

COUNCIL DECISION (EU) 2022/2197
of 8 November 2022

on the position to be taken on behalf of the European Union within 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 technical and procedural specifications of the use of the Internal Market Information System (IMI) by the United Kingdom and the amount and 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 use of IMI

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1), in conjunction with 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 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 ⁽¹⁾ ('the Trade and Cooperation Agreement'), an operator established in the other Party is to submit a posting declaration to the competent authorities of the Party or, in the case of the 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 Council ⁽²⁾. A competent authority can be any body established at either national, regional or local level and registered in 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, 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, if the operator fails to submit the requested documentation within 8 weeks from the date of the request.
- (3) It is possible for third countries to use IMI 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 IMI participates in the operating costs of IMI.
- (4) As set out in Article 7(5) of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement, the Specialised Committee on Road Transport is to set the technical and procedural specifications of the use of IMI by the United Kingdom. Those specifications are necessary in order to allow the connection of operators and competent authorities to IMI, and thereby allow the operators to submit their posting declarations and competent authorities to take part in the administrative cooperation described in recitals 1 and 2. The Union has implemented those specifications by means of Commission Implementing Regulation (EU) 2021/2179 ⁽³⁾.

⁽¹⁾ OJ L 149, 30.4.2021, p. 10.

⁽²⁾ 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 ('the IMI Regulation') (OJ L 316, 14.11.2012, p. 1).

⁽³⁾ 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).

- (5) As set out in Article 7(6) of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement, each Party is to participate in the operating costs of IMI. The Specialised Committee on Road Transport is to 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 use of IMI. The financial contribution will consist of two parts: annual maintenance costs (annual contribution) and development costs (one-off payment).
- (6) It is therefore appropriate to establish the position to be taken on the Union's behalf in the Specialised Committee on Road Transport with regard to the technical and procedural specifications of the use of IMI by the United Kingdom and the amount and 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 use of IMI.
- (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 taken on the Union's behalf within 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 technical and procedural specifications of the use of the Internal Market Information System (IMI) by the United Kingdom and the amount and 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 use of IMI is set out in the draft Decision of the Specialised Committee on Road Transport attached to this Decision.

Article 2

The Decision of the Specialised Committee on Road Transport 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 Brussels, 8 November 2022.

For the Council
The President
Z. STANJURA

DRAFT

DECISION NO .../2022 OF 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**of ...**

on the technical and procedural specifications of the use of the Internal Market Information System (IMI) by the United Kingdom, the participation of the United Kingdom in the administrative cooperation under Article 6 of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement and the amount and 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 use of IMI

THE SPECIALISED COMMITTEE ON ROAD TRANSPORT,

Having regard to 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 ⁽¹⁾ ('the Trade and Cooperation Agreement'), and in particular Article 7(5) and (6) of Section 2 of Part A of Annex 31 thereto,

Whereas:

- (1) As set out in Article 6(1), point (a), of Section 2 of Part A to Annex 31 to the Trade and Cooperation Agreement, an operator established in the other Party is to submit a posting declaration to the competent authorities of the Party or, in the case of the 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 Council ⁽²⁾. A competent authority can be any body established at either national, regional or local level and registered in 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, 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, if the operator fails to submit the requested documentation within eight weeks from the date of the request.
- (3) It is possible for third countries to use IMI 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 IMI participates in the operating costs of IMI.
- (4) As set out in Article 7(5) of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement, the Specialised Committee on Road Transport is to set the technical and procedural specifications of the use of IMI by the United Kingdom. Those specifications are necessary in order to allow the connection of operators and competent authorities to IMI, and thereby allow the operators to submit their posting declarations and competent authorities to take part in the administrative cooperation described in recitals 1 and 2. The Union has implemented those specifications by means of Commission Implementing Regulation (EU) 2021/2179 ⁽³⁾.

⁽¹⁾ OJ EU L 149, 30.4.2021, p. 10.

⁽²⁾ 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 ('the IMI Regulation') (OJ EU L 316, 14.11.2012, p. 1).

⁽³⁾ 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 EU L 443, 10.12.2021, p. 68).

- (5) As set out in Article 7(6) of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement, each Party is to participate in the operating costs of IMI. The Specialised Committee on Road Transport is to 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 use of IMI. The financial contribution will consist of two parts: annual maintenance costs (annual contribution) and development costs (one-off payment),

HAS ADOPTED THIS DECISION:

Article 1

General functionalities

1. The Union shall ensure that the multilingual public interface connected to IMI provides, in particular, for the following technical functionalities to United Kingdom operators:

- (a) creating an account for secure access to the operator's reserved area;
- (b) ensuring appropriate logging of user activity;
- (c) recording in the account the details of the operator, the authorised users, the transport manager and the posted drivers;
- (d) managing of the posting declarations:
 - (i) recording the information referred to in Article 6(1), point (a), of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement;
 - (ii) submitting a posting declaration containing the information referred to in point (i), covering a minimum period of one day up to a maximum period of six months;
 - (iii) amending the information in the posting declaration in order to keep it up-to-date;
 - (iv) downloading the copy of a posting declaration in electronic form and in a format that allows for printing;
 - (v) renewing the posting declaration;
 - (vi) withdrawing the posting declaration;
- (e) receiving and responding to requests for documentation pursuant to Article 6(1), point (c), of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement;
- (f) accessing and viewing any documents provided by the competent authorities of the State of establishment;
- (g) communicating with the competent authorities of the State where the posting took place;
- (h) being informed of the closure of the request by the competent authorities of the host State.

2. The Union shall ensure that the multilingual public interface connected to IMI also provides the technical functionalities allowing one or more competent authorities of the United Kingdom to:

- (a) receive posting declarations;
- (b) request documents under the procedure set out in Article 6(1), point (c), of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement;
- (c) enter the final outcome of the assessment of compliance of the operator with the posting rules into the system, and close the request in IMI.

3. The competent authorities of the United Kingdom shall be any body established at either national, regional or local level and registered in IMI with specific responsibilities relating to the application of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement. The competent authorities of the United Kingdom shall be registered in IMI by the United Kingdom IMI contact point referred to in Article 4(2) of this Decision.

4. The Union shall be entitled to stop the access of the United Kingdom to IMI if the United Kingdom ceases to meet the conditions set out in Article 23(1), point (c), of Regulation (EU) No 1024/2012.

Article 2

Functionalities relating to requests for documents

1. The public interface shall allow a competent authority of the State where the posting took place to request the operator to send documents set out in Article 6(1), point (c), first subparagraph, of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement for a period covering up to the preceding 12 months from the date of the request. The public interface connected to IMI shall allow the operator to provide the requested documents in one or more stages.
2. In the event that the operator is requested to provide one or more additional documents that were not included in the request referred to in paragraph 1, the public interface shall calculate the eight-week time period for providing documents from the date of request for the additional document(s).
3. The public interface shall allow for the operator to be informed in cases where the host State asks for the assistance of the State of establishment.
4. Any document uploaded by the competent authority of the State of establishment, following a request for assistance made by the competent authority of the host State, pursuant to Article 6(1), point (c), second subparagraph, of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement, shall be visible in the operator's account.
5. The public interface shall allow the operator to be notified of the closure of the request for documents with an indication of the final outcome, once the requested documents have been checked by the competent authorities.
6. Requests for documents that have not been closed by the requesting competent authority of the host State shall be automatically closed 24 months after the date of the request.

Article 3

Functionalities relating to the retention of data

1. The public interface connected to IMI shall allow for the deletion of all data stored in that public interface and the operators' accounts when those data are no longer needed for the purposes for which they were collected and processed. The public interface shall allow for the sending of a reminder to the operator to review and delete, when necessary, the driver's personal data.
2. The public interface shall allow for the automatic deletion of the posting declarations, which have been submitted through that public interface after the 24-month period referred to in Article 6(5) of Section 2 of Part A of Annex 31 to the Trade and Cooperation Agreement.
3. Where documents have been submitted by the operator as part of a request for documents, the requested documents shall remain available for no longer than necessary for the purposes for which they were collected and no longer than 12 months after the closure of the request.

Article 4

The use of IMI

1. The United Kingdom shall use IMI established by the IMI Regulation for exchanges of information, including of personal data, with the competent authorities.

2. The United Kingdom shall appoint an IMI contact point for the purposes of the administrative cooperation set out in Article 2 and inform the Commission and the Specialised Committee on Road Transport thereof.

Article 5

Amount and modalities of the United Kingdom's financial contribution

1. The United Kingdom shall contribute annually to the operational and maintenance costs of IMI. The annual contribution shall apply as of the date of entry into force of this Decision. For the first year it shall be paid within 20 days from the date of the entry into force of this Decision. For the following years it shall be paid by 31 December of the preceding year. The amount of the contribution for the first year shall be fixed at EUR 86 204 and shall be revised according to the development of the European Consumer Price Index (HICP) every year thereafter. The European Commission shall communicate the revised amount to the United Kingdom in writing.
2. The United Kingdom shall contribute to the overall development costs of the public interface connected to IMI. This contribution shall be provided once and is a fixed amount of EUR 232 835. The one-off development cost shall be paid within 20 days from the date of the entry into force of this Decision.
3. The contributions referred to in paragraphs 1 and 2 shall be paid in euros into the euro-denominated bank account of the Commission indicated in the debit note.
4. In case of a substantial change to the overall cost of IMI, due to technological adaptations or for other reasons, the Specialised Committee on Road Transport shall adopt a new decision on the United Kingdom's financial contribution, at the request of one of the Co-chairs of the Committee.

Article 6

Entry into force

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

Done at ...,

*For the Specialised Committee on Road Transport
The Co-chairs*
