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Proposal for a

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, in the EU-China Joint Customs Cooperation Committee regarding mutual recognition of the Authorised Economic Operator Programme in the European Union and the Measures on Classified Management of Enterprises Program in the People's Republic of China

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The European Union ('EU') legislation on Authorised Economic Operators ('AEO') was introduced by an amendment to the Community Customs Code (Regulation 648/2005 adopted in April 2005). This AEO legislation came into force in January 2008. The objective of trade partnership programmes such as the AEO programme is to provide facilitation to reliable traders which demonstrate compliance with customs requirements and secure their part of the international supply chain.

Mutual recognition of trade partnership programmes enhances end-to-end supply chain security and facilitates trade. It consolidates internationally the approach agreed in the World Customs Organization's Framework of Standards to Secure and Facilitate Trade. It also addresses the concerns of the business community to avoid proliferation of requirements and to standardise customs security procedures.

The Co-operation and Mutual Administrative Assistance Agreement in Customs Matters ('CCMAAA') between the European Community and the Government of the People's Republic of China ('China') signed on 8 December 2004 serves as the basis for EU-China customs relations. According to the CCMAAA, the respective customs authorities undertake to develop customs cooperation covering all matters relating to the application of customs legislation. In particular, they undertake to develop trade facilitation actions in customs matters taking account of the work done by international organisations.

Mutual recognition should allow the EU and China to provide facilitative benefits to economic operators who have invested in compliance and supply chain security and have been certified under their respective trade partnership programmes.

In September 2010 the EU-China Joint Customs Cooperation Committee ('JCCC') requested the drafting of a roadmap towards mutual recognition of the AEO programmes. In December 2010 this roadmap was agreed at the EU-China Joint Customs Cooperation Steering Group ('JCCC SG') meeting.

In June 2011 the in-depth comparison of the EU's AEO programme and China's Measures on Classified Management of Enterprises Program were completed by the EU-China AEO Mutual Recognition Working Group. Following this in-depth comparison which included both desk reviews and practical implementation checks, the EU-China JCCC SG concluded that the two programmes can be considered mutually compatible.

In June 2012 the EU-China JCCC agreed to launch formal negotiations. Since then, three rounds of negotiations have taken place; the first in January 2013, the second in March 2013 and the third in October 2013 to finalise the draft decision of the EU-China JCCC on AEO mutual recognition.

Mutual Recognition of trade partnership programmes is a key component of the Strategic Framework for EU-China Customs Cooperation.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Member States were consulted in the framework of the Working Party on Customs Union of the Council of the European Union.

There is no need for an impact assessment insofar as the decision of the EU-China JCCC implements the CCMAAA and does not modify its substance.

3. LEGAL ELEMENTS OF THE PROPOSAL

The Council is asked to adopt a Union Position on a draft decision of the JCCC based on Article 207(4) first subparagraph, in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union ('TFEU').

The legal basis for the draft decision of the JCCC is laid down in Article 21 of the CCMAAA.

The proposal falls under the common commercial policy, exclusive competence of the Union. The subsidiarity principle therefore does not apply.

4. BUDGETARY IMPLICATION

The proposal has no direct implication for the Union budget.

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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 207(4) first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Community and the People's Republic of China (China) on co-operation and mutual administrative assistance in customs matters (hereinafter referred to as 'the CCMAAA') entered into force on 1 April 2005.
- (2) Pursuant to Article 6 of the CCMAAA, the Contracting Parties undertake to develop customs cooperation on all matters relating to the application of customs legislation; they also undertake to develop trade facilitation actions in customs matters.
- (3) Mutual recognition of trade partnership programmes, namely the Authorised Economic Operator Programme in the European Union (Union) and the Measures on Classified Management of Enterprises Program in China enhances supply chain security and safety as well as facilitates international trade, by allowing the Parties to provide facilitative benefits to economic operators which have invested in compliance and secured their part of the international supply chain, and which have been certified under their respective trade partnership programmes.
- (4) It is therefore appropriate to establish mutual recognition of the trade partnership programmes.
- (5) Mutual recognition is to be established by a decision of the EU-China Joint Customs Cooperation Committee (JCCC) which was set up under Article 21 of the CCMAAA.
- (6) The Union should therefore take position in the JCCC as set out in the attached draft decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union in the Joint Customs Cooperation Committee, established by the Agreement between the European Community and the People's Republic of China on cooperation and mutual administrative assistance in customs matters, shall be based on the draft Decision of the Joint Customs Cooperation Committee attached to this Decision.

Article 2

After its adoption, the Decision of the Joint Customs Cooperation Committee shall be published in the *Official Journal of the European Union*.

Article 3

This Decision shall enter into force upon signature.

Done at Brussels,

*For the Council
The President*