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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the OECD Public Governance Committee and the OECD Council on the draft Recommendation on Countering Illicit Trade: Enhancing Transparency in Free Trade Zones

COUNCIL DECISION (EU) 2019/...

of ...

**on the position to be taken on behalf of the European Union
within the OECD Public Governance Committee and the OECD Council
on the draft Recommendation on Countering Illicit Trade:
Enhancing Transparency in Free Trade Zones**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) International standards on countering illicit trade are essential for a global level playing field and for fostering legitimate trade. Such standards should include guidance that assists governments and policy makers in their efforts to reduce and deter illicit trade conducted through and inside free trade zones, such as in the draft Recommendation of the Organisation for Economic Cooperation and Development (OECD) on Countering Illicit Trade: Enhancing Transparency in Free Trade Zones (the 'draft Recommendation').
- (2) Extensive discussions on the draft Recommendation have taken place in the OECD Task Force on Countering Illicit Trade, a subsidiary body of the High Level Risk Forum of the OECD Public Governance Committee, on the basis of six years of analysis and expert consultation including with the World Customs Organization and the World Trade Organization.
- (3) The draft Recommendation is expected to be first presented to the OECD Public Governance Committee for approval and then to the OECD Council for adoption.

- (4) It is appropriate to establish the position to be taken on the Union's behalf in the OECD Public Governance Committee and in the OECD Council as the draft Recommendation is capable of influencing the risk analysis carried out by customs authorities of the Member States in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council¹ in conjunction with the common risk management framework for customs control. This is because non-compliance with the code of conduct is an indicator of risk which customs authorities of the Member States may use within their margin of discretion to select goods or economic operators for customs control in light of shipments arriving from or having transited through relevant free trade zones. Illicit trade has broad adverse economic, social, environmental and even political impacts and it is essential that the Union supports the adoption of the draft Recommendation in the OECD Council.
- (5) The OECD Council is a body set up by the Convention on the OECD. Twenty-three Member States are member countries of the OECD and have voting rights in the OECD Council. The Union is not a member of the OECD and is therefore not entitled to vote when legal acts are being adopted by the OECD Council. While the Commission expresses the Union's position in the OECD Public Governance Committee and in the OECD Council, the Member States that are member countries of the OECD should use their voting rights to take a position on behalf of the Union, acting jointly, in line with the Union's position.

¹ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

- (6) The position of the Union within the OECD Public Governance Committee and the OECD Council should therefore be based on the attached draft Recommendation,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the OECD Public Governance Committee and within the OECD Council with regard to enhancing transparency in free trade zones shall be based on the draft Recommendation on Countering Illicit Trade: Enhancing Transparency in Free Trade Zones, attached to this Decision.

Minor changes to the draft Recommendation may be agreed to by the representatives of the Union in the OECD Public Governance Committee and in the OECD Council without further decision of the Council.

Article 2

The position referred to in Article 1 shall be taken by the Member States that are member countries of the OECD, acting jointly.

Article 3

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

Done at Brussels,

For the Council

The President
