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Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the EU-CTC Joint Committee established by the Convention of 20 May 1987 on a common transit procedure as regards amendments to that Convention

COUNCIL DECISION (EU) 2019/...

of ...

**on the position to be taken on behalf of the European Union
within the EU-CTC Joint Committee established by the Convention
of 20 May 1987 on a common transit procedure
as regards amendments to that Convention**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Convention on a common transit procedure¹ (the “Convention”) was concluded between the European Economic Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation on 20 May 1987 and entered into force on 1 January 1988.
- (2) Pursuant to point (a) of Article 15(3) of the Convention, the Joint Committee established by the Convention (the “EU-CTC Joint Committee”) may adopt, by decisions, amendments to the Appendices to the Convention.
- (3) Provisions of the Convention concerning the protection of personal data exchanged for the purpose of the application of the Convention should contain a reference to Regulation (EU) 2016/679 of the European Parliament and of the Council².

¹ OJ L 226, 13.8.1987, p. 2.

² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

- (4) Article 84 of Commission Delegated Regulation (EU) 2015/2446¹, which lays down the conditions to be fulfilled by applicants in order to be authorised to use a comprehensive guarantee with a reduced amount or a guarantee waiver, has been amended by Commission Delegated Regulation (EU) 2018/1118². As a result of that amendment, the requirement of sufficient financial resources was removed as a stand-alone condition because the practical experience in the Member States showed that that condition was interpreted too restrictively and focused only on the availability of cash. The assessment of the capacity of economic operators to pay the full amount of debt should therefore be integrated in the assessment of their financial standing. Article 75 of Appendix I to the Convention, which mirrors the provisions of Article 84 of Commission Delegated Regulation (EU) 2015/2446, should be amended accordingly.

¹ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

² Commission Delegated Regulation (EU) 2018/1118 of 7 June 2018 amending Delegated Regulation (EU) 2015/2446 as regards the conditions for a reduction of the level of the comprehensive guarantee and the guarantee waiver (OJ L 204, 13.8.2018, p. 11).

- (5) Since 1 May 2018 the provisions concerning the new transit simplification – the use of the electronic transport document (ETD) as a transit declaration for air transport – apply in accordance with Article 24(1) of Commission Delegated Regulation (EU) 2016/341¹. The previous transit simplification for air which allowed the operator to base a transit declaration on an electronic manifest was allowed to be used only until 1 May 2018. Therefore, all references to that outdated transit simplification for air transport in the Convention should be amended accordingly.
- (6) Currently, the conditions under which goods transported through the T2 corridor keep their customs status of Union goods are laid down in Title I of Appendix II to the Convention the scope of which is limited to goods not placed under the export procedure. It was not the intention to establish such restriction for Union goods moved through the T2 corridor. Therefore, Article 2a of Appendix II to the Convention should be deleted from Title I and a new Article should be introduced into a new Title Ia under which no such restriction would apply.

¹ Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446 (OJ L 69, 15.3.2016, p.1).

- (7) Following the notification by North Macedonia, to the United Nations and to the European Union, of the entry into force of the Prespa Agreement as of 15 February 2019, the country previously denominated as “the former Yugoslav Republic of Macedonia” has changed its name to “the Republic of North Macedonia”. Therefore, the name and the code of the country in Appendix III and in Appendix IIIa to the Convention should be modified.
- (8) It is appropriate to establish the position to be taken on the Union’s behalf in the EU-CTC Joint Committee as the amendments to that Convention, if approved, will be binding on the Union.
- (9) As the EU-CTC Joint Committee Decision will amend the Convention, it is appropriate to publish it in the *Official Journal of the European Union* after its adoption.
- (10) The position of the Union within the Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Joint Committee established by the Convention of 20 May 1987 on a common transit procedure (the "EU-CTC Joint Committee") as regards the amendments to the Appendices to that Convention shall be based on the draft Decision of the EU-CTC Joint Committee attached to this Decision.

Minor changes to the draft Decision may be agreed to by the representatives of the Union within the Joint Committee without further Decision of the Council.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at ...,

For the Council

The President

DRAFT

**DECISION No /2019 of the EU-CTC Joint Committee
established by the Convention of 20 May 1987
on a common transit procedure**

of ...

amending that Convention

THE EU-CTC JOINT COMMITTEE

Having regard to the Convention of 20 May 1987 on a common transit procedure, and in particular Article 15(3)(a) thereof,

Whereas:

- (1) Pursuant to point (a) of Article 15(3) of the Convention of 20 May 1987 on a common transit procedure¹ (“the Convention”), the Joint Committee established by that Convention (the “EU-CTC Joint Committee”) is to adopt, by decision, amendments to the Appendices to the Convention.
- (2) The provisions of the Convention concerning the transit simplification consisting in the use of the electronic transport document (ETD) as a transit declaration for air transport apply since 1 May 2018. The previous transit simplification for air was allowed to be used only until 1 May 2018. Therefore, all references to the previous transit simplification for air simplification should be amended accordingly.
- (3) Regulation (EU) 2016/679 of the European Parliament and of the Council², which lays down a legal framework for the protection of personal data in the Union, entered into force on 24 May 2018. That Regulation repealed the previous legal act in this area, Directive 95/46/EC of the European Parliament and of the Council³. Consequently, the references to Directive 95/46/EC made in Appendix I to the Convention should be replaced by references to Regulation (EU) 2016/679.

¹ OJ L 226, 13.8.1987, p. 2.

² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

³ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and the free movement of such data (OJ L 281, 23.11.1995, p. 31).

- (4) Article 84 of Commission Delegated Regulation (EU) 2015/2446¹, which lays down the conditions to be fulfilled by applicants in order to be authorised to use a comprehensive guarantee with a reduced amount or a guarantee waiver, has been amended by Commission Delegated Regulation (EU) 2018/1118². As a result of that amendment, the requirement of sufficient financial resources was removed as a stand-alone condition because the practical experience showed that that condition was interpreted too restrictively and focused only on the availability of cash. The assessment of the capacity of economic operators to pay the full amount of debt should therefore be integrated in the assessment of their financial standing. Article 75 of Appendix I to the Convention mirrors the provisions of Article 84 of Delegated Regulation (EU) 2015/2446 and should, therefore, be amended accordingly.
- (5) Currently, the conditions under which goods transported through the T2 corridor keep their customs status of Union goods are laid down in Article 2a of Title I of Appendix II to the Convention, the scope of which is limited to goods not placed under the export procedure. It was not the intention to establish such a restriction for Union goods moved through the T2 corridor. Therefore, Article 2a of Appendix II to the Convention should be deleted from Title I and a new Article should be introduced into a new Title Ia under which no such restriction would apply.

¹ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

² Commission Delegated Regulation (EU) 2018/1118 of 7 June 2018 amending Delegated Regulation (EU) 2015/2446 as regards the conditions for a reduction of the level of the comprehensive guarantee and the guarantee waiver (OJ L 204, 13.8.2018, p. 11).

- (6) Following the notification by North Macedonia, to the UN and to the EU, of the entry into force of the Prespa Agreement as of 15 February 2019, the country previously denominated as “the former Yugoslav Republic of Macedonia” has changed its name to “the Republic of North Macedonia”. Appendices III and IIIa to the Convention should therefore be amended to reflect the change of denomination of that country and of the respective country code.
- (7) The Convention should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

1. Appendix I to the Convention is amended as set out in Annex A to this Decision.
2. Appendix II to the Convention is amended as set out in Annex B to this Decision.
3. Appendix III to the Convention is amended as set out in Annex C to this Decision.
4. Appendix IIIa to the Convention is amended as set out in Annex D to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at ...,

For the Joint Committee

The President

ANNEX A

Appendix I to the Convention is amended as follows:

- (1) in Article 7, paragraph 2 is replaced by the following:
 - “2. The Contracting Parties shall ensure that the processing of personal data exchanged in the application of the Convention is done in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council¹”;
- (2) in Article 13(1), point (a) is replaced by the following:
 - “(a) goods carried by air where the transit procedure based on an electronic transport document as transit declaration for air transport is used;”;
- (3) Article 55 is amended as follows:
 - (a) in paragraph 1, point (e) is replaced by the following:
 - “(e) the use of the paper-based common transit procedure for goods carried by air”;
 - (b) in paragraph 3, the second subparagraph is deleted;

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the protection of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

(4) in Article 57(3), point (b) is deleted;

(5) Article 75(2) is amended as follows:

(a) in point (a), sub-point (vi) is deleted;

(b) in point (b), sub-point (vii) is deleted;

(c) in point (c), sub-point (xii) is deleted;

(6) in Article 75, the following paragraph 3 is added:

“3. When verifying if the applicant has sufficient financial standing for the purpose of granting of an authorisation to use a comprehensive guarantee with a reduced amount or a guarantee waiver as required by paragraphs 2(a)(v), 2(b)(vi) and 2(c)(xi), the customs authorities shall take into account the ability of the applicant to fulfil his obligations of paying his debts and other charges which may be incurred, not covered by that guarantee.

If justified, the customs authorities may take into account the risk of incurrence of those debts having regard to the type and volume of the customs related business activities of the applicant and to the type of goods for which the guarantee is required.”;

(7) the title of Chapter VII is replaced by the following:

“Paper based common transit procedure for goods carried by air and common transit procedure based on an electronic transport document as a transit declaration for air transport”;

(8) Article 111 is deleted.

ANNEX B

Appendix II to the Convention is amended as follows:

- (1) the title of Title I is replaced by the following:

“PROOF OF THE CUSTOMS STATUS OF UNION GOODS”;

- (2) Article 2a is deleted;

- (3) the following Title Ia is inserted:

“TITLE Ia

PROVISIONS CONCERNING THE NON-ALTERATION OF THE CUSTOMS
STATUS OF UNION GOODS FOR GOODS TRANSPORTED THROUGH A T2
CORRIDOR

Article 21a

Presumption of the customs status of Union goods

1. Goods having the customs status of Union goods which are carried by rail may move, without being subject to a customs procedure, from one point to another within the customs territory of the Union and be transported through the territory of a common transit country without alteration of their customs status, where:
 - (a) the transport of the goods is covered by a single transport document issued in a Member State of the European Union;

- (b) the single transport document contains the following endorsement:
‘T2-Corridor’;
 - (c) the transit through a common transit country is being monitored by means of an electronic system in that common transit country; and
 - (d) the railway undertaking concerned is authorised by the common transit country whose territory is transited to use the T2-Corridor procedure.
2. The common transit country keeps the Joint Committee referred to in Article 14 of the Convention or a working group set up by that Committee on the basis of paragraph 5 of that Article informed about the modalities regarding the electronic monitoring system, and about the railway undertakings which are authorised to use the procedure mentioned in paragraph 1 of this Article.”
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ANNEX C

Appendix III to the Convention is amended as follows:

- (1) in Annex B1 the words “MK⁽¹⁾ The former Yugoslav Republic of Macedonia” is replaced by the words “MK North Macedonia” and footnote (1) is deleted;
- (2) in Annex B6, Title III, the code “MK⁽¹⁾” is replaced by the code “MK”;
- (3) in Annex C1, point 1, the words “the former Yugoslav Republic of Macedonia” are replaced by the words “the Republic of North Macedonia”;
- (4) in Annex C2, point 1, the words “the former Yugoslav Republic of Macedonia” are replaced by the words “the Republic of North Macedonia”;
- (5) in Annex C4, point 1, the words “the former Yugoslav Republic of Macedonia” are replaced by the words “the Republic of North Macedonia”;
- (6) in Annex C5, in row 7, the words “the former Yugoslav Republic of Macedonia” are replaced by the words “North Macedonia”;
- (7) in Annex C6, in row 6, the words “the former Yugoslav Republic of Macedonia” are replaced by the words “North Macedonia”.

ANNEX D

In Annex A1a, Title IV, in Appendix IIIa to the Convention, the code “MK⁽¹⁾” is replaced by the code “MK”.
