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**NOTE**

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Subject: MONTHLY SUMMARY OF COUNCIL ACTS - DECEMBER 2017

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This document lists the acts adopted by the Council in December 2017.<sup>1 2</sup>

It provides information on the adoption of legislative acts, including:

- the date of adoption,
- the relevant Council session,
- the number of the document adopted,
- the Official Journal reference,
- applicable voting rules, voting results and, where appropriate, explanations of vote and statements published in the minutes of the Council.

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<sup>1</sup> With the exception of certain acts of limited scope such as procedural decisions, appointments, decisions of bodies set up by international agreements, specific budgetary decisions, etc.

<sup>2</sup> In the case of legislative acts adopted in the ordinary legislative procedure, there may be a difference between the date of the Council's meeting where the legislative act is adopted and the actual date of the act in question, since legislative acts adopted in the ordinary legislative procedure are only considered to have been adopted after signature by both the President of the Council and the President of the European Parliament and the Secretaries-General of the two institutions.

This document also contains information on the adoption of non-legislative acts that the Council has decided to make public.

This document is also available on the Council's website at:

[Monthly summaries of Council acts \(acts\) - Consilium](#)

Documents listed in the summary may be obtained from the public register of Council documents at: [Documents and publications - Consilium](#)

It should be noted that this document is exclusively for information purposes - only Council minutes are authentic. These are available on the Council's website at: [Council Minutes - Consilium](#)

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**INFORMATION ON THE ACTS ADOPTED BY THE COUNCIL IN DECEMBER 2017**

**3581st meeting of the Council of the European Union (TRANSPORT, TELECOMMUNICATIONS AND ENERGY) held in Brussels on 4 and 5 December 2017**

LEGISLATIVE ACTS

ACT	DOCUMENT	VOTING RULE	VOTES
Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017 on the recognition of professional qualifications in inland navigation and repealing Council Directives 91/672/EEC and 96/50/EC (Text with EEA relevance) OJ L 345, 27.12.2017, p. 53–86	42/17	Qualified majority	All Member States in favour

**Statement by the Slovenia and Greece**

In the Council and its preparatory bodies the Republic of Slovenia and the Hellenic Republic have always maintained the position that those EU Member States, like Slovenia and Greece, where inland navigation is a limited and infrequent activity, primarily used for a local or/and seasonal purpose in waterways with no linkage to inland waterways of other Member States, should be exempted from the obligation to transpose and implement the provision of the Directive of the European Parliament and of the Council on the recognition of professional qualifications in inland navigation and repealing Council Directive 96/50/EC and Council Directive 91/672/EEC.

In addition to not having inland waterways linked to the navigable network of other Member States, the Republic of Slovenia and the Hellenic Republic are exempt from transposition and implementation of the existing EU legislation in the field of inland waterways and up to the present have not transposed and implemented any relevant legislative requirements.

In the light of the above and as long as inland waterway navigation on their territory is technically not possible in accordance with the Union classification of inland waterways and as clearly stated in the Impact Assessment accompanying the respective legislative proposal, the Republic of Slovenia and the Hellenic Republic consider that there is no need and shall not be obliged to transpose the Directive.

As has been stated on several occasions during the respective negotiations within the Council and its preparatory bodies, the Republic of Slovenia and the Hellenic Republic wish to underline that the obligation to transpose and implement this Directive in cases of Member States like Slovenia and Greece imposes a disproportionate and unnecessary administrative burden with no justified added value for the inland waterways sector in the EU or for the mobility of workers.

Decision (EU) 2017/2380 of the European Parliament and of the Council of 12 December 2017 amending Directive 2010/40/EU as regards the period for adopting delegated acts (Text with EEA relevance. ) OJ L 340, 20.12.2017, p. 1–3	52/17	Qualified majority	All Member States in favour
Regulation (EU) 2017/2391 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EC) No 1059/2003 as regards the territorial typologies (Tercet) OJ L 350, 29.12.2017, p. 1–6	49/17	Qualified majority	All Member States in favour
Regulation (EU) 2017/2321 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union OJ L 338, 19.12.2017, p. 1–7	50/17	Qualified majority	All Member States in favour
<p><b>Statement by the Commission on transition</b></p> <p>The Commission recalls that the purpose of the new methodology is to maintain the continued protection of the Union industry against unfair trade practices, in particular those arising from significant market distortions. In that respect, the Commission will ensure that the Union industry incurs no additional burden when seeking protection under the anti-dumping instrument, in particular in the context of potential expiry reviews requests lodged after the entry into force of the new methodology.</p>			
<p><b>Statement by the Commission on Article 23 and interaction with European Parliament and Council</b></p> <p>The Commission shall inform the European Parliament and the Council whenever it intends to produce or update a report pursuant to Article 2(6a)(c) of the Basic Regulation. Where the European Parliament or the Council inform the Commission that they consider that the conditions for producing or updating a report pursuant to Article 2(6a)(c) of the Basic Regulation are met, the Commission will take the appropriate action and inform the European Parliament and the Council accordingly.</p>			

**Statement by the Commission concerning the reports pursuant to Article 2(6a)c of the Basic Regulation**

The Commission will swiftly make use of the possibility foreseen under Article 2(6a)c of the Basic Regulation to produce reports on significant distortions, so that interested parties have those reports at their disposal when preparing submissions to which Article 2(6a) of the Basic Regulation may apply. It will provide guidance to interested parties on the use of those reports.

## NON-LEGISLATIVE ACTS

ACT	DOCUMENT / STATEMENTS
COUNCIL DECISION on the position to be adopted on behalf of the European Union within the Ministerial Council set up under the Treaty establishing the Transport Community as regards the seat of the Permanent Secretariat	14124/17
COUNCIL DECISION on the position to be taken on behalf of the European Union at the thirty-seventh meeting of the Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats with regard to an amendment to Appendix II to the Convention	14671/17
Council Decision (EU) 2017/2301 of 4 December 2017 on the position to be adopted on behalf of the European Union within the ACP-EU Committee of Ambassadors as regards the implementation of Article 68 of the ACP-EU Partnership Agreement OJ L 329, 13.12.2017, p. 45–48	14346/17
Council Decision (CFSP) 2017/2234 of 4 December 2017 amending Decision (CFSP) 2016/2382 establishing a European Security and Defence College (ESDC) OJ L 319, 5.12.2017, p. 80–80	14358/17
Council Conclusions on the progress of the Trans-European Transport Network (TEN-T) implementation and the Connecting Europe Facility (CEF) for transport	15425/17
Council Conclusions on the digitalisation of transport	15431/17
Council Conclusions on "The Mid-term Evaluation of the Galileo and EGNOS programmes and of the performance of the European GNSS Agency"	15435/17

**3582nd meeting of the Council of the European Union (ECONOMIC AND FINANCIAL AFFAIRS) held in Brussels on 5 December 2017**

## LEGISLATIVE ACTS

ACT	DOCUMENT	VOTING RULE	VOTES
VAT e-commerce package		Unanimity	All Member States in favour
Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods OJ L 348, 29.12.2017, p. 7–22	14126/17		
Council Implementing Regulation (EU) 2017/2459 of 5 December 2017 amending Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax OJ L 348, 29.12.2017, p. 32–33	14127/17		
Council Regulation (EU) 2017/2454 of 5 December 2017 amending Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax OJ L 348, 29.12.2017, p. 1–6	14128/17		

**Statement by the Council regarding article 2 of the amending Directive**

The Council and the Commission acknowledge the need to lay down detailed implementation rules for the application of Article 2 in an Implementing Regulation of the Council to support the amendments to Directive 2006/112/EC which apply from 1 January 2021. The Council acknowledges the need for a timely adoption of such an Implementing Regulation before 1 January 2020 to ensure its application as from 2021.

The Council therefore calls upon the Commission to start preparing such implementation rules without delay and, taking into account the principles of Better Regulation, to consult businesses concerned and Member States in the preparation of these rules.

As regards, in particular, the provisions relating to electronic interfaces such as a market place, platform, portal or similar means, the following elements should, amongst others, be considered in the implementation rules:

- Definition of the situation in which a taxable person is considered to facilitate sales of goods through the use of an electronic interface;
- Specific provisions on deeming the dispatch or transport of the goods to be linked to the supply by the electronic interface to the customer where an electronic interface is used to facilitate sales of goods;
- Specific provisions on the conditions for determining when the payment is accepted, and the general obligations for electronic interfaces, where an electronic interface is used to facilitate sales of goods and is deemed to have received and supplied the goods himself;
- The type of information to be kept in the records of taxable persons facilitating supplies of goods and services to non-taxable persons in the Community through the use of an electronic interface, taking account of what information is available to such taxable persons, is relevant to tax administrations and is proportionate to the purpose of the provision, as well as taking into account the need to comply with the General Data Protection Regulation (EU) 2016/679.

The Council acknowledges the need to ensure that the implementation of the new rules, including in respect of compliance, should not disadvantage EU established businesses.

The Council calls on the Commission to provide the necessary framework for the implementation of the relevant Customs systems and monitor their implementation with a view to ensuring that these essential systems are in place by 2021 to support the implementation of the import One Stop Shop from that date.

The Council and Commission will do their utmost to ensure that:

- the implementing provisions necessary for the correct application of Article 2 of the amending Directive are adopted by the end of 2019, and
- the UCC National Import Systems Upgrade referred to in row 14 of the Table in point II of the Annex to the Commission Implementing Decision (EU) 2016/578 of 11 April 2016 establishing the Work Programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code, including the necessary amendments to the data model for the messages, are timely in place.

If it does not seem probable that the adoption of detailed implementation rules for the implementation of Article 2 of the amending Directive can be achieved within a reasonable period of time or that the necessary VAT and Customs IT systems will timely be in place, the Commission will, at the latest by the end of 2019, assess whether this Article can still be correctly applied from 1 January 2021.

Depending on this assessment of the Commission, the Council may invite the Commission to submit to it, as a matter of urgency, a proposal for an amendment of Directive 2006/112/EC, with a view to a full or partial postponement of the application of Articles 2 and 3 of the amending Directive.

The Commission acknowledges the Council's concern and will take utmost account of it in order to take appropriate actions as a matter of urgency.

The Council stresses the need to strengthen cooperation between Member States in order to tackle VAT fraud and welcomes in this respect the intention of the Commission, expressed in its communication “On the follow-up to the Action Plan on VAT. Towards a single EU VAT area – Time to act”, to table before the end of 2017 a legislative proposal to strengthen the legal and operational means in the area of administrative cooperation, including administrative enquiries, to fight more effectively against VAT fraud. The Council recalls in this respect the Council Conclusions of 25 May 2016.

### **Statement by Malta and Cyprus**

Reference is made to the Council Statement regarding Article 2 of the draft Directive, in particular, the last paragraph thereof dealing with administrative cooperation between Member States.

Malta and Cyprus fully support the strengthening of administrative cooperation and invite the Commission to positively consider in any future proposals on the matter, to cater for adequate compensation in cases of a disproportionate burden on a member state; as already enunciated in the original proposal of 1st December 2016 (wherein the strengthened proposed rules on administrative enquiries routed through the Member States of identification were accompanied by an adequate retention fee from the Member States of consumption; compensating for the costs of collection and control).



NON-LEGISLATIVE ACTS	
ACT	DOCUMENT / STATEMENTS
Council Conclusions on "Responding to the challenges of taxation of profits of the digital economy"	15445/17
Council Conclusions on the Commission report to the Council on the implementation and evaluation of Council Directive 2008/118/EC concerning the general arrangements for excise duty	14481/17
Decision (EU) 2017/2381 of 5 December 2017 on the signing, on behalf of the Union, of the Agreement between the European Union and the Kingdom of Norway on administrative cooperation, combating fraud and recovery of claims in the field of value added tax OJ L 340, 20.12.2017, p. 4–5	14382/17
<p><b>Statement by the Council</b></p> <p>The Council recognises that the European Union and the Kingdom of Norway are neighbours, dynamic trade partners and are also parties to the Agreement on the European Economic Area, which aims to promote a continuous and balanced strengthening of trade and economic relations between the Contracting Parties. Due to these close relations, the Agreement between the European Union and the Kingdom of Norway on administrative cooperation, combating fraud and recovery of claims in the field of value added tax must be regarded as specific and hence the Council declares that this Agreement will not constitute a precedent for future agreements in this area between the European Union and third countries. In particular, in any possible future agreement concerning exchange of targeted information through the Eurofisc network established under Chapter X of Council Regulation (EU) No. 904/2010 should be limited to what is strictly necessary and possible to combat cross-border fraud between the Union and the third country.</p>	
Council Conclusions on Code of Conduct Group (Business Taxation)	14789/17
Council Conclusions on the Implementation of the Joint Declaration by the President of the European Council, the President of the European Commission and the Secretary General of the North Atlantic Treaty Organization	14802/17

Council Conclusions on the EU list of non-cooperative jurisdictions for tax purposes OJ C 438, 19.12.2017, p. 5–24	15429/17		
Council Decision (EU) 2017/2429 of 5 December 2017 abrogating Decision 2008/713/EC on the existence of an excessive deficit in the United Kingdom OJ L 344, 23.12.2017, p. 6–8	14852/17		
Council Recommendation of 5 December 2017 with a view to correcting the significant observed deviation from the adjustment path toward the medium-term budgetary objective in Romania OJ C 439, 20.12.2017, p. 1–3	14853/17		
Council Decision (EU) 2017/2389 of 5 December 2017 establishing that no effective action has been taken by Romania in response to the Council Recommendation of 16 June 2017 OJ L 340, 20.12.2017, p. 49–50	14854/17		
<b>3583rd meeting of the Council of the European Union (Employment, Social Policy, Health and Consumer Affairs) held in Brussels on 7 and 8 December 2017</b>			
LEGISLATIVE ACTS			
ACT	DOCUMENT	VOTING RULE	VOTES
Directive (EU) 2017/2398 of the European Parliament and of the Council of 12 December 2017 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Text with EEA relevance) OJ L 345, 27.12.2017, p. 87–95	45/17	Qualified majority	All Member States in favour, except: Abstention: HR, PL, UK
Regulation (EU) 2017/2395 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 as regards transitional arrangements for mitigating the impact of the introduction of IFRS 9 on own funds and for the large exposures treatment of certain public sector exposures denominated in the domestic currency of any Member State (Text with EEA relevance) OJ L 345, 27.12.2017, p. 27–33	59/17	Qualified majority	All Member States in favour, except: Abstention: UK

Directive (EU) 2017/2399 of the European Parliament and of the Council of 12 December 2017 amending Directive 2014/59/EU as regards the ranking of unsecured debt instruments in insolvency hierarchy OJ L 345, 27.12.2017, p. 96–101	57/17	Qualified majority	All Member States in favour
Regulation (EU) 2017/2305 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 1303/2013 as regards the changes to the resources for economic, social and territorial cohesion and to the resources for the Investment for growth and jobs goal and for the European territorial cooperation goal OJ L 335, 15.12.2017, p. 1–5	53/17	Qualified majority	All Member States in favour
Regulation 2017/2306 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 230/2014 establishing an instrument contributing to stability and peace OJ L 335, 15.12.2017, p. 6–10	54/17	Qualified majority	All Member States in favour, except: Abstention: UK
<p><b>Declaration concerning sources of funding of assistance measures under Article 3a of Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace</b></p> <p>The European Parliament, the Council and the Commission agree that capacity building in support of development and security for development should be financed within Heading IV of the multiannual financial framework for the years 2014-2020, primarily through redeployments, while preserving the financial balance among all instruments to the maximum extent possible. Furthermore, without prejudice to the prerogatives of the budgetary authority in the annual budgetary procedure, such redeployments should not include use of appropriations allocated to measures under Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020.</p>			

NON-LEGISLATIVE ACTS	
ACT	DOCUMENT / STATEMENTS
Council Conclusions on the European Court of Auditors' Special Report No 14/2017: "Performance Review of case management at the Court of Justice of the European Union"	14833/17
Council Conclusions on Enhanced measures to reduce horizontal gender segregation in education and employment	15468/17
Council Conclusions on the Future of Work: Making it e-Easy	15506/17
Council Conclusions on Enhancing Community-Based Support and Care for Independent Living	15563/17
Council Conclusions on Health in the Digital Society — making progress in data-driven innovation in the field of health OJ C 440, 21.12.2017, p. 3–9	14079/17
Council Conclusions on cross-border aspects in alcohol policy — tackling the harmful use of alcohol OJ C 441, 22.12.2017, p. 3–7	14083/17
<p><b>Statement by Italy</b></p> <p>Italy appreciates the Estonian Presidency's intention to address this issue of great relevance to public health policy - the fight against certain aspects of the harmful use of alcohol - so we do not intend to hinder the adoption of the draft Conclusions.</p> <p>However, we feel bound to express our regret that certain aspects which we consider important have not been included or strongly emphasised in the text of these conclusions.</p> <p>These points arise from our positive experience in Italy, where, notwithstanding some worrying trends of excessive consumption, especially among young people, average consumption has been amongst the very lowest in Europe and confined to moderate and responsible use of drinks with a low alcohol content as part of a healthy diet and lifestyle.</p>	

We would therefore have liked the conclusions to emphasise that a safe level of alcohol consumption does not lead to a significant increase in health risks. This would also have been in line with the advice and language used by international organisations such as the WHO, which always refer to the harmful use of alcohol, and not to its consumption as such.

Italy also believes that, in order to guarantee the effectiveness of public prevention and communication policies, especially those aimed at young people, it is essential to adopt a cross-sectoral approach including all industry stakeholders.

Moreover, we consider that the adoption of tax measures is not in itself a proven effective step, and that on the contrary such measures could stimulate illegal supply methods, including through alternative channels, thereby putting consumers' health and safety at risk.

We also believe it is premature to deal with the issue of labelling, as we expect to receive the proposal from the drinks industry in the first few months of next year.

We would reiterate that any national labelling initiative must not violate the principles of free movement of goods between Member States, as provided for in the Treaties.

Italy kindly requests that this statement be included in the minutes of the meeting.

**3584th meeting of the Council of the European Union (Justice and Home Affairs) held in Brussels on 7 and 8 December 2017**

LEGISLATIVE ACTS

ACT	DOCUMENT	VOTING RULE	VOTES
Council Decision (EU) 2017/2269 of 7 December 2017 establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2018–2022 OJ L 326, 9.12.2017, p. 1–4	14423/16	Unanimity	All Member States in favour

**Declaration of the Council concerning the review of the Multiannual Framework to be made at the time of adoption and entered into the Council minutes**

Under Article 30 (3) and (4) of Council Regulation (EC) N° 168/2007 ('the Regulation') an independent, external evaluation of the EU Agency for Fundamental Rights ('FRA') will be carried out in 2017. As stipulated in Article 31 (2) of the Regulation, the Commission, after having assessed the evaluation report and recommendations made on that basis by the FRA's Management Board, may consider submitting any proposals for amendments to the Regulation which it considers necessary.

In this context, the Council agrees that it will consider carefully any proposals for amendments to the Regulation that the Commission may decide to submit, including those pertaining to the remit of the Agency to cover the areas of police cooperation and judicial cooperation in criminal matters. The Council further agrees that it will consider carefully any proposals to improve procedures for the governance and functioning of the Agency.

**Declaration of the Council concerning national minorities to be made at the time of adoption and entered into the Council minutes**

The Council Decision does not intend to define the notion of "national minority" and therefore the activities of the Fundamental Rights Agency under Article 2(b) affect neither the definition nor the existence of the term "national minority" as provided for by national law, nor the distribution of competences between the Union and the Member States in this respect.

**Statement by the Commission**

The Commission regrets the lack of agreement on the inclusion of the proposed new thematic areas of police cooperation and judicial cooperation in criminal matters in the EU Agency for Fundamental Rights' Multiannual Framework for 2018-2022.

The Commission recalls that following the entry into force of the Treaty of Lisbon, police cooperation and judicial cooperation in criminal matters have become part of Union law and are therefore covered by the scope of the tasks of the Agency, as all areas falling within the competences of the Union, under Article 3(1) of Council Regulation (EC) n°168/2007.

If these thematic areas are not included in the Council Decision establishing a Multiannual Framework for the Agency for 2018-2022, the Agency will continue to carry out its tasks in these areas upon request from the European Parliament, the Council or the Commission, under Article 5(3) of Council Regulation (EC) n°168/2007.

Following the external evaluation of the Agency in 2017, the Commission shall transmit the evaluation reports and recommendations to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and make them public.

After having assessed the evaluation report and recommendations, the Commission may submit any proposals for amendments to Regulation (EC) n°168/2007 which it considers necessary, as provided in Article 31(2) thereof.

**Statement by Austria, Belgium, Finland, Germany, Portugal, Slovenia, Sweden, Lithuania, Czech Republic, Italy, Luxembourg and Ireland.**

Austria, Belgium, Finland, Germany, Portugal, Slovenia, Sweden, Lithuania, Czech Republic, Italy, Luxembourg and Ireland regret that the areas of police cooperation and judicial cooperation in criminal matters could not be included in the Multiannual Framework of the Fundamental Rights Agency, despite the fact that these areas are particularly fundamental rights-sensitive and should, therefore, be part of the regular activities of the Agency. Furthermore, it should be recalled that the Agency is already active in these areas upon request in accordance with Article 5 (3) of Council Regulation (EC) No 168/2007.

Austria, Belgium, Finland, Germany, Portugal, Slovenia, Sweden, Lithuania, Czech Republic, Italy, Luxembourg and Ireland reiterate their support for the inclusion of police cooperation and judicial cooperation in criminal matters in the Agency's areas of activities and will revert to this issue in the context of proposals for amendment of Council Regulation (EC) No 168/2007. We invite the Commission to submit a proposal to this effect following the independent external evaluation to be carried out in 2017.

NON-LEGISLATIVE ACTS

ACT

DOCUMENT / STATEMENTS

Council Conclusions on stepping up the fight against illegally traded tobacco products in the EU

15638/17

**Statement by the Commission**

The Commission welcomes the support expressed by Council for the Commission's strategy against the illicit tobacco trade, and especially cheap whites, which remains a preoccupying phenomenon.

The Commission in particular welcomes Council's encouragement to promote the FCTC Protocol in third countries (particularly the main source and transit countries).

In this light, the Commission however regrets that internally, Council only invites Member States to consider ratifying and implementing the FCTC Protocol.

From the Commission's perspective, this statement puts in question the coherence of the EU's external and internal action and the principle of sincere cooperation. In addition it raises difficulties of legal interpretation, notably with regard to the binding nature of agreements concluded by the Union, as provided for by Article 216(2) of the Treaty on the Functioning of the European Union.

## Statement by Hungary

Hungary strongly regrets that the European Commission refused to postpone the vote on the Implementing Regulation on technical standards for the establishment and operation of traceability system for tobacco products to be adopted pursuant to Article 15 of the Tobacco Products Directive (2014/40/EU). The vote, which ended on 29 November 2017, regrettably paves the way for a Tracking and Tracing System which is highly expensive, complicated, and above all, totally unfit for its purpose: combating the illicit trade of tobacco products. Hungary reminds that the most serious trend in this illicit trade is the smuggling of "cheap whites", and that the costly Tracking and Tracing System that we will have to be applied as from 20 May 2019 will do nothing to combat this trend.

It is equally regrettable that, despite the commitment taken by the High Level Working Party of Directors General for Customs, and repeated requests by Hungary (including in the joint Declaration of the Hungarian, Polish and Slovak customs directors supported in the principle by 11 Member States), the possibility to hold a substantive debate on the competitiveness aspects and the possible serious distortion of competition to the detriment of small manufacturers in the appropriate fora of the Council has been denied.

Hungary wishes to reiterate the statement it made at the Competitiveness Council on 30 November 2017, in particular that:

- the Tracking and Tracing System will not resolve the problem of the illicit trade in the global tobacco market as no interoperability is guaranteed with the schemes operated by third countries;
- the Tracking and Tracing System will outrageously favor both large tobacco corporations (leading in all likelihood to a further consolidation of the industry), and the big firm(s) that will implement the system at technical level with regard to their already existing system;
- small manufacturers, as opposed to large corporations, have no tracking and tracing system in place and will face huge operational costs, which will threaten the survival of their business. In Hungary alone, the implementation of the Tracking and Tracing System puts at risk some 30.000 jobs. The flexibilities envisaged in the implementing regulation do not offer a solution that would make the on-off necessary investment sustainable for small businesses.

Against this background, Hungary urges the Commission to closely monitor the nefarious consequences of the Tracking and Tracing System that small manufacturers and their workers will inevitably bear and to propose, as soon as possible, adequate solutions to mitigate these consequences.

Hungary reiterates its commitment to support all initiatives, which aims at reaching tangible results in combating smoking and the illicit trade of tobacco products.



Council Conclusions on the strengthening of the ATLAS Network	15627/17
Council Conclusions on strengthening the European Union response to CBRN related risks, reducing access to explosive precursors and protecting public spaces	15648/17
Council Conclusions on Strengthening European Union-Ukraine Cooperation on Internal Security	15615/17
Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2017 evaluation of Denmark on the application of the Schengen acquis in the field of the common visa policy	14228/17
Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2017 evaluation of Denmark on the application of the Schengen acquis in the field of the Schengen Information System	14233/17
Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2017 evaluation of Iceland on the application of the Schengen acquis in the field of the Schengen Information System	14783/17
Council Decision authorising the opening of negotiations for an Agreement between the European Union and Canada for the transfer and use of Passenger Name Record (PNR) data, and the Addendum thereto	13672/1/17 REV 1
<p><b>Statement by Ireland</b></p> <p>The Irish delegation notes that it is intended that the Council will make a decision authorising the opening of negotiations for an Agreement between the European Union and Canada for the transfer and use of Passenger Name Record less than 3 months after presentation of this proposed decision to the Council.</p> <p>In these exceptional circumstances, mindful of the importance of the proposed Council Decision and in acknowledgement of the need to allow its speedy adoption, the Irish delegation will not insist, in this instance, upon its right to have 3 months within which to exercise Ireland's option to notify the President of the Council of its wish to participate in the adoption and application of the proposed Council Decision in accordance with the provisions of Article 3 of Protocol 21 on the Position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union.</p>	

### Statement by the United Kingdom

The United Kingdom and Ireland have a special position under Protocol 21 to the Treaty on the Functioning of the European Union. Article 3 of Protocol 21 provides the United Kingdom and Ireland with a period of 3 months to consider whether to take part in a measure.

That Protocol applies to the proposed Council Decision authorising the opening of negotiations on an Agreement between the European Union and Canada for the transfer and use of Passenger Name Record (PNR) data to prevent and combat terrorism and other serious transnational crime.

The United Kingdom regrets that it has not been given the full three months, in accordance with the Treaties, to take a decision on whether to participate in this measure.

Nevertheless, in this case, the United Kingdom has informed the Presidency that it is taking part in the adoption of the Council Decision

Conclusions of the Council and the Representatives of the Member States meeting within the Council on interconnection of electronic registers of wills	5305/18
Council Conclusions on the development of the SIRENE Bureaux in the framework of the Schengen Information System	15560/17
Council Decision (CFSP) 2017/2263 of 7 December 2017 amending Decision 2010/452/CFSP on the European Union Monitoring Mission in Georgia, EUMM Georgia OJ L 324, 8.12.2017, p. 51–51	13537/17
Council Decision (CFSP) 2017/2264 of 7 December 2017 amending Decision 2014/219/CFSP on the European Union CSDP Mission in Mali (EUCAP Sahel Mali) OJ L 324, 8.12.2017, p. 52–52	14462/17
Council Implementing Decision (CFSP) 2017/2265 of 7 December 2017 implementing Decision (CFSP) 2015/1333 concerning restrictive measures in view of the situation in Libya OJ L 324, 8.12.2017, p. 53–54	15189/17
Council Decision on the signing, on behalf of the Union, and provisional application of Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union	14030/17

<b>3585th meeting of the Council of the European Union (Foreign Affairs / Trade) held in Buenos Aires, Argentina on 10-13 December 2017</b>			
NON-LEGISLATIVE ACTS			
ACT	DOCUMENT / STATEMENTS		
First Council Conclusions on the 11th World Trade Organization Ministerial Conference	15630/17		
Second Council Conclusions on the 11th World Trade Organization Ministerial Conference	15719/17		
<b>Adoption of legislative acts following the European Parliament's Second Reading (Strasbourg, 11 to 14 December 2017)</b>			
LEGISLATIVE ACTS			
ACT	DOCUMENT	VOTING RULE	VOTES
Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008 OJ L 347, 28.12.2017, p. 81–104	61/17 (15639/17)	Not applicable	Not applicable
<b>3586th meeting of the Council of the European Union (Agriculture and Fisheries) held in Brussels on 11 and 12 December 2017</b>			
LEGISLATIVE ACTS			
ACT	DOCUMENT	VOTING RULE	VOTES
Regulations (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products and (EU) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material OJ L 350, 29.12.2017, p. 15–49	56/17	Qualified majority	All Member States in favour, except: Abstention: BE, NL

## **Statements by the Commission**

### Ad Article 1 - Rural development

- Extension of the duration of rural development programmes

Expenditure relating to the 2014-2020 rural development programmes approved in accordance with Article 10(2) of Regulation (EU) No 1305/2013 will continue to be eligible for EAFRD contribution if paid to the beneficiaries by latest 31 December 2023. The Commission will address the continuation of support for rural development after 2020 in the context of its proposal for the next MFF.

- Risk management

The Commission confirms its intention to review the functioning and efficiency of the risk management tools which are currently included in Regulation (EU) No 1305/2013 in the context of its proposal on the modernisation and simplification of the Common Agricultural Policy.

- Penalties for Leader

The Commission confirms its intention to review the effectiveness and proportionality of the penalties for LEADER included in Commission Implementing Regulation (EU) 809/2014.

### Ad Article 2 - Horizontal Regulation

- Crisis reserve

The Commission confirms that the operation of the reserve for crises in the agricultural sector and the reimbursement of appropriations related to financial discipline as provided for in Articles 25 and 26(5) of Regulation (EU) No 1306/2013 will be reviewed in the context of the preparations for the next MFF with a view to allowing an efficient and timely intervention in times of market crisis.

- Single audit

The Commission supports the single audit approach, as confirmed by its proposal for Article 123 of the new Financial Regulation. The Commission also confirms that the current legal framework for the management and control of agricultural expenditure, established by Regulation (EU) No 1306/2013, already allows for such an approach and that this has been taken up in its audit strategy for the 2014-2020 period. In particular, where the opinion of the Certification Body delivered in accordance with Article 9(1) of Regulation (EU) No 1306/2013 is considered reliable, the Commission takes this opinion into account when assessing the need for audits of the paying agency concerned.

### Ad Article 3 - Direct payments

- Protein Plan

The Commission confirms its intention to review the supply and demand situation for plant proteins in the EU and to consider the possibility of developing a "European plant protein strategy" with a view to further encouraging the production of plant proteins in the EU in an economically and environmentally sound way.

### Ad Article 4 - CMO

- Voluntary production reduction

The Commission confirms that Regulation (EU) 1308/2013 establishing a common organisation of the markets in agricultural products already contains, in Articles 219 and 221, the necessary legal base allowing it, subject to the availability of budgetary resources, to address market disturbances and other specific problems, including at regional level, with the possibility of granting direct financial assistance to farmers. Moreover, the Commission's proposal to add a sector-specific income stabilisation tool to Regulation (EU) No 1305/2013 on support for rural development will allow Member States to include in their rural development programmes the possibility of compensating farmers in a specific sector in the event of a significant drop in their income.

The Commission further confirms that Article 219 allows it to introduce, in case of market disturbance or threats thereof, schemes under which Union aid is granted to producers who undertake to reduce their production on a voluntary basis, including the necessary details for the operation of such a scheme (Example: Commission Delegated Regulation (EU) No 2016/1612, OJ L 242 of 9/9/2016, p. 4).

- Recognition of transnational IBOs

The Commission recalls that rules on producer cooperation of recognising transnational producer organisations, transnational associations of producer organisations or transnational interbranch, including the necessary administrative cooperation between the Member States concerned, are currently laid down in Commission Delegated Regulation (EU) 2016/232. The operation and adequacy of these rules will be reviewed in the context of the ongoing process on the modernisation and simplification of the CAP.

- Unfair trading practices

The Commission confirms that it has launched an initiative on the food supply chain which is now proceeding through the various stages required by the Better Regulation guidelines. It will decide on a possible legislative proposal once this procedure has been completed, if possible in the first half of 2018.

- Producer co-operation

The Commission takes note of the agreement between Parliament and Council on the amendments to Articles 152, 209, 222 and 232. The Commission notes that the amendments agreed by Parliament and Council are substantial in nature and included without an impact assessment as required by point 15 of the Inter-Institutional Agreement on Better Law-Making. This leads to an unwelcome degree of legal and procedural uncertainty of which the impact and implications are not known.

As the changes to the Commission's original proposal taken together result in a significant change to the legal framework, the Commission notes with concern that some of the new provisions in favour of producers' organisations might have the effect of endangering the viability and wellbeing of small farmers and the interest of the consumers. The Commission confirms its commitment to maintain effective competition in the agricultural sector, and give full effect to the objectives of the CAP laid down in Article 39 of the Treaty on the Functioning of the European Union. In this context, the Commission notes that the amendments agreed by the co-legislators foresee only a very limited role for both the Commission and the national competition authorities to act to preserve effective competition.

The Commission's overall agreement on the "Omnibus" proposal, including the amendments agreed by Parliament and Council, is without prejudice to any future proposals the Commission may make in these areas in the context of the reform of the common agricultural policy for the post-2020 period and other initiatives which are specifically meant to address some of the issues touched upon by the text now agreed by the European Parliament and the Council.

The Commission regrets that the issue of the very limited role for both the Commission and the National Competition authorities to act to preserve effective competition has not been addressed in a satisfactory manner by the co-legislators, and expresses concern with the possible implications of this limitation for farmers and consumers. The Commission notes that the legal text must be interpreted in a manner consistent with the Treaty, notably as regards the possibility for the Commission and national competition authorities to intervene if a producer organisation, which covers a large share of the market, seeks to restrict the freedom of action of its members. The Commission regrets that this possibility is not clearly safeguarded in the legal text.

### **Statement by the Netherlands**

The Netherlands appreciates the efforts of the Presidency to reach a compromise agreement on the agricultural provisions of the Omnibus proposal. In particular, the Netherlands welcomes the outcomes on the horizontal regulation, the direct payments regulation and the common market organisation regulation.

Nevertheless, the Netherlands has concerns about the reduction of the damage threshold applicable to crop, animal and plant insurance from 30% to 20%. The Netherlands currently has a well functioning all-weather insurance scheme with a threshold of 30% in place. By reducing the damage threshold, payments will increase and become more frequent. This situation will result in an increase in the premium, which in turn will put pressure on farmers' participation in the all-weather insurance scheme. Moreover, under World Trade Organization (WTO) rules, the subsidy applied to the premium will shift from the green box to the trade-distorting amber box. For the aforementioned reasons, the Netherlands wishes to abstain from a vote on this proposal.

### **Statement by the European Parliament**

- The new rules on producer organisations and competition law (CMO)

The European Parliament recalls that, according to Article 42 of the Treaty on the Functioning of the European Union (TFEU), rules on competition apply to the production of and trade in agricultural products only to the extent determined by the Parliament and the Council, account being taken of the objectives of the Common Agricultural Policy (CAP) as laid down in Article 39 of the same Treaty.

As set out in the treaty, and in accordance with the case law of the Court of Justice of the European Union, the objectives of the CAP prevail over those of European competition policy. However, agricultural markets are not exempt from the application of competition law. The adaptation of competition rules to agricultural specificities is the prerogative of the co-legislators, the European Parliament and the Council.

Within this context, the European Parliament by means of this Regulation proposes a clarification of the relationship between CAP rules, in particular the role and the missions of producer organisations and associations of producer organisations, and the application of European competition law. Such a clarification is necessary because of the existing uncertainties regarding the implementation of these rules, and is essential to reach the Union's objective to strengthen farmers' position within the food supply chain. The European Parliament's proposals are based on the recommendations in the Agri-Market Task Force (AMTF) report of 14 November 2016. These recommendations were based on a series of hearings and contributions received from all actors in the food supply chain: producers, processors and retailers.

The European Parliament aims to simplify and clarify the conditions under which producer organisations or associations of producer organisations in all the sectors listed in Article 1(2) of Regulation 1308/2013 may carry out, on behalf of their members, activities of production planning, placing on the market, negotiation of contracts for the supply of agricultural products and optimisation of production costs. These tasks essentially require the existence of certain practices, including internal consultations and the exchange of commercial information within those entities. It is therefore proposed that these practices fall outside of the scope of the prohibition of anticompetitive agreements, laid down by Article 101(1) of the TFEU, and that producer organisations or associations of producer organisations, carrying out at least one economic activity, benefit from a derogation from the application of this article. However, this derogation is not absolute: competition authorities retain the possibility to intervene if they consider that such activities are likely to exclude competition or jeopardize the objectives of the CAP.

The role and the missions of producer organisations or associations of producer organisations and their relationship with competition law is thus clarified. Without prejudice to the institutional prerogatives of the European Commission, the European Parliament considers that the new rules do not require further clarification in the form of guidelines of the European Commission.

Regulation 2017/2396 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub OJ L 345, 27.12.2017, p. 34–52	58/17	Qualified majority	All Member States in favour
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**Statement by the Commission on the EUR 225 million increase of the Connecting Europe Facility programme**

As a result of the political agreement between the European Parliament and the Council on the financing of EFSI 2.0 an amount of EUR 275 million will be redeployed from CEF financial instruments, which represents a reduction of EUR 225 million in comparison with the Commission proposal.

The Commission confirms that the financial programming will be revised to reflect the corresponding EUR 225 million increase of the CEF programme.

In the framework of the annual budgetary procedures for the years 2019 2020 the Commission will make the appropriate proposals to ensure an optimal allocation of this amount within the CEF programme.



### **Statement by the Council on governance**

The Council does not regard the presence at meetings of boards such as the Steering Board of an expert appointed by the European Parliament as a standard feature for funding mechanisms. It recalls that, at any rate, such an expert should not participate in the decision-making of the body concerned.

In this context, the Council brings the attention to the fact that, in the present instance, the Steering Board's core requirement for decision-making is unanimity of its voting members.

### **Statement on the re-use of repayments and revenues of financial instruments set up under the previous MFF by Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Ireland, Netherlands, Slovenia, Sweden and United Kingdom**

Regulation (EU, Euroatom) No 966/2012 of the European parliament and of the Council on the financial rules applicable to the general budget of the Union contains clear rules for the possible use of reflows from financial instruments. According to art. 140(6), annual repayments to financial instruments can only be used for the same financial instrument or budgetary guarantee, while revenues shall be entered in the budget as general revenue.

In the context of the ongoing discussions on the revision of the financial regulation, the Council general approach does not propose any changes to this general rule. While, according to a new provision proposed in art. 202(2), it may be possible to re-assign an outstanding amount of assigned revenue under a basic act which is to be repealed or terminated to another financial instrument pursuing similar objectives, this provision constitutes a clear exception and derogates from the general rule. It should also be noted that this provision is not yet applicable.

As such, the above Member States would like to emphasize that the financing of EFSI 2.0 by an amount of 25 mn euro from the repayments and revenues from financial instruments in heading 1a set up under the previous multiannual financial framework (MFF) constitutes an absolute exception and should not in any way be seen as a precedent for the future treatment of revenues and repayments from financial instruments set up under the previous MFF. Possible future proposals on the use of reflows from financial instruments should be fully aligned with the general rule on repayments and revenues in the financial regulation.

Regulation (EU) 2017/2392 of the European Parliament and of the Council of 13 December 2017 amending Directive 2003/87/EC to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021 OJ L 350, 29.12.2017, p. 7–14	55/17	Qualified majority	All Member States in favour, except: Abstention: UK
<b>Statement by the European Parliament, the Council and the Commission</b>			
The outcome of the work of ICAO on the implementation of the global market-based measure is key for its effectiveness and for the future contribution of the aviation sector to the achievement of the objectives under the Paris Agreement. It is important that ICAO member states, aircraft operators and civil society continue to be engaged in this work of ICAO. It will be necessary in this context for ICAO to act in full transparency and to reach out to all stakeholders to inform them about progress and decisions in a timely manner.			
NON-LEGISLATIVE ACTS			
ACT		DOCUMENT / STATEMENTS	
Council Regulation (EU) 2017/2360 of 11 December 2017 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks in the Black Sea OJ L 337, 19.12.2017, p. 1–5		14987/17	
<b>Statement by Council and Commission on control issues</b>			
The Council and the Commission consider that it is a high priority to address the endemic existence of IUU fishery of turbot in the Black Sea through the effective implementation of the Regional Plan of Action to combat illegal, unreported and unregulated fishing in the GFCM area of application.			
Control and monitoring measures should be at least maintained or further increased, as stipulated in the declaration by Bulgaria and Romania. The relevant Member States should dedicate the necessary efforts and resources to enhance their control system and to ensure effectiveness of the measures that have been decided.			
A High Level Conference on Black Sea fisheries will be organised by the Commission, the forthcoming Bulgarian Presidency of the Council and GFCM, in 2018, in Bulgaria, to set the roadmap for the next ten years of concrete actions towards the sustainability of fisheries in Black Sea, in line with Blacksea4fish project.			
Furthermore, the EU will seek to ensure that GFCM pay particular attention to the full compliance of its members and Cooperating non-Members of GFCM to implement the Regional Plan of Action to combat illegal, unreported and unregulated fishing in the Black Sea, to implement the mid-term strategy 2017-2020 adopted by GFCM in 2016 and the Blacksea4fish project in line with the Bucharest Declaration.			

## **Statement by Bulgaria and Romania**

Bulgaria and Romania, in the context of the adoption of the Regulation fixing for 2018 the fishing opportunities for certain fish stocks in the Black Sea and having recognized the importance of continuing implementing a robust monitoring, control and surveillance system in achieving sustainable use of fisheries marine resources in the Black Sea, commit to the following:

To follow up and further implement

### **a) Turbot fisheries**

- to keep the fishing authorisations for turbot at 116 for Bulgaria and 48 for Romania and the minimum allocation per boat,
- to establish their respective number of designated ports for landings, 8 for Bulgaria and 10 for Romania, in order to streamline the control of landings,
- to continue the strict policy for the recording of all catches, including below 50 kg, in corresponding logbooks, landing declarations and sales notes of all authorised vessels,
- to keep, at least to the level of 2017, the number of market inspections and inspections at sea, including during the closed season, based on a risk assessment methodology and time schedule agreed with the European Commission and the European Fisheries Control Agency (EFCA),
- to keep or increase in 2018 the joint inspection actions under the coordination of EFCA, including controls at sea, at landings, on the markets as well as the monitoring of the transport of fish by road,
- to monitor the discards in the Rapa whelk fishery, in order to evaluate the impact on juveniles of turbot and dogfish, complementary to the provisions of the GFCM multiannual management plan for turbot fisheries in Black Sea,
- to provide all available fisheries and biological data for turbot catches from 2010 onwards,
- to increase by 10% the control at sea of the implementation of the marking and identification of the static gears in accordance with European Union rules,
- to statistically monitor the imports/exports of turbot to and from the European Union,
- to work with the Commission and the European Fisheries Control Agency (EFCA) in implementing Recommendation GFCM/41/2017/4 (turbot MAP), as well as any other measures that are deemed necessary to address the misreporting, the IUU fishery of turbot in the Black Sea and the marketing of the catches illegally caught in the region.

**b) Picked dogfish fisheries**

- to keep their respective catches of picked dogfish in 2018 to their 2015 level of catches and to inform the Commission on a quarterly basis of the actions taken to meet this objective,
- to continue implementing the strict policy adopted in 2016 for the recording of all catches, including below 50 kg, in corresponding logbooks, landing declarations and sales notes of all authorised vessels as well as vessels having by-catches of dogfish.
- to conduct during 2018 a pilot project on the discarded dogfish (<90 cm MCRS).

**c) Fisheries Data**

- in view of further reinforcement of the fisheries management measures and of improvement of the scientific advice in the Black Sea, Bulgaria and Romania commit to provide fisheries and biological data for all species covered by the data collection framework, in order to support the scientific knowledge in the area.

Consequently, the Bulgarian and Romanian Control Action Plans for 2018 have to meet the above-mentioned requirements.

Council Decision on the position to be adopted, on behalf of the European Union, with regard to a proposal for amending Annex II to the Protocol concerning specially protected areas and biological diversity in the Mediterranean at the twentieth ordinary meeting of the Contracting Parties to the Convention for the protection of the marine environment and the coastal region of the Mediterranean

14694/17

Council Decision (EU) 2017/2423 of 11 December 2017 on the position to be adopted, on behalf of the European Union, within the EU-Turkey Association Council as regards the amendment of Protocol 2 to Decision No 1/98 of the EC-Turkey Association Council on the trade regime for agricultural products OJ L 343, 22.12.2017, p. 67–69

14375/17

**3587th meeting of the Council of the European Union (Foreign Affairs) held in Brussels on 11 December 2017**

## NON-LEGISLATIVE ACTS

ACT	DOCUMENT / STATEMENTS
Council Conclusions on the European Court of Auditors' Special Report No 11/2017 on "The Bêkou EU trust fund for the Central African Republic: a hopeful beginning despite some shortcomings"	15569/17
Council Conclusions on the Annual Implementation Report 2016 of the EU Gender Action Plan II	15571/17
Council Decision (CFSP) 2017/2283 of 11 December 2017 in support of a global reporting mechanism on illicit small arms and light weapons and other illicit conventional weapons and ammunition to reduce the risk of their illicit trade ('iTrace III') OJ L 328, 12.12.2017, p. 20–31	14327/17
Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo OJ L 328, 12.12.2017, p. 19–19	14135/17
Council Conclusions on Democratic Republic of the Congo	15633/17
Council Decision (EU) 2017/2284 of 11 December 2017 to provide support to States in the African, Asia-Pacific and Latin America and Caribbean regions to participate in the high-level fissile material cut-off treaty expert preparatory group consultative process OJ L 328, 12.12.2017, p. 32–37	14554/17
Council Conclusions on Thailand	15583/17
Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing permanent structured cooperation (PESCO) and determining the list of participating Member States OJ L 331, 14.12.2017, p. 57–77	14866/1/17 REV 1

**Statement by Germany**

Having regard to the principles of Permanent Structured Cooperation (PESCO), as set out in Annex I to the Notification on Permanent Structured Cooperation of 13 November 2017, in particular the following principles:

Participating Member States will meet their binding commitments confirming that the establishment and implementation of Permanent Structured Cooperation will be undertaken in full compliance with the provisions of the TEU and the protocols attached thereto and respecting constitutional provisions of the member States;

Participation in PESCO is voluntary and leaves national sovereignty untouched;

Germany declares its understanding that the provisions of the Council Decision, in particular Article 3 paragraph 1, which reads: „To achieve the objectives set out in Article 1 of Protocol No 10 and the undertakings referred to in Article 2 of that Protocol, the participating Member States shall make contributions which fulfil the more binding commitments which they have made to one another as set out in the Annex.“ do not alter the substance of the commitments that Member States have made to one another according to Article 46 paragraph 1 TEU and Article 2 Protocol No 10.

Germany agrees to the Council Decision on the understanding that such agreement is without prejudice to future budgetary decisions of the German Bundestag and that it cannot limit or restrict the constitutional authority of the legislature to adopt the budget, and that such agreement to the Council Decision cannot in any way be construed as an agreement to a transfer of sovereign rights of the Federal Republic of Germany to the European Union.

Germany is fully committed to PESCO as an ambitious, binding and inclusive European legal framework for investments in the security and defence of the EU's territory and its citizens. PESCO also provides a crucial political framework for all Member States to improve their respective military assets and defence capabilities through well-coordinated initiatives and concrete projects based on more binding commitments.

As a Participating Member State, Germany will meet the more binding commitments as agreed in the Notification of 13 November 2017.

**Statement by Austria**

Austria will implement the decision in accordance with its budgetary legislation.

### Statement by Sweden

Having regard to the principles of PESCO, as set out in Annex I to the Notification on Permanent Structured Cooperation of 13 November 2017, in particular the following principles:

Participating Member States will meet their binding commitments confirming that the establishment and implementation of Permanent Structured Cooperation will be undertaken in full compliance with the provisions of the TEU and the protocols attached thereto and respecting constitutional provisions of the member States;

Participation in PESCO is voluntary and leaves national sovereignty untouched;

Sweden declares its understanding that the provisions of the Council Decision, in particular Article 3 paragraph 1, which reads: "To achieve the objectives set out in Article 1 of Protocol No 10 and the undertakings referred to in Article 2 of that Protocol, the participating Member States shall make contributions which fulfil the more binding commitments which they have made to one another as set out in the Annex." do not alter the substance or scope of the commitments that Member States have made to one another according to Article 46 paragraph 1 TEU and Article 2 Protocol No 10.

Sweden agrees to the Council decision in the understanding that such agreement is without prejudice to future budgetary decisions of the National Parliament and that the decision does not limit or restrict the constitutional authority of the legislature, and that Sweden's agreement to the Council Decision cannot in any way be construed as an agreement to a transfer of sovereign rights of Sweden to the European Union.

Sweden is fully committed to PESCO, as described in the Notification of 13 November 2017, as an ambitious, binding and inclusive European legal framework for investments in the security and defence of the EU's territory and its citizens, which also provides a crucial political framework for all Member States to improve their respective military assets and defence capabilities through well-coordinated initiatives and concrete projects based on more binding commitments.

As a participating State, Sweden will meet the more binding commitments as agreed in the Notification of 13 November 2017.

Council Conclusions on Achieving Inclusive and Sustainable Prosperity through Trade and Investment:  
Updating the joint EU Strategy on Aid for Trade

15573/17

<b>3588th meeting of the Council of the European Union (General Affairs) held in Brussels on 12 December 2017</b>	
NON-LEGISLATIVE ACTS	
ACT	DOCUMENT / STATEMENTS
Council Decision (EU, Euratom) 2017/2461 of 12 December 2017 amending the Council's Rules of Procedure OJ L 348, 29.12.2017, p. 36–37	14966/17
Council Conclusions on the Cooperation and Verification Mechanism	15587/17
Council Decision (CFSP) 2017/2302 of 12 December 2017 in support of the OPCW activities to assist clean-up operations at the former chemical weapons storage site in Libya in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction OJ L 329, 13.12.2017, p. 49–54	14467/17
Council Decision (CFSP) 2017/2303 of 12 December 2017 in support of the continued implementation of UN Security Council Resolution 2118 (2013) and OPCW Executive Council decision EC-M-33/DEC.1 on the destruction of Syrian chemical weapons, in the framework of the implementation of the EU Strategy against proliferation of weapons of mass destruction OJ L 329, 13.12.2017, p. 55–60	14914/17
Council Decision on establishing the European Union position within the Ministerial Council of the Energy Community and in the Permanent High Level Group of the Energy Community (Pristina, 14th December 2017)	15124/17



### **Statement by Lithuania**

One of the issues on the agenda of the Ministerial Council of the Energy Community of 14 December 2017 that needs a position to be taken on behalf of the European Union is the approval of the decision of the Ministerial Council of the Energy Community to accept the Republic of Belarus as an observer to the Energy Community.

Lithuania would like to draw the attention of the Member States and the European Commission to the context that is important regarding the issue of Belarus' request to become an observer at the Energy Community, in particular, the issue of Belarus' compliance with the highest nuclear safety standards while building the Ostrovets NPP just across the Lithuanian and the EU border.

This process up to now has not been transparent and violations of international agreements on public participation and environmental impact assessment have been recognised by respective bodies of the Espoo and Aarhus conventions. Given these circumstances, it is clear that the Ostrovets NPP is a multidimensional threat not only for Lithuania, but also for the whole EU. This has also been acknowledged very recently by the European Commission.

Although Belarus has committed to carrying out EU stress tests back in 2011, this was constantly postponed. Only after long and persistent pressure from Lithuania and the EU, Belarus has finally submitted their national report to the European Commission in early November 2017. However, it must be stressed that submitting the national report is only the first procedural step and a pre-condition to launch the process of peer review, which is to be done by a group of experts from EU Member States who review the national report, pose questions, do a site visit and finally issue recommendations for Belarus. The fact of submission of the national report does not give any information on the safety aspects. Therefore, we strongly maintain the position that only procedural progress is not sufficient to open EU cooperation with Belarus in bilateral or multilateral formats.

Lithuania consistently requires that any cooperation and dialogue with Belarus in energy field must be conditional on its progress in implementing the highest nuclear safety standards and the Commission has consistently maintained the same position. It is clear that recent procedural progress has been made possible only due to this conditional approach and this clearly shows that it is necessary to maintain it in case we want real further progress in finalising the stress tests and Belarus implementing the future recommendations. While observer status does not grant any voting rights and does not create any comparable rights and obligations as Contracting Party status, however, granting this status would be a clear and strong political signal from the EU of welcoming Belarus to an international organisation established by the EU and thus approving their practices in energy field, including nuclear safety.

Therefore, Lithuania strongly suggests that this point is taken out of the Ministerial Council agenda. The question of granting the observer status could be considered during the 16th Ministerial Council in autumn 2018 when evaluation of the report and recommendations are done in spring 2018.

**3590th meeting of the Council of the European Union (Transport, Telecommunications and Energy) held in Brussels on 18 December 2017**

## NON-LEGISLATIVE ACTS

ACT

DOCUMENT / STATEMENTS

Council Conclusions on Eco-innovation: enabling the transition towards a circular economy

15811/17

**Statement by the Czech Republic**

In the spirit of consensus, the Czech Republic supported the Council conclusions as approved. However, during the whole negotiations procedure, the Czech Republic has been raising its concern regarding the references to new initiatives (particularly establishing of “product sustainability and circularity criteria and their use”) across the whole text. The Czech Republic would like to stress the importance of existing instruments and their administrative efficiency. Any new instruments should be established only after the existing instruments had been analysed concerning their impact on sustainability and circularity of products. The Czech Republic believes that existing instruments already fulfil the necessary requirements. Moreover, it should be taken into account that establishing new instruments could not only be costly but also confusing for both companies and consumers.

Stressing that EU Ecolabel and EMAS have existed for 25 years, the Czech Republic is convinced that the experience with the implementation of instruments with such a long history should be used. In this context, the Czech Republic is persuaded that it is necessary to use primarily already existing instruments which proved to be efficient <sup>1</sup>.

In this respect, the Czech Republic would also like to invite the Commission to evaluate the results of the pilot phase on the development of the Product Environmental Footprint (PEF) and Organisation Environmental Footprint (OEF). In this regard, the Czech Republic would like to emphasize that it is crucial to ensure that the voluntary schemes PEF and OEF have to provide accurate environmental data which can be measured and compared.

<sup>1</sup> 11312/17 - COM(2017) 355 final; Report from the Commission to the European Parliament and the Council on the review of implementation of Regulation (EC)No 122/2009 of the European Parliament and of the Council on 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) and the Regulation (EC) No 66/2010 of the parliament and of the Council of 25 November 2009 on the EU Ecolabel.

Council Decision to authorise the European Commission to open negotiations on behalf of the European Union for the renewal of the protocol to the Fisheries Partnership Agreement with São Tomé and Príncipe	15635/17
<p><b>Statement by the Commission</b></p> <p>The Commission does not consider it necessary that a Council Decision authorising the opening of negotiations indicates a substantive legal basis.</p>	
<p><b>Statement by the Commission</b></p> <p>Following article 31(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy, the Commission fully recognizes the importance of the sustainable exploitation of marine biological resources and the consequent need to ensure a proper implementation of the concept of surplus, as expressed in article 62(2) of the UNCLOS, particularly when Sustainable Fisheries Partnership Agreements and associated protocols rule the access of the EU external fleet to resources distributed in waters of the partner country.</p> <p>However, regarding article 64 of the UNCLOS and article 31(4) of the R(EU) N° 1380/2013, the Commission considers that the concept of surplus applies to a lesser degree to fishing activities exploiting highly migratory species, where management objectives and management measures – priority access rules, catch, capacity or effort limits, and sharing keys where relevant – have to be primarily fixed at regional or sub-regional levels by the Contracting Parties to competent Regional Fisheries Management Organisations, taking in due account the relevant scientific advice.</p>	
Council Decision (EU) 2017/2456 of 18 December 2017 on the conclusion of the Agreement for scientific and technological cooperation between the European Union and the People's Democratic Republic of Algeria setting out the terms and conditions for the participation of the People's Democratic Republic of Algeria in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) OJ L 348, 29.12.2017, p. 23–24	11964/17
Council Decision (EU) 2017/2457 of 18 December 2017 on the conclusion of the Agreement for scientific and technological cooperation between the European Union and the Arab Republic of Egypt setting out the terms and conditions for the participation of the Arab Republic of Egypt in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) OJ L 348, 29.12.2017, p. 25–26	11965/17

Council Decision (EU) 2017/2458 of 18 December 2017 on the conclusion of the Agreement for scientific and technological cooperation between the European Union and the Hashemite Kingdom of Jordan setting out the terms and conditions for the participation of the Hashemite Kingdom of Jordan in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) OJ L 348, 29.12.2017, p. 27–28	11966/17
Council Regulation (EU) 2017/2466 of 18 December 2017 amending Regulation (EU) No 1388/2013 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products OJ L 351, 30.12.2017, p. 1–6	15430/17
Council Decision (EU) 2018/15 of 18 December 2017 on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex XXI (Statistics) to the EEA Agreement OJ L 4, 9.1.2018, p. 13–15	14040/17
Council Decision (EU) 2018/4 of 18 December 2017 on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning amending the rules of procedure of the EEA Joint Committee OJ L 2, 5.1.2018, p. 5–10	14036/17
Council Implementing Decision (EU) 2017/2408 of 18 December 2017 authorising the Republic of Latvia to apply a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax OJ L 342, 21.12.2017, p. 8–9	15364/17
Council Implementing Decision (EU) 2017/2409 of 18 December 2017 authorising Sweden to apply a reduced rate of excise duty on electricity consumed by households and service sector companies situated in certain areas in the North of Sweden in accordance with Article 19 of Directive 2003/96/EC OJ L 342, 21.12.2017, p. 10–12	15365/17
Special Report No 10/2017 from the European Court of Auditors: "EU support to young farmers should be better targeted to foster effective generational renewal"	15238/17

<p>Council Decision (EU) 2017/2462 of 18 December 2017 authorising Luxembourg and Romania to accept, in the interest of the European Union, the accession of Georgia and South Africa to the 1980 Hague Convention on the Civil Aspects of International Child Abduction OJ L 348, 29.12.2017, p. 38–40</p>	<p>13581/17</p>
<p><b>Statement by Belgium, Germany, Spain, France, Italy, Luxembourg, Austria and Poland</b></p> <p>Where the European Union adopts internal legislative acts and on this basis, it exercises external exclusive competence, the Member States bound by those legislative acts take part in the acts that the Union adopts as part of this external competence.</p> <p>In the context of this decision, all the Member States of the European Union bound by Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 consequently take part in the adoption of the decision authorising Luxembourg and Romania to accept, in the interest of the European Union, the accession of Georgia and South Africa to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.</p>	
<p>Council Decision (EU) 2017/2463 of 18 December 2017 authorising Croatia, the Netherlands, Portugal and Romania to accept, in the interest of the European Union, the accession of San Marino to the 1980 Hague Convention on the Civil Aspects of International Child Abduction OJ L 348, 29.12.2017, p. 41–42</p>	<p>13585/17</p>
<p><b>Statement by Belgium, Germany, Spain, France, Italy, Luxembourg, Austria and Poland</b></p> <p>Where the European Union adopts internal legislative acts and on this basis, it exercises external exclusive competence, the Member States bound by those legislative acts take part in the acts that the Union adopts as part of this external competence.</p> <p>In the context of this decision, all the Member States of the European Union bound by Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 consequently take part in the adoption of the decision authorising Croatia, The Netherlands, Portugal and Romania to accept, in the interest of the European Union, the accession of San Marino to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.</p>	

<p>Council Decision (EU) 2017/2424 of 18 December 2017 authorising Romania to accept, in the interest of the European Union, the accession of Chile, Iceland and the Bahamas to the 1980 Hague Convention on the Civil Aspects of International Child Abduction OJ L 343, 22.12.2017, p. 70–72</p>	<p>13586/17</p>
<p><b>Statement by Belgium, Germany, Spain, France, Italy, Luxembourg, Austria and Poland</b></p> <p>Where the European Union adopts internal legislative acts and on this basis, it exercises external exclusive competence, the Member States bound by those legislative acts take part in the acts that the Union adopts as part of this external competence.</p> <p>In the context of this decision, all the Member States of the European Union bound by Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 consequently take part in the adoption of the decision authorising Romania to accept, in the interest of the European Union, the accession of Chile, Iceland and the Bahamas to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.</p>	
<p>Council Decision (EU) 2017/2464 of 18 December 2017 authorising Austria and Romania to accept, in the interest of the European Union, the accession of Panama, Uruguay, Colombia and El Salvador to the 1980 Hague Convention on the Civil Aspects of International Child Abduction OJ L 348, 29.12.2017, p. 43–45</p>	<p>13587/17</p>
<p><b>Statement by Belgium, Germany, Spain, France, Italy, Luxembourg, Austria and Poland</b></p> <p>Where the European Union adopts internal legislative acts and on this basis, it exercises external exclusive competence, the Member States bound by those legislative acts take part in the acts that the Union adopts as part of this external competence.</p> <p>In the context of this decision, all the Member States of the European Union bound by Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 consequently take part in the adoption of the decision authorising Austria and Romania to accept, in the interest of the European Union, the accession of Panama, Uruguay, Colombia and El Salvador to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.</p>	

Council Conclusions on identity management	15862/17
Council Decision (EU) 2018/13 of 18 December 2017 on the position to be adopted on behalf of the European Union within the EU-Serbia Stabilisation and Association Council on the participation of Serbia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities thereof, within the framework of Regulation (EC) No 168/2007 OJ L 4, 9.1.2018, p. 5–8	9876/16
Council Decision (EU) 2018/14 of 18 December 2017 on the position to be adopted on behalf of the European Union within the EU-Albania Stabilisation and Association Council on the participation of Albania as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities thereof, within the framework of Regulation (EC) No 168/2007 OJ L 4, 9.1.2018, p. 9–12	9877/16
Council Decision on the position to be adopted, on behalf of the European Union, in relation to matters falling within its competence, at the next three meetings of the International Whaling Commission including related inter-sessional meetings	14970/17
Council Decision authorising the opening of negotiations with the Global Green Growth Institute for an agreement on an arrangement as regards the membership of the European Union	14875/17
Council Decision (CFSP) 2017/2371 of 18 December 2017 amending Decision 2014/486/CFSP on the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) OJ L 337, 19.12.2017, p. 34–34	15055/17
Council Decision (EU) 2017/2434 of 18 December 2017 on the position to be adopted on behalf of the European Union within the Joint Council established by the Political Dialogue and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part, as regards the adoption of a decision of the Joint Council on the rules of procedure of the Joint Council and those of the Joint Committee OJ L 344, 23.12.2017, p. 26–35	14298/17

<p>Council Decision (EU) 2017/2433 of 18 December 2017 on the position to be adopted on behalf of the European Union within the Customs Sub-Committee established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, as regards the replacement of Protocol I to that Agreement, concerning the definition of the concept of ‘originating products’ and methods of administrative cooperation, by a new protocol which refers to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin OJ L 344, 23.12.2017, p. 21–25</p>	<p>14140/17</p>
<p>Council Decision (EU) 2017/2425 of 18 December 2017 on the position to be adopted, on behalf of the European Union, in the Association Committee meeting in Trade Configuration established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other, concerning the comprehensive roadmap submitted by the Republic of Moldova in relation to the implementation of the Agreement in the area of public procurement OJ L 343, 22.12.2017, p. 73–76</p>	<p>14583/17</p>
<p>Council Decision (CFSP) 2017/2370 of 18 December 2017 in support of the Hague Code of Conduct and ballistic missile non-proliferation in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction OJ L 337, 19.12.2017, p. 28–33</p>	<p>11474/17</p>



<b>Written procedures completed on 21 December 2017</b>	
NON-LEGISLATIVE ACTS	
ACT	DOCUMENT / STATEMENTS
Council Regulation (EU) 2017/2467 of 21 December 2017 amending Regulation (EU) No 1387/2013 suspending the autonomous Common Customs Tariff duties on certain agricultural and industrial products OJ L 351, 30.12.2017, p. 7–54	15659/17
Council Decision (CFSP) 2017/2426 of 21 December 2017 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine OJ L 343, 22.12.2017, p. 77–77	15711/17
Council Decision (CFSP) 2017/2427 of 21 December 2017 amending Decision 2010/231/CFSP concerning restrictive measures against Somalia OJ L 343, 22.12.2017, p. 78–78	15126/17
Council Regulation (EU) 2017/2415 of 21 December 2017 amending Regulation (EU) No 356/2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia OJ L 343, 22.12.2017, p. 33–34	15286/17