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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	16 December 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2020) 9236 final
Subject:	ANNEX to the Commission Decision on the adoption of a Memorandum of Understanding between the United Kingdom and the European Union, concerning the application as between themselves of the Convention on a common transit procedure

Delegations will find attached document C(2020) 9236 final.

Encl.: C(2020) 9236 final



Brussels, 16.12.2020
C(2020) 9236 final

ANNEX

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to the

Commission Decision

on the adoption of a Memorandum of Understanding between the United Kingdom and the European Union, concerning the application as between themselves of the Convention on a common transit procedure

**Memorandum of Understanding between the United Kingdom and the European Union,
concerning the application as between themselves of the Convention on a Common
Transit Procedure (Common Transit Convention)**

Whereas on 30 January 2019 the United Kingdom (UK) deposited an instrument of accession to the Common Transit Convention (CTC) with the Secretariat of the Council of the European Union (EU) to the effect that the UK will become a contracting party to the CTC at midnight CET on 31 December 2020.

Whereas the UK will accede to the CTC as a single contracting party, covering its whole territory.

Whereas, on 31 January 2020 the UK left the EU and the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community concluded with the EU entered into force, which included the Protocol on Ireland/Northern Ireland ("the Protocol"). The Protocol clarifies that Northern Ireland (NI) is part of the customs territory of the United Kingdom, and therefore no amendment to the UK's instrument of accession to the CTC is required.

Whereas, however, the Protocol also provides for the application of EU administrative customs procedures and legislation to NI.

Whereas the Protocol sets out the necessary arrangements to address this unique circumstance with the objective to maintain the necessary conditions for continued North-South cooperation, and to avoid a hard border between Ireland and Northern Ireland, including any physical infrastructure or related checks and controls.

Whereas the conditions of the Protocol therefore prevent the UK and the EU from implementing the requirements of the CTC that Office of Transit functions be completed on transit movements moving between the UK and Ireland via NI.

Whereas, the UK and EU recognise that a solution is required to ensure that the passage of goods between CTC contracting parties is recorded and the location of transit movements monitored, while fully complying with the provisions of the Protocol. That, in particular, the purpose of operating Office of Transit functions on movements between NI and Great Britain, and vice versa, will be to record the passage of goods travelling between Great Britain and the island of Ireland, in place of Office of Transit functions being applicable between Ireland and Northern Ireland.

Whereas, the Office of Transit processes described in this Memorandum of Understanding will operate in line with the requirements of the CTC, while ensuring a smooth transition to the UK's status as a Contracting Party to the Convention, and that the UK is in compliance with the operational, legal and technical requirements of the Convention.

Whereas, the UK is working with the CTC Secretariat to modify the UK system to reflect its new status as a Contracting Party, and to reflect the specific requirements for NI in line with this agreement. That, the UK is undertaking a programme of system testing ("conformance tests") in conjunction with the CTC Secretariat to ensure that this modified system operates correctly ahead of accession.

Whereas once EU law ceases to apply to the UK, the UK will amend domestic legislation to implement the requirements of the Convention by using the powers in the Taxation (Cross-border Trade) Act 2018. That the UK Government will ensure that the requirements of the Convention are given full force in UK law under the secondary legislation as set out above.

COMMON UNDERSTANDING

The European Union and the United Kingdom of Great Britain and Northern Ireland by signing this Memorandum of understanding confirm that they have reached the common understanding that as of 31 December 2020 midnight CET, the UK will implement Office of Transit functions on movements under transit from Northern Ireland to Great Britain, and Great Britain to Northern Ireland, by recording the passage of goods travelling between Great Britain and the island of Ireland, in place of Office of Transit functions being applicable between Ireland and Northern Ireland.

Any dispute about the interpretation or application of this Memorandum of understanding (MoU) will be resolved by consultations between the Sides, and will not be referred to any national or international tribunal or third party for settlement.

On behalf of the United Kingdom of Great Britain and Northern Ireland:

Place, Date, Name

On behalf of the European Union:

Place, Date, Name