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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 22.8.2022 amending Delegated Regulation (EU) 2021/2306 as regards the transitional provisions for certificates of inspection and extracts thereof and as regards the transitional provisions for certificates of inspection issued in Ukraine

Delegations will find attached document C(2022) 5836 final.

Encl.: C(2022) 5836 final



EUROPEAN
COMMISSION

Brussels, 22.8.2022
C(2022) 5836 final

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

of 22.8.2022

**amending Delegated Regulation (EU) 2021/2306 as regards the transitional provisions
for certificates of inspection and extracts thereof and as regards the transitional
provisions for certificates of inspection issued in Ukraine**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

In the absence of a qualified electronic seal, and as provided in Article 11 of Commission Delegated Regulation (EU) 2021/2306, certificates of inspection can be issued and endorsed on paper until 30 June 2022. The process for the enrolment of competent authorities in the Member States and in third countries as well as of control authorities and control bodies for the qualified electronic seal is on-going. The enrolment process took longer than expected and it was not finalised before 30 June 2022. In order to allow all actors concerned to enrol for a qualified seal, the possibility to issue and endorse certificates of inspection on paper should be extended until 30 November 2022.

Certain control authorities and control bodies recognised in Ukraine for exporting organic products to the Union that are not equipped with a qualified electronic seal were provided, with Commission Delegated Regulation (EU) 2022/760 amending Delegated Regulation (EU) 2021/2306 as regards the transitional provisions for certificates of inspection issued in Ukraine, with the possibility to produce and submit the certificate of inspection in TRACES in electronic format without the application of a qualified electronic seal until 30 June 2022. In light of the situation in Ukraine, such possibility should be extended until 30 November 2022.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The draft delegated act was discussed thoroughly with the Member States at the Group of Experts on Organic Production. Part of this act corresponds to the urgency following the invasion of Ukraine by Russia.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The transitional provisions laid down in Article 11(1) of Commission Delegated Regulation (EU) 2021/2306 provide that, by way of derogation from Article 5(3), first subparagraph, of that Regulation, the certificate of inspection may be issued on paper until 30 June 2022, after being completed in TRACES and printed. Similarly, the transitional provisions laid down in Article 11(2) of Commission Delegated Regulation (EU) 2021/2306 provide that, by way of derogation from Article 6(3) of that Regulation, until 30 June 2022, in case the certificate of inspection is issued on paper it shall be endorsed on paper and in case the certificate of inspection is issued in TRACES and bears a qualified electronic seal, it may be endorsed on paper. In addition, the transitional provisions laid down in Article 11(5) of Commission Delegated Regulation (EU) 2021/2306 provide that, by way of derogation from Articles 6(6) and 7(4) of that Regulation, until 30 June 2022, the extract of the certificate of inspection may be endorsed on paper after being completed in TRACES and printed.

In accordance with Article 11(1a) of Commission Delegated Regulation (EU) 2021/2306, and by way of derogation from Article 5(3), first subparagraph, of that Regulation, until 30 June 2022, an authorised person located in Ukraine of a control authority or a control body which is not equipped with a qualified electronic seal may produce and submit in TRACES the certificate of inspection in electronic format without the application of a qualified electronic seal.

The delegated act will extend the date of application of the transitional provisions for paper certificates of inspection and extracts thereof, provided for under Article 11 of Commission Delegated Regulation (EU) 2021/2306 until 30 November 2022. In addition, it will provide

the possibility to authorised persons located in Ukraine of a control authority or a control body which is not equipped with a qualified electronic seal to produce and submit in TRACES the certificate of inspection in electronic format without the application of a qualified electronic seal until 30 November 2022.

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

of 22.8.2022

amending Delegated Regulation (EU) 2021/2306 as regards the transitional provisions for certificates of inspection and extracts thereof and as regards the transitional provisions for certificates of inspection issued in Ukraine

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007¹, and in particular Article 38(8), point (a)(ii), Article 46(7), point (b), and Article 57(3) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2021/2306² lays down rules on the official controls in respect of organic products and in-conversion products intended for import into the Union and on the certificate of inspection.
- (2) In accordance with Articles 5(3), first subparagraph, and 6(3), second subparagraph, of Delegated Regulation (EU) 2021/2306, the certificate of inspection is to be issued and endorsed in the Trade Control and Expert System (TRACES) with a qualified electronic seal. Articles 6(6) and 7(4) of that Regulation provide respectively for the endorsement of a part of a consignment as organic and the endorsement of extracts of certificates of inspection in TRACES by a qualified electronic seal.
- (3) The transitional provisions laid down in Article 11, paragraphs (1) and (2), of Delegated Regulation (EU) 2021/2306 already provide that, until 30 June 2022, the certificate of inspection may be issued on paper after being completed in TRACES and printed and, if issued on paper, this certificate should be endorsed on paper. In case the certificate of inspection is issued in TRACES and bears a qualified electronic seal, it may be endorsed on paper.
- (4) The transitional provisions laid down in Article 11(5) of Delegated Regulation (EU) 2021/2306 provide that, until 30 June 2022, the extract of the certificate of inspection may also be endorsed on paper after being completed in TRACES and printed.
- (5) The process for the enrolment of competent authorities in the Member States and in third countries as well as of control authorities and control bodies for the qualified electronic seal is on-going. The enrolment process took longer than expected and it was not finalised before 30 June 2022.

¹ OJ L 150, 14.6.2018, p. 1.

² 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).

- (6) It is therefore necessary to extend the transitional provisions for paper certificates of inspection and extracts thereof provided in Article 11 of Delegated Regulation (EU) 2021/2306 in order to allow all actors concerned to finalise the enrolment for the qualified electronic seal.
- (7) Russia's invasion of Ukraine on 24 February 2022 constitutes an exceptional and unprecedented challenge for the control authorities and control bodies that have been recognised for the purpose of the export of organic and in-conversion products from Ukraine to the Union. In Ukraine, the postal services are also disrupted.
- (8) In accordance with Article 11(1a) of Delegated Regulation (EU) 2021/2306, and by way of derogation from Article 5(3), first subparagraph, of that Regulation, until 30 June 2022, an authorised person located in Ukraine of a control authority or a control body which is not equipped with a qualified electronic seal may produce and submit in TRACES the certificate of inspection in electronic format without the application of a qualified electronic seal in box 18 thereof. In the light of the unpredictable duration of Russia's invasion of Ukraine, it is also necessary to prolong that derogation.
- (9) Delegated Regulation (EU) 2021/2306 should therefore be amended accordingly.
- (10) Due to the expiry of the transitional period for paper certificates and of the derogation for Ukraine on 30 June 2022, this Regulation should apply retroactively from 1 July 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Article 11 of Delegated Regulation (EU) 2021/2306 is amended as follows:

- (1) in paragraph 1, the introductory phrase is replaced by the following:

‘By way of derogation from Article 5(3), first subparagraph, until 30 November 2022, the certificate of inspection may be issued on paper after being completed in TRACES and printed. That paper certificate shall meet the following requirements:’;

- (2) paragraph 1a is replaced by the following:

‘1a. By way of derogation from Article 5(3), first subparagraph, until 30 November 2022, an authorised person located in Ukraine of a control authority or a control body which is not equipped with a qualified electronic seal may produce and submit in TRACES the certificate of inspection in electronic format without the application of a qualified electronic seal in box 18 thereof. Such certificate shall be issued before the consignment to which it relates leaves Ukraine.’;

- (3) in paragraph 2, the introductory phrase is replaced by the following:

‘By way of derogation from Article 6(3), until 30 November 2022, the following shall apply:’;

- (4) in paragraph 5, the introductory phrase is replaced by the following:

‘By way of derogation from Articles 6(6) and 7(4), until 30 November 2022, the extract of the certificate of inspection may be endorsed on paper, after being completed in TRACES and printed. That paper extract of certificate shall meet the following requirements:’.

Article 2

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 from 1 July 2022.

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

Done at Brussels, 22.8.2022

For the Commission
The President
Ursula VON DER LEYEN