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DECISION No 1/2022 OF THE EUROPEAN UNION-CANADA JOINT CUSTOMS COOPERATION COMMITTEE CONCERNING THE MUTUAL RECOGNITION OF THE AUTHORISED ECONOMIC OPERATOR PROGRAMME OF THE EUROPEAN UNION AND THE PARTNERS IN PROTECTION PROGRAMME OF CANADA [2025/1428]

THE JOINT CUSTOMS COOPERATION COMMITTEE ("JCCC"),

Having regard to the *Agreement between the European Community and Canada on Customs Cooperation and Mutual Assistance in Customs Matters*, done at Ottawa on 4 December 1997, ("CMAA"), and in particular Article 20 thereof that establishes the JCCC, consisting of representatives of the Customs Authorities of the Contracting Parties to the CMAA;

Having regard to the *Agreement between the European Union and Canada on Customs Cooperation with Respect to Matters Related to Supply-Chain Security*, done at Brussels on 4 March 2013, ("SCSA"), and in particular Article 5 and the provisions relating to the mutual recognition of supply-chain security programmes and its relevant information and data exchange in Article 4 (c), (d) and (f);

Recognising that the European Union ("EU") and Canada (the "Contracting Parties") are committed to strengthening their customs cooperation in accordance with the CMAA and SCSA;

Affirming the commitment of the Contracting Parties to facilitate trade and increase supply-chain security through trade partnership programmes;

Affirming that security and safety, and the facilitation of the international trade supply chain, can be significantly enhanced through mutual recognition of the respective trade partnership programmes, namely the Authorised Economic Operator programme ("AEO") in the EU and Partners in Protection programme ("PIP") in Canada;

Affirming that the AEO and PIP programmes are based on internationally recognised security standards advocated by the SAFE Framework of Standards to Secure and Facilitate Global Trade adopted by the World Customs Organization in June 2005;

Considering that site visits and a joint evaluation of the AEO programme in the EU and the PIP programme in Canada have revealed that their qualification standards for security and safety purposes are compatible and lead to equivalent results;

Considering that mutual recognition allows the Contracting Parties to provide facilitative benefits to economic operators who have invested in supply chain security and have been authorised under their respective programmes;

HAS DECIDED AS FOLLOWS:

Article 1

Definitions

For the purposes of this decision,

"Customs Authority" means Customs Authority as defined in Article 1 of the SCSA, hereinafter referred to collectively as "Customs Authorities" and individually as "Customs Authority";

"Economic operator" means a party involved in the international movement of goods;

"Personal data" means any information relating to an identified or identifiable individual;

"Programme" means:

(a) in the EU: the AEO programme covering the AEO-Security and Safety (authorisation) and the combined AEO-Customs Simplifications/Security and Safety (AEOC/AEOS) (authorisation);

(b) in Canada: the PIP programme; and

"Programme Members" means economic operators holding AEO membership status in the EU and PIP membership status in Canada as described in the definition of "Programme" when referred to collectively.

Article 2

Mutual Recognition and Implementation of the Decision

1. Each Contracting Party shall, through its Customs Authority, recognise the Programme of the other Contracting Party as compatible and equivalent to its Programme and treat Programme Members of the other Contracting Party's Programme in a manner consistent with Article 4.

2. The Contracting Parties shall implement this Decision through their respective Customs Authorities.

Article 3

Compatibility

The Customs Authorities shall cooperate to maintain the compatibility and equivalence between their Programmes, in particular with respect to the following matters:

(a) the application process for granting membership;

(b) the assessment of applications; and

(c) the granting of membership and managing of membership status.

Article 4

Benefits

1. Each Customs Authority shall provide benefits to Programme Members of the other Customs Authority that are comparable to the benefits that it provides to its Programme Members.

2. The benefits referred to in paragraph 1 include:

(a) taking the authorised status of a Programme Member of the other Customs Authority into account favourably in its risk assessment, which may result in reducing inspections or controls and, when available, in other security and safety-related measures;

(b) taking the authorised status of a Programme Member of the other Customs Authority into account favourably when assessing the business partners requirements for applicants under its own Programme;

(c) endeavouring to take the authorised status of a Programme Member of the other Customs Authority into account in ensuring priority treatment for Programme Members and their shipments, as deemed appropriate by the Customs Authority providing the benefits, which may include examination priority, expedited processing, and expedited release of the shipments related to Programme Members; and

(d) endeavouring to establish a business continuity mechanism to provide expedited clearance to Programme Members and their shipments, as deemed appropriate by the Customs Authority providing the benefits, upon restoration of services following an event of disruption to international trade due to increases in security alert levels, border closures or natural disasters, hazardous emergencies or other major incidents.

3. Following the review process referred to in Article 7(2), the Customs Authorities of each Contracting Party may provide, in cooperation with other government authorities in its territory, further facilitation benefits, which may include streamlining processes and increasing the predictability of movement at the border, to the extent possible.

4. Each Customs Authority:

(a) may suspend the benefits provided to Programme Members of the other Customs Authority under this Decision;

(b) shall, within a reasonable time, communicate the suspension described under subparagraph (a) and the reasons for the suspension to the other Customs Authority; and

(c) may only proceed to a suspension pursuant to subparagraph (a) for reasons equivalent to those for which it would suspend the Programme Members from its Programme.

5. Each Customs Authority shall, when it deems appropriate, report irregularities involving Programme Members of the other Customs Authority's Programme to that Customs Authority for the purpose of ensuring immediate analysis of the appropriateness of the benefits and status granted by the other Customs Authority.

6. For greater certainty, this Decision does not limit a Contracting Party or a Customs Authority from requesting information pursuant to the CMAA or other applicable instrument between the Contracting Parties, or between the Customs Authorities.

Article 5

Exchange of Information and Communication

1. The Customs Authorities shall enhance their communication in order to implement this Decision effectively by:

(a) providing each other with the details on their Programme Members as per Article 5(3);

(b) providing each other with updates on operation and development of their Programmes in a timely manner;

(c) exchanging information regarding supply chain security policy and trends; and

(d) ensuring effective communication between the competent services of the European Commission and the customs authority of Canada to enhance risk management practices with respect to supply chain security.

2. Exchange of information and communication in the framework of this Decision shall occur between the competent services of the European Commission and the customs authority of Canada unless otherwise mutually decided in advance of an exchange or communication.

3. Upon receiving consent from its Programme Member, each Customs Authority shall send to the other Customs Authority strictly the following details about that Programme Member:

(a) name;

(b) address;

(c) membership status, namely authorised, suspended, revoked or cancelled;

(d) validation or authorisation date when available;

(e) unique identification number (for example: PIP, EORI or AEO numbers); and

(f) other details that may be mutually determined between the Customs Authorities, subject, when applicable, to any necessary safeguards.

For greater certainty, details in subparagraph (c) do not include the reasons for suspension, revocation or cancellation.

4. The Customs Authorities shall exchange the information referred to in paragraph 3 in a systematic manner by electronic means.

Article 6

Treatment of Information

1. Each Customs Authority shall:

(a) unless otherwise provided in this Decision, use any information, including any personal data, received under this Decision for the sole purpose of its implementation, including monitoring and reporting; and

(b) notwithstanding subparagraph (a), obtain the prior written approval from the Customs Authority that sent the information to use the information for other purposes. Such use is then subject to any restrictions laid down by that authority.

2. Each Customs Authority shall:

(a) treat information received under this Decision as confidential; and

(b) provide at least the same level of protection to information received under this Decision as it provides to information received from Programme Members of its Programme.

3. Notwithstanding paragraph 1(a), a Customs Authority may use the information received under this Decision in any judicial or administrative proceedings instituted for failure to comply with the customs law of its Contracting Party, including in its records of evidence, reports and testimonies. The Customs Authority that has received the information shall notify the Customs Authority that has sent that information prior to such use.

4. Each Customs Authority shall:

(a) only disclose information received under this Decision for the purpose for which it was received; and

(b) notwithstanding subparagraph (a), when a Customs Authority is required to disclose information in judicial or administrative proceedings or when required by the law of its Contracting Party, inform the sending Customs Authority in advance and in writing of the disclosure unless prevented to do so by law or due to an ongoing investigation. In that case, it shall inform the sending Customs Authority as soon as possible after the disclosure.

5. Each Customs Authority shall:

(a) ensure that the information it sends is accurate and regularly updated;

(b) adopt or maintain appropriate deletion procedures;

(c) promptly notify the other Customs Authority if it determines that information it has sent to the other Customs Authority is inaccurate, incomplete, unreliable, or if its receipt or further use contravenes this Decision;

(d) take all measures it deems appropriate, including supplementation, deletion, or correction of information referred to in subparagraph (c), to safeguard against erroneous reliance on such information; and

(e) only retain information received under this Decision as long as necessary for the purposes of implementing this Decision, except when otherwise required by the law of its Contracting Party, or for the purposes of judicial or administrative proceedings.

6. Further to paragraphs 4 and 5, each Customs Authority shall ensure in particular that:

(a) security safeguards are in place (including electronic safeguards) that control, on a need-to-know basis, access to information received from the other Customs Authority under this Decision;

(b) information received from the other Customs Authority under this Decision is protected from unauthorised access, dissemination, alteration, deletion or destruction;

(c) information received from the other Customs Authority under this Decision is not disclosed to any private person or party, any State or international body that is non-party to the CMAA or SCSA, or to any other public authority of the EU or Canada, except when required in judicial or administrative proceedings, or when required by the law of its Contracting Party; and

(d) information received from the other Customs Authority under this Decision is stored at all times in secure electronic or paper storage systems, and that logs or documentation are kept on all access, disclosure and use of information received from the other Customs Authority.

7. Each Customs Authority shall:

(a) ensure the personal data of a Programme Member of the other Customs Authority, as it relates to its access, correction and timing thereof, or temporary suspension of use, is treated in a manner at least equivalent to the personal data of its Programme Member; and

(b) publish information to inform its Programme Members about the applicable process for requests referred to in subparagraph (a) under the law of its Contracting Party.

8. Each Customs Authority shall provide that Programme Members have access, as it relates to their personal data, to administrative redress or judicial review regardless of their nationality or country of residence.

9. The Customs Authorities shall publish information to inform Programme Members of their options of seeking administrative redress or judicial review.

10. Compliance with the provisions in Article 6 by each Customs Authority is subject to review by their respective relevant authority, which ensures that complaints relating to non-compliance in the treatment of information are received, investigated, responded to, and appropriately redressed. These authorities are:

(a) in the EU: the European Data Protection Supervisor or its successor, and the EU Member States' data protection authorities;

(b) in Canada: the Recourse Directorate or its successor within the customs authority of Canada.

Article 7

Consultation and Review

1. The Customs Authorities shall resolve any issues related to the implementation of this Decision through consultations under the auspices of the JCCC.

2. The JCCC shall review the implementation of this Decision regularly. This review process may include, in particular:

(a) joint verifications to identify strengths and weaknesses in the mutual recognition;

(b) exchanges of views on details exchanged and benefits granted to Programme Members, including any future details or benefits, in accordance with Article 4;

(c) exchanges of views on security provisions such as protocols to be followed during and after a serious security incident (business resumption) or when conditions merit suspension of mutual recognition;

(d) examination of the suspension of the benefits referred to in Article 4; and

(e) review of the implementation of Article 6.

Article 8

General Acknowledgements

This Decision solely creates rights and obligations between the EU and Canada under public international law.

Article 9

Final Dispositions

1. This Decision shall enter into force upon the first day of the month following the date on which Canada has notified the EU of the completion of the procedures necessary for its entry into force.

2. The JCCC may amend this Decision. The amendment shall enter into force in accordance with the procedure described in paragraph 1.

3. A Customs Authority may suspend cooperation under this Decision at any time by providing the other Customs Authority with a thirty (30) days written notice. Such notice is provided to or by the competent services of the European Commission and the customs authority of Canada, respectively. Notwithstanding the suspension of this Decision, the Customs Authorities shall continue to comply with Articles 6(1), 6(2), and 6(4) to 6(6) to ensure the protection of information.

4. A Contracting Party may terminate this Decision at any time by notifying the other Contracting Party through diplomatic channels. The Decision shall terminate thirty (30) days after the written notification is received by the other Contracting Party. Notwithstanding the termination of this Decision, the Customs Authorities shall continue to comply with Articles 6(2), 6(4), and 6(6) to ensure the protection of information.

Done in duplicate at Brussels, on this 28th day of October, 2022, in the English and French languages, each version being equally authentic.

By the EU-CANADA JOINT CUSTOMS COOPERATION COMMITTEE

On behalf of the European Union	*On behalf of Canada*
Gerassimos THOMAS	Ailish Johnson CAMPBELL