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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the position to be taken on behalf of the Union in the Joint Committee established by the Agreement between the European Union and Ukraine on the carriage of freight by road, as regards the recognition of smart tachographs for the enforcement of the Agreement and the provision by the European Commission of smart tachograph certification services to Ukraine

COUNCIL DECISION (EU) 2024/…

of …

on the position to be taken on behalf of the Union in the Joint Committee established by the Agreement between the European Union and Ukraine on the carriage of freight by road, as regards the recognition of smart tachographs for the enforcement of the Agreement and the provision by the European Commission of smart tachograph certification services to Ukraine

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 Agreement between the European Union and Ukraine on the carriage of freight by road[1] (the 'Agreement') was signed by the Union on 29 June 2022 pursuant to Council Decision (EU) 2022/1158[2] and entered into provisional application on that date. It was concluded by the Union by Council Decision (EU) 2022/2435[3] and entered into force on 5 December 2022.

(2) The Agreement was amended by the Agreement between the European Union and Ukraine amending the Agreement between the European Union and Ukraine on the carriage of freight by road of 29 June 2022[4], which was signed by the Union on 20 June 2024 pursuant to Council Decision (EU) 2024/1876[5] and entered into provisional application on that date.

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1 OJ L 179, 6.7.2022, p. 4, ELI: http://data.europa.eu/eli/agree_internation/2022/1158/oj.

2 Council Decision (EU) 2022/1158 of 27 June 2022 on the signing, on behalf of the Union, and provisional application of the Agreement between the European Union and Ukraine on the carriage of freight by road (OJ L 179, 6.7.2022, p. 1, ELI: http://data.europa.eu/eli/agree_internation/2022/1158/oj).

3 Council Decision (EU) 2022/2435 of 5 December 2022 on the conclusion, on behalf of the European Union, of the Agreement between the European Union and Ukraine on the carriage of freight by road (OJ L 319, 13.12.2022, p. 5, ELI: http://data.europa.eu/eli/dec/2022/2435/oj).

4 OJ L, 2024/1878, 2.7.2024, ELI: http://data.europa.eu/eli/agree_internation/2024/1878/oj.

5 Council Decision (EU) 2024/1876 of 20 June 2024 on the signing, on behalf of the Union, and provisional application of the Agreement between the European Union and Ukraine amending the Agreement between the European Union and Ukraine on the carriage of freight by road of 29 June 2022 (OJ L, 2024/1876, 2.7.2024, ELI: http://data.europa.eu/eli/dec/2024/1876/oj).

(3) Pursuant to Article 7 of the Agreement, the Joint Committee established by paragraph 1 of that Article is to periodically review the functioning of the Agreement in light of its objectives, and may adopt decisions to that effect.

(4) The Joint Committee, in its third meeting, is to adopt a decision on the recognition of smart tachographs used by transport operators from both Parties to the Agreement which operate under the Agreement in both the Union and Ukraine, and on the provision by the European Commission of smart tachograph certification services to Ukraine.

(5) It is appropriate to establish the position to be taken on the Union's behalf in the Joint Committee, as the envisaged decision of the Joint Committee will be binding on the Union.

(6) Since 2019, vehicles registered in the Union are to be equipped with a smart tachograph compliant with Chapter II of Regulation (EU) No 165/2014 of the European Parliament and of the Council[6], while, since 2010, vehicles engaged in international road transport registered in Ukraine are to be equipped with digital tachographs in compliance with the European Agreement concerning the work of crews of vehicles engaged in international transport[7] (the 'AETR').

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[6] 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, ELI: http://data.europa.eu/eli/reg/2014/165/oj).

[7] OJ L 95, 8.4.1978, p. 1, ELI: http://data.europa.eu/eli/agree_internation/1977/2829/oj.

(7) In comparison to the digital tachograph, the smart tachograph contains key additional functionalities as set out in Articles 8, 9 and 10 of Regulation (EU) No 165/2014, which allow better enforcement of the Agreement. The recording of the position of the vehicle enables better enforcement of Article 4 of the Agreement, while the remote early detection capability enables better enforcement of Article 5D(2), point (c)(ii), of the Agreement.

(8) In order to ensure the correct functioning of the Agreement in light of its objectives, it should allow road haulage operators to use more effective control devices than the digital tachographs provided under the AETR, as the result could otherwise be less effective enforcement by the competent authorities.

(9) More detailed tachograph records, as provided by the smart tachograph, would therefore significantly improve implementation of the Agreement, through the authorised use of such records under Article 5B(4) thereof.

(10) In order to ensure the correct functioning of the Agreement in light of its objectives, vehicles operating under the Agreement should therefore be allowed to install and use, in the Union and in Ukraine, smart tachographs complying with the relevant requirements of Regulation (EU) No 165/2014 and Commission Implementing Regulation (EU) 2016/799[8]. That does not, however, prevent vehicles operating under the Agreement from continuing to use digital tachographs in accordance with the AETR.

[8] 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, ELI: http://data.europa.eu/eli/reg_impl/2016/799/oj).

(11) The European Commission should be responsible for providing the necessary certificates and keys for Ukraine to develop its smart tachograph infrastructure. Ukraine should therefore recognise the role of the European Commission in the functioning of the smart tachograph system.

(12) The position of the Union within the Joint Committee should therefore be based on the draft Decision of the Joint Committee attached to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the third meeting of the Joint Committee established by Article 7(1) of the Agreement between the European Union and Ukraine on the carriage of freight by road, as regards the recognition of smart tachographs for the enforcement of that Agreement and the provision by the European Commission of smart tachograph certification services to Ukraine, shall be based on the draft Decision of the Joint Committee attached to this Decision.

Minor changes to the draft Decision of the Joint Committee may be agreed by the representatives of the Union in the Joint Committee without a further decision of the Council.

Article 2

The Decision of the Joint Committee shall be published in the *Official Journal of the European Union*.

Article 3

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

Done at …, …

For the Council
The President