



Brussels, 28.7.2022
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2022/0228 (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 as regards the technical and procedural specifications of the use of the Internal Market Information System ('IMI') by the United Kingdom and the contribution to its costs

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, as regards the participation of the United Kingdom in the administrative cooperation under Art. 6 of Section 2 of Part A of Annex 31 of the Trade and Cooperation Agreement, and the amount and modalities of the financial contribution to be made by the United Kingdom of Great Britain and Northern Ireland to the general budget of the Union in respect of the cost generated by its participation in the Internal Market Information System.

2. CONTEXT OF THE PROPOSAL

The Internal Market Information System (IMI) was established by Regulation (EU) No 1024/2012¹. One of its functionalities allows the processing of posting declarations under the rules of Directive 96/71/EC, Directive 2014/67/EU and Directive (EU) 2020/1057. These rules aim at establishing a list of working conditions which posted workers must be granted in the host country. The Trade and Cooperation Agreement between the European Union and the United Kingdom (TCA) foresees in its Annex 31 (Article 6(1) point (a) of Section 2 of Part A of that Annex) that operators established in one of the parties to the TCA should submit a posting declaration to the national competent authorities of the other Party or, in the case of the European Union, of the Member State to which the driver is posted. For this purpose, from 2 February 2022 a multilingual standard form of the public interface connected to the IMI has to be used.

Pursuant to Article 7(5) of Section 2 of Part A of Annex 31 of the Trade and Cooperation Agreement, the Specialised Committee on Road Transport should set the technical and procedural specifications of the use of the Internal Market Information System (IMI) by the United Kingdom. The proposed Decision of the Specialised Committee contains the necessary specifications in order to allow the connection of road operators and national authorities to the IMI. This will allow the operators to submit their posting declarations via the IMI and national authorities to take part in the administrative cooperation, which is necessary to reach the objectives of the rules on posting of drivers. These specifications have been adapted from Commission Implementing Regulation (EU) 2021/2179² to the TCA framework.

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 this proposal.

¹ OJ L 316, 14.11.2012, p. 1.

² Commission Implementing Regulation (EU) 2021/2179 of 9 December 2021 on the functionalities of the public interface connected to the Internal Market Information System for posting drivers in the road transport sector (OJ L 443, 10.12.2021, p. 68).

4. LEGAL BASIS

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for Council 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.

5. PUBLICATION OF THE ENVISAGED ACT

It is appropriate to publish the decision of the Specialised Committee on Road Transport in the Official Journal of the European Union after its adoption.

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) As set out in Article 6(1) point (a) of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement, operators established in the other party should submit a posting declaration to the competent authorities of the Party or, in the case of the European Union, of the Member State to which the driver is posted, using from 2 February 2022 a multilingual standard form of the public interface connected to the Internal Market Information system ('IMI') established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council³. A competent authority can be any body established at either national, regional or local level and registered in the IMI with specific responsibilities relating to the application of certain legal provisions.
- (2) As set out in Article 6(1) point (c) second subparagraph of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement, the IMI also allows requests to be made for the assistance of the competent authorities of the Party of establishment or, in the case of the Union, the Member State of establishment, when the operator fails to submit the requested documentation within eight weeks from the date of the request.
- (3) The IMI may be used by third countries if the conditions laid down in Article 23 of Regulation (EU) No 1024/2012 are met and provided that the third country which is given access to the IMI participates in the operating costs of the IMI.
- (4) As set out in Article 7(5) of Section 2 of Part A of Annex 31 of the Trade and Cooperation Agreement, the Specialised Committee on Road Transport should set the technical and procedural specifications of the use of the IMI by the United Kingdom. These specifications are necessary in order to allow the connection of road operators and national authorities to the IMI, and thereby allow the operators to submit their posting declarations and national authorities to take part in the administrative

³ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (OJ L 316, 14.11.2012, p. 1).

cooperation described in recitals 1 to 3e. The European Union has implemented these specifications through Commission Implementing Regulation (EU) 2021/2179⁴.

- (5) As set out in Article 7(6) of Section 2 of Part A of Annex 31 of the Trade and Cooperation Agreement, each party should participate in the operating costs of the IMI. The Specialised Committee on Road Transport should determine the costs to be borne by each party. It is therefore necessary to determine the amount and the modalities of the financial contribution to be made by the United Kingdom to the general budget of the Union in respect of the cost generated by its participation in the IMI. The financial contribution will consist of two parts: development costs (one-off payment) and annual maintenance costs (yearly contribution).
- (6) It is therefore appropriate to establish the position to be taken on the Union's behalf in the Specialised Committee on Road Transport.
- (7) In order to allow for the prompt application of the measures provided for in this Decision, this Decision should enter into force on the date of its adoption,

HAS ADOPTED THIS DECISION:

Article 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, as regards the technical and procedural specifications of the use of the Internal Market Information System (IMI) by the United Kingdom and the determination of the costs to be borne by the United Kingdom shall be based on the draft decision of the Specialised Committee on Road Transport attached to this Decision.

Article 2

The decision of the Specialised Committee shall be published in the *Official Journal of the European Union*.

Article 3

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President

⁴ Commission Implementing Regulation (EU) 2021/2179 of 9 December 2021 on the functionalities of the public interface connected to the Internal Market Information System for posting drivers in the road transport sector (OJ L 443, 10.12.2021, p. 68).

LEGISLATIVE FINANCIAL STATEMENT

1. 1. NAME OF THE PROPOSAL:

Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the Specialised Committee on Road Transport on technical and procedural specifications of the use of the Internal Market Information System (IMI) by the United Kingdom.

2. BUDGET LINES:

Revenue line (Chapter/Article/Item):

6 6 3 “Pilot projects, preparatory actions, prerogatives and other actions” (DG MOVE);

Amount budgeted for the year concerned: EUR 319 039.00

(only in case of assigned revenues):

The revenues will be assigned to the following expenditure line:

02 20 04 01 “Support activities to the European transport policy, transport security and passenger rights including communication activities” (DG MOVE)

3. FINANCIAL IMPACT

- Proposal has no financial implications
- Proposal has no financial impact on expenditure but has a financial impact on revenue
- Proposal has a financial impact on assigned revenue

The effect is as follows:

(EUR million to one decimal place)

Revenue line	Impact on revenue ⁵⁶	XX months period starting dd/mm/yyyy <i>(if applicable)</i>	2022
6 6 3	<i>Yes</i>		0.32

Situation following action					
Revenue line	2023	2024	2025	2026	2027
6 6 3	0.09	0.09	0.09	0.1	0.1

⁵ The amounts per year need to be an estimation based on the formula or method defined under section 5. For the starting year, the yearly amount is normally paid without a reduction or prorata.

⁶ In the case of traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.

(Only in case of assigned revenues, under the condition that the budget line is already known):

Expenditure line ⁷	2022	2023
02 20 04 01	0.32	0.09

Situation following action					
Expenditure line	2023	2024	2025	2026	2027
02 20 04 01	0.09	0.09	0.09	0.1	0.1

4. ANTI-FRAUD MEASURES

DG MOVE applies the anti-fraud principles stemming from the 2019 Commission Anti Fraud Strategy (COM(2019) 196 final).

DG MOVE adopted a revised local anti-fraud strategy in 2020. The MOVE AFS is based on a specific risk assessment carried out internally to identify the areas most vulnerable to fraud, the controls already in place and the actions necessary to improve DG MOVE's capacity to prevent, detect and correct fraud.

The contractual provisions applicable to public procurement and to the award of grants ensure that audits and on-the-spot checks can be carried out by the Commission services, including OLAF, using the standard provisions recommended by OLAF. The different entrusted entities to which DG MOVE may entrust the management of its expenditure apply comparable anti-fraud approaches.

5. OTHER REMARKS

There are 2 types of financial contribution to be paid by the UK:

- (1) One off amount, the entry fee of € 232.835, to be paid only once. This amount was calculated based on the total development costs of the public interface (Back Office) connected to IMI (Front Office) and shall be used to cover necessary improvements and enhancements of the system.
- (2) Annual overall maintenance costs of IMI Front Office and Back Office of the posting of drivers module, to be paid yearly: 86.204

Both contributions by the UK as referred to in Article 5 of the draft DECISION No X/2022 OF THE SPECIALISED COMMITTEE on ROAD TRANSPORT shall be allocated to the DG MOVE budget line 02.200401. The total amount shall be co-delegated by DG MOVE to DIGIT, as system developer for covering both front office and back office related development and maintenance costs with indication on what improvements it should be spent on after agreement between DG MOVE and DG GROW.

⁷ To be used only if necessary.