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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(2025) 1804 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../...of 6.5.2025 laying down rules supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the electronic system for agricultural non-customs formalities ('ELAN') to monitor and manage trade and market in agricultural products

Delegations will find attached document C(2025) 1804 final.

Encl.: C(2025) 1804 final



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

of 6.5.2025

laying down rules supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the electronic system for agricultural non-customs formalities ('ELAN') to monitor and manage trade and market in agricultural products

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2022/2399 establishes the European Union Single Window Environment for Customs. In particular, it sets out common rules for a harmonised and integrated European Union Single Window Environment for Customs ('EU Single Window Environment for Customs') to digitalise goods clearance processes in international trade and to facilitate information sharing and digital cooperation between customs authorities and partner competent authorities.

To implement the EU Single Window Environment for Customs, Regulation (EU) 2022/2399 establishes the European Union Customs Single Window Certificates Exchange System (EU CSW-CERTEX), that interconnects national single window environments for customs and Union non-customs systems managing specific non-customs formalities.

In accordance with Regulation (EU) 2022/2399, the exchange of digital information through EU CSW-CERTEX must cover Union non-customs formalities laid down in Union legislation other than customs legislation that customs authorities are entrusted to enforce.

Union non-customs formalities comprise all operations which are to be carried out for the international movement of goods, and impose different obligations for the import, export or transit of certain goods, and their verification through customs controls is fundamental to the effective functioning of the EU Single Window Environment for Customs.

Regulation (EU) No 1308/2013 empowers the Commission to adopt the necessary measures regarding communications to be made by Member States and third countries for the purposes of applying that Regulation, monitoring, analysing and managing the market in agricultural products, as well as ensuring compliance with the requirements laid down in international agreements concluded in accordance with the TFEU.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The draft delegated act was presented and discussed with experts at the Group of Experts – Horizontal questions concerning the CAP meetings on 22 May, 24 July, 23 September, 24 October 24 November 2024, 22 January and 17 March 2025.

The draft delegated act was put under scrutiny by the European Data Protection Supervisor from 29 January 2025 to 26 March 2025.

The draft delegated act was published for feedback on Europa's "Have Your Say" portal from 30 January 2025 to 27 February 2025. Two comments were submitted on "Have your say". One of them was empty, whereas the other one suggested to limit economic interventionism to the minimum and leave the market correct itself. No substantial modification stemmed from these comments.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act lays down rules on the functioning of the electronic system for agricultural non-customs formalities (ELAN), and in particular on the nature and type of documents to be issued in ELAN or transmitted to it, the rights of access to the system, the categories of data to be processed, the maximum retention periods and the purpose of the processing.

4. INTEROPERABILITY ASSESSMENT

According to the assessment carried out in accordance with Article 3 of Regulation (EU) 2024/903, the delegated act is in line with the scope of that Regulation to promote the cross-border interoperability of trans-European digital public services, thus contributing to the interoperability of the underlying network and information systems.

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

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laying down rules supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the electronic system for agricultural non-customs formalities ('ELAN') to monitor and manage trade and market in agricultural products

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007¹, and in particular Article 223(2) thereof,

Whereas:

- (1) Regulation (EU) No 1308/2013 lays down rules governing international trade in agricultural products, including the requirements for ensuring the effective enforcement of trade-related formalities.
- (2) To support the effective application of Regulation (EU) No 1308/2013 and streamline the cooperation between the relevant authorities, an electronic system should be established to manage agricultural trade-related formalities in a secure and reliable manner. That system should be referred to as the Electronic system for Agricultural Non-customs formalities ('ELAN') and should be developed as an independent module of the Trade Control and Expert System (TRACES)². ELAN should store and process the documents required for the fulfilment of Union non-customs formalities related to trade in agricultural products, as laid down in Commission Implementing Regulations (EU) 2016/1239³, (EU) 2020/761⁴, (EU) 2020/1988⁵ and (EU) 2023/2834⁶.

¹ OJ L 347, 20.12.2013, p. 671, ELI: <http://data.europa.eu/eli/reg/2013/1308/oj>.

² 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, ELI: http://data.europa.eu/eli/reg_impl/2019/1715/2021-12-01).

³ Commission Implementing Regulation (EU) 2016/1239 of 18 May 2016 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the system of import and export licences (OJ L 206, 30.7.2016, p. 44, ELI: http://data.europa.eu/eli/reg_impl/2016/1239/oj).

⁴ Commission Implementing Regulation (EU) 2020/761 of 17 December 2019 laying down rules for the application of Regulations (EU) No 1306/2013, (EU) No 1308/2013 and (EU) No 510/2014 of the European Parliament and of the Council as regards the management system of tariff quotas with licences (OJ L 185, 12.6.2020, p. 24, ELI: http://data.europa.eu/eli/reg_impl/2020/761/oj).

- (3) In order to facilitate cooperation and ensure seamless information exchange between the relevant issuing authorities or bodies and customs authorities, ELAN should be interconnected with the EU Single Window Environment for Customs, as established by Regulation (EU) 2022/2399 of the European Parliament and of the Council⁷.
- (4) The development of ELAN requires the adoption of an adequate legal framework governing it.
- (5) The documents falling under the scope of ELAN should be import and export licences provided for in Commission Delegated Regulation (EU) 2016/1237⁸ and in Implementing Regulation (EU) 2016/1239, documents issued by third countries required for the management of tariff rate quotas provided for in Implementing Regulations (EU) 2020/761 and (EU) 2020/1988 and documents issued by third countries governed by Implementing Regulation (EU) 2023/2834.
- (6) Clear rules on the access rights to the information provided by ELAN should be laid down. All issuing authorities or bodies should have access to the documents issued by them. Issuing authorities or bodies should have access to documents issued by other issuing authorities or bodies only if this is required by the relevant Union legislation as a condition to issue the documents of their competence. The Commission should have access to all documents produced in ELAN or transmitted to it in so far as the information contained in each document is necessary to allow the Commission to control conformity with the applicable Union rules. Customs authorities should have access to all documents required to perform their activities of control. Third country issuing authorities are responsible for the personal data embedded in the documents that they issued in ELAN or transmitted to the system.
- (7) The information contained in the documents produced in ELAN or transmitted to it should be retained for a limited period. To determine the duration of this period, it is necessary to consider the need to allow the retrieval of these documents in the system, even after their use or expiry, in case of civil or administrative disputes concerning them or the obligations they entail. It is deemed reasonable to set this period at 10 years starting after the last day of validity of the document, or, where no such date is indicated and if the last day of validity is not laid down by the relevant Union

⁵ Commission Implementing Regulation (EU) 2020/1988 of 11 November 2020 laying down rules for the application of Regulations (EU) No 1308/2013 and (EU) No 510/2014 of the European Parliament and of the Council as regards the administration of import tariff quotas in accordance with the ‘first come, first served’ principle (OJ L 422, 14.12.2020, p. 4, ELI: http://data.europa.eu/eli/reg_impl/2020/1988/oj).

⁶ Commission Implementing Regulation (EU) 2023/2834 of 10 October 2023 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards imports in the sectors of rice, cereals, sugar and hops (OJ L, 2023/2834, 21.12.2023, ELI: http://data.europa.eu/eli/reg_impl/2023/2834/oj).

⁷ 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 952/2013 (OJ L 317, 9.12.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/2399/oj>).

⁸ Commission Delegated Regulation (EU) 2016/1237 of 18 May 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the rules for applying the system of import and export licences and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the rules on the release and forfeit of securities lodged for such licences, amending Commission Regulations (EC) No 2535/2001, (EC) No 1342/2003, (EC) No 2336/2003, (EC) No 951/2006, (EC) No 341/2007 and (EC) No 382/2008 and repealing Commission Regulations (EC) No 2390/98, (EC) No 1345/2005, (EC) No 376/2008 and (EC) No 507/2008 (OJ L 206, 30.7.2016, p. 1, ELI: http://data.europa.eu/eli/reg_del/2016/1237/oj).

legislation, starting from the date when the document has been issued. To maintain the integrity of the document during the retention period, the same rules should apply to all data embedded in it, including personal data.

- (8) To ensure the correct functioning of ELAN, the system needs to process personal data that are embedded in the documents and that allow to identify economic operators and public officials issuing the documents and those accessing them, as well as personal data produced by the interaction of users with the system. Even in the absence of explicit references to personal data protection principles, laid down in Regulations (EU) 2016/679⁹ and (EU) 2018/1725¹⁰ of the European Parliament and of the Council, those principles are embedded in this Regulation, in particular with regard to storage periods of personal data, access to personal data, transmission and transfer of personal data and data security.
- (9) The requirements mandating digitalisation of the documents required for the release into free circulation and for the export of agricultural products covered by this Regulation affect trans-European digital public services within the meaning of Regulation (EU) 2024/903 of the European Parliament and of the Council¹¹. Accordingly, an interoperability assessment has been carried out and the resulting report is to be published on the Interoperable Europe Portal.
- (10) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on 26 March 2025.
- (11) The Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*, to ensure the correct application of the rules before ELAN will become available to its users for testing purposes.
- (12) This Regulation should apply as of 15 July 2025 when, according to Article 6 of Commission Implementing Regulation (EU) 2025/XXX [C(2025) 1803, to be completed by OP]¹², ELAN will be available for testing. However, the provisions concerning the storage and retention period should apply only to documents with legal value made available in ELAN as of 19 January 2026,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

⁹ 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, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

¹⁰ 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>).

¹¹ Regulation (EU) 2024/903 of the European Parliament and of the Council of 13 March 2024 laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act), (OJ L, 2024/903, 22.3.2024, ELI: <http://data.europa.eu/eli/reg/2024/903/oj>).

¹² Regulation (EU) 2025/XXX [C(2025) 1803, to be completed by OP] of ... laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the electronic system for agricultural non-customs formalities ('ELAN') (OJ...ELI...).

1. This Regulation lays down rules supplementing Regulation (EU) No 1308/2013 as regards the creation and the functioning of the electronic system for agricultural non-customs formalities ('ELAN'), which shall be interconnected with the electronic European Union Customs Single Window Certificates Exchange System (CSW-CERTEX) governed by Regulation (EU) 2022/2399.
2. The Commission shall develop ELAN as an independent module of the Trade Control and Expert System ('TRACES').
3. ELAN shall be interconnected with the relevant IT systems of the Commission, of Member States, and of the relevant third countries.

Article 2

Scope

1. This Regulation shall apply to documents used for the fulfilment of non-customs formalities necessary for trade with third countries of products covered by the sectors listed in Article 1(2) of Regulation (EU) No 1308/2013, and it shall govern in particular:
 - (a) the documents to be produced in ELAN or transmitted to it;
 - (b) the rights of access to ELAN, and in particular the obligations and rights of the Commission;
 - (c) the accessibility to the documents data available in ELAN;
 - (d) rules on storage of documents and on the maximum retention periods of data;
 - (e) the purpose of the processing of the electronic documents referred to in point (a).
2. The documents referred to in paragraph 1 shall be made available in electronic form to EU CSW-CERTEX via an electronic interconnection with ELAN.

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

- (a) 'EU CSW-CERTEX' is the European Union Customs Single Window Certificates Exchange System governed by Regulation (EU) 2022/2399;
- (b) 'ELAN' means Electronic system for Agricultural Non-customs formalities, which is the electronic Union non-customs system used for the management of documents listed in Article 4;
- (c) 'licences' means import and export licences as defined in Article 1, point (a), of Delegated Regulation (EU) 2016/1237;
- (d) 'TRACES' means the system referred to in Article 133(4) of Regulation (EU) 2017/625 of the European Parliament and of the Council¹³;

¹³ Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No

- (e) ‘national issuing authorities’ means the authorities of the Member States competent for issuing the documents listed in Article 4, point (a);
- (f) ‘third country issuing authorities’ means the authorities of countries outside the Union that are competent to issue the documents listed in Article 4, points (b), (c) and (d);
- (g) ‘customs authorities’ means the customs administrations of the Member States as defined in Article 5(1) of Regulation (EU) 952/2013 of the European Parliament and of the Council¹⁴.

Article 4

Documents to be made available in ELAN

ELAN shall allow the issuing, transmission, storage and retrieval of the following documents:

- (a) import and export licences governed by Delegated Regulation (EU) 2016/1237 and Implementing Regulation (EU) 2016/1239;
- (b) certificates of authenticity, Inward Monitoring Arrangement (IMA1) certificates, certificates of eligibility, export licences and export certificates governed by Commission Delegated Regulations (EU) 2020/760¹⁵ and (EU) 2020/1987¹⁶, and Implementing Regulations (EU) 2020/761 and (EU) 2020/1988, with the exception of the export certificate set out in part C of Annex XIV.2 to Implementing Regulation (EU) 2020/761, and of the inspection certificate set out in part A of Annex II to Implementing Regulation (EU) 2020/1988;
- (c) certificates of origin required for specific tariff quotas by Annexes II to XII to Implementing Regulation (EU) 2020/761, as well as by Annex II to Implementing Regulation (EU) 2020/1988;
- (d) documents issued by third countries, as provided for in Article 31(5) of Implementing Regulation (EU) 2020/1988;

652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (OJ L 95, 7.4.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/625/oj>).

¹⁴ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1, ELI: <https://eur-lex.europa.eu/eli/reg/2013/952/oj/eng>).

¹⁵ Commission Delegated Regulation (EU) 2020/760 of 17 December 2019 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the rules for the administration of import and export tariff quotas subject to licences and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the lodging of securities in the administration of tariff quotas (OJ L 185, 12.6.2020, p. 1, ELI: http://data.europa.eu/eli/reg_del/2020/760/oj).

¹⁶ Commission Delegated Regulation (EU) 2020/1987 of 14 July 2020 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council and Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the lodging and release of securities in the administration of tariff quotas based on the chronological order of the submission of applications (OJ L 422, 14.12.2020, p. 1, ELI: http://data.europa.eu/eli/reg_del/2020/1987/oj).

- (e) authenticity certificates for Basmati rice provided for in Article 9 of Implementing Regulation (EU) 2023/2834.

Article 5

Obligations and rights of the Commission

1. The Commission shall ensure the functioning, maintenance, support and any necessary updating or development of ELAN and the IT infrastructure of its components.
2. The Commission shall have access to all documents available in ELAN to the extent necessary to monitor the exchange of data, information and documents inserted or produced therein, for the purpose of identifying potential non-compliances with the relevant Union legislation applicable to the documents covered by this Regulation.

Article 6

Access to data, information and documents in ELAN

1. Each national issuing authority, third country issuing authority, and authority or body competent to issue certificates of conformity shall have access to the data, information or documents it produced in ELAN or transmitted to it, as well as to the documents issued in favour of economic operators based on the territory of their competence or transferred to those operators.
2. National issuing authorities, third country issuing authorities, and authorities or bodies competent to issue certificates of conformity shall be allowed to cancel or correct the documents referred to in paragraph 1 where the Union rules applicable to the specific document allow so, and within the limits laid down in those rules.
3. National issuing authorities shall have access to documents issued by third country issuing authorities that are a pre-condition to issue an import licence. National issuing authorities shall modify the status of such documents in ELAN, if required by the applicable Union legislation.
4. Customs authorities of the Member States shall have access to all documents available in ELAN that are necessary for controls on goods presented for release for free circulation into the Union or for export, as required by the applicable Union legislation.
5. Without prejudice to the Commissions' right of access pursuant to Article 5(2), and to the access rights of national issuing authorities pursuant to paragraph 3 of this Article, authorities and bodies that have not contributed to the production or transmission of data, information or documents in ELAN, or are not customs authorities involved in the release for free circulation into the Union or for export of the goods concerned, shall not have access to such data, information or documents.

6. The competent authorities of third countries shall have access to ELAN in accordance with Articles 9 and 11 of Commission Implementing Regulation (EU) 2019/1715¹⁷.

Article 7

Period of storage and retention of documents

1. Documents shall be stored in ELAN for a maximum period of 10 years from either the last day of their validity, or from the day when they were issued, if the relevant Union legislation does not lay down the last day of validity of the document.
2. To maintain the integrity of documents stored in ELAN, relevant data concerning electronic signatures, electronic seals, timestamps and electronic exchanges shall be retained by ELAN and the Member States' national systems for a maximum period of 10 years starting from end of the storage period indicated in paragraph 1.
3. Personal data from licences, certificates and other documents referred to in Article 4 shall be stored by ELAN and the Member States' national systems for no more than 10 years from either the last day of validity of the relevant document, or the day when the relevant document was issued, if the relevant Union legislation does not lay down the last day of validity of the document.
4. Where within the 10-year retention period referred to in paragraph 1, an appeal has been lodged or administrative or judicial proceedings have been initiated based on ELAN documents or where ELAN documents constitute a piece of evidence, those documents may be retained until the outcome of the appeal or administrative or judicial proceedings, whichever is the later. For this purpose, the required documents can be retrieved and used in court-proof form by Member States. Once the relevant procedures are finalised and the related judgement or decision is legally binding, Member States shall immediately delete the retrieved documents.

Article 8

Entry into force and application

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

It shall apply as of 15 July 2025.

However, Article 7 shall apply as of 19 January 2026.

¹⁷ 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, ELI: http://data.europa.eu/eli/reg_impl/2019/1715/oj).

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

Done at Brussels, 6.5.2025

For the Commission
The President
Ursula VON DER LEYEN