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| From: | General Secretariat of the Council |
| To: | Delegations |
| Subject: | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013 - Title III - Presidency compromise text |

Delegations will find enclosed the Presidency compromise text for Title III of the UCC reform proposal. Changes to the previous Presidency compromise text (doc: WK 16116/2024) are marked in **bold underline** and ~~striketrough~~.

Title III EU CUSTOMS DATA HUB

Article 29

Functionalities, purposes and features of the EU Customs Data Hub

1. The EU Customs Data Hub shall be a compilation of electronic services and systems, data and infrastructure to use and store data including personal data for customs purposes listed in Article 31. ~~It shall provide a secure and cyber resilient set of those services and systems,~~ capable of functioning even in a serious crisis. The EU Customs Data Hub shall operate with ~~guarantee~~ high security, high availability of service for economic operators, ~~other persons and~~ Member State customs authorities and other authorities, and a high level of user support, including a single access ~~portal~~ point and multilingual technical and business assistance. ~~with multilingual technical assistance.~~ The EU Customs Data Hub shall allow the reuse of data to the highest extent possible.

The EU Customs Data Hub shall be compliant with the provisions of Regulation (EU) 2016/679, ~~Regulation (EU) 2018/1725 of the European Parliament and of the Council and~~ Directive (EU) 2016/680 ~~of the European Parliament and of the Council~~ relating to the processing of personal data and as well as with Directive (EU) 2022/2555 ~~relating to~~ ~~measures for cybersecurity~~. It shall provide the following functionalities and shall have the following features:

- (a) ensure the electronic implementation of customs legislation and other legislation applied by the customs authorities, including services or systems supporting in particular: customs decisions, customs processes and procedures, ~~including~~ post release control, calculation and notification of the customs debt as well as ~~and~~ excise duty and VAT, guarantee management and customs surveillance of goods.
- (b) ensure the quality, integrity, preservation, traceability, confidentiality and non-repudiation of data processed therein, including the amendment, invalidation and deletion of such data;
- (c) [deleted]

- (d) enable risk ~~analysis~~, economic~~analysis~~ and data analysis, ~~including through the use of~~ **fusing in particular** artificial intelligence systems in accordance with Regulation (EU) 2024/1689;
- (e) enable the interoperability of those services and systems with other electronic systems, platforms or environments for the purpose of cooperation in accordance with Title XIII;
- (f) integrate the European Union Single Window Certificates Exchange System established by Article 4 of Regulation (EU) 2022/2399;
- (g) enable the exchange of information with customs authorities, **other Member States, and Union authorities** and other authorities of third countries and international organisations ~~in accordance with Title XIII~~;
- (h) enable the tracking of goods subject to customs supervision, including **provision of information about** their location ~~in real time, where necessary, no later than to the moment when the custom authority requires the information~~; ~~or other regulations applied by the customs authorities~~;
- (i) ~~to enable the real time~~ distribution of data to the authorities referred to in Article 31 **no later than to the moment when the authority requires the information** ~~that require it~~;
- (j) enable reporting capabilities ~~to contribute to the application of EU trade policy~~;
- (k) integrate **an information security management** a system to prevent the **data** breaches ~~of data~~, based on governance, management of access authorisations and prioritization of potential risks associated, organisation of data including a mechanism of tagging data according to their level of confidentiality, traceability measures and automated controls of access.

2. The acts that the persons, the Commission, the customs authorities, the EU Customs Authority or other authorities perform through the functionalities **and features** listed in paragraph 1 shall remain acts of those persons, of the Commission, of the customs authorities, the EU Customs Authority, or of other authorities, even if they have been automated.

3. [deleted]

4. The Commission is empowered to adopt delegated acts in accordance with Article 261 to amend, **including adding new ones,** the functionalities **and features** referred to in paragraph 1 **of this Article** to take account of new tasks conferred on the authorities referred to in Article 31 of this Regulation by Union legislation or to adapt those functionalities to the evolving needs of those authorities in implementing the customs legislation or other legislation applied by customs authorities.
- 4a. ~~The technical sites~~ **infrastructure** of the EU Customs Data Hub shall be **owned by the Commission and** located within the European Union. **The Commission shall ensure it has the ability to enforce its rights over the data stored in EU Customs Data Hub that it owns and to shape digital data processing according to its needs. Infrastructure sites shall be geographically distributed to ensure the operation of the EU Customs Data Hub in the event of failure of one of its sites.** ~~There shall be at least one backup site capable of ensuring the operation of the EU Customs Data Hub in the event of failure.~~
5. The Commission shall lay down, by means of implementing acts:
- (a) the technical arrangements for maintaining and employing the electronic systems that the Member States and the Commission have developed pursuant to Article 16(1) of Regulation (EU) No 952/2013;
 - (b) a work programme for the progressive phase out of the systems referred to in point a), and for the progressive phase in of the EU Customs Data Hub. **These work programmes shall be designed to ensure a seamless transition,** ~~these two work programmes shall mirror each other.~~

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

- 5a. In exceptional and duly justified circumstances linked to the correct implementation of this Regulation the Commission may, **on a request made by one or several Member States,** adopt ~~in exceptional cases~~ implementing decisions **authorising those** ~~allowing one or several~~ Member States to use **functionally equivalent** electronic services or systems ~~and processes~~ other than **those implemented in** the EU Customs Data Hub.

Such a decision:

- a) shall not affect the functioning of EU Customs Data Hub and the completeness of the stored data;
- b) shall be justified by the specific situation of the Member State or Member States requesting it;
- c) shall be limited in time, reviewed periodically and revoked where no longer justified;
- d) shall be granted only if it does not affect the exchange of information between the requesting Member State and other Member States and the EU Customs Authority or the exchange and storage of information in other Member States for the purpose of the application of the customs legislation;
- e) shall not in any case allow the withdrawal of the requesting Member State or Member States from using the EU Customs Data Hub.

~~on a derogation shall be justified by the specific situation of the Member State requesting it. Any derogation granted by the Commission shall be limited in time. The derogation shall be reviewed periodically and be revoked where no longer justified. The Member State to which a derogation has been granted may, in duly justified cases, ask the Commission to extend it for a limited period~~

A derogation may be extended in duly justified cases on the request made by the Member State or Member States concerned.

~~A derogation can only be granted if it does not affect the exchange of information between the requesting Member State and other Member States and the EU Customs Authority or the exchange and storage of information in other Member States for the purpose of the application of the customs legislation.~~

Article 29-a

Responsibility for the EU Customs Data Hub

1. The Commission shall be responsible for the development, operation and maintenance of the EU Customs Data Hub, ~~and shall establish and implement a data quality framework. The Commission shall also be responsible to establish technical requirements for the performance of the Data Hub.~~ The Commission shall also be responsible for the implementation of the functions of the EU Customs Data Hub provided for in Article 29. As

soon as the EU Customs Authority is fully operational the Commission may entrust, the responsibilities for the EU Customs Data Hub to the EU Customs Authority.

1a. The responsibilities for EU Customs Data Hub in paragraph 1 include:

- a) **the establishment of technical requirements for the performance of the EU Customs Data Hub, which shall include service levels of performance, availability and resilience;**
- b) **the establishment of a data quality framework;**
- c) **the development and maintenance of the EU Customs Data Hub;**
- d) **the implementation of the EU Customs Data Hub functionalities and features provided for in Article 29(1);**
- e) **the elaboration, in cooperation with the Member States, of the technical specifications to process data within the EU Customs Data Hub and access data from it;**
- f) **the training of EU Customs Data Hub users.**

~~The Commission shall make publicly available the technical specifications to process data within the EU Customs Data Hub and access data to national applications from it.~~

~~2. The Commission shall be responsible for the training of EU Customs Data Hub users.~~

~~3. The EU Customs Authority may be made responsible for the development, operation and maintenance of the EU Customs Data Hub, as laid down in this Title. [Nonetheless, the Commission shall provide full support and assistance to the EU Customs Authority to develop, implement and maintain the EU Customs Data Hub, including to make available for the Member States the technical specifications to process data within it, and shall establish a data quality framework.]~~

~~4. The Commission shall lay down, by means of implementing acts the technical requirements for the performance referred to in paragraph 1, which shall include, at least, response time, error rate, and maximum downtime.~~

Business continuity

1. The Commission shall ensure business continuity measures including redundancy and, failover mechanisms, data recovery protocols, in accordance with relevant cybersecurity regulations, ~~adopt implementing acts to lay down procedural rules in case of inability to use the EU Customs Data Hub due to~~
 - a) ~~a failure or below optimal performance of the EU Customs Data Hub;~~
 - b) ~~an unavailability of the EU Customs Data Hub for one or more customs authorities or for any person;~~
 - e) ~~a failure of the computerised system of the economic operators used for the data exchange with the EU Customs Data Hub; and~~
 - d) ~~an unavailability for an extended time period when customs authorities have no access to the EU Customs Data Hub and need to continue to carry out their tasks within the national customs territory.~~
2. The Commission shall implement procedures and technical solutions to reinforce the uninterrupted availability of the EU Customs Data Hub.

When the Commission entrusts the responsibility for the EU Customs Data Hub to the EU Customs Authority, the implementation of those procedures and technical solutions shall be carried out by the latter.
3. The Commission shall adopt implementing acts providing for the procedures to follow in the event of the unavailability, failure or serious crisis situation of the EU Customs Data Hub. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

~~These procedural rules shall provide conditions for their activation and deactivation.~~

~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).~~

**National applications for connection to and processing data in ~~complementing~~ the EU
Customs Data Hub**

1. Member States may develop
 - a) additional applications within the EU Customs Data Hub in coordination with the EU Customs Authority;
 - b) national applications **for connection to and processing data in and from** ~~using data from~~ the EU Customs Data Hub;
 - c) ~~applications necessary to connect the EU Customs Data Hub with the external applications in order to provide data to and process data from the EU Customs Data Hub.~~
2. Member States may request the EU Customs Authority to develop the applications referred to in paragraph 1 point (a) ~~and (c)~~. In that case, this request is submitted to the EU Customs Authority to coordinate the co-financing opportunities among Member States. This development can be partially funded by the EU Customs Authority.
3. Where the EU Customs Authority develops an application in accordance with paragraph 2, **that application** ~~it~~ shall be made available to all Member States ~~which~~ **that** co-finance it or free of charge to ~~all~~ **other** Member States upon agreement of all co-financing Member States. ~~Maintenance and any further development of these applications~~ **shall be managed on the basis of an agreement between** ~~takes place in coordination with the co-financing Member States~~ **and the EU Customs Authority.**

Article 30a

Confidentiality of data

All information acquired by the customs authorities and by the EU Customs Authority which is by its nature confidential or which is provided on a confidential basis shall be kept confidential.

Such data may be disclosed where the customs authorities or the EU Customs Authority are obliged or authorised to do so pursuant to Union or Member State law, in particular for the reasons related to or in connection with legal proceedings.

Any disclosure, extraction or communication of such data shall ensure an adequate level of data protection.

[Article 31]

Purposes of the processing of personal data and other data in the EU Customs Data Hub

[Article 32]

Personal data in the EU Customs Data Hub

Article 33

Retention period of personal data in the EU Customs Data Hub

1. Personal data in the EU Customs Data Hub may be stored by means of a specific service for a maximum period of 10 years, starting from the date on which that data is recorded in the service. The cases provided for in Article [48](#) and investigations launched by OLAF, EPPO or by Member States' authorities, infringement procedures launched by the Commission and administrative and judicial proceedings involving personal data in the categories referred to in Article 32(2) **points** a) and c) shall have a suspensive effect on the retention period with regard to that data.
2. After the period of time provided for in paragraph 1, personal data shall be erased or anonymised, according to the circumstances.
- 2a. Prior to the expiry of the retention period, the ~~data auditor~~ **Commission** shall carry out periodical reviews of the need for the storage of the personal data in the EU Customs Data Hub, including in the context of situations having a suspensive effect on the retention period.

- 2b. The Commission is empowered to adopt delegated acts in accordance with Article 261 to amend the starting date referred to in paragraph 1 **of this Article for specific sets of personal data and** taking into account the specific situations where a date other than the one where the data is recorded is reasonable for the calculation of the retention period, especially in the case of EORI registration and of the decisions referred to in Article 6.

The Commission shall lay down, by means of implementing acts, the circumstances referred to in paragraph (2) and the rules for anonymising the personal data after the expiry of the retention period. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 33a

Retention period of data other than personal data in the EU Customs Data Hub

The Commission shall lay down, by means of implementing acts, the data retention rules for data other than personal data in the EU Customs Data Hub. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

[Article 34]

Roles and responsibilities for personal data processed in the EU Customs Data Hub

Article 35

Restriction of data subject's rights

1. Where the exercise by a data subject of the right of access and right to restriction of processing referred to in Articles 15 and 18 of Regulation (EU) 2016/679 and Articles 17 and 20 of Regulation (EU) 2018/1725, or the communication of a data breach referred to in Article 34(1) of Regulation (EU) 2016/679 and Article 35(1) of Regulation (EU) 2018/1725, would jeopardise an ongoing investigation **or preparatory proceedings** concerning a **natural person in the field of customs**, the performance of customs controls or the

management of a specific risk identified in relation to a natural person in the field of customs, the customs authorities, the EU Customs Authority and the Commission may, in accordance with Article 23(1), points (a), (b), (c), (d), (e), (f) and (h), of Regulation (EU) 2016/679, and the Commission and the EU Customs Authority may, in accordance with Article 25(1), points (a), (b), (c), (d), (e), and (g), of Regulation (EU) 2018/1725, restrict wholly or partly those rights as long as the restriction is necessary and proportionate.

- (2) The customs authorities, the Commission and the EU Customs Authority shall assess the necessity and proportionality of the restrictions referred to in paragraph 1 on a case-by-case basis before they are applied, considering the potential risks to the rights and freedoms of the data subject.
- (3) When processing personal data received from other organisations in the context of its tasks, the customs authorities, the EU Customs Authority or the Commission, when acting as a controller or a joint controller, shall consult those organisations on potential grounds for restrictions as referred to in paragraph 1, and the necessity and proportionality of such restrictions before applying a restriction referred to in paragraph 1.
- (4) Where the customs authorities, the Commission or the EU Customs Authority restrict, wholly or partly, the rights referred to in paragraph 1, they shall take the following steps:
 - (a) inform the data subject concerned, in their reply to the request, of the restriction applied and of the motivation of the restriction, and of the possibility of lodging a complaint with the national data protection authorities or the European Data Protection Supervisor or of seeking a judicial remedy in a national court or the Court of Justice of the European Union; and
 - (b) record the reasons for the restriction, including an assessment of the necessity for and proportionality of the restriction, and the reasons why providing access would jeopardise risk management and customs controls.

The provision of information referred to in point (a) of the first subparagraph may be deferred, omitted or denied in accordance with Article 25(8) of Regulation (EU) 2018/1725, or where the provision of that information would be prejudicial to the purposes of the restriction.

- (5) The customs authorities, the Commission or the EU Customs Authority shall include a section in the data protection notices published on its website/intranet providing general information to data subjects on the possibility of restriction of data subjects' rights. The Commission shall lay down, by means of implementing acts, the safeguards to prevent the abuse and unlawful access or transmission of the personal data in respect of which restrictions apply or could be applied. Such safeguards shall include the definition of roles, responsibilities and procedural steps, and due monitoring of restrictions and a periodic review of their application, which shall take place at least every 6 months. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

~~*Article 35a*~~

~~Tasks and responsibilities of the Data Auditor~~

- ~~1. Without prejudice to the rights and obligations of the dData pProtection oOfficer appointed by the EU Customs Authority pursuant to Regulation (EU) 2018/1725, and the Data Auditor, provided for in Title XII, shall be responsible for the security of access to data in the EU Customs Data Hub and in particular for the control of the functioning of the system referred to in Article 29(1) point (k).~~
- ~~2. Within its responsibilities the Data Auditor shall:~~
 - ~~a) continuously monitor the functioning of the system referred to in Article 29(1) point (k), and proposes changes in it when he or she considers it necessary;~~
 - ~~b) make at least once a year an internal report, in liaison with the European controller of data protection, on the respect of data access control to the EU Customs Data Hub, management of authorisations and traceability of access, with analysed risks taking into account the storage and the security infrastructure, and recommendations on how to mitigate them;~~
 - ~~c) carry out the task referred to in Article 33 (2a);~~
 - ~~d) carry out the tasks referred to in Article 239 (4) and Article 244.~~

~~The internal report shall be shared both with the EU Customs Authority and the customs authorities of the Member States.]~~

Coordinated supervision by the European Data Protection Supervisor and national supervisory authorities

The European Data Protection Supervisor and the national supervisory authorities, acting within the scope of their respective competences, shall cooperate actively within the framework of their responsibilities to ensure coordinated supervision of the operation of the EU Customs Data Hub in accordance with Article 62 of Regulation (EU) 2018/1725.

Article 36

EU Customs Data Model

The Commission is empowered to adopt delegated acts in accordance with Article 261 to supplement this Regulation in order to determine the non-personal data, and personal data in the category referred to in Article 32 (2) **point (a) that is** required for the fulfilment of the purposes referred to in Article 31(1) to (4). Those data requirements shall constitute the EU Customs Data Model.

The Commission shall specify, by means of implementing acts, the format and code of the data to be provided under the EU Customs Data Model. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 37

Technical means for cooperation

1. The Commission, the EU Customs Authority and the customs authorities shall use the EU Customs Data Hub when exchanging data with the authorities and Union bodies ~~for the purposes referred to in Article 31(6) to (11)~~ in accordance with this Regulation.
2. For the Union other formalities and systems listed in the Annex to Regulation (EU) 2022/2399, the EU Customs Data Hub shall ensure interoperability through the EU Single Window Environment for Customs established by that Regulation.
3. Where authorities other than customs authorities or Union bodies make use of electronic means established by, used to achieve the objectives of, or referred to in Union legislation, the

cooperation may take place by means of interoperability of those electronic means with the EU Customs Data Hub.

4. Where authorities other than customs authorities do not make use of electronic means established by, used to achieve the objectives of, or referred to in, Union legislation, those authorities may use the specific services and systems of the EU Customs Data Hub in accordance with Article 31.
5. The Commission shall adopt, by means of implementing acts, the rules for technical modalities for interoperability and connection referred to in paragraphs 3 and 4. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 262(4).

Article 38

Article 39

Article 40

Information and supporting documents

1. When providing or making available the data and information required for the specific customs procedure under which goods are placed or intended to be placed, persons shall provide or make available digital copies of original paper documents, where such paper originals exist, used to obtain that data and information.
2. Until the date set out in Article 265(3), when a customs declaration is lodged, the supporting documents required for the application of the provisions governing the customs procedure for which the goods are declared shall be in the declarant's possession and at the disposal of the customs authorities at the time of lodgement.
3. The supporting documents for the applicable Union non-customs formalities listed in the Annex to Regulation (EU) 2022/2399 shall be deemed to have been provided or made available or to be in the possession of the declarant if the customs authorities are able to obtain the necessary data from the corresponding Union non-customs systems through the European Union Customs Single Window Certificates Exchange System in accordance with Article 10(1), points (a) and (c) of that Regulation.

4. Supporting documents shall also be provided by persons where necessary for customs risk management and controls.
5. Without prejudice to other legislation applied by the customs authorities, customs authorities may authorise economic operators to draw up the supporting documents referred to in paragraph 3.
6. Unless otherwise stated for specific documents, the person concerned shall, for the purposes of customs controls, keep the documents and information for at least 10 years, by any means accessible by and acceptable to the customs authorities. That period shall run:
 - (a) from the end of the year in which the goods are released;
 - (b) from the end of the year in which they cease to be subject to customs supervision, in the case of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use;
 - (c) from the end of the year in which the customs procedure concerned has been discharged or temporary storage has ended, in the case of goods placed under a special customs procedure or of goods in temporary storage.
7. Without prejudice to Article 182(4), where a customs control in respect of a customs debt shows that the relevant entry in the accounts has to be corrected and the person concerned has been notified of this, the documents and information shall be kept for 3 years beyond the time limit provided for in paragraph 6 of this Article.
8. Where an appeal has been lodged or where administrative or judicial proceedings have begun, the documents and information shall be kept for the period provided for in paragraph 6 or until the appeals procedure or the administrative or judicial proceedings are terminated, whichever is the latest.
