

November 2016

Outcome of the European Council of 20-21 October 2016

Migration was the main topic at the European Council of 20-21 October 2016, and featured most prominently in its conclusions. Other topics discussed were global and economic issues, external relations and trade issues, in particular the Comprehensive Economic and Trade Agreement with Canada.

This was the first formal European Council meeting since the [informal meeting of 27 Heads of State or Government on 16 September 2016 in Bratislava](#), and it demonstrated how the meetings in this format are shaping the European Council's agenda. The European Council President, Donald Tusk, had already [made clear](#) that the [Bratislava declaration and roadmap](#) would guide leaders' actions at their regular European Council meetings.

1. Migration

- **Protecting the external borders**

As flagged up in the EPRS [Outlook for the European Council on 20-21 October 2016](#), the European Council stressed the importance of the European Border and Coast Guard in getting 'back to Schengen' (i.e. the gradual abolition of border controls within the Schengen area) and [agreed](#) that their objective is to lift temporary border controls over time.

EU leaders called for the swift adoption of the [revised Schengen Borders Code](#), and asked the Council to determine, before the end of 2016, its position on an [entry/exit system](#) registering the entry and exit data of third-country nationals crossing the external borders of the European Union. They also looked forward to the forthcoming Commission proposal for a [European Travel Information and Authorisation System](#) (ETIAS), to allow for advance security checks on visa-exempt travellers.

- **Tackling migration flows**

The European Council recognised the significant contribution of the 'frontline' Member States in recent years. As more efforts are needed to stem the flows of migrants, in particular from Africa, and to improve return rates, EU leaders underlined the importance of the implementation of the [Partnership Framework of cooperation with individual countries of origin and transit](#). The High Representative/Vice-President of the Commission (HR/VP), Federica Mogherini, was tasked with presenting an update on the progress with priority countries (Ethiopia, Mali, Niger, Nigeria, Senegal) at the December 2016 European Council meeting, and to outline the results achieved in terms of arrivals and returns.

The Heads of State or Government also recalled the goal of tackling the root causes of migration, and welcomed the [New York Declaration for Refugees and Migrants](#), calling on all global actors to shoulder their responsibilities.

Other key requests included further implementation of the [EU-Turkey statement](#) and continued support for the countries along the Western Balkans route. More specifically, returns from the Greek islands to Turkey should be accelerated, Member States should respond to the relevant calls for resources to assist Greece, and the co-legislators were invited to 'reach agreement within the next few weeks on the revision of the suspension mechanism applied to visa'.

- **Other elements of the comprehensive strategy**

Leaders called upon the [European Asylum Support Office \(EASO\)](#) to ensure that the [asylum intervention pool \(AIP\)](#) becomes operational as soon as possible. The European Council also asked Member States to intensify and accelerate their work on relocation and on existing resettlement schemes. It invited the Council to agree on its position regarding the [External Investment Plan](#) before December 2016, so as to facilitate a swift agreement with the European Parliament in the first half of 2017.

EU leaders also called for the continuation of the reform of the Common European Asylum System, including the application of the principles of responsibility and solidarity. The next European Council meeting on 15-16 December 2016 will consider proposals on how to deal with the question of solidarity among Member States during the crisis. The European Council President, Donald Tusk, [reported](#) that the European Council 'agreed that there would be no solidarity à la carte'. In the same vein, the President of the European Parliament, Martin Schulz, [called](#) for 'effective solidarity ... simultaneously and at all levels of EU action on asylum and migration'.

Progress on the implementation of the various dimensions of the EU's migration policy will be assessed again at the European Council meeting of 15-16 December 2016.

2. International trade

- **Trade defence instruments**

EU leaders have committed to reaching an agreement on the modernisation of all trade defence instruments by the end of 2016, and have tasked trade ministers with breaking the stalemate on the remaining issues. The Commission tabled a [legislative proposal](#) in April 2013, but it has not yet been adopted, due to divergent opinions among Member States. The Commission [acknowledged](#) that, in its present shape, EU legislation on trade defence instruments can no longer adequately address current challenges, such as external overcapacity or dumping. Member States [have been divided](#), primarily over the application of the 'lesser duty rule'.¹ Derogations from this rule under specific circumstances would allow the EU to impose higher anti-dumping duties on imports from third countries. Trade ministers will be meeting on 11 November 2016 with the aim of reaching an agreement on the 2013 proposal.

- **EU-Canada Comprehensive Economic and Trade Agreement (CETA)**

EU leaders underlined the importance of a swift decision to sign, and provisionally apply, the EU-Canada Comprehensive Economic and Trade Agreement. Objections to the signature of the agreement had been raised by [Romania and Bulgaria](#) and Belgium's [Walloon](#) and [Brussels regions](#). Romania and Bulgaria made their signature of the agreement conditional on the lifting of the visa requirement for their citizens by 1 December 2017. An [internal Belgian agreement](#) on the signature of CETA was reached on 27 October 2016, and was submitted [for the approval of the other 27 EU Member States](#). On 28 October 2016, the Council adopted a [package of decisions on CETA](#), including decisions on the signature and the provisional application of the agreement. A [Joint Interpretative Instrument](#) accompanies the treaty. It provides a binding interpretation of CETA's terms on specific issues. The treaty was signed on 30 October 2016 at the [EU-Canada Summit](#).

¹ The level of anti-dumping duties is imposed at the level of the dumping margin or the level that removes injury, whichever is lower (the 'lesser duty'). The EU's application of the lesser duty rule goes beyond the basic obligations set out in the WTO Anti-Dumping Agreement.

- **Negotiations on free trade agreements with Mercosur, the US and Japan**

EU leaders also underlined the importance of intensifying trade negotiations with other partners, in particular with [Mercosur](#) members (Argentina, Brazil, Paraguay and Uruguay). Negotiations between the EU and Mercosur on a free trade agreement started in 1999, but they were suspended in 2004 due to differences regarding trade in agriculture, services and the opening of public procurement markets. Negotiations were [officially re-launched](#) on 17 May 2010 and have now shown [progress in a wide range of areas](#).

The European Council invited the Commission to continue negotiations on the free trade agreement with Japan, with a view to finding agreement by the end of the year. It also called on the Commission to continue negotiations with the US, in order to present an ambitious, balanced and comprehensive free trade agreement.

3. Other global and economic issues

- **Paris Agreement on Climate Change**

The Heads of State or Government welcomed the EU's ratification of the [Paris Agreement](#), [enabling](#) its entry into force. Several Member States have already [ratified](#) the text. Ongoing implementation of the 2030 climate and energy framework, as well as the Energy Union strategy, are cornerstones of the EU's commitments under the Agreement. EU leaders reaffirmed the strategic [orientations](#) laid down in [previous conclusions](#), and promised to give further guidance and keep track of progress achieved.

- **Single Market strategies**

The European Council reiterated its commitment to complete and implement the various single market strategies by 2018, as previously included in its [June 2016 conclusions](#). Moreover, they reiterated their call for the co-legislators to make swift progress on specific initiatives - notably reform of the EU [telecoms](#) and [copyright](#) frameworks and use of the [700 MHz band](#) in the EU and completion of the Capital Markets Union - inviting the co-legislators to rapidly advance on the legislative proposals for simplified [prospectus](#) requirements, and for simple, standardised and transparent [securitisation](#).

- **Preparation of the December 2016 European Council meeting**

According to the [Bratislava Declaration and Roadmap](#), at their December 2016 meeting, EU leaders will address the extension of the European Fund for Strategic Investment (EFSI) and EU support for programmes dedicated to youth in Member States. With regard to the Commission proposal to upgrade [EFSI](#), the European Council invited the Council to adopt its negotiating position on the legislative proposal by December 2016, taking into account the external evaluation report expected in November 2016.

4. External relations

- **Sanctions on Syria/Russia**

No further sanctions were placed on [Syria](#) or [Russia](#) at the European Council meeting. European President Donald Tusk pointed out that 'today is not about decisions, but I want to underline that the EU should keep all options open, including sanctions, if the crimes continue', in line with the European Council's [conclusions](#) that, 'the EU is considering all available options, should the current atrocities continue'.² [Analysts](#) pointed to the 'blurring ... language on sanctions' as the European Council conclusions neither lead to nor exclude the possibility of setting sanctions on Russia linked to the Syrian crisis, in case of a breach of the ceasefire in Aleppo. The French President, François Hollande, [mentioned](#) that priority would be given to ensuring respect for the ceasefire. Any breach would lead the European Union to consider all of the instruments at its disposal, including sanctions, which would primarily target the Syrian authorities. The German Chancellor, Angela

² On 27 October 2016, by written procedure, the Council [added](#) 10 more persons linked with the Syrian regime to the list of those targeted by EU restrictive measures. This brings the total on the list to 217.

Merkel, [said](#) that ‘there was “broad agreement” that, if the bombing continued, the EU would consider sanctions’. [Several Member States](#) opposed a French, German and British initiative to [extend](#) existing sanctions. The Italian Prime Minister, Matteo Renzi, [stated](#) that existing sanctions on Russia, linked to the implementation of the Minsk Agreements, come to an end in January 2017, and that their continuing relevance will be evaluated closer to that date.

- **Conflict in Syria**

The President of the European Parliament, Martin Schulz, [considered](#) that ‘acting to stop the bloodshed in Syria should be the number one priority’. The European Council condemned the attacks on civilians in Aleppo, perpetrated by the Syrian regime with Russian support. Leaders stressed the need for a rapid end to this situation, and for the facilitation of humanitarian access. The Heads of State or Government called for the respect of international [humanitarian law](#) and human rights law, and stressed that those responsible for breaches ‘must be held accountable’. They set out two priorities, namely addressing the humanitarian situation in Aleppo and working towards a political solution to the conflict. Regarding the former, the European Council invited the HR/VP and the Commission to continue the work initiated in early October 2016 on the [EU emergency humanitarian initiative](#). With reference to finding a political solution to the conflict, the European Council stated that everything should be done to ‘create the conditions for opening negotiations on a political transition in Syria’, in cooperation with regional and international actors in preparation for post-conflict reconciliation and reconstruction. The European Council invited the HR/VP to pursue these issues in cooperation with key regional actors.

- **Relations with Russia**

EU leaders ‘held a strategic policy debate on relations with Russia’, largely dominated by the Syrian and Ukrainian crises. No written reference to forthcoming action was included in the formal conclusions, except for the possibility of expanding sanctions, should the situation in Aleppo deteriorate (see above). French President Hollande and German Chancellor Merkel informed their colleagues of the outcome of the [Normandy-format summit](#) held on 19 October 2016 in Berlin, which concluded with a [roadmap](#) for the implementation of the Minsk Agreements. Details are to be finalised by the end of November 2016. [Analysts](#) assess that ‘EU member states have successfully managed to maintain unity, but there are major differences among them’, hence the absence of substantive decisions. President Tusk [outlined](#) the main issues raised by EU leaders, including airspace violations, cyber-attacks, and interference in political processes within the European Union. He stressed that ‘Russia’s strategy is to weaken the EU’, but underlined that the Union does not aim to increase tension with Russia; the EU remains open to dialogue but will not ‘compromise [its] values or principles’.

- **Association agreement with Ukraine**

Regarding the ratification of the Association Agreement with Ukraine, the Prime Minister of the Netherlands, Mark Rutte, [told](#) his colleagues that ‘Brussels, Ukraine and the Netherlands need to come to an agreement, which will also take into account the choice of the Dutch voters’. Mr Rutte expressed his [pessimism](#) about finding a solution ahead of the 1 November 2016 deadline.

- **MH 17 flight**

President Tusk [voiced](#) EU leaders’ full support for the Dutch government in the ongoing investigation into the MH17 flight crash, stressing that all states in a position to assist with the investigation ‘must do so’.

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