



EUROPEAN
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Proposal for a

COUNCIL DECISION

on the position to be adopted by the European Union, in the context of the EU-Switzerland Joint Committee, on the definition of the grounds for exemption from transmitting data pursuant to the first subparagraph of Article 3(3) of Annex 1 to the Agreement between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Agreement between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures¹ is intended to maintain the simplification of inspections and formalities in respect of the passage of goods at frontiers and the smooth flow of trade between the two Contracting Parties, whilst ensuring a high level of security in the supply chain.

In the case of exports to third countries, this high level of security is assured by, inter alia, the requirement for an exit summary declaration containing the security data to be submitted to the customs office of exit prior to export. When goods destined for a third country leave Swiss customs territory through the customs territory of the European Union, the security data contained in the declaration must be transmitted to the export office within the European Union. The same procedure in reverse applies for goods leaving the European Union through an office of exit in Switzerland.

The Joint Committee set up under Article 19(1) of the Agreement is responsible for the administration and proper implementation of the Agreement. The Committee may determine cases in which transmission of the security information is not necessary. This exemption may be granted only if it does not affect the level of security assured by the Agreement. This draft decision of the EU-Switzerland Joint Committee proposes an exemption from transmitting security data for some indirect exports made by air. The condition that security levels must be maintained is considered to be met because, prior to loading, air carriers subject the whole of an aircraft's cargo to the security checks set out in Annex 17 to the Chicago Convention on International Civil Aviation.

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

Consultation of interested parties

The Swiss customs authorities have approved the Joint Committee's draft decision

Impact Assessment

There is no need for an impact assessment since the Decision implements a provision of the Agreement without modifying its content.

3. LEGAL ELEMENTS OF THE PROPOSAL

This proposal for a Council Decision constitutes the legal instrument for defining the position to be taken by the European Union, within the EU-Switzerland Joint Committee, on the implementation of some provisions of the Agreement between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures.

In accordance with the first paragraph of Article 5 of Council Decision 2009/556/EC of 25 June 2009 concerning the provisional application and conclusion of the aforementioned

¹ OJ L 199, 31.7.2009, p. 24.

Agreement², the joint position of the European Union is adopted by the Council, acting by a qualified majority on a proposal from the Commission.

4. BUDGETARY IMPLICATIONS

The decision has no financial implications for the budget of the European Union.

5. OPTIONAL ELEMENTS

None.

² OJ L 199, 31.7.2009, p. 22.

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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) in conjunction with Article 218(9) thereof,

Having regard to the Agreement of 25 June 2009 between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures³ (referred to hereinafter as 'the Agreement'),

Having regard to Council Decision 2009/556/EC of 25 June 2009 concerning the provisional application and conclusion of the aforementioned Agreement⁴, and in particular the first paragraph of Article 5 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) under Article 21 of the Agreement, its administration falls within the remit of the Joint Committee set up by it (referred to hereinafter as 'the EU-Switzerland Joint Committee').
- (2) the second subparagraph of Article 3(3) of Annex 1 to the Agreement states that the Joint Committee may determine cases in which transmission of the information specified in the first subparagraph is not necessary, as long as the level of security assured by the Agreement is not affected;

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted by the European Union within the EU-Switzerland Joint Committee on the definition of the grounds for exemption from transmitting data pursuant to the first subparagraph of Article 3(3) of Annex 1 to the Agreement is laid down in the attached draft decision of the EU-Switzerland Joint Committee.

³ OJ L 199, 31.7.2009, p. 24.

⁴ OJ L 199, 31.7.2009, p. 22.

Article 2

Once adopted, 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 day of its adoption.

Done at Brussels,

*For the Council
The President*

ANNEX

DRAFT

**DECISION No .../2013 OF THE EU–SWITZERLAND JOINT COMMITTEE
of ...**

laying down the grounds for exemption from transmitting data pursuant to the first subparagraph of Article 3(3) of Annex 1 to the Agreement of 25 June 2009 between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures

THE JOINT COMMITTEE,

Having regard to the Agreement of 25 June 2009 between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures (referred to hereinafter as 'the Agreement'), and in particular Article 21(3) and Annex 1, Article (3)(3), second subparagraph thereof,

Whereas:

- (1) the Agreement is intended to maintain the simplification of inspections and formalities in respect of the passage of goods at frontiers and the smooth flow of trade between the two Contracting Parties, whilst ensuring a high level of security in the supply chain;
- (2) the Contracting Parties have undertaken to guarantee in their respective territories an equivalent level of security through measures based on legislation in force in the European Union;
- (3) when goods destined for a third country leave the customs territory of a Contracting Party through the customs territory of the other Contracting Party, the security data contained in the exit summary declaration lodged with the competent authority of the former Contracting Party shall be transmitted by it to the competent authority of the latter;
- (4) the Joint Committee may determine cases in which this transmission of information is not necessary as long as the level of security assured by the Agreement is not affected;
- (5) the Member States of the European Union and the Swiss Confederation are Contracting Parties to the Chicago Convention on International Civil Aviation; under Annex 17 to the Convention, in order to protect international aviation from acts of unlawful interference, air carriers subject the whole of an aircraft's cargo to security checks prior to loading;
- (6) the European Community and the Swiss Confederation are bound by the Air Transport Agreement of 21 June 1999, which governs aviation safety and security in particular;

HAS DECIDED:

Article 1

Where exports of goods under the first subparagraph of Article 3(3) of Annex 1 to the Agreement are concerned, the transmission of data shall not be required so long as:

- (a) the goods are accepted by an airline for transport out of the customs territories of the Contracting Parties;
- (b) the exit of goods through the customs office of the second Contracting Party takes place by air;
- (c) an exit summary declaration or a customs export declaration which meets the requirements for a summary declaration has been submitted to the customs office responsible for the place from which the goods are exported;
- (d) when the goods arrive at the customs office at the point of exit from the second Contracting Party's customs territory, the carrier places a copy of the exit summary declaration for the exported goods at the disposal of this customs office when the latter so requests.

Article 2

The Decision shall enter into force on the day following its adoption.

Done at Brussels,

FOR THE JOINT COMMITTEE,

THE CHAIRMAN