

COMMISSION IMPLEMENTING REGULATION (EU) 2023/403**of 8 February 2023****amending Implementing Regulation (EU) 2015/2447 as regards the provision of information for entry summary declarations and risk analysis for security and safety purposes at entry of goods, and adding Ukraine to the list of countries in the guarantor's undertakings for transit****(Text with EEA relevance)**

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 ⁽¹⁾, and in particular Article 17, first paragraph, Article 50(1), first subparagraph, Article 100(1), and Article 132, first paragraph, points (a) and (b), thereof,

Whereas:

- (1) The practical implementation of Regulation (EU) No 952/2013 ('the Code') in combination with Commission Implementing Regulation (EU) 2015/2447 ⁽²⁾ has shown that some amendments to that Implementing Regulation are needed to better tailor it to the needs of economic operators and customs authorities and to take into account the developments regarding the forthcoming deployment of releases 2 and 3 of the Import Control System (ICS2).
- (2) Article 36 of Implementing Regulation (EU) 2015/2447 provides for the use of the Customs Risk Management System for the exchange of risk-related information between Member States' customs authorities and the Commission, and between customs authorities, and for the storage of such information. Following the deployment of the security and safety analytics in ICS2, it is necessary to amend that Article in order to also allow the Member States and the Commission to exchange specific information needed for pre-arrival security and safety risk analysis purposes using the ICS2.
- (3) Article 184 of Implementing Regulation (EU) 2015/2447 provides obligations for the submission of particulars of the entry summary declaration to customs authorities by persons other than the carrier. From the date set out in Part II of the Annex to Commission Implementing Decision (EU) 2019/2151 ⁽³⁾ for the deployment of release 2 of ICS2, the submission of entry summary declarations through the ICS2 system for goods entering the customs territory of the Union by air is to become obligatory. It should therefore be necessary to oblige the carrier to inform customs authorities when a third country postal operator does not provide him or her with the particulars required for the entry summary declaration.
- (4) Furthermore, from the date set out in Part II of the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 3 of ICS2, the submission of entry summary declarations through the ICS2 system for goods entering the customs territory of the Union by rail is to become obligatory. It should therefore be necessary to oblige the carrier to inform the customs authorities if any person issuing a consignment note for goods entering the customs territory of the Union by rail does not provide him or her with the particulars required for the entry summary declaration, and to oblige the person issuing the consignment note to inform the other parties to the transport contract of that consignment note. Therefore, Article 184 of Implementing Regulation (EU) 2015/2447 should be amended.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ 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).

⁽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).

- (5) It is necessary to align Annexes 32-01, 32-02 and 32-03 and Part II, Chapters VI and VII of Annex 72-04 to Implementing Regulation (EU) 2015/2447 with the Convention on a common transit procedure ⁽⁴⁾ to take into account the accession of Ukraine to that Convention, in accordance with Decision No 3/2022 of the EU-CTC Joint Committee ⁽⁵⁾. However, in order to use up the existing stock of the guarantor's undertaking forms, the specimen forms laid down in Annexes 32-01, 32-02 and 32-03 and which are valid on the day before the entry into force of this Regulation, should continue to apply until 1 April 2024, subject to the necessary geographical adaptations in point 1 of those Annexes and the mention of the name and address for service of the authorised agent in Ukraine in point 4 of those Annexes.
- (6) Implementing Regulation (EU) 2015/2447 should therefore be amended accordingly.
- (7) 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) in Article 36, the following paragraph 3 is added:

‘3. By way of derogation from paragraphs 1 and 2 of this Article, the system referred to in Article 182(1) shall also be used for the exchange, processing and storage of specific risk information related to entry summary declarations.’;

- (2) Article 184 is amended as follows:

- (a) paragraph 5 is replaced by the following:

‘5. From the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 2 of the electronic system referred to in Article 182(1) of this Regulation, in the cases referred to in Article 113a(2) and (3) of Delegated Regulation (EU) 2015/2446, the carrier shall provide, in the particulars of the entry summary declaration, the identity of the postal operator, third country postal operator or express carrier who does not make the particulars required for the entry summary declaration available to him or her.’;

- (b) the following paragraphs 6 and 7 are added:

‘6. From the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 3 of the electronic system referred to in Article 182(1) of this Regulation, in the cases referred to in Article 112a(1) of Delegated Regulation (EU) 2015/2446, the carrier and any of the persons issuing a consignment note shall provide in the particulars of the entry summary declaration, the identity of any person that has concluded a transport contract with them with the particulars required for the entry summary declaration.

7. From the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 3 of the electronic system referred to in Article 182(1) of this Regulation, in the cases referred to in Article 112a(1) of Delegated Regulation (EU) 2015/2446, the person issuing the consignment note shall inform the person that concluded a transport contract with him or her about the issuance of that consignment note.

In the case of a goods co-loading arrangement, the person issuing the consignment note shall inform the person with whom he or she entered into that arrangement of the issuance of that consignment note.’;

⁽⁴⁾ Convention on a common transit procedure of 20 May 1987 (OJ L 226, 13.8.1987, p. 2).

⁽⁵⁾ Decision No 3/2022 of the EU-CTC Joint Committee of 29 September 2022 amending the Convention of 20 May 1987 on a common transit procedure [2022/1983] (OJ L 272, 20.10.2022, p. 36).

- (3) in Part I (Undertaking by the guarantor) of Annex 32-01, point 1 is amended as follows:
 - (a) the word 'Ukraine,' is inserted after the text 'the Republic of Turkey';
 - (b) footnote (3), situated after the text 'the Republic of Turkey' is moved to after the text 'the United Kingdom of Great Britain and Northern Ireland';
- (4) in Part I (Undertaking by the guarantor), point 1, of Annex 32-02, the word 'Ukraine,' is inserted after the text 'the Republic of Turkey';
- (5) in Part I (Undertaking by the guarantor) of Annex 32-03, point 1 is amended as follows:
 - (a) the word 'Ukraine,' is inserted after the text 'the Republic of Turkey';
 - (b) footnote (3), situated after the text 'the Republic of Turkey' is moved to after the text 'the United Kingdom of Great Britain and Northern Ireland';
- (6) in Part II, Chapter VI (Comprehensive guarantee certificate) (TC 31 Comprehensive guarantee certificate) (Front), point 7, of Annex 72-04, the word 'Ukraine', is inserted after the text 'Turkey';
- (7) in Part II, Chapter VII (Guarantee waiver certificate) (TC33 Guarantee waiver certificate) (Front), point 6, of Annex 72-04, the word 'Ukraine', is inserted after the text 'Turkey'.

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*.

However, Article 1, points (3), (4) and (5), and the third paragraph of this Article shall apply from the date Ukraine accedes to the Convention on a common transit procedure.

The forms based on the specimen forms in Annex 32-01, Annex 32-02, Annex 32-03 and Part II, Chapter VI and Chapter VII of Annex 72-04 to Implementing Regulation (EU) 2015/2447, in the version applicable on the day before the entry into force of this Regulation, may continue to be used, subject to the necessary geographical adaptations and the mention of the address for service and the name of the authorised agent, until 1 April 2024.

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

Done at Brussels, 8 February 2023.

For the Commission
The President
Ursula VON DER LEYEN