

## II

(Non-legislative acts)

## REGULATIONS

## COMMISSION IMPLEMENTING REGULATION (EU) 2022/2334

of 29 November 2022

**amending Implementing Regulation (EU) 2015/2447 as regards the application of monitoring of decisions relating to binding information and introducing a flexibility in the procedures for issuing of or making out proofs of origin**

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 Code <sup>(1)</sup>, and in particular Articles 25 and 66 thereof,

Whereas:

- (1) Article 20 of Commission Implementing Regulation (EU) 2015/2447 <sup>(2)</sup> sets out that when customs formalities are being fulfilled by or on behalf of the holder of a Binding Tariff Information (BTI) decision in respect of goods covered by a BTI decision, this shall be indicated in the customs declaration by stating the BTI decision reference number. The obligation to indicate the Binding Origin Information decision reference number in the customs declaration is only stipulated in Annex B to Commission Delegated Regulation (EU) 2015/2446 <sup>(3)</sup> as a note to data element 12 12 001 000.
- (2) To allow a proper monitoring by the customs authorities of the usage of a decision relating to binding origin information by its holder and of compliance with the obligations resulting from that decision, the requirement to indicate the reference number of the decision in the customs declaration, laid down in Article 20 of Implementing Regulation (EU) 2015/2447, should apply to all decisions relating to binding information.
- (3) During the first technical meeting on transitional rules of origin held in Brussels on 5 February 2020, the Union and 20 other Contracting Parties to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (the PEM Convention) <sup>(4)</sup> agreed to implement the revised rules of the PEM Convention <sup>(5)</sup> ('the transitional rules of origin') in parallel with the rules of the PEM Convention, on a transitional basis as of 1 September 2021, pending the adoption of the revised rules of the PEM Convention.

<sup>(1)</sup> OJ L 269, 10.10.2013, p. 1.

<sup>(2)</sup> 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).

<sup>(3)</sup> 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).

<sup>(4)</sup> OJ L 54, 26.2.2013, p. 4.

<sup>(5)</sup> OJ L 339, 30.12.2019, p. 1.

- (4) Since 1 September 2021, 13 bilateral protocols on rules of origin between the Union and Contracting Parties to the PEM Convention have already entered into force rendering the transitional rules applicable <sup>(6)</sup>. The process of implementing the transitional rules with the remaining Contracting Parties is progressing, subject to the completion by the parties of the adoption procedures.
- (5) The objective of the transitional rules of origin is to introduce more relaxed rules in order to facilitate the qualification of the preferential originating status for goods. As the transitional rules of origin are in general more relaxed than those of the PEM Convention, goods fulfilling these latter could also qualify as originating under the transitional rules of origin, with the exception of some agricultural products classified under Chapters 2, 4 to 15, 16 (except for processed fishery products) and 17 to 24, where the transitional rules of origin are not more relaxed than the rules of origin of the PEM Convention. Therefore, Articles 61 and 62 should be amended to introduce the possibility for EU exporters to apply for the issue of a movement certificate or to make out an origin declaration based on supplier's declarations made in the context of the PEM Convention.
- (6) The transitional rules of origin are applicable in parallel with the rules of origin of the PEM Convention creating two distinctive zones of cumulation. Therefore, an indication of the legal framework used for determining the origin of goods should be made in the supplier's declaration by the supplier, allowing the exporter to determine the originating status of goods under the correct framework for those materials that are fulfilling both sets of rules of origin.
- (7) The supplier's declaration in Annexes 22-17 and 22-18 to Implementing Regulation (EU) 2015/2447 is used for products not having preferential originating status. Considering that those products may only be produced by using non-originating materials, it should be optional to fill in the second point of the declaration. Therefore, footnotes 4 and 5 of Annex 22-17 to Implementing Regulation (EU) 2015/2447 and footnotes 5 and 6 of Annex 22-18 should be amended accordingly.
- (8) According to Article 61(3) of the Implementing Regulation (EU) 2015/2447 suppliers may provide the supplier's declarations at any time even after the goods have been delivered and according to Article 62(2), point (b), of that Regulation, the long term supplier's declarations shall be made out for consignments dispatched during a period of time which may not be more than 12 months before or more than 6 months after the date of issue of long term supplier's declaration. In order to use supplier's declarations issued before the date of entry into force of this amending regulation for stocks of materials constituted after 1 September 2021, this Regulation should apply from 1 September 2021, the date of entering into force of the transitional rules of origin between the Union and several Contracting Parties to the PEM Convention.
- (9) Implementing Regulation (EU) 2015/2447 should therefore be amended accordingly.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Implementing Regulation (EU) 2015/2447 is amended as follows:

- (1) Article 20 is replaced by the following:

*'Article 20*

#### **Monitoring of decisions relating to binding information**

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<sup>(6)</sup> OJ C 202, 19.5.2022, p. 1.

(Article 23(5) of the Code)

When customs formalities are being fulfilled by or on behalf of the holder of a decision relating to binding information in respect of goods covered by that decision, this shall be indicated in the customs declaration by stating the decision reference number.;

(2) in Article 61, the following paragraphs 1a and 1b are inserted:

‘1a. In trade between the Contracting Parties to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (\*) (‘PEM Convention’), where two or more sets of rules of origin apply, the preferential origin of goods may be determined according to one or more sets of rules of origin.

Suppliers shall specify the legal framework used to determine the origin of the goods. Where such a legal framework is not specified, by default, the supplier’s declaration shall be considered as stating that the PEM Convention has been used to determine the origin of the goods.

1b. For the purpose of trade between the Contracting Parties to the PEM Convention, the exporter may use the supplier’s declarations as supporting documents to apply for the issue of a movement certificate or to make out an origin declaration in accordance with the transitional rules of origin (\*\*) applicable in parallel with the PEM Convention rules of origin, when:

- (a) the supplier’s declarations state the originating status in accordance with the PEM Convention rules of origin for products classified under Chapters 1, 3 and 16 (for processed fishery products) and 25 to 97 of the Harmonised System; and
- (b) there is no application of cumulation with Contracting Parties to the PEM Convention who are applying only the PEM Convention.

The exporter shall take all necessary steps to ensure that the conditions for issuing or making out a proof of origin according to a specific set of rules of origin are fulfilled.

(\*) OJ L 54, 26.2.2013, p. 1.

(\*\*) The transitional rules of origin are the revised rules of the PEM Convention (OJ L 339, 30.12.2019, p. 1) applicable in parallel with the current rules of the PEM Convention on a transitional basis pending the adoption of the revised rules of the PEM Convention.;

(3) in Article 62, the following paragraphs 1a and 1b are inserted:

‘1a. In trade between the Contracting Parties to the PEM Convention, where two or more sets of rules of origin apply, the preferential origin of goods may be determined according to one or more sets of rules of origin.

Suppliers shall specify, the legal framework used to determine the origin of the goods. Where such a legal framework is not specified, by default, the supplier’s declaration shall be considered as stating that the PEM Convention have been used to determine the origin of the goods.

1b. For the purpose of trade between the Contracting Parties to the PEM Convention, the exporter may use the supplier’s declarations as supporting documents to apply for the issue of a movement certificate or to make out an origin declaration in accordance with the transitional rules of origin applicable in parallel with the PEM Convention, when:

- (a) the supplier’s declarations state the originating status in accordance with the PEM Convention rules of origin for products classified under Chapters 1, 3 and 16 (for processed fishery products) and 25 to 97 of the Harmonised System; and
- (b) there is no application of cumulation with Contracting Parties to the PEM Convention who are applying only the PEM Convention.

The exporter shall take all necessary steps to ensure that the conditions for issuing or making out a proof of origin according to a specific set of rules of origin are fulfilled.;

(4) in Annex 22-15, footnote (3) is replaced by the following:

‘(3) Country, group of countries or territory concerned. When the preferential origin of a product from a country, group of countries or territory can be acquired in accordance with more than one rule of origin, the suppliers shall specify the legal framework used to determine the origin of the goods (namely the PEM Convention and/or the transitional rules of origin).

Where a country, group of countries or territory is a Contracting Party to the PEM Convention, and where a legal framework is not specified, by default, the supplier’s declaration shall be considered as stating that the PEM Convention has been used to determine the origin of the goods.’;

(5) in Annex 22-16, footnote (5) is replaced by the following:

‘(5) Country, group of countries or territory concerned. When the preferential origin of a product from a country, group of countries or territory can be acquired in accordance with more than one rule of origin, the suppliers shall specify the legal framework used to determine the origin of the goods (namely the PEM Convention and/or the transitional rules of origin).

Where a country, group of countries or territory is a Contracting Party to the PEM Convention, and where a legal framework is not specified, by default, the supplier’s declaration shall be considered as stating that the PEM Convention has been used to determine the origin of the goods.’;

(6) in Annex 22-17, footnote (4), is replaced by the following:

‘(4) To be completed only where relevant. The Union, country, group of countries or territory from which the materials originate.’;

(7) in Annex 22-17, footnote (5) is replaced by the following:

‘(5) To be completed only where relevant. Country, group of countries or territory concerned. When the preferential origin of a product from a country, group of countries or territory can be acquired in accordance with more than one rule of origin, the suppliers shall specify the legal framework used to determine the origin of the goods (namely the PEM Convention and/or the transitional rules of origin).

Where a country, group of countries or territory is a Contracting Party to the PEM Convention, and where a legal framework is not specified, by default, the supplier’s declaration is considered as referring to the PEM Convention has been used to determine the origin of the goods.’;

(8) in Annex 22-18, footnote (5) is replaced by the following:

‘(5) To be completed only where relevant. The Union, country, group of countries or territory from which the materials originate.’;

(9) in Annex 22-18, footnote (6) is replaced by the following:

‘(6) To be completed only where relevant. Country, group of countries or territory concerned. When the preferential origin of a product from a country, group of countries or territory can be acquired in accordance with more than one rule of origin, the suppliers shall specify the legal framework used to determine the origin of the goods (namely the PEM Convention and/or the transitional rules of origin).

Where a country, group of countries or territory is a Contracting Party to the PEM Convention, and where a legal framework is not specified, by default, the supplier’s declaration shall be considered as stating that the PEM Convention has been used to determine the origin of the goods.’;

## Article 2

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

Article 1, points (2) to (9), shall apply from 1 September 2021.

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

Done at Brussels, 29 November 2022.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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