represented as follows:

Belgium:	
Mr Didier REYNDERS	Deputy Prime Minister and Minister for Finance
Bulgaria:	
Mr Plamen Vassilev ORESHARSKI	Minister for Finance
Czech Republic:	
Mr Tomáš ZÍDEK	Deputy Minister for Finance, International Relations and Financial Policy Section
Denmark:	
Mr Lars Løkke RASMUSSEN	Minister for Finance
Germany:	
Mr Peer STEINBRÜCK	Federal Minister for Finance
Estonia:	
Mr Ivari PADAR	Minister for Finance
Ireland:	
Mr Bobby McDONAGH	Permanent Representative
Greece:	
Mr Georgios ALOGOSKOUFIS	Minister for Economic Affairs and Finance
Spain:	
Mr Pedro SOLBES MIRA	Second Deputy Prime Minister and Minister for Economic Affairs and Finance
France:	
Mr Pierre SELLAL	Permanent Representative
Italy:	
Mr Tommaso PADOA SCHIOPPA	Minister for Economic Affairs and Finance
Cyprus:	
Mr Michalis SARRIS	Minister for Finance
Latvia:	
Mr Oskars SPURDZIŅŠ	Minister for Finance
Lithuania:	
Ms Valentinas MILTIENIS	Deputy Minister for Finance
Luxembourg:	
Mr Jean-Claude JUNCKER	Prime Minister, Ministre d'Etat, Minister for Finance
Mr Jeannot KRECKÉ	Minister for Economic Affairs and Foreign Trade, Minister for Sport
Hungary:	
Mr János VERES	Minister for Finance
Malta:	
Mr Tonio FENECH	Parliamentary Secretary, Ministry of Finance
Netherlands:	
Mr Wouter BOS	Minister for Finance, Deputy Prime Minister
Austria:	
Mr Wilhelm MOLTERER	Vice Chancellor and Federal Minister of Finance
Poland:	
Mr Jan VINCENT-ROSTOWSKI	Minister for Finance
Portugal:	
Mr Fernando TEIXEIRA DOS SANTOS	Ministro de Estado, Minister for Finance
Mr João AMARAL TOMAZ	State Secretary for Tax Affairs

Romania:	
Mr Varujan VOSGANIAN	Minister for the Economy and Finance
Slovenia:	
Mr Andrej BAJUK	Minister for Finance
Slovakia:	
Mr Peter KAŽIMÍR	State Secretary at the Ministry of Finance
Finland:	
Mr Jyrki KATAINEN	Deputy Prime Minister, Minister for Finance
Sweden:	
Mr Anders BORG	Minister for Finance
United Kingdom:	
Mr Alistair DARLING	Chancellor of the Exchequer

Commission:	
Mr Joaquín ALMUNIA	Member
Mr László KOVÁCS	Member
Mr Charlie McCREEVY	Member

Other participants:	
Mr Lucas PAPADEMOS	Vice-President of the European Central Bank
Mr Philippe MAYSTADT	President of the European Investment Bank
Mr Xavier MUSCA	Chairman of the Economic and Financial Committee
Mr Joe GRICE	Chairman of the Economic Policy Committee

ITEMS DEBATED

EXCESSIVE DEFICIT PROCEDURE

Poland

The Council examined a communication from the Commission assessing action taken by Poland in response to the Council's February 2007 recommendation, under article 104(7) of the treaty, with the aim of correcting its excessive government deficit by 2007 at the latest.

It shared the view of the Commission that, on the basis of current information, consolidation measures taken by the Polish authorities are consistent with the recommendation, since the 2007 deficit is expected to be below of 3% of gross domestic product (GDP). Poland is expected to achieve in 2007 a structural improvement close to one percentage point, clearly exceeding the 0.5% percentage point recommended by the Council.

The Council therefore considered that no further steps are currently needed under the excessive deficit procedure.

However, it also noted that the sustainable correction of the deficit, without which the excessive deficit procedure cannot be closed, is prone to important risks, since the deficit for 2008 is expected to rebound above 3% of GDP.

Against this background, the Council invited the Polish authorities to set out in their forthcoming convergence programme for 2008-2010 a medium-term budgetary strategy covering the whole legislature, consistent with a durable correction of the deficit in order to enable further progress towards Poland's medium-term objective in line with the EU's stability and growth pact.

LISBON STRATEGY ON GROWTH AND JOBS - MULTILATERAL SURVEILLANCE

The Council adopted the following conclusions.

"The Council discussed implementation over the past year of Member States' National Reform Programmes for the period 2005-2008 on the basis of a first horizontal assessment by the Economic Policy Committee. The overall picture of the first three years of the relaunched Lisbon Strategy is fairly positive. However, many of the Lisbon targets can not be reached without further determined reform efforts. Results of reforms are showing, although progress varies significantly between Member States and reform areas. The Council endorsed the report prepared by the EPC.

It is now of key importance to maintain the momentum and step up reform efforts in areas where progress in 2007 was limited, in particular fostering competition - especially in the services sector and energy markets -, increasing incentives in benefit systems, and implementing flexicurity measures appropriate to national circumstances.

(1) Innovation and SMEs

The development of innovation policies is a key element in all Member States' reform programmes. SMEs face specific difficulties with regard to innovation, and many Member States have introduced tailored innovation policies for the specific benefit of SMEs. Improving framework conditions, including the removal of existing barriers to competition; better regulation; and education and training systems is crucial to improve innovation performance, particularly in the services sector. It is also necessary for some Member States to improve access to finance for innovative SMEs. While a number of Member States are making progress towards their national R&D targets, many countries still have some way to go before meeting them in particular as regards private R&D expenditure. Member States should ensure the effectiveness and efficiency of R&D spending.

(2) Better Regulation and Competition

Good progress is being made in many Member States on better regulation, especially in measuring and reducing unnecessary administrative burdens. Countries that have not yet set a target in this area, are invited to do so. Concrete delivery and additional initiatives are now needed on impact assessments and simplification, also at the EU level. More should be done to strengthen the independence of regulators and national competition authorities.

Barriers to competition in the services sector remain a cause for concern, in particular in the areas of professional services and retail trade. Good progress has been made with regard to regulatory barriers to entrepreneurship, but further efforts are required to make it easier, quicker and less costly to set up a business and hire the first employee.

While technological innovation and implementation of the EU Directives have fostered the opening up of the telecommunications and postal services sectors, thereby increasing competition in both areas, the European electricity and gas markets remain marked by many barriers; they remain far from functioning well or being integrated fully. Only a limited number of Member States have taken or are taking the necessary steps to achieve a truly competitive, interconnected and single Europe-wide internal market for electricity and gas. In line with the requirements defined by 2003 Energy Directives and the calls of the March 2007 European Council, these necessary steps include more effective separation of supply and production activities from network operations (unbundling) and providing fair network access.

(3) Labour Markets

European labour markets continued their good performance over the past year, benefiting from wage moderation, reforms undertaken and favourable cyclical conditions. The 60% employment rate target for women in 2010 is now within reach.

Good progress has also been made towards the 50% employment target for older workers. However, in order to respond to the challenge of ageing populations, additional reforms are necessary to extend working lives and contain pension cost increases. A sustained reform effort is needed to bring the overall employment rate of the EU closer to the goal of 70%. Long term unemployment remains high, which can lead to social exclusion.

Only limited progress has been has been achieved with respect to reform of employment protection legislation. More progress also needs to be made with regard to benefit reform. Reforms should increasingly focus on measures to make work pay, improving the incentives in the welfare schemes to continue working or take up work and implementing flexicurity measures according to national circumstances. Tax-benefit reforms already undertaken by Member States should be consolidated. All initiatives should be well targeted and consistent with fiscal sustainability. Also, more attention should be devoted to increasing labour utilisation both by increasing employment and the average number of hours worked.

The Council invites the Commission to take account of these findings in its forthcoming Strategic Report. It looks forward to the results of the second round of multilateral surveillance led by the EPC in the context of the update of the Broad Economic Policy Guidelines early next year. The Council stresses the importance of continued structured reforms for the smooth functioning of EMU to maximise the benefits of the single currency. It also takes note of the progress made with the methodology to assess Lisbon related reforms."

GLOBALISATION - THE ECONOMIC IMPACT OF MIGRATION

The Council adopted the following conclusions.

"The Council emphasized the following points related to the economic and financial dimension of migration, as a contribution to the European Council discussion on migration policies:

Migration has an important role to play to increase growth potential and facilitate adjustment. Immigration, among other factors, has contributed to the strong employment growth in many EU Member States over the last decade and thereby helped to enhancing potential output growth. In a number of countries, immigration has also contributed to dealing with bottlenecks in labour markets, helping to contain inflationary pressures and improving competitiveness. Moreover, immigration can enhance overall labour mobility, thus contributing to absorbing asymmetric shocks. The impact on labour productivity can also be positive, although it is difficult to measure.

The impact of migration on welfare expenditure and the sustainability of public finances is complex and depends on the type of migration and other country-specific circumstances, especially the institutional settings characterising national labour markets, and the functioning of the tax and benefit systems.

Migration has become an important factor in population growth in the EU and is the most dynamic source of population change. However, in the long run, migration flows can only partially offset demographic trends on labour supply (declining birth rates and ageing).

On this basis, the Council considers that:

- The economic and fiscal policy dimension of migration is of key importance in the broader analysis of this issue. The impact of migration on growth potential and employment growth, labour markets, adjustment capacity, productivity, competitiveness and public finances can be significant and should therefore not be neglected.

- Both highly-skilled and lower-skilled migration can contribute positively to the dynamism of the economy depending on the specific situation and needs of the recipient countries. An effective immigration policy should be closely aligned with skills related to labour market requirements. Realising potential gains from immigration, especially in the medium term, depends crucially on the success of integration policies for the immigrant population, and on their efforts to integrate. Effective and efficient integration policies are needed, in particular in the areas of skills and education, and in ensuring the efficient functioning of the labour market.

- The benefits of successful integration of migrants, especially in the labour market, should not diminish Member States efforts in the implementation of reforms. Immigration is no substitute for structural reforms. The potential contribution of migration to growth depends in particular on the continuation of labour market reforms in many Member States, including reforms aimed at improving flexibility, hiring conditions to rapidly fill labour shortages, and incentives to work.

- Immigration can contribute to the financing of the public pay-as-you-go pension schemes in the short to medium term, but its impact on the long-term sustainability of public finances is at best marginal. It does therefore not alleviate the necessity for appropriate reforms of the pension systems and measures to remove barriers to higher labour market participation which are needed to ensure fiscal sustainability in the longer term.

- It is also important for Member States to help reduce the negative effects of "brain drain" in the countries of origin, including further action to facilitate the transfer of remittances more cost effectively. The temporary or permanent return of migrant workers to their country of origin can be a "brain gain" as migrants may have acquired additional skills that will enhance growth in the countries of origin, by increasing market knowledge and access, labour productivity and entrepreneurship potential.

- National immigration policies clearly have an impact beyond national borders, given the existence of a single market with free movement of labour for EU citizens and no internal borders within the Schengen area. The impact of measures already taken by Member States on economic migration should be taken into account. Cross- country spillover effects and important economic and fiscal dimensions need to be considered when designing migration policies and cooperation among Member States, for both legal and illegal immigration. Member States should also reflect on how best to cooperate with the countries of origin."

FINANCIAL SERVICES

Review of the Lamfalussy process

The Council held an exchange of views on a review of the Lamfalussy regulatory process for financial services (*15552/07*) carried out by the Commission[1] and the financial services committee on the basis of a report from an inter-institutional monitoring group (*13913/07*).

It adopted the following conclusions[2].

"The Council RECALLS:

– The Resolution on more effective securities market regulation in the European Union taken by the European Council in Stockholm on 23 March 2001, where the European Council decided to introduce the four-level Lamfalussy approach (framework principles, implementing measures, cooperation and enforcement) in the securities sector. The aim was to achieve a way of regulating securities markets which was sufficiently flexible to be able to respond to market developments and regulatory standards and to speed up decision making, so as to ensure the EU's competitiveness in this area while respecting the requirements of transparency, legal certainty and institutional balance;

– Its conclusions of 3 December 2002, whereby it "reaffirmed its clear preference for implementing arrangements based upon the Lamfalussy framework to all financial sectors" and invited the Commission "to establish the level 2 committees in an advisory capacity only, and the level 3 committees as soon as possible";

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1 Communication from the Commission: "Review of the Lamfalussy process: Strengthening supervisory convergence" (*15552/07*)

2 The Italian delegation abstained.

- Its conclusions of 16 November 2004 on the review of the Lamfalussy framework, whereby it found that "experience, while still limited to date, shows the introduction of the Lamfalussy framework to have been successful, meeting its key objectives. The application of the framework has generated additional momentum to, and increased the flexibility of the legislative process in allowing it to respond to technological change and market developments, by adopting implementing rules on a faster and more flexible basis. It has also paved the way for more effective supervisory co-operation and convergence." The Council then further considered inter alia that "the development of Level 3, including enhancing supervisory co-operation and convergence of supervisory practices, and full and consistent implementation as well as enforcement of adopted legislative measures are crucial for the delivery of the benefits of the Lamfalussy framework to market participants";

- Its conclusions of 7 December 2004, whereby it welcomed "the establishment of the Committee of European Banking Supervisors (CEBS) and the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) ", noted "that the new committees are already contributing to regulatory preparations, supervisory co-operation, convergence of supervisory practices, and the assessment of financial stability" and further recalled that "all elements of the Lamfalussy framework shall be monitored regularly to ensure the new structure to be rapidly implemented";

- Its conclusions of 5 May 2006 on the Commission White Paper on the financial services policy (2005-2010), whereby it emphasised "the need to pay particular attention to supervisory convergence as underlined in the FSC Report on Financial Supervision and to optimising the cooperation between home/host supervisors within the current legal framework" and that "the Lamfalussy approach is an important element in the overall regulatory stance developed to face the challenge of accelerating financial market integration. To ensure that this framework remains capable of meeting future challenges it should continue to be applied in the context of a dynamic and open dialogue between all institutions and bodies concerned".

The Council WELCOMES the overall review carried out by the FSC and by the Commission on the basis of *inter alia* the Final Report of the Inter-Institutional Monitoring Group and the work of Level 3 Committees (CEBS, CEIOPS and CESR).

Against this background, the Council FINDS that, overall, experience to date with the Lamfalussy process is positive, also in light of the broad support repeatedly expressed by stakeholders, having significantly increased the efficiency and effectiveness of the EU regulatory and supervisory framework, as well as the quality of the legislative process in accordance with the 'better regulation' goals, namely through improved consultation, transparency and impact analysis. Nevertheless, the Council CONSIDERS that, without changing the inter-institutional balance between the European Parliament, the Council and the Commission, further improvements in these areas should be introduced at all Lamfalussy Levels.

In particular, the Council has drawn the following specific conclusions.

<u>Lamfalussy Levels 1 and 2</u>:

The Council:

– STRESSES the importance for the European legislator to set realistic transposition and implementation deadlines taking also into account the Level 2 measures, and RECALLS in this respect its aforementioned conclusions of 5 May 2006 on the Commission White Paper, whereby it agreed that "Member States must play their role by transposing and implementing the agreed FSAP texts on time, accurately, consistently and avoiding unnecessary regulatory additions";

– Without prejudice to the co-decision process, INVITES the Commission to consider mapping Level 1 and Level 2 possible outcomes concurrently, and WELCOMES the current Commission practice to explain any substantial deviation from the Level 3 committees' technical advice;

– WELCOMES the efforts already made so far by the Commission and the Level 3 committees to conduct open and transparent consultations with all interested stakeholders, but recalls its aforementioned conclusions of 5 May 2006 on the Commission White Paper, whereby it noted "also the importance of strengthening consumer input" and stressed "the need to facilitate an appropriate involvement of consumers and SMEs;

– UNDERLINES the importance of economic impact assessments to be applied in all parts of the Lamfalussy process, taking into account the effect of the measures considered on supervisory convergence mechanisms;

– NOTES that the main responsibility for limiting the number of options and discretions in the EU Directives, and thus creating the necessary preconditions for further supervisory convergence, is with the legislator (the Council and the European Parliament), and UNDERTAKES to limit the use of national discretions and 'gold-plating' to the minimum extent necessary, given the specificities of national markets and INVITES the European Parliament to join in this effort;

– INVITES Member States to keep under review the options and discretions implemented in their national legislation, limit their use (wherever possible) and report to the Commission on these findings, and INVITES the Institutions to introduce a "review clause" in future EU legislation on all options and discretions included in the respective acts. When this review clause comes into effect after a specified time, the necessity and use of the options and discretions should be reviewed and, where necessary, abolished where there is no demonstrated need;

– INVITES the Commission to conduct cross-sectoral consistency checks, where still necessary, to foster coherence of terminology and effect across all EU financial services law.

Lamfalussy Level 3:

The Council RECALLS its conclusions of 5 May 2006 on the FSC Report on financial supervision, whereby it supported "the Lamfalussy framework as well as the level 3 supervisory committees in their co-operation and convergence of their tasks" and endorsed the FSC report, and REITERATES its strong support for the swift implementation of all the recommendations therein.

The Council therefore STRESSES the importance of Level 3 committees and their members having adequate means to fulfil their tasks in terms of EU supervisory convergence and cooperation. To that end, the Council:

- INVITES the Commission, in cooperation with the Level 3 Committees, to study the differences in supervisory powers and objectives between national supervisors and, where (still) necessary and appropriate, define an adequate set of powers in the relevant Directives to ensure the proper implementation of EU Directives across Member States. In addition, the Commission, in cooperation with the Level 3 Committees, is INVITED to conduct a cross-sectoral stock taking exercise of the coherence, equivalence and actual use of powers among Member States and of the variance of sanctioning regimes. That stock-taking exercise should in particular allow to ascertain whether such sanctioning powers have sufficiently equivalent effect;

- INVITES the Commission by April 2008 to clarify the role of the Level 3 Committees and consider all different options to strengthen the working of these committees, without unbalancing the current institutional structure or reducing the accountability of supervisors;

- INVITES the Level 3 committees to transmit to the Commission, the Council and the European Parliament their draft work programmes, so as to allow them to express their view on the key priorities and give policy advice on supervisory convergence and cooperation. The Level 3 committees should then report annually on the achievement of their objectives;

- UNDERLINES the importance of considering including in the mandates of national supervisors a task to cooperate within the EU and to work towards European supervisory convergence and to take into account the financial stability concerns in all Member States; and INVITES the FSC and EFC to examine this issue with a view to report to the Informal ECOFIN in April 2008;

- INVITES the Level 3 Committees to explore the possibilities to strengthen the national application of their guidelines, recommendations and standards, without changing their legally non-binding nature;

- While recognising the importance to continue making their decisions by consensus wherever possible, REQUESTS the Level 3 committees to enhance the efficiency and effectiveness of their decision-making procedures by introducing in their charters the possibility to apply qualified majority voting where necessary. While these committees' decisions are not legally binding, those who do not comply should explain their decision publicly;

- NOTES the increasing number of obligations for the Level 3 committees stemming from the EU legislation, and INVITES the Commission to consider financial support under the EU budget for specific EU wide projects that are requested from the Level 3 Committees. It should also be considered to subject all requests by the EU institutions to the Level 3 Committees which would require significant investments to be made by the latter, to ex ante cost-benefit analysis on a case-by-case basis;

- WELCOMES the Level 3 Committees' efforts towards the development of tools with a view to overcoming or minimising differences in supervisory culture (joint training programmes and secondment schemes), and INVITES the Commission to study the possibilities for EU funding under the EU budget of such programmes, based on properly defined specific projects of the Level 3 Committees.

The Council STRESSES the need for efficient and effective supervision of cross-border groups and to that end:

- INVITES the Commission to review financial services Directives, where still necessary, to include provisions to enable the use of the voluntary delegation of tasks. In addition, the Commission, as well as the Level 3 Committees, are INVITED to analyse the options for the voluntary delegation of supervisory competences;

- CONSIDERS that the functioning of the colleges of supervisors could be enhanced by the introduction of a set of common operational guidelines for the operation of such colleges and the rights and responsibilities of the different members (home and host Member States' authorities), and INVITES the level 3 Committees to study the possibilities for setting these guidelines to provide consistency in the working procedures of the different colleges and effectiveness of the decision making process and provide reassurance to supervisors involved in the college. In addition, the Level 3 Committees are INVITED to monitor the coherence of the practices of the different colleges of supervisors and to share best practices;

- INVITES the Commission, with the assistance of the Level 3 Committees, to review the financial services Directives, where still necessary, with a view to ensuring that provisions underpinning supervisory cooperation and the exchange of information between competent authorities are satisfactory;

- RECALLS its conclusions of 5 May 2006 on financial integration, whereby it invited the Level 3 committees to "to take into account the obstacles identified, and the FSC report on supervisory convergence, in their efforts directed at convergence of rules and practices and in particular to work on common formats for financial institutions reporting to supervisors in order to avoid duplication of costs" and further INVITES the Level 3 Committees to introduce EU-wide common reporting formats with a view to reducing the cost of reporting for industry where possible, and INVITES the Commission and the Level 3 Committees to suggest a timetable by mid-2008 in order to move towards EU-wide reporting formats so as to have a single set of data requirements and reporting dates.

Lamfalussy Level 4:

The Council:

- RECALLS its aforementioned conclusions of 5 May 2006 on the FSC Report on financial supervision, whereby it urged "Member States to timely implement all remaining FSAP and related measures as well as to ensure their proper and consistent enforcement";

- INVITES Member States, with the contribution from Level 3 committees as appropriate, to adopt common formats, where appropriate, to disclose national transposition and implementation of EU legislation;

- STRESSES the importance for the Commission to allocate sufficient staff resources to the task of checking the accurate transposition of Directives and to infringement procedures where relevant.

The way forward:

The Council:

- AGREES on a roadmap (in annex) for way forward including detailed timetables for actions to be undertaken;

- INVITES the FSC and the EFC to monitor progress made on supervisory arrangements with a view to ensuring that the European supervisory arrangements can fully address the challenges to supervisory convergence and cooperation represented by enhanced supervisory discretion and cross-border group supervision in a context of further financial integration and globalisation;

- INVITES the FSC to continue its analytical work on supervisory issues with a view to assessing the role, efficiency and effectiveness of the EU supervisory framework in today's complex markets; and

- NOTES that the evolution of going-concern supervisory arrangements, both at national and cross-border levels, should proceed in parallel with that of crisis-management/financial stability arrangements, and INVITES the FSC and the EFC to take this consideration into account in further work thereon to ensure consistency between the arrangements for crisis prevention and management.

ANNEX

A roadmap

- Commission by April 2008 to prepare an assessment on how to clarify the role of the Level 3 committees and to consider all different options to strengthen the working of these committees, with a view that the FSC and EFC will examine this issue for the informal ECOFIN meeting in April 2008;

- The FSC and EFC to examine the inclusion in the mandates of national supervisors of the objective of EU supervisory cooperation and convergence; and report to the Informal ECOFIN in April 2008;

- Member States by April 2008, with the contribution of the level 3 committees as appropriate, to adopt common formats, where appropriate, to disclose national transposition and implementation of EU legislation;

- The level 3 committees by the mid of 2008 for the first time to transmit to the Commission, the European Parliament and the Council draft work programmes; and thereafter start reporting annually on progress;

- The level 3 committees by the mid of 2008 to explore the possibilities to strengthen the national application of guidelines, recommendations and standards of Level 3 Committees, without changing their legally non-binding nature;

- The level 3 committees by the mid of 2008 to introduce in their charters the possibility to apply qualified majority voting coupled with a comply or explain procedure;

- The level 3 committee by the mid of 2008 to study the possibilities to introduce a common set of operational guidelines for the operation of colleges of supervisors and monitor the coherence of the practices of the different colleges of supervisors;

- The level 3 committees and the Commission by the mid of 2008 to suggest a timetable for the introduction of EU-wide reporting formats for single data requirements and reporting dates;

- The Commission by the end of 2008, in cooperation with the level 3 committees, to conduct a cross-sectoral stock taking exercise of the coherence, equivalence and actual use of sanctioning powers among Member States and variance of sanctioning regimes;

- The Commission by the end of 2008 to consider financial support under the EU-budget for specific EU-wide projects that are requested from the Level 3 Committees;

- The Commission by the end of 2008 to study the possibilities for EU funding under the EU-budget of the development of tools to help build a common supervisory culture by the level 3 Committees;

- The Commission and the level 3 committees by the end of 2008 to review financial services Directives to include provisions to enable the use of the voluntary delegation of tasks and analyse the options for voluntary delegation of supervisory competences;

- The Commission, with the assistance of the level 3 committees, by the end of 2008 to review financial services Directives with a view to ensuring that provisions underpinning supervisory cooperation and the exchange of information between competent authorities are satisfactory;

– The Commission, in cooperation with the level 3 committees, to (1) study by the end of 2008 the differences in supervisory powers and objectives between national supervisors; and (2) define, by the end of 2009, where still necessary and appropriate, a coherent set of powers in the relevant financial services Directives;

– The Commission to carry out by the mid of 2009 cross sectoral consistency checks, where still necessary to foster coherence of terminology and effect across all EU financial services law."

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In accordance with these conclusions, the Council will continue to closely monitor progress in these areas towards convergence in supervision and effective coordination over cross-border market players. In this context, issues raised during the debate, in particular by the Italian delegation, were recognised as important points to be further reflected upon in a longer-term perspective, namely at an informal ministers' meeting scheduled for 4 and 5 April 2008.

The solvency of insurance companies (Solvency II)

The Council held a policy debate on a proposal for a directive setting new solvency rules for insurance and reinsurance companies ("Solvency II"), on the basis of a progress report from a Council working group (*15538/07*).

In addition to recasting 13 existing insurance directives into a single legal text, the proposal introduces a new model for regulation and supervision in the insurance sector. It is aimed at ensuring the further integration of the EU insurance market, enhancing the protection of policyholders and beneficiaries, improving the competitiveness of EU insurers and re-insurers and promoting better regulation in the insurance sector.

The Council agreed on the need for further work on provisions dealing with group support, as regards:

- impact on the integration of the internal market and on competition at national level;
- impact on the protection of policyholders and beneficiaries in crisis situations;
- clarification of legal and practical aspects encompassing the certainty of the cross-border fund transfer between different entities within a group;
- clarification of the role of the "college of supervisors" and the insurance supervisors committee within the limits of the review of the Lamfalussy regulatory process (see page 12).

Examination in the working group has centred on the recast parts of the proposal and on qualitative requirements, rules on supervision, the system of governance, reporting requirements and public disclosure provisions, where an agreement in principle has been reached. The more sensitive provisions, concerning the group support regime within the supervision of insurance groups have been subject to discussion, focusing on practical implementation.

Risk capital markets

The Council took note of a progress report from the financial services committee (FSC) on the identification of barriers to the further development of European risk capital markets (*15551/07*).

It adopted the following conclusions.

"The Council RECALLS its conclusions of October 2004 on the follow-up of the Risk Capital Action Plan, whereby it emphasised "the vital role of risk capital markets for providing equity financing to high-growth small and medium-sized companies, and thus for job creation and the development of a vibrant entrepreneurial culture in the EU. Efficient risk capital markets are a key contribution to a competitive, innovative, dynamic EU economy in accordance with the Lisbon strategy."

The Council RECOGNISES that the European risk capital markets remain fragmented along national lines and that, in particular, European venture capital companies and funds remain on average insufficiently large, specialised and profitable to match the critical mass and attractiveness of the US funds and markets for new/innovative companies. The Council CONSIDERS that this situation calls for further remedial actions and recalls its conclusions of October 2006, whereby it agreed to monitor closely developments in risk capital financing and innovation through a number of steps.

Against this background, the Council:

- WELCOMES the FSC's progress report on key remaining barriers to the development of the European risk capital markets;

- INVITES the Member States to continue their efforts to address existing failures and barriers to the development of risk capital markets and identify best practices, including in the fields of company law and taxation as appropriate, and in particular RECALLS its conclusions of October 2004, whereby it encouraged "enhanced co-operation between all services and institutions concerned at Community/National/Regional levels";

- STRESSES the importance of addressing the already noted fragmentation and weaknesses of venture capital markets and SUPPORTS the swift completion of the various strands of follow-up work carried out by the Commission; WELCOMES in particular the Commission’s intention to publish a Communication on removing obstacles to cross-border investments by venture capital funds, and LOOKS FORWARD to examining the Commission's proposals on the way forward;

- STRESSES the importance of removing, where appropriate by modernising EU legislation, relevant outstanding obstacles in Member States' legislations to investment in private equity/venture capital by institutional investors, and EMPHASISES accordingly the current negotiations on the Solvency II Directive with a view to swift adoption by the European Parliament and the Council, the related future Level 2 measures that will follow, and the clarification of relevant accounting rules; LOOKS FORWARD to the review of the Directive on Institutions for Occupational Retirement Provision, expected in 2008;

– INVITES the Commission, on the basis of robust evidence, to further promote the development of risk capital for high-growth and technology-based SMEs through, amongst others, the European Investment Fund (EIF), the Competitiveness and Innovation Programme (CIP), the JEREMIE (Joint European Resources for Micro to Medium Enterprise) initiative in order to better address market gaps, in particular through support to the set-up and growth of technology companies, including technology transfer, product development and initial marketing."

VALUE-ADDED TAX

VAT on services (VAT package)

The Council reached political agreement on two draft directives and a draft regulation aimed at changing the rules on value-added taxation (VAT) so as to ensure that VAT on services accrues to the country where consumption occurs, and to prevent distortions of competition between member states operating different VAT rates.

The so-called VAT package will be adopted without further discussion at a forthcoming Council meeting, after finalisation of the texts.

The new rules will require taxation for VAT on business-to-business supplies of services at the place where the customer is situated, and no longer at that where the supplier is located, as is currently the case.

For business-to-consumer supplies of services, the place of taxation will continue to be that where the supplier is established. However, in certain circumstances, the general rules for both businesses and consumers will not be applicable, and specified rules will apply to reflect the principle of taxation at the place of consumption. These exemptions concern in particular restaurant services, the hiring of means of transport, cultural, sporting, scientific and educational services, and business-to consumer supplies of telecommunications, broadcasting and electronic services.

To simplify VAT arrangements made necessary by the new rules for telecoms, broadcasting and electronic services, a "one-stop" system will be introduced to enable service providers to fulfil in their home member state a single set of obligations for registrations, declarations and payments, including for services provided in other member states where they are not established. VAT revenue will then be transferred from the country where the supplier is located to that where the customer is situated, whose VAT rates and controls will be applicable.

The measures will as a general rule enter into force on 1 January 2010.

The "VAT package" contains:

– a draft directive on the place of supply of services[1];

– a draft directive on procedures for VAT refunds to non-established businesses[2];

– a draft regulation on improved administrative cooperation as regards VAT and the exchange of information between member states[3].

The Council's political agreement was made possible by a compromise regarding the change of rule on the place of taxation for business-to-consumer supplies of telecoms, broadcasting and electronic services.

For this sector:

- application of the new rules and the one-stop scheme will be deferred to 1 January 2015;

- the member state of establishment will, until 1 January 2019, retain a proportion of VAT receipts collected through the one-stop scheme. This proportion will amount to 30% from 1 January 2015 until 31 December 2016, 15% from 1 January 2017 until 31 December 2018 and 0% from 1 January 2019 onwards;

- the Commission will be asked to report on the feasibility of the new rules before its entry into force.

Reduced VAT rates

The Council:

– adopted conclusions regarding future work on reduced value-added tax (VAT) rates, on the basis of a communication from the Commission;

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[1] draft directive amending directive 2006/112/EC
[2] as provided for in directive 2006/112/EC
[3] draft regulation amending regulation 1798/2003/EC

– agreed on a general approach, pending the opinion of the European Parliament, on a draft directive aimed at renewing temporary derogations that currently allow the Czech Republic, Cyprus, Malta, Poland and Slovenia to apply reduced VAT rates on certain services.

The directive will be adopted without discussion at a forthcoming Council meeting, once the Parliament has submitted its opinion.

Council conclusions

"The Council

RECALLS its request of January 2006 to the Commission to present a report to the Council and the European Parliament, providing for an overall assessment of the impact of reduced rates applying to locally supplied services, including restaurant services, in terms notably of job creation, economic growth and the internal market, based on a study carried out by an independent economic think tank.

TAKES NOTE of the July 2007 Commission's Communication to the Council and the European Parliament on VAT rates other than standard VAT rates, which is based on such an independent study, and which has been the subject of discussions in the Council.

INVITES the Coreper and the Working Group on Tax Questions to prepare a Council discussion on the economic impact of the application of reduced rates and whether or not reduced VAT rates are an appropriate instrument to achieve sector political aims.

The Council will return to those points in 2008.

TAKES NOTES of the Commission intention to present a proposal on reduced rates in 2008."

Draft directive

The draft directive is aimed at extending certain derogations that were introduced in their acts of accession when the Czech Republic, Cyprus, Malta, Poland and Slovenia joined the EU in 2004. The derogations would otherwise expire at the end of this year.

The directive will allow, for a further period until 31 December 2010:

- the Czech Republic to apply a reduced VAT rate of 5% to construction work for residential housing;
- Cyprus to apply a zero VAT rate to the supply of pharmaceuticals and most foodstuffs, and a reduced rate of 5% to restaurant services;
- Malta to apply a zero VAT rate to the supply of pharmaceuticals and foodstuffs;
- Poland to apply a zero VAT rate to the supply of certain books and specialist periodicals, a reduced rate of 7% to restaurant services, to the construction, renovation and alteration of housing, and to the supply of new residential buildings, as well as a “super” reduced rate of 3% to the supply of most foodstuffs;
- Slovenia to apply reduced VAT rates of 8.5% to the preparation of meals and of 5% to construction, renovation and maintenance work for residential housing.

CAPITAL DUTY

The Council agreed, pending the opinion of the European Parliament, on a general approach regarding a draft recast of directive 69/335/EEC on indirect taxes on the raising of capital (capital duty directive).

The directive, which is aimed at simplifying the existing provisions, should be adopted at a forthcoming Council meeting, once the Parliament has submitted its opinion.

COMBATING TAX FRAUD

The Council adopted the following conclusions.

"In November 2006 the Council agreed to establish an anti-tax fraud strategy at Community level, especially tax fraud in the field of indirect taxation, in order to complement national efforts.

In June 2007 the Council prioritised a certain number of tasks, which were allocated to the Commission, encompassing both conventional and more far-reaching measures.

The Council RECALLS its conclusions of June 2007 (documents 9803/1/7 REV1 FISC 81 and 10052/07 FISC 88) and TAKES NOTE:

– of the ongoing work on the more far reaching measures and urges the Commission to present its findings;

– of the Commission's intention to present legislative proposals on the conventional measures, on the basis of the work done in accordance to the mandate fixed by the Council,

in order to allow to debate them in the first quarter of 2008.

The Council:

– NOTES the Commission's report on the state of play of the discussions on the conventional measures to combat VAT fraud proposed by Member States, and notably the progress achieved in the Anti Tax Fraud Strategy (ATFS) expert group and INVITES the Commission to continue its work, with the aim to present to the Council its findings during the first half of 2008. The points listed in the conclusions of this report should be addressed in this further work.

– INVITES the Member States who do not have such measures to examine the possibility to put in place, at national level, appropriate legislation in order to ensure a comparable protection in terms of sanctions and criminal proceedings against VAT fraudsters, regardless of whether the committed fraud leads to losses of revenue on their own territory or on the territory of other Member States.

- NOTES the presentation of the Commission's Communication by which it asks for political guidance on some key elements contributing to the establishment of a VAT anti-fraud strategy within the EU.

- TAKES NOTE of the concerns expressed in the Communication and PROVIDES the following guidelines:

an in-depth analysis with a view of identifying the information needs of a modern administration for controlling in particular the EU intra-community VAT system should be carried out by the Commission. This analysis should take into account the objectives set in the Council's "Action Programme for reducing administrative burdens in the European Union" (reducing by 25% the existing administrative burden by 2012);

INVITES the Commission to do further work with a view to reinforce the management of the EU VAT system by the Member States;

RECOGNISES the importance of disposing of up-to-date information on the status of traders for the correct functioning of the VAT arrangements ruling intra-Community trade and SUPPORTS further work on a common approach to registration and de-registration of traders;

AGREES that the capacity of Member States to collect the VAT in fraud cases could be enhanced,

and INVITES the Commission to consider legislative proposals on these aspects, where appropriate.

The Council INVITES the Commission to work on all these aspects in close cooperation with Member States and to report to the Council during 2008 on the progress made."

HARMFUL TAX COMPETITION - CODE OF CONDUCT

The Council took note of a report from a Council working group on implementation of a code of conduct aimed at eliminating situations in the EU of harmful tax competition where favourable tax treatment in one member state attracts businesses from other member states.

It adopted the following conclusions.

"With regard to the Code of Conduct, the Council reaffirmed the commitment of the Member States to tackling harmful tax competition through the Code, as expressed in the Council conclusions of 1 December 1997. The Council also recalled that Member States should be treated equally under the Code and confirmed that the assessment of measures should be fair and transparent, in accordance with the Code and its rules of procedure (as laid out in the Council conclusions of 9 March 1998). Turning to the progress of work of the Code of Conduct Group, the Council

- welcomed the progress on standstill achieved by the Code of Conduct Group (Business Taxation) during the Portuguese Presidency and approved points 1. to 15. of its report (doc. 15545/1/07 REV 1 FISC 157);

- asked the Group to continue monitoring standstill and the implementation of rollback, and report to the Council before the end of the Slovenian Presidency;

- asks the Code Group to urgently find solutions to all outstanding issues concerning its future work, including the procedural aspects, and to report back to the Council before the end of the Slovenian Presidency."

MEETINGS IN THE MARGINS OF THE COUNCIL

– Eurogroup

Ministers of the euro area member states attended a meeting of the eurogroup on 3 December.

– Ministerial breakfast meeting

Ministers held a breakfast meeting, where the president of the eurogroup reported on the eurogroup meeting held on 3 December and on a visit by a eurogroup delegation to China. They also discussed reactions to oil price rises and reconfirmed their commitment made at an informal meeting in Manchester in September 2005 not to introduce distortionary fiscal measures to offset the impact of rising oil prices.

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Over lunch, ministers held an exchange of views on the economic situation and were debriefed on a meeting of finance ministers and central bank governors from the G20 group of countries with industrialised and emerging market economies, held in Cape Town on 17 and 18 November.

OTHER ITEMS APPROVED

EXTERNAL RELATIONS

EU police mission in Bosnia and Herzegovina

The Council adopted a decision implementing joint action 2007/749/CFSP on the EU police mission (EUPM) in Bosnia and Herzegovina (BiH), setting the EUPM budget for the year 2008, which amounts to EUR 14 800 000 *(15049/07)*.

The joint action, adopted in November, extended EUPM from 1 January 2008 to 31 December 2009, following an invitation by the BiH authorities. The mission was launched in 2003. Its current mandate expires on 31 December 2007.

EUPM is aimed at establishing a sustainable, professional and multiethnic police service, operating in accordance with international standards. It works in coordination with and under the local political guidance of the EU special representative in BiH, as part of the EU's broader rule-of-law approach in BiH and in the region.

TRADE POLICY

Anti-dumping - Silico-manganese - China; Kazakhstan; Ukraine

The Council adopted a regulation imposing a definitive anti-dumping duty on imports of silico-manganese originating in China (8,2 %) and Kazakhstan (6,5 %) and terminating the proceeding on imports of silico-manganese originating in Ukraine *(14945/07)*.

FISHERIES

Agreement with Guinea-Bissau

The Council adopted a decision approving the conclusion of an agreement on the provisional application of a protocol setting out the fishing opportunities and the financial contribution provided for in the EU's fisheries partnership agreement with Guinea-Bissau for the period 16 June 2007 to 15 June 2011 *(14389/07)*.

Fishing opportunities set out in the protocol are allocated to member states as follows:

- shrimp fishing: Spain 1421 gross registered tonnes (GRT), Italy 1776 GRT, Portugal 1066 GRT, Greece 137 GRT;
- fin-fish/cephalopods: Spain 3143 GRT, Italy 786 GRT, Greece 471 GRT;
- tuna seiners and surface longliners: Spain 10 vessels, France 9, Portugal 4;
- pole-and-line vessels: Spain 10 vessels, France 4.

The Community's financial contribution for the four-year period amounts to EUR 7 million per year.

Guide prices for 2008

The Council adopted a regulation fixing guide prices and Community producer prices for certain fishery products for 2008, pursuant to regulation 104/2000 *(15281/07)*.

Regulation 104/2000 stipulates that prices be based on the average of prices recorded for a significant proportion of Community output on wholesale markets or in ports during the three fishing years immediately preceding 2008. They must take into account trends in production and demand, thus being an appropriate tool for the determination of price levels of intervention on the market for fishery products, whilst stabilising the markets and avoiding the formation of surpluses in the Community.

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