



Brussels, 16.12.2020
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COMMISSION DECISION

of 16.12.2020

**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**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union and the Treaty on the Functioning of the European Union,

Whereas:

- (1) Article 17(1) of the Treaty on European Union lists the powers of the Commission and provides in particular that the Commission is to ensure the Union's external representation, with the exception of the common foreign and security policy and other cases provided for in the Treaties.
- (2) The Convention of 20 May 1987 on a common transit procedure ('the Convention') establishes the measures facilitating the movement of goods between its contracting parties. These are the European Union, the Republic of Iceland, the Republic of North Macedonia, the Kingdom of Norway, the Republic of Serbia, the Swiss Confederation and Turkey.
- (3) When the Union Customs Code¹ ceases to apply to and in the United Kingdom, with the exception of Northern Ireland, the United Kingdom of Great Britain and Northern Ireland will accede to the Convention as a separate Contracting Party² and the Protocol on Ireland/Northern Ireland attached to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community³ ('the Protocol') will apply.
- (4) When goods move under the common transit procedure, the Convention requires the operation of customs offices of transit at the point of entry into the customs territory of a contracting party and only at the point of exit from the customs territory of a Contracting Party when goods leave that territory via a frontier between that Contracting Party and a third country.
- (5) The Protocol sets out the arrangements to address the unique circumstances of Northern Ireland following the withdrawal of the United Kingdom from the European Union, 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.

¹ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code

² Decision No 1/2018 of the EU-CTC Joint Committee of 4 December 2018 as regards an invitation to the United Kingdom to accede to the Convention on a common transit procedure (OJ L 317, 14.12.2018, p. 47)

³ OJ L 29, 31.1.2020, p. 102

- (6) The conditions of the Protocol, therefore, prevent the UK and the EU from implementing the requirement of the Convention that the office of transit functions be completed on transit movements moving between the UK and Ireland via Northern Ireland at the border between the latter and Ireland.
- (7) The UK and the EU recognise that a solution is required to ensure that the passage of goods between the contracting parties of the Convention is recorded and the location of transit movements monitored in line with the provisions of the Convention, while fully complying with the requirements of the Protocol.
- (8) The purpose of operating the office of transit functions on movements between Northern Ireland and Great Britain, and vice versa, will be in particular to record the passage of goods travelling between Great Britain and the island of Ireland, in place of the office of transit functions being applicable between Ireland and Northern Ireland.
- (9) From August to November 2020, discussions took place between representatives of the Commission and of the United Kingdom with a view to drawing up an instrument setting out political commitments with regard to implementation of the Convention. The 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 ('the Memorandum of Understanding') is the result of those discussions.
- (10) The Council will be informed of the envisaged Memorandum of Understanding prior to its signature. The Council does not have to endorse the instrument as it is simply recording the common understanding of the EU and the UK on the interplay between the Convention and the Protocol without changing them. Therefore, there is no policy decision to be made by the Council.
- (11) The Memorandum of Understanding does not, nor is it intended to, create any legal obligations on either side under domestic or international law.
- (12) Given the interest of the Union in facilitating the swift and correct passage of goods moving under the common transit procedure between the Union and the other contracting parties of the Convention, it is appropriate to sign the Memorandum of Understanding,

HAS DECIDED AS FOLLOWS:

Article 1

The 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') as attached to this Decision, is approved.

The text of the Memorandum of Understanding is submitted to the Council for information.

Article 2

The Member of the Commission responsible for Economy or the person designated by him is authorised to sign the Memorandum of Understanding on behalf of the Union, after having informed the Council.

Done at Brussels, 16.12.2020

For the Commission
Paolo GENTILONI
Member of the Commission