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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2024) 3451 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 3.7.2024 supplementing Regulation (EU) 2022/2399 of the European Parliament and of the Council by specifying the data elements to be exchanged through the European Union Customs Single Window Certificates Exchange System and amending that Regulation as regards the list of Union non-customs formalities covered by the EU Single Window Environment for Customs

Delegations will find attached document C(2024) 3451 final.

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COMMISSION DELEGATED REGULATION (EU) .../...

of 3.7.2024

supplementing Regulation (EU) 2022/2399 of the European Parliament and of the Council by specifying the data elements to be exchanged through the European Union Customs Single Window Certificates Exchange System and amending that Regulation as regards the list of Union non-customs formalities covered by the EU Single Window Environment for Customs

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2022/2399 marks a major advancement in the digital transformation of customs and trade facilitation within the EU, establishing the EU Single Window Environment for Customs. The environment is designed to enhance cooperation and ensure seamless interoperability between the customs and non-customs domains. Its primary objective is to streamline the electronic exchange, processing and verification of documents and information required for the goods clearance process.

Economic operators who lodge customs declarations to customs authorities may be obliged to submit additional non-customs formalities to non-customs authorities across a wide range of areas, including health and safety, environmental and climate protection, food and product safety, and agriculture. These formalities are necessary to prove compliance with non-customs legislation as a prerequisite for customs clearance. For several non-customs formalities that are handled in centralised Union systems, non-customs legislation has been adopted that foresees an interconnection between these systems and the Member States' import, export and transit systems through the EU Single Window Environment for Customs.

At the core of this environment lies a centralised system known as the European Union Customs Single Window Certificates Exchange System (EU CSW-CERTEX). This system allows customs and non-customs authorities to automatically exchange and verify the information that is required for the customs clearance process. Over time, the scope of EU CSW-CERTEX will be progressively expanded to incorporate new formalities hosted in Union non-customs systems in line with the evolution of sectoral legislation.

This Delegated Act amends Regulation (EU) 2022/2399 to integrate new Union non-customs formalities into the EU Single Window Environment for Customs and supplements that Regulation by specifying the data to be exchanged between customs and non-customs domains within this ecosystem. The EU Single Window Environment for Customs will integrate Union non-customs formalities that have already been adopted in non-customs legislation, with specific dates set for the obligations to implement and connect these formalities. This ensures that decisions stemming from sectoral legislation are seamlessly integrated into the customs schedule, enabling customs authorities to effectively enforce non-customs policies at EU borders as soon as they are mandated by law.

The first phase of the EU Single Window Environment for Customs lays the groundwork for the interconnection between customs and non-customs systems at EU borders and is set to be operational by March 2025, in line with the dates of interconnection stipulated in non-customs legislation. This phase includes the implementation of 14 initial formalities governed by Regulation (EU) 2022/2399 covering domains such as health and safety, agriculture, environmental and climate protection, trade in dual-use goods, product compliance and the import of cultural goods. In addition, the Delegated Act introduces two new formalities: the carbon border adjustment mechanism authorisations and the notification of arrival for consignments entering the Union for the purpose of health and safety controls.

The Delegated Act bundles three empowerments provided for in Articles 5(6), 5(7) and 10(3) of Regulation (EU) 2022/2399. The empowerments in Articles 5(6) and 5(7) allow for new mandatory or voluntary Union non-customs formalities and their corresponding Union non-customs systems to be added to Part A and Part B of the Annex to Regulation (EU) 2022/2399, including setting the implementation timeline to connect customs authorities' systems with EU CSW-CERTEX. The integration of new formalities is guided by sectoral legislation and is contingent upon the publication of non-customs legislation for each relevant formality.

Furthermore, the empowerment granted by Article 10(3) focuses on identifying the data elements necessary for exchanges between customs and non-customs authorities via EU CSW-CERTEX to ensure seamless communication between their systems. This empowerment is enacted in the Delegated Act by referencing Union non-customs legislation that defines the respective data elements needed for conversion and exchange. The specific data elements and their conversion layout are comprehensively detailed in the Annexes to the Implementing Act concerning EU CSW-CERTEX¹ [OP: please fill in the reference of C(2024) 3450], given that this act establishes the system's operational framework.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In preparation for this Delegated Act, extensive consultations were conducted with experts from all Member States, including five meetings of the Customs Business Group (CPG/015 CBG) whose mandate was expanded to support the drafting process. In the spirit of transparency and inter-institutional cooperation, the European Parliament was also informed of these consultations.

Following each meeting, a revised version of the draft Delegated Act was shared with the Member State experts to reflect the discussions held and written feedback received. The minutes of these meetings have been made available on the Communication and Information Resource Center for Administrations, Businesses and Citizens (CIRCA BC) platform.

In addition, targeted bilateral discussions were held with several Member States to address specific concerns in greater depth. The drafting process involved close collaboration with relevant EU Commission services, ensuring an integrated approach to refining this regulatory framework. The last meeting with the CBG focused on discussing the final draft of the Delegated Act after consultations with the relevant Commission services. The outcome of these discussions was positive, with Member States proposing minor editorial revisions that were subsequently implemented.

This Delegated Act aims to enhance the policy framework established by Regulation (EU) 2022/2399 by incorporating the policy decisions to make use of the EU Single Window Environment for Customs, previously established in non-customs legislation. Consequently, the choices operated in this Delegated Act were not subject to discretion.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal bases for this Delegated Act are established in Articles 5(6), 5(7) and 10(3) of Regulation (EU) 2022/2399.

Article 1 of this Delegated Act introduces the legal references for the data elements that will be exchanged through EU CSW-CERTEX for customs procedures and re-export relevant to the Union non-customs formalities outlined in Part A or B of the Annex to Regulation (EU) 2022/2399.

Article 2 of this Delegated Act lays down the amendments to Part A and B of the Annex to Regulation (EU) 2022/2399, which are incorporated in the Annex accompanying this Delegated Act.

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¹ Commission Implementing Regulation (EU) [C(2024) 3450] of [...] [...] (OJ L [...], p. [...]).

supplementing Regulation (EU) 2022/2399 of the European Parliament and of the Council by specifying the data elements to be exchanged through the European Union Customs Single Window Certificates Exchange System and amending that Regulation as regards the list of Union non-customs formalities covered by the EU Single Window Environment for Customs

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2022/2399 of the European Parliament and of the Council of 23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013², and in particular Article 5(6) and (7) and Article 10(3) thereof,

Whereas:

- (1) Regulation (EU) 2022/2399 establishes the European Union Single Window Environment for Customs ('the EU Single Window Environment for Customs'). It further provides a framework for digital cooperation between customs and non-customs authorities through three main components: Union non-customs systems managing specific non-customs formalities listed in the Annex to that Regulation, national single window environments for customs, and the European Union Customs Single Window Certificates Exchange System (EU CSW-CERTEX).
- (2) When an economic operator submits a customs declaration or re-export declaration, which requires the fulfilment of Union non-customs formalities, it should be possible for customs authorities and partner competent authorities to automatically exchange and verify the required information for the customs clearance process in accordance with Article 10(1) of Regulation (EU) 2022/2399. It is therefore appropriate to specify the data elements to be exchanged between the national single window environments for customs and the relevant Union non-customs systems through EU CSW-CERTEX. For each of the Union non-customs formalities specified in Parts A and B of the Annex to Regulation (EU) 2022/2399, it is appropriate to identify the corresponding provisions of Union legislation other than customs legislation setting out the respective data elements for those formalities.
- (3) For customs procedures and re-export which require the fulfilment of Union non-customs formalities, EU CSW-CERTEX should exchange all the data elements established in Annex B to Commission Delegated Regulation (EU) 2015/2446³ and Annex B to Commission Implementing Regulation (EU) 2015/2447⁴.
- (4) Part I of Annex II to Commission Implementing Regulation (EU) 2019/1715⁵ establishes the data elements for the common health entry documents (CHEDs).

² OJ L 317, 9.12.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/2399/oj>.

³ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1, ELI: http://data.europa.eu/eli/reg_del/2015/2446/oj).

⁴ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558, ELI: http://data.europa.eu/eli/reg_impl/2015/2447/oj).

⁵ Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019 laying down rules for the functioning of the information management system for official controls and its system components (the IMSOC Regulation) (OJ L 261, 14.10.2019, p. 37, http://data.europa.eu/eli/reg_impl/2019/1715/oj).

- (5) The Annexes to Commission Delegated Regulation (EU) 2021/2306⁶ and Commission Implementing Regulation (EU) 2021/2307⁷ establish the data elements for the certificate of inspection (COI).
- (6) Articles 16 and 17 of and Annex VII to Regulation (EU) 2024/590 of the European Parliament and of the Council⁸ establish the data elements for the licences used for the import or export of ozone-depleting substances (ODS).
- (7) Articles 3 and 4 of Commission Implementing Regulation (EU) 2019/661⁹ and Article 23 of Regulation (EU) 2024/573 of the European Parliament and of the Council¹⁰ establish the data elements for registration and management of quotas/authorisations in the F-gas Portal.
- (8) Annex I to Commission Implementing Regulation (EU) 2021/1079¹¹ establishes the data elements for the import licence for cultural goods (ICG-L), importer statement for cultural goods (ICG-S) and general description for cultural goods (ICG-D).
- (9) Article 5 of Regulation (EU) 2023/956 of the European Parliament and of the Council¹² specifies the data elements for carbon border adjustment mechanism (CBAM) authorisations.
- (10) The Annex to Commission Regulation (EC) No 1024/2008¹³ establishes the data elements for Forest Law Enforcement Governance and Trade (FLEGT) licences.
- (11) Annexes II and III to Regulation (EU) 2021/821 of the European Parliament and of the Council¹⁴ establish the data elements for the export of dual-use items.

⁶ Commission Delegated Regulation (EU) 2021/2306 of 21 October 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the official controls in respect of consignments of organic products and in-conversion products intended for import into the Union and on the certificate of inspection (OJ L 461, 27.12.2021, p. 13, ELI http://data.europa.eu/eli/reg_del/2021/2306/oj).

⁷ Commission Implementing Regulation (EU) 2021/2307 of 21 October 2021 laying down rules on documents and notifications required for organic and in-conversion products intended for import into the Union (OJ L 461, 27.12.2021, p. 30, ELI: http://data.europa.eu/eli/reg_impl/2021/2307/oj).

⁸ Regulation (EU) 2024/590 of the European Parliament and of the Council of 7 February 2024 on substances that deplete the ozone layer, and repealing Regulation (EC) No 1005/2009 (OJ L, 2024/590, 20.02.2024, ELI: <http://data.europa.eu/eli/reg/2024/590/oj>).

⁹ Commission Implementing Regulation (EU) 2019/661 of 25 April 2019 ensuring the smooth functioning of the electronic registry for quotas for placing hydrofluorocarbons on the market (OJ L 112, 26.4.2019, p. 11, ELI: http://data.europa.eu/eli/reg_impl/2019/661/oj).

¹⁰ Regulation (EU) 2024/573 of the European Parliament and of the Council of 7 February 2024 on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014 (OJ L, 2024/573, 20.2.2024, ELI: <http://data.europa.eu/eli/reg/2024/573/oj>).

¹¹ Commission Implementing Regulation (EU) 2021/1079 of 24 June 2021 laying down detailed rules for implementing certain provisions of Regulation (EU) 2019/880 of the European Parliament and of the Council on the introduction and the import of cultural goods (OJ L 234, 2.7.2021, p. 67, ELI: http://data.europa.eu/eli/reg_impl/2021/1079/oj).

¹² Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (OJ L 130, 16.5.2023, p. 52, ELI: <http://data.europa.eu/eli/reg/2023/956/oj>).

¹³ Commission Regulation (EC) No 1024/2008 of 17 October 2008 laying down detailed measures for the implementation of Council Regulation (EC) No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (OJ L 277, 18.10.2008, p. 23, ELI: <http://data.europa.eu/eli/reg/2008/1024/oj>).

¹⁴ Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (OJ L 206, 11.6.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/821/oj>).

- (12) Annexes I to V to Commission Implementing Regulation (EU) No 792/2012¹⁵ establish the data elements for certificates related to the international trade in endangered species of wild fauna and flora (CITES).
- (13) Article 2 of Commission Implementing Regulation (EU) 2021/2248¹⁶ establishes the data elements for the information exchanged between national customs systems and the information and communication system for market surveillance (ICSMS).
- (14) Article 4 of Commission Delegated Regulation (EU) .../... [OP: please fill in the reference of C(2024) 3160]¹⁷ establishes the data elements for the notification of arrival (NOA).
- (15) As new sectoral legislation establishing Union non-customs formalities provides for the use of the EU Single Window Environment for Customs, it is necessary to add new entries to the existing tables in Parts A and B of the Annex to Regulation (EU) 2022/2399.
- (16) Regulation (EU) 2022/2399 should therefore be amended accordingly.
- (17) The empowerments in Article 5(6) and 5(7) of Regulation (EU) 2022/2399 to amend Parts A and B of the Annex to that Regulation are closely linked to the empowerment in Article 10(3) of Regulation (EU) 2022/2399 to supplement that Regulation by specifying all data elements relevant for the Union non-customs formalities listed in those Parts. Therefore, it is appropriate, for reasons of administrative simplification, to combine all empowerments in a single legislative act.
- (18) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹⁸ and delivered an opinion on 31 May 2024,

HAS ADOPTED THIS REGULATION:

Article 1

Data elements to be exchanged through EU CSW-CERTEX

1. For the customs procedures or re-export, which require the fulfilment of Union non-customs formalities, EU CSW-CERTEX shall exchange any data element established in Annex B to Delegated Regulation (EU) 2015/2446 and Annex B to Implementing Regulation (EU) 2015/2447 that is relevant for Union non-customs formalities specified in Part A or B of the Annex to Regulation (EU) 2022/2399.

¹⁵ Commission Implementing Regulation (EU) No 792/2012 of 23 August 2012 laying down rules for the design of permits, certificates and other documents provided for in Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein and amending Commission Regulation (EC) No 865/2006 (OJ L 242, 7.9.2012, p. 13, ELI: http://data.europa.eu/eli/reg_impl/2012/792/oj).

¹⁶ Commission Implementing Regulation (EU) 2021/2248 of 16 December 2021 specifying the details of the electronic interface between national customs systems and the information and communication system for market surveillance, and the data to be transmitted by means of that interface (OJ L 453, 17.12.2021, p. 38, ELI: http://data.europa.eu/eli/reg_impl/2021/2248/oj).

¹⁷ Commission Delegated Regulation (EU) [C(2024) 3160] of [...] [...] (OJ L [...], p. [...]).

¹⁸ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

2. For each of the Union non-customs formalities specified in Part A of the Annex to Regulation (EU) 2022/2399, EU CSW-CERTEX shall exchange all the data elements established in:
 - (a) Part I of Annex II to Implementing Regulation (EU) 2019/1715 for the following documents:
 - (i) common health entry document for animals (CHED-A);
 - (ii) common health entry document for products (CHED-P);
 - (iii) common health entry document for feed and food of non-animal origin (CHED-D);
 - (iv) common health entry document for plants and plant products (CHED-PP);
 - (b) the Annexes to Delegated Regulation (EU) 2021/2306 and Implementing Regulation (EU) 2021/2307 for the certificate of inspection (COI);
 - (c) Articles 16 and 17 of and Annex VII to Regulation (EU) 2024/590 for licences used for the import or export of ozone-depleting substances (ODS);
 - (d) Articles 3 and 4 of Implementing Regulation (EU) 2019/661 and Article 23 of Regulation (EU) 2024/573 for fluorinated greenhouse gases (F-gas);
 - (e) Annex I to Implementing Regulation (EU) 2021/1079 for the:
 - (i) import licence for cultural goods (ICG-L);
 - (ii) importer statement for cultural goods (ICG-S);
 - (iii) general description for cultural goods (ICG-D);
 - (f) Article 5 of Regulation (EU) 2023/956 for carbon border adjustment mechanism (CBAM) authorisations.
3. For each of the Union non-customs formalities specified in Part B of the Annex to Regulation (EU) 2022/2399, EU CSW-CERTEX shall exchange all the data elements established in:
 - (a) the Annex to Regulation (EC) No 1024/2008 for the import licence for Forest Law Enforcement, Governance and Trade (FLEGT);
 - (b) Annexes II and III to Regulation (EU) 2021/821 for dual-use items;
 - (c) Annexes I to V to Implementing Regulation (EU) No 792/2012 for the certificates of international trade in endangered species of wild fauna and flora (CITES);
 - (d) Article 2 of Implementing Regulation (EU) 2021/2248 on the information exchanged between national customs systems and the Information and Communication System for Market Surveillance (ICSMS);
 - (e) Article 4 of Delegated Regulation (EU) .../... [C(2024) 3160] for the notification of arrival (NOA).

Article 2

Amendment to Regulation (EU) 2022/2399

The Annex to Regulation (EU) 2022/2399 is amended in accordance with the Annex to this Regulation.

Article 3

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3.7.2024

For the Commission
The President
Ursula VON DER LEYEN