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European Union

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## **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: 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 adaptation of technical specifications of the smart tachograph 2

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**COUNCIL DECISION (EU) 2023/...**

of ...

**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 adaptation of technical specifications of the smart tachograph 2**

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<sup>1</sup> and entered into force on 1 May 2021.
- (2) Pursuant to point (c) of Article 468(5) of the Trade and Cooperation Agreement, the Specialised Committee on Road Transport, established under point (o) of Article 8(1) of that Agreement, may decide on measures aimed at safeguarding the proper functioning of Title I of Heading Three of the Trade and Cooperation Agreement.
- (3) Point (b) of Article 465(1) of the Trade and Cooperation Agreement provides that drivers undertaking journeys as referred to in Article 462 of the Trade and Cooperation Agreement must comply with rules on the use of tachographs in accordance with Sections 2 to 4 of Part B of Annex 31 of that Agreement. Pursuant to Article 466(2) of that Agreement, vehicles undertaking such journeys must be equipped with a tachograph in accordance with Section 2 of Part C of the same Annex.

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<sup>1</sup> Council Decision (EU) 2021/689 of 29 April 2021 on the conclusion, on behalf of the Union, 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, and of the Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland concerning security procedures for exchanging and protecting classified information (OJ L 149, 30.4.2021, p. 2).

- (4) Pursuant to point (a) of Article 3(1) and point (f) of Article 3(2) of Section 2 of Part C of Annex 31 to the Trade and Cooperation Agreement, vehicles undertaking journeys as referred to in Article 462 of the Trade and Cooperation Agreement that are registered for the first time more than two years after the entry into force of the detailed specifications referred to in Article 2(2) point (h) of Section 4 of Part B of Annex 31 to that Agreement, namely 21 August 2023, must be equipped with a smart tachograph 2.
- (5) The smart tachograph 2 is defined in subparagraph (h) of Article 2(2) of Section 4 of Part B of Annex 31 to the Trade and Cooperation Agreement. The fourth indent of that subparagraph provides that such tachographs must comply with the specifications set out in the implementing acts referred to in Article 11 of Regulation (EU) No 165/2014 of the European Parliament and of the Council<sup>1</sup>, as adapted by a Decision of the Specialised Committee on Road Transport.

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<sup>1</sup> Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).

- (6) Commission Implementing Regulation (EU) 2016/799<sup>1</sup> laid down, in its Annex I C, the specifications for smart tachograph 1 and was adapted in Appendix 31-B-4-3 to the Trade and Cooperation Agreement. Commission Implementing Regulation (EU) 2021/1228<sup>2</sup>, which Article 2(2)(h) of Section 4 of Part B of Annex 31 to the Trade and Cooperation Agreement refers to, was also adopted on the basis of Article 11 of Regulation (EU) No 165/2014. By amending Annex I C to Implementing Regulation (EU) 2016/799, it laid down the detailed technical specifications of the smart tachograph 2. It entered into force on 19 August 2021. Commission Implementing Regulation (EU) 2023/980<sup>3</sup> introduced additional transitional measures. Annex I C to Implementing Regulation (EU) 2016/799 as amended should therefore be adapted by Decision of the Specialised Committee on Road Transport, pursuant to subparagraph (h) of Article 2(2) of Section 4 of Part B of Annex 31 to the Trade and Cooperation Agreement, fourth indent.

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<sup>1</sup> Commission Implementing Regulation (EU) 2016/799 of 18 March 2016 implementing Regulation (EU) No 165/2014 of the European Parliament and of the Council laying down the requirements for the construction, testing, installation, operation and repair of tachographs and their components (OJ L 139, 26.5.2016, p. 1).

<sup>2</sup> Commission Implementing Regulation (EU) 2021/1228 of 16 July 2021 amending Implementing Regulation (EU) 2016/799 as regards the requirements for the construction, testing, installation, operation and repair of smart tachographs and their components (OJ L 273, 30.7.2021, p. 1).

<sup>3</sup> Commission Implementing Regulation (EU) 2023/980 of 16 May 2023 amending Implementing Regulation (EU) 2016/799 as regards a transitional smart tachograph and its use of the Galileo Open Service Navigation Message Authentication and amending Implementing Regulation (EU) 2021/1228 (OJ L 134, 22.5.2023, p. 28).

- (7) 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.
- (8) Equipment ensuring automatic recording of the border crossing, recording of loading and unloading activities and recording whether the vehicle is used for carriage of goods or passengers is already available both in the Union and the United Kingdom and for newly registered vehicles in both Parties undertaking international journeys, an obligation to be equipped with such tachograph applies since 21 August 2023, in accordance with the domestic law of each Party. Nonetheless, undertakings will only be able to comply with the requirement set under point (f) of Article 3(2) of Section 2 of Part C of Annex 31 to the Trade and Cooperation Agreement from the moment when the detailed specifications of the smart tachograph 2 will be adapted by the Decision of the Specialised Committee on Road Transport. In order to ensure adequate time and legal clarity regarding the application of that requirement, and considering that the Decision of the Specialised Committee on Road Transport will be adopted more than two years after the entry into force of the detailed specifications of the smart tachograph 2, it is appropriate to establish a date of application. Hence, the Decision of the Specialised Committee on Road Transport should apply from 21 February 2024,

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 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 use of tachographs and the adaptation of technical specifications for smart tachograph 2, is set out in the draft decision of the Specialised Committee on Road Transport attached to this Decision.

*Article 2*

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

Done at Brussels,

*For the Council*

*The President*

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