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ANNEX

ANNEX

to the

Recommendation for a COUNCIL DECISION

**to authorise the Commission to open negotiations for the amendment of the Agreement
between the European Union and the Kingdom of Norway on administrative
cooperation, fight against fraud and recovery of claims in the area of value added tax**

ANNEX

DIRECTIVES FOR THE NEGOTIATION OF THE AMENDMENT OF THE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE KINGDOM OF NORWAY ON ADMINISTRATIVE COOPERATION, FIGHT AGAINST FRAUD AND RECOVERY OF CLAIMS IN THE AREA OF VALUE ADDED TAX

The Agreement between the European Union and the Kingdom of Norway (“Norway”) on administrative cooperation, fight against fraud and recovery of claims in the area of value added tax (“the Agreement”) entered into force in September 2018. The Agreement allows the EU Member States and Norway to cooperate in a similar way Member States do under Council Regulation (EU) No. 904/2010¹ and Council Directive 2010/24/EU² to fight against VAT fraud, and assist each other to recover claims in the field of VAT.

However, in the meantime several amendments to Council Regulation (EU) 904/2010 were made and new tools for administrative cooperation were introduced, namely by the amending Council Regulation (EU) 2018/1541³. The new tools include:

- (a) enhancement of the Eurofisc network through reinforced governance, the so-called follow-up actions (joint processing and analysis of data) and administrative enquiries carried out jointly (joint audits);
- (b) the possibility to use other means to exchange information than the standard forms;
- (c) exchanging information with other law enforcement EU bodies (Europol, OLAF);
- (d) sharing key information on imports and on vehicles.

However, the tools mentioned in the above points c) and d) are not useful for Member States’ cooperation with Norway

Furthermore, the Agreement concluded in 2018 makes reference to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, that has been repealed by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data⁴.

Thus, the aim of the negotiations should be twofold:

¹ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of VAT (OJ L 268, 12.10.2010, p. 1)

² Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1)

³ Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax (OJ L 259/1, 16.10.2018, p. 1-11)

⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ L 119, 4.5.2016, p. 1–88)

- (1) provide Member States, to the extent possible and so far as necessary, with new cooperation tools with Norway, similar to the ones introduced in the Regulation 904/2010 with Regulation (EU) 2018/1541. In particular, negotiations should cover:
 - the exchange information by using other means than standard forms;
 - administrative enquiries carried out jointly;
 - Eurofisc follow-up actions.
- (2) update the legal references Directive 95/46/EC by Regulation (EU) 2016/679.

The negotiations should not lead to the possibility for Norway to “access the databases of the Member States”.