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2025/0274 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Specialised Committee on Road Transport established by the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, on the national electronic register of road transport undertakings and the modalities of exchange of information contained in these registers

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

The Commission proposes that the Council establishes the position to be taken on the Union's behalf in the Specialised Committee on Road Transport, established by the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ('the Trade and Cooperation Agreement'), as regards the minimum requirements for data to be contained in the national electronic registers of road transport undertakings, as well as the modalities of exchange of information contained in these registers

2. CONTEXT OF THE PROPOSAL

2.1. The Specialised Committee on Road Transport

The Specialised Committee on Road Transport is a body established under point (o) of Article 8(1), of the Trade and Cooperation Agreement. Pursuant to Article 13(2) and 14(5) of Section 1 of Part A of Annex 31 of that Agreement, the Specialised Committee on Road Transport is empowered to adopt decisions regarding the data to be contained in national electronic registers of road transport undertakings, as well as the modalities for the exchange of information contained in those registers ('the envisaged decision').

2.2. The envisaged act of the Specialised Committee on Road Transport

The main purpose of the envisaged decision is to establish detailed rules on the modalities of exchange of information on convictions and penalties for any serious infringements referred to in Article 6(2) of Section 1 of Part A of Annex 31 to the Trade and Cooperation Agreement, as well as the modalities of exchange of information on other conditions governing admission to the occupation of road haulage operator.

In the Union, such information is exchanged via the European Registers of Road Transport Undertakings (ERRU), established by paragraphs 5 and 6 of Article 16 and by Article 18(8) of Regulation (EC) No 1071/2009[1]. The technical specifications of ERRU are contained in Commission Implementing Regulation (EU) 2016/480[2].

The source of the information to be exchanged is the national electronic register of road undertakings, as per Article 13(2) of Section 1 of Part A of Annex 31 to the Trade and Cooperation Agreement.

In the Union, the minimum data to be contained in the national electronic registers of road transport undertakings is contained in Article 16 of Regulation (EC) No 1071/2009. The minimum requirements for this data are then further laid out in Commission Decision 2009/992/EU[3], as last amended by Commission Implementing Decision (EU) 2024/773[4], as well as in Commission Implementing Decision (EU) 2024/2164[5].

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1 Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC, OJ L 300, 14.11.2009, p. 51.

2 Commission Implementing Regulation (EU) 2016/480 of 1 April 2016 establishing common rules concerning the interconnection of national electronic registers on road transport undertakings and repealing Regulation (EU) No 1213/2010, OJ L 87, 2.4.2016, p. 4.

3 Commission Decision of 17 December 2009 on minimum requirements for the data to be entered in the national electronic register of road transport undertakings, OJ L 339, 22.12.2009, p. 36.

4 Commission Implementing Decision (EU) 2024/773 of 4 March 2024 amending Decision 2009/992/EU as regards minimum requirements for additional data to be entered in the national electronic register of

The common list of infringements upon which information should be exchanged is set out in a separate draft Decision of the Specialised Committee on Road Transport.

The Commission therefore proposes that the data contained in the national electronic register pursuant to Commission Decision 2009/992/EU, is adapted for the purpose of the Trade and Cooperation Agreement, in accordance with the draft Specialised Committee Decision contained in the Annex to this proposal. . For reasons of resource efficiency, the Commission further proposes that the exchange of information referred to in Article 14(5) of Section 1 of Part A of Annex 31 is done through the European Registers of Road Transport Undertakings.

The main adaptations to Union legislation for the purpose of the Trade and Cooperation Agreement are twofold. First, the United Kingdom has informed the Commission that the number of people employed by the transport undertaking is not registered in the same databases in the UK, and there is no clear evidence of this dataset being essential for the purpose of implementing the Trade and Cooperation Agreement. Second, the Union and the United Kingdom have the same 'risk bands' for operators. As regards the Union, the risk rating bands are set out in point 4 of Annex to Implementing Regulation (EU) 2022/695[6], and are included in the national electronic register and exchanged via ERRU in accordance respectively with Commission Decision 2009/992/EU and Commission Implementing Regulation (EU) 2016/480. However, the formula to calculate the risk rating score of operators are different in the Union and in the UK[7]. As a result, it is therefore proposed that the datasets on the number of employees of an undertaking, as well as the risk rating score of an undertaking, are not exchanged between the Union and the United Kingdom. The risk rating band, as well as all other datasets contained in the relevant Union legislation, should be exchanged, in order to facilitate the enforcement of the corresponding provisions of the Trade and Cooperation Agreement.

Finally, the United Kingdom contributed to the development costs of ERRU as Member State of the Union. The United Kingdom should however contribute financially to the operational & maintenance costs of ERRU. A separate decision of the Specialised Committee on Road Transport, to be adopted at the same time as the Draft Decision of the Specialised Committee on Road Transport contained in this proposal, will details the modalities of the United Kingdom's financial contribution to ERRU.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The position of the Union should therefore be to support the adoption of a Decision by the Specialised Committee on Road Transport in line with the Draft Decision attached to the proposal.

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road transport undertakings, OJ L, 2024/773, 6.3.2024, ELI: http://data.europa.eu/eli/dec_impl/2024/773/oj.

5 Commission Implementing Decision (EU) 2024/2164 of 11 July 2024 on minimum requirements concerning the data of hired vehicles to be entered in national electronic registers of road transport undertakings, OJ L, 2024/2164, 20.8.2024, ELI: http://data.europa.eu/eli/dec_impl/2024/2164/oj.

6 Commission Implementing Regulation (EU) 2022/695 of 2 May 2022 laying down rules for the application of Directive 2006/22/EC of the European Parliament and of the Council as regards the common formula for calculating the risk rating of transport undertakings, (OJ L 129, 3.5.2022, p. 33, ELI: http://data.europa.eu/eli/reg_impl/2022/695/oj).

7 In the Union, the formula to calculate the risk rating score is laid out in Commission Implementing Regulation (EU) 2022/695.

4. LEGAL BASIS

4.1. Procedural legal basis

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing '*the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement*.'

The decision, which the Specialised Committee on Road Transport is called upon to adopt, constitutes an act having legal effects. The envisaged act does not supplement or amend the institutional framework of the Trade and Cooperation Agreement. Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

The main objective and content of the envisaged act relate to transport policy.

Therefore, the substantive legal basis of the proposed decision is Article 91 TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 91 TFEU, in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

The decision of the Specialised Committee on Road Transport should be published in the Official Journal of the European Union after its adoption.

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on the position to be taken on behalf of the European Union in the Specialised Committee on Road Transport established by the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, on the national electronic register of road transport undertakings and the modalities of exchange of information contained in these registers

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ('the Trade and Cooperation Agreement'), was concluded by the Union by Council Decision (EU) 2021/689 and entered into force on 1 May 2021.

(2) Pursuant to Article 13(2) and 14(5) of Section 1 of Part A of Annex 31 of that Agreement, the Specialised Committee on Road Transport, established under point (o) of Article 8(1) of that Agreement, is empowered to adopt decisions regarding the data to be contained in national electronic registers of road undertakings, as well as the modalities for exchange of information contained in those registers.

(3) Article 6 of Section 1 of Part A of Annex 31 to the Trade and Cooperation Agreement lays down detailed conditions relating to the requirement of good repute for a road haulage operator. In particular, its paragraphs 2 and 3 lay down the conditions in which infringements listed in point (b) of the third subparagraph of its first paragraph incurred by an operator may lead to an administrative procedure by the competent authorities in the Party of establishment, and may lead to the loss of good repute. Appendix 31-A-1-1 further lays down a list of seven most serious infringements which must trigger an administrative procedure by the competent authority in the Party of establishment. A separate decision of the Specialised Committee on Road Transport established by the Trade and Cooperation Agreement, attached to [PLACEHOLDER FOR COUNCIL: Council Decision (EU) 2025/XXXX], will complete the list of serious infringements which may lead to the loss of good repute.

(4) Articles 13 and 14 of Section 1 of Part A of Annex 31 to the Trade and Cooperation Agreement further provide that Parties are to set up national electronic registers of road transport undertakings which have been authorised to engage in the occupation of road haulage operator, as well as carry out individual checks on undertakings and exchange information on serious infringements committed by operators in the other

Party. The data to be contained in the national electronic register, as well as the modalities of the exchange of information, are to be laid down by decision of the Specialised Committee on Road Transport.

(5) The Union has set up the European Registers of Road Transport Undertakings (ERRU) to facilitate exchanges of information between the Member States of the Union in accordance with Commission Implementing Regulation (EU) 2016/480[8]. Given that the Union and the United Kingdom have agreed to the same basic principles of access to the occupation of road haulage operator as well as to a common list of infringements, it is appropriate and efficient in pursuit of the objectives of the Trade and Cooperation Agreement to provide for the technical connection of the United Kingdom to ERRU.

(6) It is therefore appropriate to establish the position to be taken on the Union's behalf in the Specialised Committee on Road Transport, as the envisaged act will be binding on the Union.

(7) A separate decision of the Specialised Committee on Road Transport established by the Trade and Cooperation Agreement, attached to [PLACEHOLDER FOR COUNCIL: Council Decision (EU) 2025/XXXX], will establish the financial modalities of the United Kingdom's contribution to ERRU costs.

(8) In order to allow both Parties to develop their information and technology infrastructure allowing the implementation of the decision of the Specialised Committee on Road Transport, it is appropriate to establish a date of application of that Decision. Hence, the Decision of the Specialised Committee on Road Transport should apply from 1 January 2026.

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be adopted on the Union's behalf in the Specialised Committee on Road Transport, established by Article 8(1), point (o) of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ('Specialised Committee on Road Transport'), as regards the minimum requirements for data contained in national electronic registers of road transport undertakings, as well as the modalities of exchange of information contained in those registers, is set out in the draft decision of the Specialised Committee on Road Transport attached to this Decision.

2. Minor changes in the attached draft decision of the Specialised Committee on Road Transport may be decided by the Commission without the need for a new Council Decision.

[8] Commission Implementing Regulation (EU) 2016/480 of 1 April 2016 establishing common rules concerning the interconnection of national electronic registers on road transport undertakings and repealing Regulation (EU) No 1213/2010, OJ L 087 2.4.2016, p. 4.

Article 2

This Decision shall enter into force at the time of its adoption.

Done at Brussels,

For the Council
The President