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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 7.12.2020 amending Delegated Regulation (EU) 2015/2446 as regards common data requirements, and Delegated Regulation (EU) 2016/341 as regards the codes to be used in certain forms

Delegations will find attached document C(2020) 8454 final.

Encl.: C(2020) 8454 final



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

of 7.12.2020

**amending Delegated Regulation (EU) 2015/2446 as regards common data requirements,
and Delegated Regulation (EU) 2016/341 as regards the codes to be used in certain forms**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (UCC), in consistency with the Treaty on the Functioning of the European Union (TFEU), delegates to the Commission the power to supplement certain non-essential elements of the UCC, in accordance with Article 290 TFEU. The Commission has therefore exercised these powers by adopting on 28 July 2015, Commission Delegated Regulation (EU) 2015/2446 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.

This Commission Delegated Regulation establishes provisions of general application to supplement the Code in accordance with the Commission's delegated powers and with a view to ensuring a clear and proper application of the UCC. Delegated Regulation (EU) 2015/2446 must therefore be regularly updated to take into account developments on legislation and on the deployment of the UCC IT systems.

This particular amendment aims at harmonising the data requirements for trans-European IT-systems. It takes account of experience during the preparatory phase for these systems. A harmonised definition of these data requirements is necessary to ensure the interoperability of these systems.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission carried out a consultation in line with paragraph 4 of the Common Understanding on Delegated Acts between the European Parliament, the Council and the European Commission.

The Commission developed this Delegated Act in accordance with the Framework Agreement on relations between the European Parliament and the European Commission and with the Common Understanding of the European Parliament, Council and Commission on delegated acts. Member States and all other relevant stakeholders have been duly involved and constantly consulted on the draft provisions.

The Commission carried out consultations with Member States through meetings of the group of experts (Customs Expert Group), as well as consultations of the business community through the consultative stakeholder body (Trade Contact Group – TCG) in joint meetings with Member States experts on 29 November 2018, 15 February 2019, 3 April 2019, 21 June 2019, 4 October 2019, 22 November 2019, 22 January 2020, 6 February 2020.

The Commission has actively considered all comments received during this consultation exercise, and, to the greatest extent possible, included them in the version provided herewith.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis for this Regulation is contained in the delegation of power of Articles 7 and 279 of the Code.

Subsidiarity principle

The proposal falls under the exclusive competence of the EU according to Article 3(1)(e) of the Treaty on the Functioning of the European Union (TFEU).

Proportionality principle

In terms of proportionality, this Regulation respects the limits of the empowerments granted by the co-legislators and concerns only elements to better adapt the existing legal provisions to the requirements of the day-to-day practice of customs authorities and economic operators and persons other than economic operators.

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

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amending Delegated Regulation (EU) 2015/2446 as regards common data requirements, and Delegated Regulation (EU) 2016/341 as regards the codes to be used in certain forms

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code¹, and in particular Articles 7 and 279 thereof,

Whereas:

- (1) The practical implementation of Regulation (EU) No 952/2013 (the Code) in combination with Commission Delegated Regulation (EU) 2015/2446² has shown that amendments need to be made to that Delegated Regulation to better harmonise the common data requirements for the exchange and storage of information between customs authorities as well as between customs authorities and economic operators. Such horizontal harmonisation is necessary to ensure inter-operability between the customs electronic systems used for the different types of declarations, notifications and proof of customs status of Union goods that are set out in Annex B to Delegated Regulation (EU) No 2015/2446. It is therefore necessary to replace that Annex.
- (2) It is necessary to amend Delegated Regulation (EU) No 2015/2446 to establish the link between the different declarations, notifications and proof of the customs status of Union goods set out in Annex B to that Regulation and the customs electronic systems provided for in Commission Implementing Decision (EU) 2019/2151³ that process those declarations, notifications and proofs.
- (3) It is also necessary to amend Delegated Regulation (EU) No 2015/2446 to link the Member States' possibility to use the transitional data requirements for declarations, notification and proof of Union status provided in Commission Delegated Regulation (EU) 341/2016⁴ to the update of the customs electronic systems in accordance with

¹ OJ L 269, 10.10.2013, p. 1.

² 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).

³ Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 325, 16.12.2019, p. 168).

⁴ Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446 (OJ L 069 15.3.2016, p. 1).

Implementing Decision (EU) 2019/2151. Annex 1 of Delegated Regulation (EU) 341/2016 is therefore no longer necessary and should be deleted.

- (4) It is also necessary to amend Delegated Regulation (EU) No 2015/2446 to provide the Member States that have already updated their national import electronic systems some time to readapt them to the new data requirements, more specifically, until the deployment of Phase 1 of the Centralised Clearance for Import project listed in the Annex to Implementing Decision (EU) 2019/2151.
- (5) In September 2019, the International Chamber of Commerce launched the Incoterms 2020 that came into effect on 1 January 2020. In order to allow the use of the new incoterm codes in customs declarations, the relevant code list in Annex 9, Appendix D1 to Delegated Regulation (EU) 2016/341 should be updated.
- (6) Delegated Regulations (EU) 2015/2446 and (EU) 2016/341 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2015/2446

Delegated Regulation (EU) 2015/2446 is amended as follows:

- (1) Article 2 is amended as follows:

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

‘2. The exchange and storage of information required for declarations, notifications and proof of customs status shall be subject to the common data requirements set out in Annex B, from the dates of deployment or the upgrading of the electronic systems listed in Annex C, as set out in the Annex to Commission Implementing Decision (EU) 2019/2151*.

* Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 325, 16.12.2019, p. 168).’;

- (b) paragraph 3 is deleted;

- (c) paragraph 4 is replaced by the following text:

‘4. The exchange and storage of information required for declarations, notifications and proof of customs status shall be subject to the data requirements set out in Annex 9 to Delegated Regulation (EU) 2016/341, as follows:

- (a) until the date of deployment of the UCC Automated Export System set out in the Annex to Implementing Decision (EU) 2019/2151, for the cases covered by the columns A1, A2, B1 and C1 of Annex B to this Regulation;
- (b) until the date of deployment of Component 1 of the UCC Special Procedures electronic system set out in the Annex to Implementing Decision (EU) 2019/2151, for the cases covered by the columns B2 and B3 of Annex B to this Regulation;
- (c) until the date of deployment of phase 5 of the UCC New Computerised Transit System as set out in the Annex to Implementing Decision (EU) 2019/2151, for the cases covered by column D1 of Annex B to this Regulation;
- (d) until the date of deployment of phase 1 of the UCC Proof of Union Status set out in the Annex to Implementing Decision (EU) 2019/2151, for the cases covered by column E1 of Annex B to this Regulation;
- (e) until the date of deployment of release 2 of the UCC Import Control System as set out in the Annex to Implementing Decision (EU) 2019/2151, for the cases covered by the columns F20 and F30 of Annex B to this Regulation and for the diversion notification of aircrafts;
- (f) until the date of deployment of release 3 of the UCC Import Control System as set out in the Annex to Implementing Decision (EU) 2019/2151, for the cases covered by the columns F10, F50 and F51 of Annex B to this Regulation and for the diversion notification of sea-going vessels;
- (g) until the upgrade of the National Import Systems as set out in the Annex to Implementing Decision (EU) 2019/2151, for the cases covered by the columns H1 to H4 and I1 of Annex B to this Regulation.

Where data requirements for the exchange and storage of information required for declarations, notifications and proof of customs status are not set out in Annex 9 to Delegated Regulation (EU) 2016/341, Member States shall ensure that the respective data requirements are such as to warrant that the provisions governing those declarations, notifications and proof of customs status can be applied.’;

- (d) the following new paragraph 4a is inserted:

‘4a. By way of derogation from paragraphs 2 and 4, customs authorities may decide to apply the common data requirements set out in columns H1 to H6, I1 and I2 of Annex D of this Regulation until the date on which those customs authorities deploy the first phase of UCC Centralised Clearance for Import referred to in the Annex to Implementing Decision (EU) 2019/2151.’.

- (2) In the Table of Contents, after Article 256, Title I is amended as follows:
 - (a) the line “ANNEX B - Common data requirements for declarations, notifications and proof of the customs status of Union goods” is replaced by ‘ANNEX B - Common data requirements for declarations, notifications and proof of the customs status of Union goods (Article 2(2))’;
 - (b) the following lines are inserted after the line corresponding to Annex B:

‘ANNEX C - Declarations, notifications and proof of the customs status of Union goods and related projects in Implementing Decision (EU) 2019/2151 UCC Work Program

ANNEX D - Common Data Requirements for Declarations, Notifications and Customs Status of Union goods (Article 2(4a))’.

- (3) Annex B is replaced by the text set out in Annex I to this Regulation.
- (4) A new Annex C as set out in Annex II to this Regulation is inserted.
- (5) A new Annex D as set out in Annex III to this Regulation is inserted.

Article 2

Amendments to Delegated Regulation (EU) 2016/341

Delegated Regulation (EU) 2016/341 is amended as follows:

- (1) Annex 1 is deleted.
- (2) In Annex 9, Appendix D1, Title II, the table relating to Box 20 is replaced by the following table:

“First subdivision	Meaning	Second subdivision
Incoterms code	Incoterms — ICC/ECE	Place to be specified
<i>Codes applicable for all modes of transport</i>		
EXW (Incoterms 2020)	Ex works	Named place of delivery
FCA (Incoterms 2020)	Free carrier	Named place of delivery
CPT (Incoterms 2020)	Carriage paid to	Named place of destination
CIP (Incoterms 2020)	Carriage and insurance paid to	Named place of destination
DPU (Incoterms 2020)	Delivered at place unloaded	Named place of destination
DAP (Incoterms 2020)	Delivered at place	Named place of destination
DDP (Incoterms 2020)	Delivered duty paid	Named place of destination

DAT (Incoterms 2010)	Delivered at terminal	Named terminal at port or place of destination
<i>Codes applicable for sea and inland waterway transport</i>		
FAS (Incoterms 2020)	Free along ship	Named port of shipment
FOB (Incoterms 2020)	Free on board	Named port of shipment
CFR (Incoterms 2020)	Cost and freight	Named port of destination
CIF (Incoterms 2020)	Cost, insurance and freight	Named port of destination
XXX	Delivery terms other than those listed above	Narrative description of delivery terms given in the contract”.

Article 3

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, 7.12.2020

For the Commission
The President
 Ursula VON DER LEYEN