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## OUTCOME OF THE COUNCIL MEETING

3470th Council meeting

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

Brussels, 26 and 27 May 2016

Presidents

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

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## **ITEMS DEBATED**

### **INTERNAL MARKET AND INDUSTRY**

#### **Competitiveness check-up: impact of digitalisation on productivity - scoreboard**

Ministers exchanged views on the impact of digitalisation on productivity, with a focus on the services sector. The debate took place on the basis of a presentation by the Commission.

The presentation focused on productivity in services and the EU's place on the global scene; it mainly compared the EU to advanced economies like the USA on:

- labour productivity in the field of services.
- the contribution of services to productivity growth
- the level of investment and diffusion in information and communication technologies (ICT)

Delegations provided guidance on how to increase productivity in the EU and bridge the gap with more advanced regions in the world.

In particular, they mentioned:

- the need to target investments in promising fields like ICT, research and innovation
- the quick digitisation of the services sector
- the promotion of digital infrastructures and interconnection of networks
- the deepening of the single market
- to have a more qualitative and innovation-friendly legislation
- the promotion of training and skills in new technologies
- to facilitate initiatives in support of SMEs and start-ups.

The Council also took note of the progress made on preparations for the establishment of a competitiveness scoreboard. Member states and the Commission broadly supported the development of a scoreboard as a tool designed to better monitor developments in the field of competitiveness and capable of improving the quality of the decision-making process.

The scoreboard would include indicators on overall competitiveness as well as on the thematic areas which are most relevant for the competitiveness check-up.

The "competitiveness check-up" allows ministers to put forward priorities and respond to urgent issues and developments in the real economy. It is a regular working method aimed at improving the analysis of horizontal and sectoral economic issues as well as the monitoring of competitiveness mainstreaming.

In practice, it is based on a presentation by the Commission of the latest figures and trends related to micro-economic issues; ministers are invited to respond and provide input on possible implications for EU companies and citizens.

## **Competitiveness mainstreaming: the digital single market**

At an informal working lunch, ministers responsible for telecommunications and competitiveness assessed the progress made on the various initiatives of the digital single market strategy.

The working lunch was also attended by vice-president Andrus Ansip, responsible for digital single market affairs at the European Commission.

The debate was based on a presentation by the Commission and a presidency document containing an overview of the state of play of all the initiatives ([8952/16](#)).

The debate focused on the strategy's key criteria and objectives.

Ministers also provided guidance on how better put the strategy into practise and outlined factors that might hamper effective and timely implementation of the initiatives.

Many delegations stressed a number of overarching conditions that can be considered as essential elements for a common European approach to take the strategy forward, including:

- Timeliness of actions to capture all the benefits of digitisation as quickly as possible.
- Delivering all the initiatives, given that the full package is needed in order to make a true difference, particularly by ensuring that the best possible infrastructure is in place for digital innovations to reach businesses and consumers.
- Balancing diverging national situations to obtain a European level playing field.
- Aligned national efforts to increase the efficiency of programmes to stimulate innovation, by allowing industry to benefit from substantial support.
- Establishment of a future-proof regulatory framework which is simple, effective and provides legal certainty.

"Competitiveness mainstreaming" allows ministers to discuss the competitiveness of the European economy with regard to legislative packages that are not entirely or not directly under the remit of the Competitiveness Council. It is part of the "competitiveness check-up" process.

In June 2015, the European Council stressed that digital technologies bring immense opportunities for innovation, growth and jobs and that action must be taken on key components of the digital single market strategy, including ensuring effective investment instruments and improving the innovation climate.

## **Portability of digital content**

In a public session, the Council agreed on a general approach on a draft regulation aimed at ensuring the cross-border portability of online content services in the internal market.

The agreement enables the Council to start negotiations with the European Parliament, once the Parliament has set its negotiating position, under the ordinary legislative procedure.

The regulation will allow consumers who have acquired a right of access to online content such as music, games, films or sporting events to access that content not only in their country of residence but also when they are temporarily present in another EU country for holidays, travel or business.

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

## **Better regulation to strengthen competitiveness**

Following a policy debate on better regulation to strengthen competitiveness, the Council adopted conclusions on this subject.

The debate was based on a presidency paper containing two questions ([8551/16](#)).

In the presence of First Vice President of the Commission, Frans Timmermans, ministers assessed the progress made so far on the better regulation agenda and discussed the way forward, in particular with a view to making the approach to better regulation future-proof and enabling for innovation.

In this context, the conclusions address four key aspects:

- a future-proof and innovation-friendly legislation
- impact assessment and quantification of costs and benefits
- reduction targets in burdensome areas
- better regulation and SMEs.

[Council conclusions on better regulation to strengthen competitiveness](#)



## **Review of the posting of workers directive**

During a public debate, the Council took note of information by the presidency ([8664/1/16](#)) about the state of play on the recent [Commission's proposal to revise the 1996 posting of workers directive](#).

Commissioner Marianne Thyssen, responsible for employment, social affairs, skills and labour mobility, explained that the targeted revision of the posting of workers directive put forward by the Commission seeks to address current unfair practices and promote the principle that the same work in the same place should be remunerated in the same manner.

Furthermore, she provided a number of clarifications e.g. that the proposal does not intend to harmonise wage conditions across the EU.

Several delegations expressed concerns which were related to the risks of undermining competitiveness as well as the good functioning of the internal market invoking the yellow card procedure on subsidiarity (Protocol 2 annexed to the EU treaties), they requested the withdrawal of the proposal.

Other delegations supported the objectives of the proposal and requested that it be taken forward in the Employment and Social Affairs Council (EPSCO), the lead Council configuration responsible for the examination of the file.

The Commission concluded that it will reflect on the way forward, in particular with regard to the yellow card procedure.

Posting of workers plays an essential role in the internal market, particularly in the cross-border provision of services.

## **SPACE POLICY**

### **Uptake of space data from European space programmes**

The Council exchanged views on the uptake of space data from European space programmes.

The results of the discussion will be a valuable input for the forthcoming Commission initiative “A Space Strategy for Europe” to be issued in the autumn of this year.

On the basis of a Presidency document ([8508/16](#)), ministers expressed views on:

- the most significant challenges and barriers preventing the optimal uptake of space data
- the most promising actions that could be taken at European and national levels
- the actions that should be prioritised in the upcoming European space strategy.

Space data refers to data and information produced by Copernicus and signals stemming from the European satellite navigation programmes (Galileo and EGNOS). These data can produce valuable contributions to numerous markets, particularly when coupled with data and information from other terrestrial sources and ICT solutions.

While new initiatives on the use of space data are gradually coming on line, the pace has been slow up until now. The wide potential of the use of space data, services and applications is technically proven but not necessarily well integrated into other policy domains outside the space domain.

The presidency document identifies benefits, challenges and barriers to the uptake of space data by using illustrative themes in the domains of agriculture, air quality and automated transport.

In addition, the presidency has collected best practices from member states.

Ministers outlined that space data, applications and services, coupled with the rapid development of the digital economy, offer enormous potential benefits for more effective and efficient public policies, as well as opportunities for science, the private sector and society.

European companies and users in general should be able to reap the benefits of the large public investments in European space programmes made over several decades.

In this way space can contribute to sustainable growth, jobs and tackling societal challenges in the EU.

In addition to investments in upstream space infrastructures, investments in downstream developments are also necessary to demonstrate the important role of space in achieving the key objectives of the EU policies and for paying off the investments made.

The presidency recalled that discussions on the future European space strategy will be continued on 30 May in The Hague, during the EU-ESA informal space ministerial meeting co-organised by Luxembourg and Switzerland, which are co-chairs of the ESA ministerial Council.

The Netherlands presidency announced the fourth edition of the [European Space Solutions](#) conference that will take place in The Hague from 30 May to 3 June 2016. It is a major conference that will bring together business and public sector with users and developers of space-based solutions.

Participants will learn about new innovations that harness information from the European flagship space programmes, [Galileo](#) and [EGNOS](#) (satellite navigation) and [Copernicus](#) (Earth observation), and the EU's [Horizon 2020](#) research programme, for a wide range of applications, gather insights about current developments, and discuss what is possible and needed in the future.

## **RESEARCH AND INNOVATION**

### **Open science**

The Council held a public debate and adopted conclusions on the transition towards an open science system.

#### [Council conclusions on the transition towards an Open Science system](#)

The debate was structured by means of a background document tabled by the presidency ([8507/16](#)).

The debate concentrated on key aspects reflected in the conclusions, including:

- the importance of the European Open Science Cloud and the Open Science Policy Platform, in the context of the European Open Science Agenda
- the removal of barriers and the fostering of incentives for open science policy
- open access to scientific publications and optimal re-use of research data
- the mainstreaming and further promotion of open science policies
- embedding open science in society to make science more responsive to societal and economic expectations.

Member states agreed to common goals on open science and to pursue concerted actions together with the Commission and stakeholders. Delegations committed to open access to scientific publications as the default option by 2020 and to the best possible re-use of research data as a way to accelerate the transition towards an open science system.

They agreed that the transition to open science requires support from stakeholders, especially researchers. Member states must be also actively involved, including in the work of the Open Science Policy Platform.

In order to follow the progress of the transition, many delegations asked for regular monitoring by the Competitiveness Council.

Some delegations took as a reference point for their interventions the "[Amsterdam Call for Action on Open Science](#)", which was the main result of a conference hosted in the Netherlands last April.

This document reflects the present state of open science and puts forward twelve actions to pave the way for the transition towards open science, grouped around five crosscutting themes that follow the structure of the [European Open Science Agenda](#) proposed by the Commission.

Open science involves moving from a system in which it is difficult to access and locate the results of scientific research to one that openly disseminates results to all kinds of users, such as researchers, knowledge institutions, companies, patient organisations, teachers, students, farmers and citizens in general.

It aims to transform science through ICT tools, networks and media, to make research more open, global, collaborative, creative and closer to society.

## **Friendly environment for research and innovation**

The Council adopted conclusions on the creation of a research and innovation-friendly environment.

### [Council conclusions on Research and Innovation friendly regulation](#)

In its conclusions, the Council acknowledges that Europe's ability to attract and mobilise private investments requires a sound regulatory framework conducive to research and innovation. It invites the Commission, in cooperation with member states, to further develop and implement a pilot on Innovation Deals.

It also stressed the application of the innovation principle, whereby policy and regulatory measures are evaluated in terms of their impact on research and innovation.

The establishment of framework conditions for research and innovation is a part of the development of the Better Regulation Agenda and of the EU's efforts for more jobs, growth and investment.

In December 2015, the Commission issued a working document titled "Better regulations for innovation-driven investment at EU level" ([15392/15](#)).

The document acknowledges that there is no simple relation between innovation and the regulatory environment due to the large number of systemic factors affecting innovation. It thus highlights the need to evaluate the impact of existing or proposed legislation on innovation.

The document also identifies a number of barriers to innovation in existing legislation applicable to specific sectors at EU level.

## **7th research framework programme: final evaluation and future outlook**

The Council adopted conclusions on the evaluation of the EU's 7th research framework programme (FP7) and the future outlook for research and innovation investments for growth, jobs and solutions to societal challenges.

[Council conclusions on FP7 and the future outlook: research and innovation investments for growth, jobs and solutions to societal challenges](#)

The final evaluation and lessons learnt of the FP7, which was running between the years 2007 and 2013, provide valuable findings to improve the implementation of the current Horizon 2020 framework programme for research (2014-2020) in the context of its mid-term review due by December 2017.

In a longer-term perspective, it is also of paramount importance for the design and implementation of future research and innovation framework programmes.

The text of the Council conclusions notes that the €55 billion FP7 has proved to be effective in boosting excellent science, strengthening Europe's industrial competitiveness, contributing to jobs and growth and addressing societal challenges.

The decision that established the FP7 required to carry out an ex-post evaluation by independent experts of the FP's rationale, implementation and achievements two years following the completion of the programme.

The [evaluation report](#) was released in November 2015 and raised five key recommendations:

- (a) Ensure focus on critical challenges and opportunities in the global context
- (b) Align research and innovation instruments and agendas in Europe
- (c) Integrate the key components of the research framework programmes more effectively
- (d) Bring science closer to Europeans
- (e) Establish strategic programme monitoring and evaluation

The Commission replied to the report findings in a [communication adopted on 19 January 2016](#).

## **ANY OTHER BUSINESS**

### **Implementation of the single market**

The presidency informed the Council about preparations for the upcoming June European Council, which is expected to adopt an Agenda for the implementation of all aspects of the single market, including delivery of the digital single market strategy.

### **Product safety and market surveillance package**

In public session, the Council took note of a request made by eleven member states to renew efforts with a view to moving forward negotiations on the Consumer Safety/Market Surveillance package ([8985/16](#)).

The package is currently blocked in the Council because of a proposed provision on the introduction of a mandatory marking of origin on industrial products, known as the "Made in" provision (article 7 of the Consumer Safety draft regulation).

In March, eleven member states in favour of maintaining the "Made in" provision, presented a compromise proposal based on the deletion of article 7 and the introduction of mandatory marking of origin in a limited amount of sectorial legislation, combined with a revision clause.

The presidency verified that positions within the Council remain unchanged.

Commissioner Elzbieta Bienkowska, responsible for internal market, industry, entrepreneurship and SMEs, said that, considering the importance of the package, the Commission is ready to consider any contribution that would help to unblock the package.

### **Friends of industry**

The Council took note of the outcome of the fourth ministerial conference of the Friends of Industry, which was held in Warsaw, Poland, on 22 April ([8844/16](#)).

The conference drew attention to problems in some industrial sectors, the weaknesses of the competitiveness of energy-intensive industries and concerns about unfair trade practices.

It also looked into challenges faced by the manufacturing sectors and solutions to be provided through the digitalisation of the industry.



## **Quantum technology**

The Council took note of the outcome of the conference "Quantum Europe 2016: A New Era of Technology", which was held in Amsterdam, the Netherlands, on 17 and 18 May.

At the conference, a European team of scientists, industries and policy makers presented a "[Quantum Manifesto](#)" with a proposal for the set-up of a flagship initiative in the field of quantum technologies.

## **High performance computing**

The Council took note of information on the launch of a joint project by France, Italy, Luxembourg and Spain on high performance computing (HPC) and big data (8843/16).

Its objective is to build a resilient European HPC supply chain, support the European Science Cloud Game Changer, and support large-scale pan-European pilots where e-infrastructure meets user, to accelerate European industry and public administration solutions onto global markets.

The initiative is in line with the EU's priority related to digital transformation of European industry and the creation of a digital single market.

## **European research infrastructures**

The Council took note of a presentation by the European Strategy Forum on Research Infrastructures (ESFRI) on the [2016 ESFRI roadmap](#).

The roadmap identifies new research infrastructures of pan-European interest corresponding to long term needs of the research communities, covering all scientific areas, regardless of possible location. The 2016 roadmap consists of 21 projects with a high degree of maturity, including 6 new projects.

The ESFRI was established in 2002 to support a strategy-led approach to policy-making on research infrastructures in Europe.

The commitment of the Innovation Union flagship initiative on having 60% of the ESFRI projects implemented by 2015 has been fulfilled.

## **European Innovation Council**

The Council took note of information by the Commission on the outcome of a public consultation on the European Innovation Council.

According to the Commission, Europe has excellent science but lacks disruptive market-creating innovation to turn the best ideas into new jobs, businesses and opportunities. The establishment of a European Innovation Council could contribute to solving this problem.

A few delegations agreed with the broad general principles, while calling that any new concept should have a genuine European added value.

## **Work programme of the upcoming Slovak presidency**

The Slovak delegation informed ministers about the presidency's work programme on competitiveness for the second half of 2016.

In the field of internal market and industry, top priorities of the Slovak presidency will include taking forward the implementation of the digital single market initiatives.

Making progress on the single market strategy for goods and services, the mainstreaming of competitiveness across all EU policy areas, the implementation of the better regulation agenda and support for SMEs, will be other issues of consideration for the Slovak presidency.

Moreover, the future presidency will focus on smart industry related actions and will continue discussions on the digitisation of the European industry.

The upcoming presidency will also ensure the follow-up of space policy issues. It committed to work in close cooperation with the Commission, the European Space Agency (ESA) and the member states to continue the implementation of the European space programmes.

In the field of research and innovation, the Slovak presidency will promote support to young researchers by raising attractiveness to scientific careers and promoting investment in human capital.

It will also pay particular attention to widening participation in projects of the Horizon 2020 research programme.

<http://www.eu2016.sk/en>

## **OTHER ITEMS APPROVED**

### **INTERNAL MARKET**

#### **Digital single market technologies and public services modernisation**

The Council adopted conclusions on the Digital Single Market and Public Services Modernisation package ([9524/16](#) and [8735/16 ADD 1](#)).

On 19 April 2016, the Commission presented the [Digital Single Market and Public Services Modernisation package](#). The package contains a set of measures to support and link up national initiatives for the digitisation of industry and related services and to boost investment through strategic partnerships and networks. It consists of four communications:

1. digitising European industry (with an accompanying document on the internet of things)
2. ICT standardisation priorities for the digital single market
3. European cloud initiative (with accompanying documents on high performance computing and quantum technologies)
4. EU e-Government action plan for 2016-2020

With the adoption of the Digital Single Market and Public Services Modernisation package, the Commission plans to mobilise over €50 billion of public and private investment in support of the digitisation of industry.

The objective of the communication on digitising European industry is to support the digitisation of industry in order to make it globally competitive, including setting up a governance framework with member states and industry to help coordinate national and regional initiatives.

The Digital Single Market and Public Services Modernisation package is the first part of the [digital single market strategy](#) focusing on the needs of industry.

The ICT standardisation priorities include 5G, cloud computing, the internet of things, data technologies and cybersecurity. With the European cloud initiative, the Commission plans to create a new European science cloud that will give Europe's 1.7 million researchers and 70 million science and technology professionals a virtual environment to store, manage, analyse and re-use their data across disciplines and borders.

Finally, the e-Government action plan establishes 20 measures to be launched by the end of 2017 to modernise digital public services across the EU, including setting up a digital single gateway enabling users to obtain information and assistance to operate efficiently across borders or helping EU member states to develop cross-border e-health services.

### **Implementation of the Services Directive**

The Council adopted conclusions ([8552/16](#)) on the European Court of Auditors' [report 5/2016](#) on the Commission's implementation of the Services Directive.

The Court's audit focused on the actions that the Commission had taken to support the member states in addition to an examination of the enforcement measures which should resolve the issues of non-compliance that restrict the proper functioning of the single market for services.

The Services Directive was adopted in 2006 with the aim of reducing legal and administrative barriers to both providers and recipients of services. Its effective application can result in increased transparency and simplified procedures to make it easier for businesses and consumers to provide or use services in the single market.

The deadline for transposition was set for 2009, but a 2013 Commission communication stated that "Europe is still falling short of its ambitions for the single market, in particular in key areas like the digital economy, energy and services".

In January 2014, the Council highlighted the need for coordination between the Commission and member states to improve the way single market rules are implemented, applied and enforced. The impact of successful implementation of the directive is potentially very high, given the importance of services in the European economy. It covers services which contribute 46% of the EU's GDP.

## **Fertilisers**

The Council decided not to oppose the adoption by the Commission of a regulation amending [regulation 2003/2003](#) relating to fertilisers for the purposes of adapting annexes I and IV ([8438/16](#) and [8438/16 ADD 1](#)).

The 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.

## **INTELLECTUAL PROPERTY**

### **Trade secrets protection**

The Council adopted a [directive setting out rules for the protection of trade secrets and confidential information of EU companies](#).

The directive, which lays down common measures against the unlawful acquisition, use and disclosure of trade secrets, aims at ensuring a smooth functioning internal market.

It is also intended to have a deterrent effect against the illegal disclosure of trade secrets, without undermining fundamental rights and freedoms or the public interest, such as public safety, consumer protection, public health, environmental protection and mobility of workers.

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

## **JUSTICE**

### **Recognition and enforcement of judgments in civil and commercial matters**

The Council adopted a Decision ([8814/16](#)) authorising the opening of negotiations on a Convention on the recognition and enforcement of judgments in civil and commercial matters (the Judgments Convention) in the framework of the Hague Conference on Private International Law.

Negotiations on the proposed Judgments Convention will formally start in a special commission of the Hague Conference on 1 June 2016.

## **AGRICULTURE**

### **Protective measures against pests of plants**

The Council confirmed the political agreement with the European Parliament on a new regulation on protective measures against pests of plants ([8338/16 ADD 1](#)).

The proposal aims to address the increased risks of dangerous new pests caused by the globalisation of trade. Its goal is also to control the presence and natural spread of pests and modernise and upgrade the instruments related to intra-EU movements (plant passports and protected zones) in a robust, transparent and sustainable manner.

The proposal is part of a package of reviews relating to the health of plants, health of animals, official controls concerning plants, animals, food and feed, and Union expenditure for those policies.

The agreement reached between the European Parliament and the Council includes regulating pests on the basis of established criteria for risk assessment and prioritising the regulation of pests with the most serious consequences. It also provides for better surveillance and the early eradication of outbreaks of new pests.

Following the Council's adoption of its first reading position, the text of the agreement should then be adopted by the Parliament without amendment in an early second reading.

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