



Council of the
European Union

Brussels, 24 March 2021
(OR. en)

6126/21

Interinstitutional File:
2021/0002(NLE)

UD 49
CID 6
TRANS 75
PREP-BXT 5
UK 46

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Draft DECISION of the EU-CTC Joint Committee as regards the amendments of Appendices I and III to the Convention on a common transit procedure

DRAFT

**DECISION No .../2021
of the EU-CTC Joint Committee**

of ...

**as regards the amendments of Appendices I and III
to the Convention on a common transit procedure**

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), point (a) thereof,

Whereas:

- (1) Pursuant to Article 15(3), point (a) of the Convention 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 a common transit procedure¹ ('the Convention'), the Joint Committee established by the Convention is to adopt, by decision, amendments to the Appendices to the Convention.
- (2) Article 311 of Commission Implementing Regulation (EU) 2015/2447² (the 'Implementing Regulation'), on the request to transfer the recovery of the customs debt, has been amended by Commission Implementing Regulation (EU) 2019/1394³. Therefore, Article 50 of Appendix I to the Convention, which mirrors Article 311 of the Implementing Regulation, should be amended accordingly.

¹ OJ EU L 226, 13.8.1987, p. 2.

² Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ EU L 343, 29.12.2015, p. 558).

³ Commission Implementing Regulation (EU) 2019/1394 of 10 September 2019 amending and correcting Implementing Regulation (EU) 2015/2447 as regards certain rules on surveillance for release for free circulation and exit from the customs territory of the Union (OJ EU L 234, 11.9.2019, p. 1).

- (3) Annex 72-04 to the Implementing Regulation, on the business continuity procedure for Union transit, has been amended by Commission Implementing Regulation (EU) 2020/893¹ and has been applied since 30 June 2020. By means of Implementing Regulation (EU) 2020/893, the validity of the paper-based comprehensive guarantee certificates and guarantee waiver certificates provided for in that Annex has been prolonged in order to allow for more flexibility in the business continuity procedure in transit and reduce the formalities and costs incurred by the customs authorities. Therefore, Article 79 of Appendix I to the Convention and point 19.3, Chapter III, Annex II to Appendix I to the Convention, which mirror point 19.3, Chapter III, Part I, Annex 72-04 to the Implementing Regulation, should be amended accordingly. Such amendment should apply retroactively, as of 30 June 2020, to grant equal conditions to the guarantors under the Union customs legislation and the Convention.

¹ Commission Implementing Regulation (EU) 2020/893 of 29 June 2020 amending Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ EU L 206, 30.6.2020, p. 8).

- (4) The forms for guarantors' undertakings are set out in Annexes C1, C2, C4, C5 and C6 to Appendix III to the Convention. Those forms, inter alia, list Member States of the European Union and the other Contracting Parties. By means of Decision No 2/2018 of the EU-CTC Joint Committee¹, the EU-CTC Joint Committee deleted the references to the United Kingdom as a Member State of the European Union and inserted the reference to the United Kingdom as a common transit country from the date on which the accession of the United Kingdom to the Convention as a separate Contracting Party becomes effective. However, as a consequence of the application of the Protocol on Ireland/Northern Ireland, which forms an integral part of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community² (the 'Protocol'), for Union transit operations Northern Ireland should be listed in a way that indicates that any guarantee that is valid in Member States of the European Union must also be valid in Northern Ireland.

¹ Decision No 2/2018 of the EU-CTC Joint Committee of 4 December 2018 amending the Convention on a common transit procedure [2018/1988] (OJ EU L 317, 14.12.2018, p. 48).

² OJ EU L 29, 31.1.2020, p. 7.

- (5) As a consequence of the application of the Protocol and in accordance with Article 5(2) of Regulation (EC) No 471/2009 of the European Parliament and of the Council¹, code ‘XI’ was introduced by means of Commission Implementing Regulation (EU) 2020/1470² to distinguish the United Kingdom in respect of Northern Ireland. The use of the country codes defined in Annexes A2 and B1 to Appendix III to the Convention should be amended accordingly.
- (6) In order to ensure the correct application of the new code ‘XI’, all indications in the Convention relating to the use of country codes should refer to Annex A2 or B1 to Appendix III to the Convention.

¹ Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ EU L 152, 16.6.2009, p. 23).

² Commission Implementing Regulation (EU) 2020/1470 of 12 October 2020 on the nomenclature of countries and territories for the European statistics on international trade in goods and on the geographical breakdown for other business statistics (OJ EU L 334, 13.10.2020, p. 2).

- (7) Decision No 2/2018 entered into force on 1 January 2021 and Decision No 1/2019 of the EU-CTC Joint Committee¹ entered into force on 4 December 2019. Decision No 1/2019 introduced the new official name ‘the Republic of North Macedonia’ on the forms for guarantors' undertakings set out in Annexes C1, C2, C4, C5 and C6 to Appendix III to the Convention, while Decision No 2/2018 inadvertently reintroduced the old official name ‘the former Yugoslav Republic of Macedonia’ in Annexes C1, C2 and C4. Therefore, the new official name ‘the Republic of North Macedonia’ should be reinstated on the forms for guarantors' undertakings set out in Annexes C1, C2 and C4.
- (8) The Convention should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

¹ Decision No 1/2019 of the EU-CTC Joint Committee established by the Convention of 20 May 1987 on a common transit procedure of 4 December 2019 amending that Convention [2020/487] (OJ EU L 103, 3.4.2020, p. 47).

Article 1

- (1) Appendix I to the Convention is amended as set out in Annex A to this Decision;
- (2) Appendix III to the Convention is amended as set out in Annex B to this Decision.

Article 2

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

Points 2 and 3 of Annex A shall apply from 30 June 2020.

Points 1 to 4 of Annex B shall apply from the day the United Kingdom accedes to the Convention as a separate Contracting Party.

Done at ...,

For the Joint Committee

The President

Annex A

Appendix I to the Convention is amended as follows:

(1) In Article 50, the following paragraphs are added:

- ‘3. Where the customs authority of a country involved in a common transit operation obtains evidence, before the time-limit referred to in Article 114(2)(a) expires, that the place where the events from which the debt arises occurred is in its territory, that authority shall immediately and in any event within that time-limit send a duly justified request to the customs authority of the country of departure to transfer the responsibility to start the recovery to the requesting customs authority.
4. The customs authority of the country of departure shall acknowledge the receipt of the request made in accordance with paragraph 3 and shall inform the requesting customs authority, within 28 days from the date on which the request was sent, whether it agrees to satisfy the request and to transfer to the requesting authority the responsibility to start the recovery.’;

(2) Article 79 is amended as follows:

(a) paragraph 2 is replaced by the following:

- ‘2. The period of validity of a comprehensive guarantee certificate or a guarantee waiver certificate shall not exceed five years. However, that period may be extended by the customs office of guarantee for one further period not exceeding five years.’;

(b) the following paragraphs are added:

- ‘3. Where during the period of validity of the certificate the customs office of guarantee is informed that the certificate, as a result of numerous changes, is not sufficiently legible and may be rejected by the customs office of departure, the customs office of guarantee shall invalidate the certificate and issue a new one, if appropriate.
4. Certificates with a period of validity of two years shall remain valid. Their period of validity may be extended by the customs office of guarantee for a second period not exceeding five years.’;

(3) in Annex II, Chapter III, point 19.3 is replaced by the following:

‘19.3. The period of validity of a comprehensive guarantee certificate or a guarantee waiver certificate shall not exceed five years. However, that period may be extended by the customs office of guarantee for one further period not exceeding five years.

Where during the period of validity of the certificate the customs office of guarantee is informed that the certificate, as a result of numerous changes, is not sufficiently legible and may be rejected by the customs office of departure, the customs office of guarantee shall invalidate the certificate and issue a new one, if appropriate.

Certificates with a period of validity of two years shall remain valid. Their period of validity may be extended by the customs office of guarantee for a second period not exceeding five years.’.

Annex B

Appendix III to the Convention is amended as follows:

- (1) in Annex A1, Title II, Chapter II, point B on the Particulars on the data of the transit declaration, bullet point ‘GUARANTEE REFERENCE’, Content of Field 2, the text ‘(ISO alpha 2 country code)’ is replaced by the following:

‘(country code presented in Annex A2)’;

- (2) in Annex A2, point 1, the following sentence is added:

‘XI is used for Northern Ireland. The code XI is optional for Contracting Parties for the data elements Country (box 8 and ex box 8) and Destination country (box 17a and ex box 17a).’;

- (3) in Annex A4, point 1, Content of Field 2, the text ‘(ISO alpha-2 country code)’ is replaced by the following:

‘(country code presented in Annex A2)’;

- (4) in Annex B1, Box 51 is amended as follows:

- (a) the text ‘GB United Kingdom’ is replaced by the following:

‘GB United Kingdom (excluding Northern Ireland)’;

- (b) the following code is added to the list:

‘XI Northern Ireland’;

(5) in Annex C1, point 1 is amended as follows:

- (a) the words ‘the former Yugoslav Republic of Macedonia’ are replaced by the words ‘the Republic of North Macedonia’;
- (b) the following endnote is inserted after the words ‘the United Kingdom of Great Britain and Northern Ireland’, before endnote 3:

‘Pursuant to the Protocol on Ireland/Northern Ireland of 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, Northern Ireland is to be considered as part of the European Union for the purposes of this guarantee. Therefore, a guarantor established in the customs territory of the European Union shall indicate an address for service or appoint an agent in Northern Ireland if the guarantee may be used therein. However, if a guarantee, in the context of common transit, is made valid in the European Union and in the United Kingdom, a single address for service or an appointed agent in the United Kingdom may cover all parts of the United Kingdom, including the Northern Ireland.’;

(6) in Annex C2, point 1 is amended as follows:

- (a) the words ‘the former Yugoslav Republic of Macedonia’ are replaced by the words ‘the Republic of North Macedonia’;

- (b) the following endnote is inserted after the words ‘the United Kingdom of Great Britain and Northern Ireland’:

‘Pursuant to the Protocol on Ireland/Northern Ireland of 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, Northern Ireland is to be considered as part of the European Union for the purposes of this guarantee. Therefore, a guarantor established in the customs territory of the European Union shall indicate an address for service or appoint an agent in Northern Ireland if the guarantee may be used therein. However, if a guarantee, in the context of common transit, is made valid in the European Union and in the United Kingdom, a single address for service or an appointed agent in the United Kingdom may cover all parts of the United Kingdom, including the Northern Ireland.’;

- (7) in Annex C4, point 1 is amended as follows:

- (a) the words ‘the former Yugoslav Republic of Macedonia’ are replaced by the words ‘the Republic of North Macedonia’;

- (b) the following endnote is inserted after the words ‘the United Kingdom of Great Britain and Northern Ireland’, before endnote 3:

‘Pursuant to the Protocol on Ireland/Northern Ireland of 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, Northern Ireland is to be considered as part of the European Union for the purposes of this guarantee. Therefore, a guarantor established in the customs territory of the European Union shall indicate an address for service or appoint an agent in Northern Ireland if the guarantee may be used therein. However, if a guarantee, in the context of common transit, is made valid in the European Union and in the United Kingdom, a single address for service or an appointed agent in the United Kingdom may cover all parts of the United Kingdom, including the Northern Ireland.’;

- (8) in Annex C5, row 7, the following footnote is inserted after the words ‘United Kingdom’:

(**) Pursuant to the Protocol on Ireland/Northern Ireland of 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, Northern Ireland should be considered as part of the European Union for the purposes of this guarantee.’;

(9) in Annex C6, row 6, the following footnote is inserted after the words ‘United Kingdom’:

‘(**) Pursuant to the Protocol on Ireland/Northern Ireland of 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, Northern Ireland should be considered as part of the European Union for the purposes of this guarantee.’
